



NORTH SLOPE
SUBSISTENCE REGIONAL
ADVISORY COUNCIL
Meeting Materials

*October 31, 2016 &
November 1, 2016
Barrow*



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Ice fishing for *aanaakliq* (broad whitefish)



Photo by Gordon Brower

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NORTH SLOPE SUBSISTENCE REGIONAL ADVISORY COUNCIL

Inupiat Heritage Center
Barrow

October 31 – November 1, 2016
9:00 am – 5:30 pm daily

TELECONFERENCE: call the toll free number: 1-866-864-5314, then when prompted enter the passcode: 3091862.

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.

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14. Closing Comments

15. Adjourn (*Chair*)

To teleconference into the meeting, call the toll free number: 1-866-864-5314, then when prompted enter the passcode: 3091862.

Reasonable Accommodations

The Federal Subsistence Board is committed to providing access to this meeting for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Eva Patton, 907-786-3358, eva_patton@fws.gov, or 800-877-8339 (TTY), by close of business on October 24, 2016.

DRAFT

REGION 10
North Slope Subsistence Regional Advisory Council

Seat	Year Appointed <i>Term Expires</i>	Member Name and Community
1	2011 2017	Gordon R. Brower Barrow
2	2011 2016	Robert V. Shears Barrow
3	2016	VACANT
4	2015 2016	Steve Oomituk Point Hope
5	2017	VACANT
6	2014 2017	Sam Kunaknana Nuiqsut
7	2017	VACANT
8	2018	VACANT
9	2006 2018	Lee Kayotuk Kaktovik Secretary
10	2009 2018	Rosemary Ahtuanguaruak Barrow Acting Chair

**NORTH SLOPE SUBSISTENCE REGIONAL ADVISORY COUNCIL
MEETING MINUTES**

Egan Center
Anchorage, Alaska

March 9, 2016
8:30 am ~ 5:30 pm

Council Members Present:

Harry K. Brower, Jr. Chair
Rosemary Ahtuanguaruak
Gordon Brower
Lee Kayotuk
Robert Shears
Steve Oomituk

Meeting Attendees:

Agency staff:

Eva Patton, Council Coordinator, Office of Subsistence Management
Tom Evans, Wildlife Biologist, Office of Subsistence Management
Karen Hyer, Fisheries Biologist, Office of Subsistence Management
Jennifer Hardin, Anthropologist, Office of Subsistence Management
Palma Ingles, Anthropologist, Office of Subsistence Management
Tom Kron, Office of Subsistence Management
Pat Petrivelli, Anthropologist, Interagency Staff Committee, Bureau of Indian Affairs
Vince Mathews, Subsistence Coordinator for Arctic, Kanuti and Yukon Flats
Greg Dudgeon, Superintendent, Gates of the Arctic National Park
Marcy Okada, Subsistence Coordinator, National Park Service.
Brendan Scanlon, Fisheries Biologist, Alaska Department of Fish and Game, Fairbanks
Jeff Brooks, Social Scientist, Bureau of Ocean Energy Management
Ernest Nageak, Alaska Native Affairs Specialist, USFWS Barrow Field Office

Via teleconference:

Lincoln Parrett, Wildlife Biologist, Alaska Department of Fish and Game, Fairbanks
Dave Yokel, Biologist, Bureau of Land Management
Kumi Rattenbury, Wildlife biologist, National Park Service

Public/NGO's:

James Nageak, Anaktuvuk Pass (former Council member)

Louie Commack, Ambler (Western Arctic Caribou Herd Working Group, GAAR SRC, Upper Kobuk AC)

Raymond Stoney, Kiana (Northwest Arctic RAC)

Attamuk, Enoch Shiedt, Kotzebue (Northwest Arctic RAC)

Clement Richards, Northwest Arctic Borough mayor

Roll Call and Introductions: Quorum was established for all action items. Council member Sam Kunaknana was not able to attend due to overlapping meetings for his Tribe.

Adoption of Agenda: Agenda adopted by unanimous consent with some modification of timing of presenters *Asterisk identifies action item.

Election of Officers: Gordon Brower proposed to table the election of officers until the Council had full attendance of members present to make a proper election. Motion and a second to table the election of officers until the Council is all present in person. Harry Brower remains Chair; Rosemary Ahtuanguaruak remains Vice Chair and Lee Kayotuk as secretary. Approved by unanimous vote.

Review and Approve Previous Meeting Minutes*

The Council reviewed and discussed the December 3-4, 2015 and December 14, 2015 teleconference meeting minutes and expressed that they felt it was reflective of all the issues covered at the meetings but would like to have another document with more detail on all the heartfelt testimony and feedback provided by the community of Anaktuvuk Pass. Chair Harry Brower requested minutes be as detailed as possible to provide a thorough reflection of all the important issues, Council discussion and public testimony. The Council asked that public comments from Anaktuvuk Pass be transcribed including translation for future reference relative to the caribou issue.

December 3-4, 2015 and December 14, 2015 teleconference meeting minutes approved by unanimous consent.

Council Member Reports:

Gordon Brower (Barrow) – Gordon shared that his primary area to hunt out of Barrow is in Ikpikpuk River area, about 70 miles southeast of Barrow. He has been hunting there all his life and his parents hunted there. There are even old sod houses there that belonged to their grandparents. It's a good place to hunt. Always been plenty all the time. Gordon expressed concern again as has in the past several meetings about the location of some research camps and conex boxes which are in the migration corridor for the Teshekpuk Caribou Herd. It is affecting his ability to hunt because the caribou have moved away from their traditional migration route where the research equipment was placed and he had to travel far to

find the caribou. He has been hunting this area since he was little and suddenly the caribou shifted after the research camps and conex boxes were place there.

Gordon noted that the ice was good this year to be able to set net by September 28th. He has been paying close attention to his catches and health of the fish to report any anomalies right away but it was good fishing this year for *annaklik* (broad whitefish). He did get some caribou but not the amount he usually does.

Lee Kayotuk (Kaktovik) – Lee reported that Kaktovik harvested three bowhead whales, a beluga, and had a successful year for fishing. The Arctic Char were good in the summer time. Overall the geese were good but access to the Brant was difficult because of early warm weather they had to get back to the village before the rivers thawed and were not able to be out long enough to hunt the brants. Lee expressed that climate change is a big factor in hunting now with increasing storm surges in the fall time that have closed of channels they used to use all the time and washed away good camping areas.

Caribou hunting was not so great this summer – the Porcupine Herd does not stick around long anymore so not many families got caribou. Approximately 40 reindeer showed up west of Kaktovik and they were able to harvest a few. Two moose were seen last spring but the hunt is closed due to low number. The community has a polar bear education and monitoring program and 50-55 polar bears were seen last fall.

Steve Oomituk (Point Hope) – Steve introduced himself as being new to the Council and learning about the roles and responsibilities of the program. He expressed that he is surprised to learn that the Federal Subsistence Program and the Council have no jurisdiction over federal waters on the North Slope and is very concerned about the Northwest Passage opening up. He stressed that these waters have always been essential the communities and subsistence and way of life and yet they have no jurisdiction as a subsistence Council to have a say on what goes on in these waters when there will be an increase in traffic and few regulations in this newly open Northern shipping route. Steve relayed that animals come up north to migrate and the whales feed off the plankton and the whole cycle of life revolves around these waters.

Steve reported that three bowhead whales were harvested by the community of Point Hope. The ice lead offshore from Cape Lisburne remained open year-round. Whales were seen as early as February. Freeze-up occurred late, in mid-November and they had rain in January and February whereas in the past, freeze-up would occur from late September to mid-October. Last year they only caught three whales in the spring because the ice was so thin it opened up about a mile out. Usually they are 14 miles out on the ice in April for spring hunting and 5 miles out from the point. The whales where there but the ice was too thin to travel safely on and some people had to skip snow machines over open leads and barely made it back.

Steve expressed that the weather has been changing and that they have always known the weather. They do a lot of ceremonies that are about the animals and the weather. The community of Point Hope celebrates the birth of the ice (Inupiaq name for forming of the ice – ask Steve for the spelling). The community celebrates when the ice is first formed on the beach with the whales tail. The tail is covered in blubber and put in the ice cellar through the spring summer and fall and then when the ice is born they take it out. Usually this happens in late September or October but this year they had to wait until November to celebrate the birth of the ice with the whales tail. The weather has really changed a lot in

the area, warmer currents, different abundance of bird species and fish. They used to fish for char all the time and now they are getting more salmon.

Rosemary Ahtuanguaruak (Barrow/Nuiqsut) – Rosemary thanked everyone for sharing from their regions and wanted to hear about all aspects that contribute to subsistence and wellbeing of people, family, and communities. She also expressed the importance of interacting with other regions to discuss shared concerns about subsistence resources that cross over the lines on the map. She is very concerned about the road to Ambler and mining contaminants and wants to ensure that the birds and caribou are able to migrate through and reach it to the communities in a safe condition to eat.

Rosemary reported that the atmosphere for hunting in Barrow was much better this year when people knew there were animals on the west side of Barrow. Especially for the young hunters there was an outlook of hope to be able to go out and see animals and a chance to harvest. Last year they had to travel long distances away from Barrow to try to harvest caribou and it was difficult. In recent years people have had to travel really far to get caribou and more effort is now needed to continue harvest and the subsistence way of life. This year with caribou closer by it was a much different atmosphere and this contributes to the overall wellbeing for the community. She noted one of the priorities of the Arctic Council is working on suicide prevention.

Rosemary raised concern about the effect on the WACH migration from the cow harvest east of the Dalton Hwy (Unit 24B). The cows are deflected by this hunting activity when they get close to the Dalton Highway and try to avoid it if at all possible. She is concerned that a result is the caribou do not migrate near Anaktuvuk Pass now, which is so heavily dependent on caribou. She is very concerned that some people are not getting enough subsistence food with the decline and deflection of the caribou herd.

Rosemary reported that snowfall and freeze-up was more typical this year. Changes to the ice conditions in recent years have made it difficult for families to fish as they normally do. Ice is not present when it normally would be or there is no shore fast ice that contributes to successful access and harvest of fish around Nuiqsut. These changing conditions need to be incorporated into consideration for management. These environmental changes often create challenges for families to harvest their usual foods and may take more time and resources to be able to successfully harvest what they need. She supports the discussion on concerns about changes to lands and waters because animals migrate through borders and it is important that the animals are still healthy and mining, development, and roads affect migratory resources which affect the health of families.

Rosemary also reported that lots of wolves were seen near Nuiqsut and they had a good furbearer harvest which has helped. They have been sharing caribou with other communities, and also facilitating the communication and understanding the new regulations.

Robert (Bob) Shears (Barrow) Bob shared a report on the subsistence activities of Wainwright. While he hasn't conducted subsistence there in the last year himself, Wainwright was home for many years and he is still connected through his son and extended family there. Wainwright experienced a caribou emergency last fall similar to Anaktuvuk Pass because the caribou had not migrated through in its usual

seasonal way that appears to be the result of climate change. Bob described that Wainwright sits on the coast at the head of a long lagoon which is about 30 miles long and 5 miles wide to where it meets the river. This lagoon is an obstacle that the caribou have to migrate around when moving to and from the coast in the wet season or if the river ice is thin to cross. It is at this point 38 miles south of Wainwright in the old community of Anaktuluk that has been there for centuries that people have traditionally subsisted for caribou. Twenty years ago the lagoon used to freeze in early September and it would be several inches thick and traversable by snow machine or dogsled in early October. The Western Arctic Caribou Herd would usually migrate through this area in beginning in late September through October and the people of Wainwright would harvest about 75% of their caribou at this time. Mostly they harvest bulls at this time prior to the rut and wait until November after the caribou have time to breed uninterrupted to hunt for fat cow caribou that rounds out their harvest for the year.

Bob reported that this year the ice did not begin to freeze until late September and it froze very slow with the warm water flowing out of the foothills. Caribou don't like to cross bare ice and they stayed high in the foothills and people ended up trying to get upriver to find caribou to hunt by breaking through the thin ice with paddles and motorboats. People risked their lives to try to get upriver at this time because there was no snow to travel by snow machine. This came at a time when the first of the Federal Special Actions to conserve caribou had gone into effect which reduce the daily take and closed to the harvest of bulls after October 15th and limited the take of cows and yet Wainwright did not see any caribou at this time. It was not until the middle of November that there was some snow to get out by snow machine and it was cold enough to freeze the lagoon and then the caribou herd started moving fast across this area by the tens of thousands. This was the only chance for the community to get caribou under this circumstance this year or they would go hungry.

Bob stressed that these are the challenges subsistence communities face under changing climate, shifts in timing of migration, and yet restricted by regulations that were developed under plans based on past conditions. He is feeling intimidated to make any management recommendations based on the memory of the past that will impact communities now that the future environment is so uncertain. Changes are happening so fast now and yet subsistence is more important than ever for the community. Robert stresses that management needs to be cognizant of this. OSM wildlife biologist Tom Evans discussed with the Council that taking more caribou in this short period of time in this circumstance was probably not more than the usual harvest and the effort is to make the best regulations to support conservation and the people but can't predict the outcomes such as weather events.

Chairs Report, Harry Brower, Jr. (Barrow) – Harry responded to Steve Oomituk that he appreciates very much hearing from each of the communities and that it is very important to share the traditional practices and also the changes that are happening with shifts in freezing patterns and changing climates. He encourages all to continue sharing this information to bring awareness to the changing conditions communities have to deal with in their subsistence. He is very concerned about the extremes that people now face in their subsistence activities and have to take greater risks now in trying to conduct their way of life. Harry stressed that the Arctic Ocean is very unforgiving and changing weather and ice makes usual activities more dangerous and sees a need for more search and rescue. He also see a need for flexible management so that people don't have rush to get to a resource right away – if the weather is not good

they can hunt another day. He asks how to help hunters deal with the changes in the environment such as regulations that are less restrictive in timing or flexible to safely access the subsistence resources they depend on under changing conditions. Harry further expressed that the Inupiaq people have always been very resilient and adapted to changes, that there were many resources that moved in and out with the change of the seasons and people took what they needed for food. However now with the changing climate in addition to restrictive regulations it is challenging to be as adaptive and they lose the resilience that they identify with.

With shifting resources and shortage there is increasing competition for fewer animals. He is concerned about management and realizes it is really about managing people. He'd like to work with the Federal regulations for management that would help provide for the people that have a significant need for these subsistence resources. Harry expressed great concern for the community of Anaktuvuk Pass not being able to get caribou for the past several years and the gravity of the situation where young children come to school hungry. He wants to find a way to support the community to insure the caribou are not deflected away from their usual migratory route and think outside the box for how to get hunters to where the caribou are now. Caribou is the primary subsistence food for Anaktuvuk Pass and he wants to make sure it a priority of management to meet their needs.

Harry also relates to Steve in the challenges of fragmented subsistence management that is a different agency for marine mammals, migratory birds, fish and wildlife and that the whole subsistence way of life in the North Slope region revolves around the ocean. They are learning and working as a Council how best to work with this and the multiple Federal agencies could also provide better explanation and connection between all subsistence activities.

This past fall the conditions were right and he was able to travel to his cabin about 130 miles south of Barrow on the Chip River. That was the first time in 7 years and he was able to take his sons and nephews. He showed them the sod houses in the areas near his cabin where several families used to live through the winter waiting for the caribou and fishing to share and trade back in Barrow. He had many conversations with his sons and meaningful time learning out on the land. They had to travel farther to hunt caribou. And they had to pack caribou over 3 miles out back to the river.

Public Comments:

James Nageak, former longtime Council member from Anaktuvuk Pass presented an update on the past and present status of caribou in Anaktuvuk Pass. Its place name is named after the caribou dropping because so many caribou that come together and gather in the area even the whole mountain smells like caribou piss. He expressed great concern about what factors are deflecting the caribou that they have not come for several years.

James remembers waiting with his wife and so many caribou were coming that they could hear the herd with their clacking hooves. Now they don't hear that anymore and now climate change been warm and they need snow. Local hunters were not able to get any caribou again this year. Many people helped to

provide food for the community – caribou from Wainwright, Nuiqsut and Barrow and even fish from the Kenai to help get through the winter.

James told the story about allow lead caribou to pass and is concerned the sport hunters take the vanguard caribou at the head of the migration and this disperses the rest of the herd. James appreciates that the the impassioned voices of the Anaktuvuk Pass people were recorded at the North Slope RAC meeting held there.

Many Council members thanked James for sharing and relayed they understand since to not get a whale for their community is devastating and can only imagine the reliance on the caribou from Anaktuvuk Pass and not get any. Council members expressed their hope that they can address the issues for the community.

Louie Commack, Upper Kobuk Fish and Game Advisory Committee and Gates of the SRC member. He has spent 35 years working with the agencies. The Upper and Lower Kobuk Advisory Committees held a meeting in Ambler decided to challenge the limit of 15 caribou a day and were willing to sacrifice to reduce further to 7 per day to protect the herd for future generations that come after us. He is concerned about the caribou and want it to stick around and it is incumbent to make hard choices and know we will.

Louie reported on the Ambler mining district road proposal and that the permit process has started. In the EIS scoping, subsistence harvest data come to attention before start commenting on issues.

Enoch Scheidt, Northwest Arctic RAC, talked about their Special Action request to restrict sport hunters and transporters for one year in efforts to help people harvest for subsistence and see what the effect for one year. He is very concerned about marine line traffic and feels everyone should be aware about it such as cruise ships dumping waste to the ocean. He expressed people live off the land and live off the ocean will be hurt by the pollution.

Raymond Stoney, Kiana Northwest Arctic RAC, shared his observations of the caribou. Says in Inupiaq always doing things on trap line 2002 to 2003 it was a tough cold speaking in Inupiaq says maybe they starved? He asked his dad and he said the two seismic operations going on with the hum all the time the caribou could not hear in the regular environment could not hear wolves could not sleep and could not rest. He expressed that now there is so much variability going on in the environment that that it is hard determining what going on with the caribou.

Office of Subsistence Management Reports and Updates:

OSM proposed amendment to Unit 26A caribou regulation to split hunt area to manage Teshekpuk and WACH herd separately: Tom Evans provided a handout with maps and presented OSM's proposed amendment to the Unit 26A regulatory proposals to split Unit 26A into two hunt areas to reflect

differences between the Western Arctic, Teshekpuk, and Central Arctic caribou herds. This split of hunt area regulations is intended to allow for a more liberal harvest of the healthy Central Arctic herd when it does not overlap with the Teshekpuk Caribou Herd. After discussion, the Council supported the separation of the two hunt areas in Unit 26A in support of this increased subsistence opportunity for the surrounding communities and will reiterate their support of OSM's addendum at the Federal Subsistence Board meeting in April.

Call for Federal Fish and Shellfish Regulatory Proposals* OSM Fisheries biologist Karen Hyer presented the call for federal subsistence fishery proposals. The region has few subsistence fisheries regulations and the Council did not have any fish proposals at the meeting.

Develop Priority Information Needs for the Fisheries Resource Monitoring Program* Karen Hyer presented briefly on the Fisheries Resource Monitoring Program (FRMP).

The Council discussed the FRMP process and voted to appoint a working group that includes Council members Sam Kunaknana, Bob Shears, and Rosemary Ahtuanguaruak, Steve Oomituk, and Lee Kayotuk to work with Council Coordinator and OSM fisheries biologist Karen Hyer to develop subsistence fisheries research priority information needs for the region. The working group will provide an opportunity for better in depth discussion to fully develop research priorities and get more community input that will inform the call for the FRMP funding for the North Slope region.

Gordon Brower requests again that when a study is proposed that they seek out affected users in the area and talk with local communities. He stressed that there can be impacts to the subsistence user groups when there is no coordination on research activities. Further dialog and communications would help everyone. Local subsistence fishers have a lot of knowledge to inform the process.

The Council raised concerns about algae blooms and discussed the fish mold issue for Nuiqsut. Brendan Scanlon, ADF&G area fisheries research biologist reported that two years ago on the Kobuk River there was a large algae bloom associated with chum die off. Huge chum salmon run and big die off (viewed from aerial surveys) appeared to be related to temperature and low water. Diatoms on the gills associated with algae bloom show up with warm waters and thaw slumps.

Agency Reports:

National Park Service Proposed Rule on Subsistence Collections* Greg Dudgeon presented on the NPS Proposed Rule on Subsistence Collection and Bear baiting. The Gates of the Arctic SRC helped initiate this process so that they can collect the non-edible items and construct handicrafts from them to help support traditional and subsistence lifestyle. To be eligible under this proposed rule people would need to be from a resident zone community, have C&T for the resource, and have written permission from the park superintendent. Deadline for comments is April 12th.

The Council decided to table a formal decision on whether to support the proposed rule or not because they were concerned that two very different subject topics were included in the one proposal and that they needed more time to develop a position. The Council is also concerned that The Gates of the Arctic SRC had not provided feedback on the proposed rule when those are the communities it would most affect. The Council is very concerned about the requirement for a written permit when they already have C&T and that a permit would hinder traditional activities people have always practiced. Council members noted to be aware that some antlers are placed on the landscape for way finding markers and trapline anchors.

The Council requested that their concerns and full discussion on the record be considered in the NPS Proposed Rule public comment review.

Gates of the Arctic National Park and Preserve – update and report on allotment access: Marcy Okada provided updates on access to Native Allotments on NPS lands and noted it is currently allowed and provided for in ANILCA Section 1110 (a and b) but *how* is not specified. Gates of the Arctic SRC received an application to access Native Allotments on the John River by Argo in spring and summer. That request was submitted on behalf of entire family and heirs for Right of Way access by Argo in spring and summer and now the EA process begins. They are currently processing one such request of an application for a Right of Way to an allotment on the John River which includes an EA. This is only the second request that they have had. The Council expressed they appreciate that people are now provided tools to pursue a way forward to address this long time concern about how to access their allotments in order to be able to conduct subsistence activities in season.

Gates of the Arctic National Park and Preserve updates:

Marcy Okada provided updates on the sheep studies and also Gates of the Arctic SRC updates. NSRAC member Sam Kunaknana was nominated as an interim SRC member until a representative from Anaktuvuk Pass is appointed to replace former Council member James Nageak.

Marcy Okada and the NPS biologist Kumi Rattenburi presented a summary of the sheep research and management in the Gates of the Arctic and the Western Area Parklands. In 2015, sheep in western Baird Mountains continued to decline due to poor lamb survival and recruitment. State and Federal hunts in the western Baird and DeLong mountains have been closed for the last two years due to the low sheep populations. Research by Lee Anne Ayers showed that the DeLong and Baird Mountain sheep populations did not move across the Noatak River. Thus the western Baird and DeLong Mountain sheep populations are effectively isolated from the sheep populations in Gates of the Arctic (GAAR).

Although the total sheep population in the Gates of the Arctic is still down 25% from 2010 when 10,000 sheep were reported, the population is showing signs of recovery due to the increase of number of lambs per 100 ewe-like sheep. Kumi mentioned that, although the community sheep harvest quota for Anaktuvuk Pass is 60 per year, they have been averaging only 25 (approximately 2%, which was sustainable for GAAR). The residents of Anaktuvuk Pass rely more heavily on sheep when caribou are not available. Typically caribou make up 90% of the subsistence harvest for Anaktuvuk Pass. Within the Preserve portion of GAAR, sport hunting for sheep under the State regulations is allowed, whereas in the Park portion, only the residents of Anaktuvuk Pass are allowed to hunt sheep.

Greg Dudgeon reported on the difference between National Park and monuments which are open to rural subsistence hunters only but National Preserves are open to general or sport hunters. GAAR is mostly Park lands with subsistence hunt only. Noatak National Preserve is open to general hunt and sport hunting. He noted that the park manages for natural processes and looks at animals important to the ecosystem and also important aspects to community and culture. He also reported that it is the National Park Service's 100 Years Anniversary. Greg expressed appreciation for his two years working in Alaska and enjoyed his opportunity to meet with people in Eagle, Wiseman, and Noatak.

Council members requested to be kept be informed on sheep and other subsistence resources in Gates and Western arctic parklands for the communities Anaktuvuk Pass and Point Hope stay informed and help protect harvest for future.

UAF /ADF&G Subsistence Division report on subsistence household caribou harvest and sharing patterns: Jim Magdanz, University of Alaska Fairbanks and retired Subsistence Resource Specialist with ADF&G Subsistence Division provided a summary of Western Arctic Caribou herd subsistence harvests for various communities. Jim Magdanz presentated household harvest and sharing of caribou from surveys conducted 1998 to 2013 and noted how household harvests might change with new regulations. Inland communities that don't have access to marine mammals have a greater dependence on caribou than coastal communities. For example in Anaktuvuk Pass 95% subsistence of their subsistence harvest is caribou – the community is extremely dependent on caribou.

Jim provided an overview and visual images of the sharing patterns for caribou based on a very detailed survey in the community of Wainwright of sharing and receiving households which showed graphically how a few core household or hunters provide for a large percentage of the community. Household harvest surveys indicated in many communities approximately half households don't hunt caribou at all and fewer households are harvesting more and more to share with others. He reported that in 20 years of surveys with 37 communities the average was a small percentage of households providing for the majority of caribou harvested /shared in community.

He identified that in some cases these "Super Hunters or Super Households" were only 2% of the community but accounted for nearly a third of the communities total harvest of Caribou. Jim highlighted that households report who has shared with them – the hunter is not bragging – and in one case a person was identified as sharing with 21 families. He noted that cash is not shared in same way people share wild foods – connections in the community falls apart. Subsistence ties the community together.

Jim reported that while the caribou has been declining subsistence harvest have remained stable. There is some concern that current management approaches for conservation such as the reduction in the caribou harvest to 5 per day could disproportionately affect the "super" hunters who harvest more to provide for the community. The Council discussed this is similar to what Robert Shears mentioned that this happened in Wainwright last year. The fall freeze-up was particularly late so that a majority of caribou were not accessible until early November and the caribou passed through quickly so most of the harvest took place in a few days.

Council members discussed at length the importance of understanding these harvest and sharing patterns for subsistence management. Harry Brower expressed that this information strengthens message that the caribou is harvested by individuals to feed community. Gordon Brower says it is very important to understand whaling captain feed crew, feed family and provide for Nulaqatuk and the interaction between caribou and the overall subsistence and culture of the community. Bob Shears talked about the matriarch sharing as the provider and the super hunter is humble in the background. Rosemary shares that her son is a provider feeding several families in the community and last year caught nine caribou one day which was shared with 16 families. This would be illegal hunting under new regulations and we have to consider this sharing in developing conservation measures that do not put the burden largely on those that are providing for others. She would like to see these traditional ways of hunting and sharing incorporated into regulations and understanding of how much effort it takes to provide for the community – people are working really hard to provide food for their families.

Harry talked about network where community has resource network and that it is changing in communities with no caribou nearby then other communities share. These sharing networks exist between communities and are very important such as Anaktuvuk Pass is in need right now since the caribou have not come through the community but other communities across the North Slope have helped to harvest more to share with them. In conclusion Jim stressed the importance of recognizing super hunters and role of providing for community and how to develop conservation regulations that supports this community based sharing system.

Review and Approve FY2015 Annual Report* Council Coordinator, Eva Patton reviewed the Councils Draft Annual report to the Federal Subsistence Board with the Council. The Council confirmed the letter covered all of the details they wished to convey to the Board and voted by Unanimous consent to approve the letter.

Other Business:

Review/Discussion/Finalize Anaktuvuk Pass controlled use area proposal to Board of Game*

The Council revisited the development of this proposal to the Board of Game on behalf of Anaktuvuk Pass. The draft proposal was developed at the previous meeting and is pending feedback from the Anaktuvuk Pass UCAN TUTTU group and support from the community and Tribal Council before submission. BOG proposal submission deadline is April 29, 2016.

The Council received the All-Council summary of comments and concerns for review to submit as a joint letter to the Federal Subsistence Board and felt the points were reflective of the All-Council discussion but requested time to read and review it thoroughly for confirmation.

The Council also received a statement on the Refuges Proposed Rule from the Y-K Delta Council but felt they needed to learn more before taking any action on them.

Future Meeting Dates*

The Council reconfirmed November 1 and 2, 2016 in Barrow for the next fall meeting.
The Council selected February 9 and 10, 2017 for the next winter meeting.

The Council shared closing comments and adjourned at approximately 6:00 p.m.

I certify to the best of my knowledge the forgoing minutes are accurate and complete.

Eva Patton, Designated Federal Officer
USFWS Office of Subsistence Management

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

These minutes will be formally considered by the North Slope Subsistence Regional Advisory Council at its fall 2016 public meeting. Any corrections or notations will be incorporated at that meeting.

POLICY ON NONRURAL DETERMINATIONS

FEDERAL SUBSISTENCE BOARD

Adopted _____, 2017

PURPOSE

This policy clarifies the internal management of the Federal Subsistence Board (Board) and provides transparency to the public regarding the process of making or changing nonrural determinations of areas or communities for the purpose of identifying rural residents who may harvest fish and wildlife for subsistence uses on Federal public lands in Alaska. This policy is intended to clarify existing practices under the current statute and regulations. It does not create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its agencies, officers, or employees, or any other person.

INTRODUCTION

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) declares that, “the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence; the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses” (ANILCA Section 801). Rural status provides the foundation for the subsistence priority on Federal public lands to help ensure the continuation of the subsistence way of life in Alaska. Prior to 2015, implementation of this section and making rural determinations was based on criteria set forth in Subpart B of the Federal subsistence regulations.

In October 2009, the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, directed the Board to review the process of rural determinations. On December 31, 2012, the Board initiated a public review of the rural determination process. That public process lasted nearly a year, producing 278 comments from individuals, 137 comments from members of Regional Advisory Councils, 37 comments from Alaska Native entities, and 25 comments from other entities (e.g., city and borough governments). Additionally, the Board engaged in government-to-government consultation with tribes and consultation with Alaska Native Claims Settlement Act (ANCSA) corporations. In general, the comments received indicated a broad dissatisfaction with the rural determination process. Among other comments, respondents indicated the aggregation criteria were perceived as arbitrary, the population thresholds were seen as inadequate to capture the reality of rural Alaska, and the decennial review was widely viewed to be unnecessary.

Based on this information, the Board held a public meeting on April 17, 2014 and decided to recommend a simplification of the process to the Secretaries of the Interior and Agriculture (Secretaries) to address rural status in the Federal Subsistence Management Program. The Board's recommended simplified process would eliminate the criteria from regulation and allow the Board to determine which areas or communities are nonrural in Alaska. All other communities or areas would, therefore, be considered "rural" in relation to the Federal subsistence priority in Alaska.

The Secretaries accepted the Board recommendation and published a Final Rule on November 4, 2015, revising the regulations governing the rural determination process for the Federal Subsistence Management Program in Alaska. The Secretaries removed specific rural determination guidelines and criteria, including requirements regarding population data, the aggregation of communities, and a decennial review. The Board will now make nonrural determinations using a comprehensive approach that may consider such factors as 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.

By using a comprehensive approach and not relying on set guidelines and criteria, this new process will enable the Board to be more flexible in making decisions that take into account regional differences found throughout the State. This will also allow for greater input from the Councils, Federally recognized Tribes of Alaska, Alaska Native Corporations, and the public in making nonrural determinations by incorporating the nonrural determination process into the subsistence regulatory schedule which has established comment periods and will allow for multiple opportunities for input. Simultaneously with the Final Rule, the Board published a Direct Final Rule (80 FR 68245; Nov. 4, 2015) (**Appendix B**) establishing the list of nonrural communities, those communities not subject to the Federal subsistence priority on Federal public lands, based on the list of rural communities that predated the 2007 Final Rule (72 FR 25688; May 7, 2007).

As of November 4, 2015, the Board determined all communities and areas in Alaska to be rural in accordance with 36 CFR 242.15 and 50 CFR 100.15 except for 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 Bodenbergs Butte (36 CFR 242.23 and 50 CFR 100.23).

BOARD AUTHORITIES

- ANILCA 16 U.S.C. 3101, 3126.
- Administrative Procedures Act (APA), 5 U.S.C. 551-559
- 36 CFR 242.15; 50 CFR 100.15
- 36 CFR 242.18(a); 50 CFR 100.18(a)
- 36 CFR 242.23; 50 CFR 100.23

POLICY

The Board will only address changes to the nonrural status of communities or areas when requested in a proposal. Any individual, organization, or community may submit a proposal to designate a community or area as nonrural. Additionally, any individual, organization, or community may request to change an existing nonrural determination by submitting a proposal to the Board to change the status of a community or area back to rural. This policy will outline what will be required of the proponent in the submission of a proposal, the administrative process to address a proposal, a general schedule or timeline, and the public process involved in acting on such proposals.

Process

Making a Nonrural Determination

For proposals seeking a nonrural determination for a community or area, it is the proponent's responsibility to provide the Board with substantive narrative evidence to support their rationale of why the proposed nonrural determination should be considered.

Submitting a Proposal

To file a request, you must submit a written proposal in accordance with the guidance provided in the Federal Register with a call for proposals to revise subsistence taking of fish and shellfish regulations and nonrural determinations. In addition to the threshold requirements set forth below, all proposals must contain the following baseline information:

- Full name and mailing address.
- A statement describing the proposed nonrural determination action requested.
- A detailed description of the community or area to be considered nonrural, including any current boundaries, borders, or distinguishing landmarks, so as to identify what Alaska residents would be affected by the change in rural status;
- Rationale (law, policy, factors, or guidance) for the Board to consider in determining the nonrural status of a community or area;
- A detailed statement of the facts that illustrate that the community or area is nonrural using the rationale stated above; and
- Any additional information supporting the proposed change.

Threshold Requirements

The Board will accept a proposal to designate a community or area as nonrural only if the Board determines that the proposal meets the following threshold requirements:

- Based upon information not previously considered by the Board;
- Provides substantive rationale for determining the nonrural status of a community or area that takes into consideration the unique qualities of the region; and
- Provides substantive information that supports the provided rationale that a community or area is nonrural instead of rural.

Upon receipt of a proposal to designate a community or area as nonrural, the Board shall determine whether the proposal satisfied the threshold requirements outlined above. If the proposal does not, the proponent will be notified in writing. If the proposal does, it will be considered in accordance with the timeline set forth below.

Rescinding a Nonrural Determination

For proposals seeking to have the Board rescind a nonrural determination, a proposal will be accepted if it is:

- Based upon information not previously considered by the Board; or
- Demonstrates that the information used and interpreted by the Board in designating the community as nonrural has changed since the original determination was made.

Proposals seeking to have the Board rescind a nonrural determination must also include the baseline information and meet the threshold requirements outlined above for nonrural proposals.

Limitation on Submission of Proposals to Change from Rural to Nonrural

The Board is aware of the burden placed on rural communities and areas in defending their rural status. If, under this new process, a community's status is maintained as rural after a proposal to change its status to nonrural is either rejected for (i) failure to comply with these guidelines or (ii) is rejected after careful consideration by the Board, no proposals to change that community's or area's status as nonrural shall be accepted until there has been a demonstrated change in that community's rural identity.

Whether or not there has been a "demonstrated change" to the rural identity of an area or community is the burden of the proponent to show by a preponderance of the evidence.

Process Schedule

As authorized in 36 CFR 242.18(a) and 50 CFR 100.18(a), "The Board may establish a rotating schedule for accepting proposals on various sections of subpart C or D regulations over a period of years." To ensure meaningful input from the Councils and allow opportunities for public comment, the Board will only accept nonrural

determination proposals every other year in conjunction with the call for proposals to revise subsistence taking of fish and shellfish regulations and nonrural determinations. If accepted, the proposal will be deliberated during the regulatory Board meeting in the next Fisheries Regulatory cycle. This schedule thus creates a three- year period for proposal review, analysis, Regional Advisory Council input, tribal and ANCSA corporation consultation, public comment, and Board deliberation and decision.

Decision Making

When acting upon proposals to change the nonrural status of a community or area, the Board will:

- Proceed on a case-by-case basis to address each proposal regarding nonrural determinations.
- Base its determination or changes to a determination on information of a reasonable and defensible nature contained within the administrative record.
- Make nonrural determinations based on a comprehensive application of considerations presented in the proposal that have been verified by the Board as accurate.
- Consider recommendations of the appropriate Subsistence Regional Advisory Council.
- Consider comments from the public, including the State of Alaska.
- Engage in government-to-government consultation with affected tribes or consultation with affected ANCSA corporations.
- Implement a final decision on a nonrural determination after compliance with the APA, if the determination is supported and valid.

As part of its decision-making process, the Board may compare information from other, similarly-situated communities or areas if limited information exists for a certain community or area. The Board also has discretion to clarify the geographical extent of the area relevant to the nonrural determination. The Board will look to the Regional Advisory Councils for confirmation that any relevant information brought forth during the nonrural determination process accurately describes the unique characteristics of the affected region. However, deference to the Councils does not apply.

General Process Timeline

Outlined in Table 1 and Table 2

Table 1. General Process Timeline

<p>1. January to March (Even Year) – A proposed rule is published in the Federal Register with the call for proposals to revise subsistence taking of fish and shellfish regulations and nonrural determinations.</p>
<p>2. April to July (Even Year) – Proposals for nonrural determinations are validated by staff. If the proposal is not valid, the proponent will be notified in writing.</p>
<p>3. August to November (Even Year) –Affected Regional Advisory Council(s) reviews the validated proposals and provides their initial recommendations, which should include relevant regional characteristics, at their fall meeting on the record.</p>
<p>4. November to December (Even Year) – Staff will organize Nonrural Determination proposal presentations.</p>
<p>5. January (Odd Year) – At the Board’s Fishery Regulatory meeting, Board will determine if the threshold requirements have been met. If the proposal does not meet the threshold requirements, the proponent will be notified in writing. If the proposal does, it will be considered in accordance with the timeline set forth here.</p>
<p>6. February (Odd Year) to July (Even Year) (18 months) – For proposals that have been determined by the Board to meet the Threshold Requirements, the Board will conduct public hearings in the communities that will be affected by the validated proposals. During this time period, independent of the fall Council meetings, Tribes/ANCSA Corporations may also request formal consultation on the nonrural determination proposals. Following the Council meeting cycle, public hearings, and tribal/ANCSA consultations, staff will prepare a written analysis for each nonrural determination proposal following established guidelines.</p>
<p>7. August to November (Even Year) –The Council(s) will provide recommendations on the draft Nonrural Determination Analyses.</p>
<p>8. November 2018 to December (Even Year) – Staff incorporates Council recommendations and comments into the draft Nonrural Determination Analyses for the Board.</p>
<p>9. January (Odd Year) – At the Board’s Fisheries Regulatory meeting, Staff present the Nonrural Determination Analyses to the Board. The Board makes a final decision on the Nonrural Determination proposals.</p>

Wildlife & FRMP Cycle	Fishery Cycle	Dates	FSB or Activity	Proposed Nonrural Determination Cycle					
		Council Cycle		Even Years					
Wildlife & FRMP Review Cycle	Fishery Review Cycle	January	FSB FRMP Work Session	1	Nonrural Proposed Rule Jan 2016				
		February	Fishery Proposed Rule Jan- Mar						
		March							
		April	FSB Meeting	2	Proposal Validation				
		July							
		August	Fishery Proposal Review	3	Nonrural Proposal Review by Councils				
		September							
		October							
	November								
	December			Finalize Proposal Presentations for the Board					
	January	FSB Meeting	5	Odd Years - Board determines which proposals meet the Threshold requirements					
	Fishery Review Cycle	Wildlife Review Cycle	February	Wildlife Proposed Rule Jan - Mar	6	Odd to Even Years (18 months) - Public Hearings, tribal/ANCSA Corporation Consultation, and Writing of Nonrural Determination Analyses for proposals that meet the threshold requirements as determined by the Board			
			March						
			April						
			July						
		August	Wildlife Proposal & FRMP Project Review	6			Even Years Analysis Review	3	Proposal review by Councils
		September							
		October							
November									
December			Finalize Nonrural Determination Analyses	4	Finalize Threshold Reports				
January	FSB FRMP Work Session		Odd Years – Final Board Decision	5	Odd Years – See 5 above				

Table 2. General Process Timeline Comparison with other Cycles

Appendix A – Final Rule – Rural Determination Process

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 II—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, § 101.15 is revised to read as follows:

§ 101.15 Rural determination process.

(a) The Board determines which areas or communities in Alaska are nonrural. Current determinations are listed at § 101.23.

(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

Appendix B – Direct Final Rule – Nonrural List

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; FXRS1261070000–156–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 Bodenbergs 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, § 1.23 is revised to read as follows:

§ 1.23 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 Bodenber 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



FISH and WILDLIFE SERVICE
BUREAU of LAND MANAGEMENT
NATIONAL PARK SERVICE
BUREAU of INDIAN AFFAIRS

Federal Subsistence Board

1011 East Tudor Road, MS121
Anchorage, Alaska 99503



FOREST SERVICE

AUG 3 1 2016

FWS/OSM 16071.CJ

Harry Brower, Jr., Chair
North Slope Subsistence
Regional Advisory Council
P.O. Box 712
Barrow, Alaska 99766

Dear Mr. Brower:

Enclosed with this letter is a report of the Federal Subsistence Board's (Board) non-consensus agenda action items at its April 12 -14, 2016, meeting regarding proposed changes to subsistence wildlife regulations and customary and traditional use determinations. In total, the Board accepted the recommendations of the Subsistence Regional Advisory Councils – in whole or with modifications – in 67 of the 69 proposals on the agenda. Details of these actions and the Board's deliberations are contained in the meeting transcripts. Copies of the transcripts may be obtained by calling our toll free number, 1-800-478-1456, and are available online at the Federal Subsistence Management Program website, <https://www.doi.gov/subsistence>.

The Board uses a consensus agenda for proposals where there is agreement among the affected Subsistence Regional Advisory Council(s), the Interagency Staff Committee, and the Alaska Department of Fish and Game concerning a proposed regulatory action. These proposals were deemed non-controversial and did not require a separate discussion. The consensus agenda items for the North Slope Subsistence Regional Advisory Council were proposals WP16-65 (adopted with modification) and WP16-66 (adopted with modification). The Board's action was consistent with the Council's recommendations.

The Federal Subsistence Board appreciates the North Slope Subsistence Regional Advisory Council's active involvement in and diligence with the regulatory process. The ten Regional Advisory Councils continue to be the foundation of the Federal Subsistence Management Program, and the stewardship shown by the Regional Advisory Council chairs and their representatives at the Board meeting was noteworthy.

Mr. Brower

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If you have any questions regarding the summary of the Board's actions, please contact Eva Patton, Council Coordinator, at 907-786-3358.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Towarak". The signature is written in a cursive style with a large initial "T".

Tim Towarak
Chair

Enclosures

cc: Federal Subsistence Board
North Slope Subsistence Regional Advisory Council members
Eugene R. Peltola, Jr., Assistant Regional Director, Office of Subsistence Management
Stewart Cogswell, Acting Deputy Assistant Regional Director
Office of Subsistence Management
Carl Johnson, Council Coordination Division Chief, Office of Subsistence Management
Interagency Staff Committee
Administrative Record

FEDERAL SUBSISTENCE BOARD NON-CONSENSUS ACTION REPORT

April 12-14, 2016

William A. Egan Civic and Convention Center, Anchorage, Alaska

MULTIREGION CROSSOVER PROPOSALS

Proposal WP16-37

DESCRIPTION: This proposal, submitted by Jack Reakoff of Wiseman, requested changes to caribou harvest regulations in Units 21D, 22, 23, 24, 26A and 26 B, including: reduction in harvest limits; shortening bull and cow seasons, creation of new hunt areas and to be announced season; and a prohibition on the take of calves and cows with calves. The proposal request that Federal caribou regulations be aligned with recently adopted State regulations in order to reduce regulatory complexity and to aid in conservation of both herds.

COUNCIL RECOMMENDATIONS:

Western Interior Subsistence Regional Advisory Council – **Support** for Units 21D and 24; **Support** language in WP16-64 for Unit 26B; **no action taken** for remaining units.

Seward Peninsula Subsistence Regional Advisory Council – **Support with OSM modification** for Unit 22; **no action taken** on all other units.

Northwest Arctic Subsistence Regional Advisory Council – **Support with OSM modification** to mirror regulations recommended in WP16-49, no action taken on all other units.

Eastern Interior Alaska Subsistence Regional Advisory Council – **No action taken**, as the proposal does not affect Eastern Interior region

North Slope Subsistence Regional Advisory Council –**No action taken** based on action on WP16-61/62/63/64 and deference to other affected Regional Advisory Councils to make recommendations in their own region.

BOARD ACTION: **Adopted with OSM modification**

JUSTIFICATION: The Board unanimously supported WP-16-37 and adopted it with the suggested OSM Modifications that took into account all Council recommendations on a Unit by Unit basis. This included all of the North Slope Councils recommendations for Units 23, 24A, 24B, 26A, and 26B Caribou that were addressed under their own proposal WP16-61/62/63/64. The proposed changes are consistent across hunt areas and between Council recommendations and the OSM conclusion. Changes include reductions in harvest limits, shortening of bull and cow seasons, creation of new hunt areas, may-be-announced seasons, and prohibitions on the take of calves and cows with calves. A fact sheet simplifying the changes to Units 21D, 22, 23, 24, 26A and 26B accompanies this enclosure.

The Boards action adopted proposal WP16-37 with modification to prohibit the harvest of cows with calves in Units 21D, 22, 23, 24, 26A and 26B, prohibit the harvest of calves in Unit 26B, extend the bull season in Units 26A and 26B, modify the cow season in Unit 26B, modify the hunt area descriptor in Unit 24, modify the harvest limit in Unit 26B, simplify and clarify the regulatory language, and delete regulatory language regarding to be announced seasons for Units 21D and 22 and delegate authority to Federal land managers to announce seasons via delegation of authority letters only.

The Board concurred with all the Councils that made recommendations on the Western Arctic and Teshekpuk Caribou herds that these proposed regulation changes would support conservation measures in efforts to help reduce pressures on these declining herds and also reduce regulatory complexity by similarly aligning regulations on State and Federal lands across the range of the herd.

The Board felt that these changes were needed due to the precipitous decline of the caribou herds in northern and western Alaska and that these declines warranted strong measures to ensure the conservation of these populations. Since 2008, the Teshekpuk and Western Arctic caribou populations have declined approximately 50%. Low calf survival and recruitment combined with increasing adult mortality are contributing factors to the overall population decline. The Alaska Board of Game has also responded to this population concern by passing similar restrictions.

A brief summary of Board action and justification Unit by Unit is as follows:

Unit 22: This proposal is generally consistent with the Seward Peninsula Council recommendation and it reduces complexity by aligning with State openings. This proposal takes into consideration reindeer herding activities and because of the longer season provides for rural preference. It also addresses the prohibition of taking calves which also aligns with State regulations.

Unit 23: Proposed changes for this unit include reduction in harvest limit from 15 to five caribou per day. Restricting the bull season during the rut. Shortening the cow season. Restricting the take of cows with calves during nursing periods and prohibiting the take of calves.

The OSM recommendation is consistent with the recommendation each of the Regional Advisory Councils with communities within Unit 23. Differing closure dates for the hunt areas align and also align with the State seasons.

Unit 24: Caribou harvest seasons for bulls and cows would be shortened, and the take of calves would be prohibited.

The Board noted that the OSM recommendation and all the Council recommendations align for Unit 24. Further, the Board felt the OSM modification clarifies the hunt area descriptor for Units 24A remainder and 24B remainder but is otherwise consistent with the recommendation of the

Western Interior Council and is mostly consistent with the recommendation of the North Slope Council.

Unit 26A: Caribou harvest limit in Unit 26A be reduced from 10 caribou per day to 5 caribou per day, the harvest seasons for bulls and cows be shortened, and the take of calves and calves with cows be prohibited.

The Board supported the proposed conservation measures and adopted the OSM modification for Unit 26A with an amendment to adopt the North Slope Subsistence Regional Advisory Councils recommendation to shorten the cow season to July 16 – March 15 (6 weeks less than the proposed July 15- April 30th date of WP16-37). While the Board noted that the cow season dates requested by the North Slope Council for unit 26A would not align with the recently adopted State regulations in this regard, the Board recognized the Councils knowledge of caribou in this area and supported the Councils recommendation on the best timing for conservation measures to protect pregnant cows. The Board further recognized the intimate traditional knowledge and thoughtful deliberation of the Council that informed their decision to shorten the cow harvest season at this time to protect pregnant cows and increase the conservation effort in support of the herd. In support of this amendment the Boards reflected it would integrate the local knowledge of timing of the caribou herd and management practice local people would like to see in place in efforts to increase the herd size for the future.

Unit 26B: Caribou harvest limit reduced from 10 caribou per day to 5 caribou per day, the harvest season would be shortened, and the take of calves would be prohibited. Establishment of a new hunt area for caribou in Unit 26B developed to protect the Teshekpuk Caribou Herd but allow more liberal harvest of the healthy Central Arctic Herd in the area where the two herds do not overlap.

The Board noted the recommended changes will align with the State season in the area and not be as restrictive in the newly developed hunt area. The Board recognizes the caribou from the Central Arctic Herd comprise a majority of the harvest by communities that hunt in this Unit. It is recognized that the Central Arctic Herd population is much healthier than the Teshekpuk and Western Arctic Herd and thus can sustain a greater harvest, providing increased subsistence opportunity for communities in this region.

Proposal WP16-48

DESCRIPTION: This proposal, submitted by the Native Village of Kotzebue, requested to allow a Federally qualified subsistence user to use a snow machine to position a caribou, wolf, or wolverine for harvest so long as the hunter does not shoot these animals from a moving snow machine.

COUNCIL RECOMMENDATIONS:

Northwest Arctic Subsistence Regional Advisory Council - **Support with modification** to add furbearers, moose, sheep, and bear.

North Slope Subsistence Regional Advisory Council - **Support**

BOARD ACTION: **Adopted with modification** to apply only to those Federal lands in Unit 23 managed by the Bureau of Land Management.

JUSTIFICATION: This activity is prohibited on National Park Service and U.S. Fish and Wildlife Service Lands under their agency-specific regulations. Even if passed by the Board the use of snow machines to position an animal is in conflict with current regulations on National Park Service and U.S. Fish and Wildlife Service lands and therefore would not be able to be implemented on those Federal lands within Unit 23. However, the Bureau of Land Management (BLM) regulatory language does not specifically prohibit the use of snow machines to position an animal for hunting. The proposal can be adopted, as written for BLM managed lands and not be in direct conflict with existing regulations.

Adopting this regulation on BLM lands within Unit 23 will help create a more seamless regulatory structure for those portions of Unit 23 where BLM lands adjoining State and private lands. Use of snow machines to position an animal for harvesting is presently allowed on State managed lands in Unit 23 and has been recognized as a customary harvest method. State management authority includes private lands in the unit. Subsistence hunters could be more confident of where this hunting practice is allowed, since often BLM lands are not clearly distinguished from State and private lands in the state hunting regulation maps.

Proposal WP16-53/54

DESCRIPTION: This proposal, submitted by the National Park Service, requested a revision of the harvest limits and closure of the Federal subsistence season for sheep in the Baird and DeLong hunt areas of Unit 23. Proposal WP16-54 requests that the Federal subsistence season for sheep within Unit 23 remainder (Schwotka Mountains), be split into two areas by establishing a new hunt area. A revision of harvest limits and seasons is also requested.

COUNCIL RECOMMENDATIONS:

North Slope Subsistence Regional Advisory Council – **Support with OSM modification**

Northwest Arctic Subsistence Regional Advisory Council - **Support with modification** to close the sheep season in all of Unit 23 (including Gates of the Arctic National Park and Preserve).

BOARD ACTION: **Adopted with OSM modification**

JUSTIFICATION: The Board unanimously adopted WP-16-53/54 with the recommended OSM modification and consistent with the North Slope Council's recommendation to establish a may-be-announced season and to issue a delegation of authority letter to the Superintendent of the Western Arctic National Park Lands to set quotas and to open or close the season. This will

provide for maximum management flexibility and quick response to changes in the sheep population.

The decline in the sheep populations, in addition to the low numbers of large rams and apparent low recruitment rate suggests that sustained harvest could prolong or worsen the current declines and hamper recovery. Establishing a may-be-announced Federal sheep season in Unit 23 that excludes lands within Gates of the Arctic National Park and Preserve, is necessary to assure the continued viability of the sheep population as mandated under Section 18 [sic] of ANILCA.

Delegating the authority to the Western Arctic National Park Lands Superintendent to open and close the season and set annual harvest quotas and limits will provide management flexibility to protect the Unit 23 sheep population and provide subsistence hunting opportunities when sheep population numbers recover sufficiently to support a harvest.

Establishing the new hunt area descriptors for the Schwatka Mountains within the current Unit 23 remainder will define those lands inside Gates of the Arctic National Park and Preserve from those lands outside of the Park and Preserve to help clarify management responsibilities. And they will reflect differences in hunter access and potential hunting pressure on the sheep populations.

Residents in the Gates of the Arctic National Park and Preserve Resident Zone Communities of Ambler, Kobuk and Shungnak are the only people eligible to hunt sheep in the Park under Federal subsistence regulations. This small pool of perspective hunters and the difficulty of accessing sheep hunting areas in the Park greatly reduces potential hunting pressure on sheep inside of the Park and Preserve.

Proposal WP16-61/62/63/64

DESCRIPTION: These proposals, submitted by the North Slope Subsistence Regional Advisory Council, requested changes in harvest limits, caribou season dates, hunt areas, and harvest restrictions in units 23, 24A, 24B, 26A and 26B.

Proposal WP16–61 requested establishment of a new hunt area for caribou in Unit 23 where the harvest limit would be reduced from 15 caribou per day to 5 caribou per day, the harvest season be reduced for bulls and cows, and the take of calves would be prohibited.

Proposal WP16-62 requested establishment of a new hunt area for caribou in Unit 24 where the harvest seasons for bulls and cows would be shortened, and the take of calves would be prohibited.

Proposal WP16-63 requested that caribou harvest limit in Unit 26A be reduced from 10 caribou per day to 5 caribou per day, the harvest seasons for bulls and cows be shortened, and the take of calves and calves with cows be prohibited.

Proposal WP16-64 requested establishment of a new hunt area for caribou in Unit 26B where the harvest limit would be reduced from 10 caribou per day to 5 caribou per day, the harvest season would be shortened, and the take of calves would be prohibited. Submitted by the North Slope Subsistence Regional Advisory Council.

COUNCIL RECOMMENDATIONS:

North Slope Subsistence Regional Advisory Council – **Support** WP16-61, WP16-63, and WP16-64 as modified by OSM. **Support** WP16-62 **with modification** to accept only the OSM Unit descriptor changes.

Northwest Arctic Subsistence Regional Advisory Council – **Support** WP16-61 **with modification** to extend the closing date of the bull season to Oct. 31, change the opening date of the cow season to July 31, modify the restriction on the take of cows with calves, and prohibit the take of calves. **No action taken** on WP16-62/63/64.

Western Interior Subsistence Regional Advisory Council – **Support** WP16-64 for Unit 24B. **Defer** action on remaining Units to affected Regions

BOARD ACTION: No action taken based on action taken on each Unit addressed in WP16-37

JUSTIFICATION: The Board unanimously supported WP-16-37 and adopted it with the suggested OSM modifications that took into account all Councils recommendations on a Unit by Unit basis. This included all of the North Slope Councils recommendations for Units 23, 24A, 24B, 26A, and 26B Caribou that were addressed under their own proposal WP16-61/62/63/64. The Board concurred with all the Councils recommendations for each Unit through action on the similar Proposal WP1-37.

Proposal WP16-49/52

DESCRIPTION: These proposals, submitted by the Northwest Arctic Subsistence Regional Advisory Council and Upper and Lower Kobuk Fish and Game Advisory Committee, respectively, requested a change in harvest limits, season dates and harvest restrictions for caribou in Unit 23.

COUNCIL RECOMMENDATIONS:

Seward Peninsula Subsistence Regional Advisory Council – **No action taken**

Western Interior Subsistence Regional Advisory Council – **No action taken**

Northwest Arctic Subsistence Regional Advisory Council – **Support** WP16-49 **with modification**

North Slope Subsistence Regional Advisory Council – **Support with OSM modification**

BOARD ACTION: **No action taken** based on action taken on Proposal WP16-37

JUSTIFICATION: Proposal WP16-49 and WP16-52 were similar to proposed changes for caribou harvests, seasons and restrictions in Unit 23 under WP16-37. As a result, the Board took no action on these proposals, considering the proposed regulatory changes to Unit 23 and taking action through proposal WP16-37.

FISHERIES RESOURCE MONITORING PROGRAM NORTH SLOPE 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 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 needed.

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

Region	Department of Interior	Department of Agriculture
	Funds	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 identifying issues of local concern and knowledge gaps related to subsistence fisheries. The Priority Information Needs provide a framework for evaluating and selecting project proposals. Successful project proposals 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 MONITORING PROGRAM

Since the inception of the Monitoring Program in 2000, 17 projects have been funded in the North Slope Area including four new projects operating during 2016 (**Table 2**).

Table 2. Fisheries Resource Monitoring Program projects funded on the North Slope Region from 2000 to 2016.

Project Number	Project Title	Project Cost
00-002	Eastern NS Dolly Varden Spawning and Over-wintering Assessment	\$41,500
01-101	Eastern NS (Kaktovik) Subsistence Fish Harvest Assessment	\$198,000
01-113	Eastern NS Dolly Varden Genetic Stock ID Stock Assessment	\$696,500
02-050	NS (Anaktuvuk Pass) Subsistence Fish Harvest Assessment	\$150,506
03-012	SST of Arctic Cisco and Dolly Varden in Kaktovik Lagoons	\$167,050
04-103	North Slope Dolly Varden Sonar Feasibility	\$343,900
06-108	North Slope Dolly Varden Aerial Monitoring	\$81,743
07-105	North Slope Dolly Varden Genetic Baseline Completion	\$76,433
07-107	Hulahula River Dolly Varden Sonar Enumeration	\$119,023
12-154	North Slope Salmon Fishery Harvest Monitoring and TEK	\$166,262
12-155	North Slope Subsistence Whitefish and Cisco Climate Change and TEK	\$187,156
14-103	Beaufort Sea Dolly Varden Satellite Telemetry	\$400,978
16-101	Canning River Arctic Dolly Varden Telemetry	\$105,400
16-106	North Slope Over-wintering Dolly Varden Aerial Monitoring	\$229,302
16-107	Chandler Lake Lake Trout Yield Potential, Spawning Aggregations, and Abundance	\$245,686
16-152	Meade River Changes in Subsistence Fish	\$329,495
	Total	\$3,538,934

FP17-04 Executive Summary	
General Description	<p>Proposal FP17-04, requests increased gillnet obstruction of Racetrack Slough of the Koyukuk River and sloughs of the Huslia River drainage between ice out and June 15.</p> <p><i>Submitted by: Western Interior Alaska Subsistence Regional Advisory Council.</i></p>
Proposed Regulation	<p><i>§ __.27(e)(3)(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.</i></p> <p><i>(e)(3)(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:</i></p> <p><i>(F) In Racetrack Slough on the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the set gillnet may not be closer than 20 feet from the opposite bank, unless closed by Federal special action.</i></p>
OSM Preliminary Conclusion	Support Proposal FP17-04
Western Interior Alaska Regional Advisory Council Recommendation	
Yukon/Kuskokwim Delta Regional Advisory Council Recommendation	
Seward Peninsula Regional Advisory Council Recommendation	
Eastern Interior Alaska Regional Advisory Council Recommendation	
North Slope Regional Advisory Council Recommendation	
Interagency Staff Committee Comments	
ADF&G Comments	
Written Public Comments	None

DRAFT STAFF ANALYSIS
FP17-04

ISSUES

Proposal FP17-04, submitted by the Western Interior Alaska Subsistence Regional Advisory Council (Council), requests that the Federal Subsistence Board allow an increase in the portion of Racetrack Slough on the Koyukuk River and sloughs of the Huslia River drainage that may be covered with a gillnet to provide more subsistence harvest opportunity for Northern Pike between ice out and June 15.

DISCUSSION

The Council submitted this proposal to be more consistent with State regulations approved by the Alaska Board of Fisheries in January 2016 (State Proposal 144 with modified language adopted from RC 57). The proposed regulatory changes would provide more subsistence harvest opportunity for Northern Pike in Racetrack Slough on the Koyukuk River and sloughs of the Huslia River drainage (**Map 1**), primarily residents of Huslia. Federal subsistence regulations currently allow for a fishery at this time; however, gillnets may not obstruct more than one-half of the width of any stream.

Existing Federal Regulation

§ ____.27 Subsistence taking of fish.

(b)(4) Except as otherwise provided for in this section, you may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses.

(e)(3)(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal Special Action.

(e)(3)(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:

Proposed Federal Regulation

§ ____.27 Subsistence taking of fish.

(b)(4) Except as otherwise provided for in this section, you may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses.

(e)(3)(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska

Statutes (AS 16.05.060), unless superseded by a Federal Special Action.

(e)(3)(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:

(F) In Racetrack Slough on the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the set gillnet may not be closer than 20 feet from the opposite bank, unless closed by Federal special action.

Existing State Regulation

5 AAC 01.220. Lawful gear and gear specifications. – Yukon Area

(f) Unless otherwise specified in this section, fish other than salmon and halibut may be taken only by set gillnet, drift gillnet, beach seine, fish wheel, longline, fyke net, dip net, jigging gear, spear, a hook and line attached to a rod or pole, handline, or lead, subject to the following restrictions, which also apply to subsistence salmon fishing:

(4) a gillnet may not obstruct more than one-half the width of any fish stream and any channel or side channel of a fish stream; a stationary fishing device may not obstruct more than one-half the width of any salmon stream and any channel or side channel of a salmon stream, except that in Racetrack Slough off of the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the gillnet may not be closer than 20 feet from the opposite bank, unless closed by emergency order;

Extent of Federal Public Waters

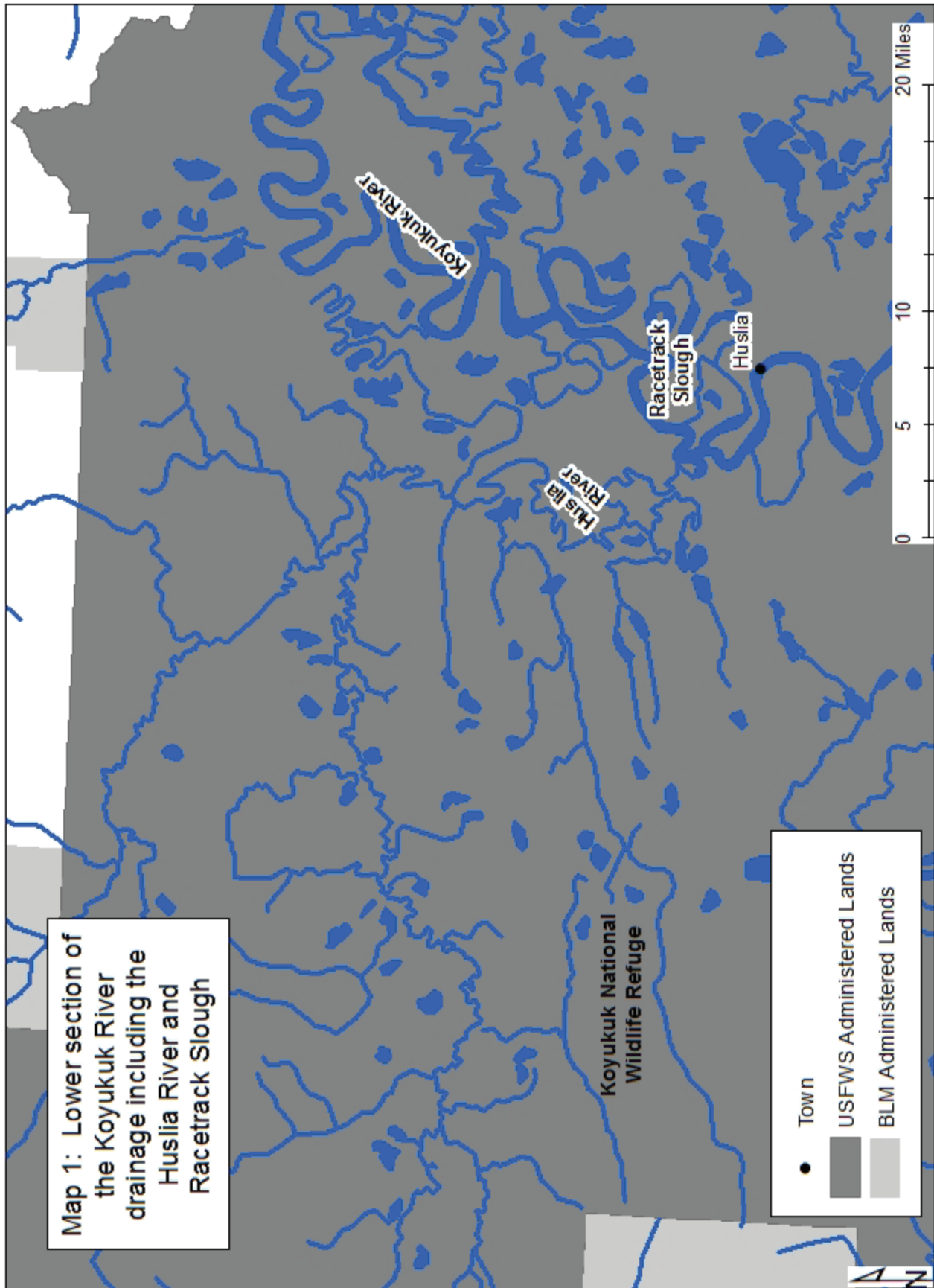
For the purpose of this discussion, the phrase “Federal public waters” is defined as those waters described under 36 CFR 242.3 and 50 CFR 100.3. The Federal public waters addressed by this proposal are Racetrack Slough on the Koyukuk River (**Map 1**), as well as those portions of the Huslia River located within, or adjacent to, the external boundaries of the Koyukuk National Wildlife Refuge (**Map 2**).

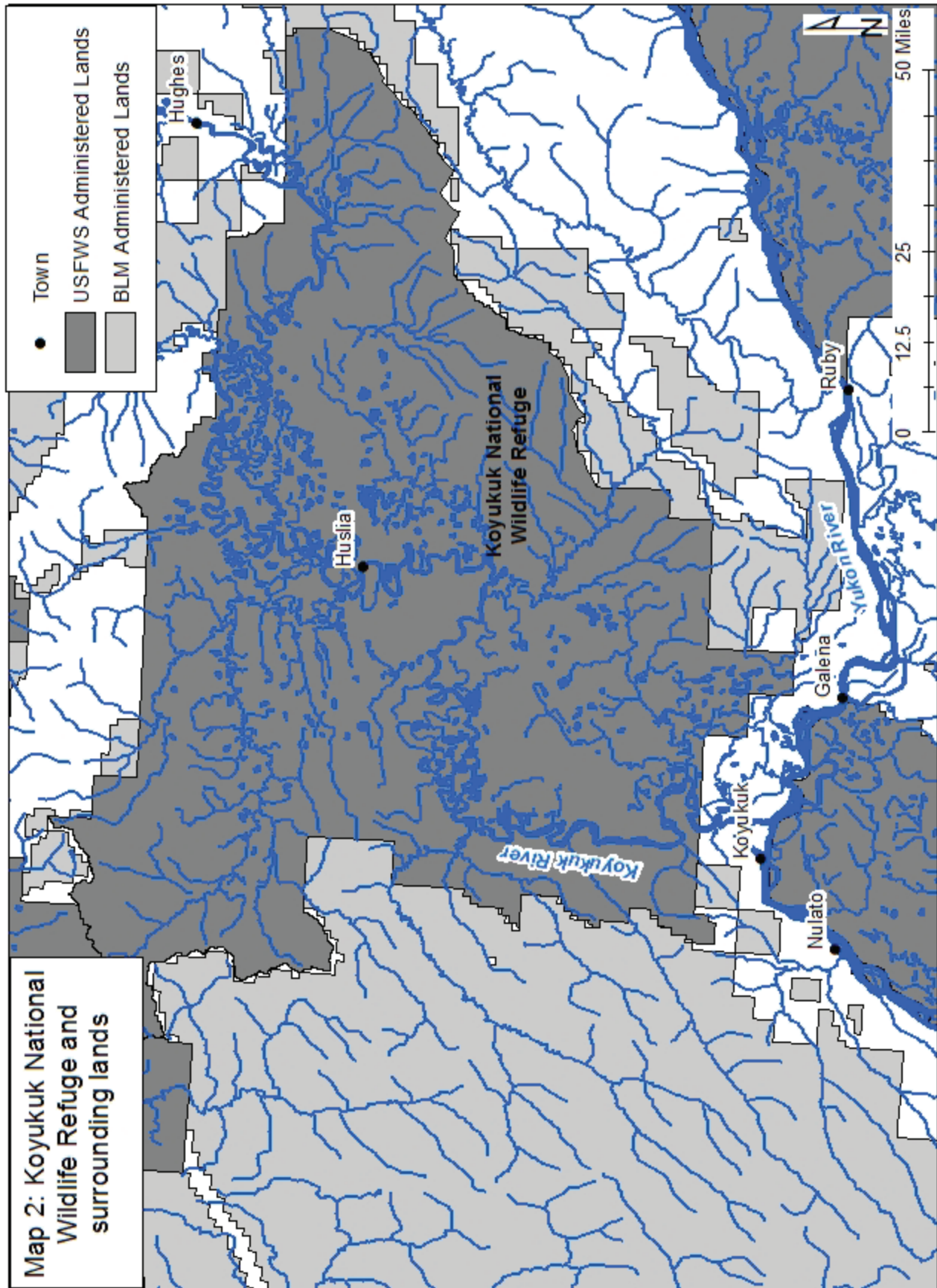
Customary and Traditional Use Determinations

Residents of the Yukon-Northern Area have a customary and traditional use determination for all freshwater fish, other than salmon.

Regulatory History

Federal subsistence fishing in the Koyukuk River for freshwater species (other than salmon) including Sheefish, whitefish, lamprey, Burbot, Longnose Sucker, Arctic Grayling, Northern Pike, char, and Alaska





Blackfish is open year-round with no harvest limits. Stationary fishing gear may not obstruct more than one-half the width of any stream.

Subsistence fishing under State regulations in the Koyukuk River is open with 7.5 inch or smaller mesh size gillnets, 24 hours per day, seven days per week before June 15. These regulations restrict gillnets to obstructing not more than one-half of the width of any fish stream and any channel or side channel of a fish stream for this region. These regulations have been recently updated, however, to provide an exception for Racetrack Slough on the Koyukuk River and sloughs of the Huslia River, allowing for gillnet obstruction of all but 20 feet of a stream or channel between ice out and June 15.

This proposal was submitted to make Federal regulations more consistent with State of Alaska regulations approved by the Alaska Board of Fisheries (State Proposal 144 with modified language adopted from RC 57) at the Arctic/Yukon/Kuskokwim Finfish meeting held January 12-16, 2016.

Biological Background

Northern Pike *Esox lucius* is a freshwater fish found throughout the northern hemisphere, including the Yukon River drainage. They are opportunistic feeders that prefer soft-rayed fish such as whitefish as prey, but will consume other fish species depending on what is available (Eklöv & Hamrin 1989). They will also consume smaller pike, as well as other animals including waterfowl, frogs, insects, and small mammals like mice and shrews (Morrow 1980).

Little is known of the population numbers for Northern Pike in the region covered by this proposal. They would likely be migrating to spawning locations during the time period, which are typically shallow weedy areas (McPhail and Lindsay 1970). The species is susceptible to overharvest, which can lead to early maturation (Diana 1983) and stunting (Diana 1987).

While Northern Pike are the main targeted species identified in this proposal, other species are also present in this area and may also be captured between ice out and June 15. Surveys in the North Fork Huslia River and Billy Hawk Creek (both in the Huslia River drainage) found Broad Whitefish, Humpback Whitefish, Round Whitefish, Arctic Grayling, Longnose Sucker, and Burbot to be present (Wiswar 1994). Species present in the greater Koyukuk River drainage after mid-summer include Sheefish (Alt 1978), Chum Salmon (Wiswar 1994), Chinook Salmon, Coho Salmon, and Sockeye Salmon (Johnson and Litchfield 2015). Rates of incidental capture of other species of fish when targeting Northern Pike are unknown at this time, and may be dependent upon the mesh-size of nets in use during the time period and location specified in this request.

The proposal would revise the methods and means for this specific area through June 15, with the intent of switching back to standard regulations prior the arrival of salmon in the area. Run timing for Chinook and Chum Salmon at the Gisasa River Weir, which is on a tributary approximately 90 km upriver from the mouth of the Koyukuk River, indicates that salmon would not be in the area covered under this proposal during the time period in question. Between the years 1995 and 2013, the earliest returns to the Gisasa weir of Chinook and Chum Salmon was June 20 and June 16, respectively (Carlson 2014). The waters that

would be impacted by this proposal are approximately 300 km upriver from the mouth of the Koyukuk River, and therefore would have an even later date of return for these species.

Harvest Histories

Subsistence

Northern Pike is an important subsistence resource for the community of Huslia, generally ranking only behind summer Chum Salmon, fall Chum Salmon, and large whitefish in number harvested (Marcotte 1986; Jallen et al. 2015). Subsistence harvests of Northern Pike by Huslia residents averaged 1,209 fish per year (range of 94 – 5,191 fish) between 1993 and 2015 (Jallen 2016, pers. comm.).

Sport Fishing

There are no directed sport fisheries in this area, but there are a substantial number of guided moose hunters in the fall and some degree of sport fishing for Northern Pike and Arctic Grayling associated with those users (Viavant 2016, pers. comm.). For the years 1996 to 2014, harvests of Northern Pike in the Huslia River were only reported in 1997 (N=103), while catches were reported in both 1997 (N=687) and 2011 (N=35) in the Alaska Sport Fishing Survey Database (2016). No harvests were reported by this statewide survey for any other years.

Commercial Fishing

No commercial fishing takes place in this portion of the Yukon River drainage.

Cultural Knowledge and Traditional Practices

Huslia is an Athabaskan village which had a population of 274 in 2014 (City-Data.com 2016). The village is located within the Koyukuk National Wildlife Refuge on the north bank of the Koyukuk River, about 290 air miles west of Fairbanks and 170 miles by river from Galena and is dependent on subsistence resources. The current residents are descendants of Koyukon Athabascans who lived between the south fork of the Koyukuk River and the Kateel River and who hunted and fished near present day Huslia. In the mid-1800s Russian explorers made contact with their Athabaskan ancestors approximately 50 miles downriver from Huslia. The community moved to their current location in 1949 because where they were located was prone to flooding and the ground was swampy. The first school was established there in 1950, followed by a post office and an airport in 1952. During this time families began to settle permanently in Huslia. The city was incorporated in 1969 (Tananachiefs.org 2016).

According to a report based on research done by Marcotte in 1983, people in Huslia harvested a variety of fish along with other subsistence resources. Fish nets were used for Sheefish and whitefish, starting in early May. Chinook and Chum Salmon were caught in set nets starting in June. Pike were caught along with Arctic Grayling and Longnose Suckers June through October (Marcotte 1986). In 1983, 28 households reported harvesting pike with the mean household harvest of 69.5 pounds for a total community

harvest of 1,947 fish. Residents reported harvesting fish in various locations near Huslia and processing fish at their fish camps which were often on their Native allotments (Marcotte 1986).

Effects of the Proposal

If FP17-04 were adopted, Federally qualified subsistence users would be allowed to use gillnets to obstruct all but 20 feet of a channel between ice out and June 15 for Racetrack Slough on the Koyukuk River and sloughs of the Huslia River drainage. This would allow Federally qualified subsistence users the same opportunities as subsistence users under State of Alaska regulations. There would likely be an increase the harvest of Northern Pike and other resident fish species during this time period.

Adoption of this proposal would likely increase the rate of capture of Northern Pike and other fish species, as well as incidental capture of other animals such as ducks and small mammals. The Federal in-season fisheries manager has expressed some concern about the unknown impacts of this regulatory change, should it take place, and has suggested the use of a post-season harvest survey or registration permit to better understand use patterns and harvests (Bue 2016, pers. comm.).

If FP17-04 were not adopted, there would continue to be an inconsistency between State and Federal subsistence regulations for this area, and Federally qualified subsistence users would be held to the regional regulation allowing for obstruction of no more than one-half of a stream. This would also increase enforcement or management complexity.

OSM PRELIMINARY CONCLUSION

Support Proposal FP17-14.

Justification

Adoption of this proposal would result in additional opportunity for Federally qualified subsistence users in Racetrack Slough on the Koyukuk River and the sloughs of the Huslia River drainage. The Alaska Board of Fisheries recently authorized these same changes for this region under State of Alaska regulations. The timeline for this gear change under the proposal would curtail this activity prior the arrival of salmon into these systems.

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(11 Aug 2016)

MEMORANDUM OF UNDERSTANDING
For
Coordinated Interagency Fish and Wildlife Management for Subsistence Uses on Federal
Public Lands in Alaska

between the

Federal Subsistence Board
(U.S. Fish and Wildlife Service, USDA Forest Service, National Park Service, Bureau of
Land Management, Bureau of Indian Affairs, and Secretarial Appointees)

and

State of Alaska
(Alaska Department of Fish and Game (ADF&G) and Alaska Board of Fisheries and
Alaska Board of Game (State Boards))

I. PREAMBLE

This Memorandum of Understanding (MOU) between the Federal Subsistence Board and the State of Alaska establishes guidelines to coordinate management of subsistence uses of fish and wildlife resources on Federal public lands in Alaska.

WHEREAS, the Secretaries of Agriculture and the Interior (Secretaries), by authority of the Alaska National Interest Lands Conservation Act (ANILCA) and other laws of Congress, regulations, and policies, are responsible for ensuring that the taking of fish and wildlife for nonwasteful subsistence uses on Federal public lands, as discussed in ANILCA §802(2) and defined in ANILCA §803, shall be accorded priority over the taking on such lands of fish and wildlife for other purposes as provided for in ANILCA §804; and that the Secretaries are responsible for protecting and providing the opportunity for rural residents of Alaska to engage in a subsistence way of life on Federal public lands in Alaska, consistent with the conservation of healthy populations of fish and wildlife and recognized scientific principles; and that these lands are defined in ANILCA §102 and Federal regulation (36 CFR Part 242 and 50 CFR Part 100); and that the Secretaries primarily implement this priority through the Federal Subsistence Board, providing for public participation through Regional Advisory Councils and Subsistence Resource Commissions as authorized by ANILCA §805 and §808 and Federal regulations (above); and,

WHEREAS, the State of Alaska, under its laws and regulations, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the State of Alaska on the sustained yield principle, subject to preferences among beneficial uses, such as providing a priority for subsistence harvest and use of fish and wildlife (where such uses are customary and traditional), and implements its program through the State Boards and the ADF&G, providing for public participation

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through Advisory Committees authorized in the State's laws and regulations (Alaska Statutes Title 16; Alaska Administrative Code Title 5) and through Alaska Administrative Procedure Act; and,

WHEREAS, ANILCA, Title VIII, authorizes the Secretaries to enter into cooperative agreements in order to accomplish the purposes and policies of Title VIII, and the Federal Subsistence Board and the State of Alaska believe it is in the best interests of the fish and wildlife resources and the public to enter into this Memorandum of Understanding;

THEREFORE, the signatories endorse coordination of Federal and State regulatory processes and the collection and exchange of data and information relative to fish and wildlife populations and their use necessary for subsistence management on Federal public lands. This MOU forms the basis for such cooperation and coordination among the parties with regard to subsistence management of fish and wildlife resources on Federal public lands.

II. PURPOSE

The purpose of this MOU is to provide a foundation and direction for coordinated interagency fish and wildlife management for subsistence uses on Federal public lands, consistent with specific Federal and State authorities as stated above, that will protect and promote the sustained health of fish and wildlife populations, ensure conservation of healthy populations and stability in fish and wildlife management, and include meaningful public involvement. The signatories hereby enter this MOU to accomplish this purpose and to establish guidelines for subsequent agreements and protocols to implement coordinated management of fish and wildlife resources used for subsistence purposes on Federal public lands in Alaska.

III. GUIDING PRINCIPLES

- 1) Ensure conservation of fish and wildlife resources while providing for continued uses of fish and wildlife, including a priority for subsistence uses, through interagency subsistence management and regulatory programs that promote coordination, cooperation, and exchange of information between Federal and State agencies, regulatory bodies, Regional Advisory Councils, Subsistence Resource Commissions, State Advisory Committees, state and local organizations, tribes and/or other Alaska Native organizations, and other entities;
- 2) Recognize that wildlife management activities on Federal public lands, other than the subsistence take and use of fish and wildlife remain within the authority of the individual land management agencies.
- 3) Use the best available information, including scientific, cultural and local knowledge and knowledge of customary and traditional uses, for decisions regarding fish and wildlife management for subsistence uses on Federal public lands;

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- 4) Avoid duplication in research, monitoring, and management;
- 5) Involve subsistence and other users in the fisheries and wildlife management planning processes;
- 6) Promote stability in fish and wildlife management and minimize unnecessary disruption to subsistence and other uses of fish and wildlife resources; and
- 7) Promote clear and enforceable hunting, fishing, and trapping regulations.

**IV. THE FEDERAL SUBSISTENCE BOARD AND STATE OF ALASKA
MUTUALLY AGREE**

- 1) To cooperate and coordinate their respective research, monitoring, regulatory, and management actions to help ensure the conservation of fish and wildlife populations for subsistence use on Federal public lands.
- 2) To recognize that fish and wildlife population data and information, including local knowledge of customary and traditional uses, are important components of successful implementation of Federal responsibilities under ANILCA Title VIII.
- 3) To recognize a Federal priority for rural residents on Federal public lands for subsistence uses of fish and wildlife resources. Additionally, to allow for other uses of fish and wildlife resources when harvestable surpluses are sufficient, consistent with ANILCA and Alaska Statute 16.05.
- 4) To recognize that cooperative funding agreements implementing the provisions of this MOU be negotiated when necessary and as authorized by ANILCA §809 and other appropriate statutory authorities. Federal funding agreements for cooperative research and monitoring studies of subsistence resources with organizations representing local subsistence users and others are, and will continue to be, an important component of information gathering and management programs.
- 5) To recognize that Federal and State scientific standards for conservation of fish and wildlife populations are generally compatible. When differences interpreting data are identified, the involved agencies should appoint representatives to seek resolution of the differences.
- 6) To cooperatively pursue the development of information to clarify Federal and State regulations for the public.
- 7) To recognize that the signatories establish protocols or other procedures that address data collection and information management, data analysis and review, in-season fisheries and wildlife management, and other key activities and issues jointly agreed upon that affect subsistence uses on Federal public lands. (See Appendix)

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8) To have Federal and State staff work cooperatively with Regional Advisory Councils, Subsistence Resource Commissions, State Advisory Committees, tribes and other stakeholders, as appropriate, to review data analyses associated with regulatory proposals, harvest assessment and monitoring studies, and subsistence resource management.

9) To designate liaisons for policy and program communications and coordination between the Federal and State programs.

10) To provide adequate opportunity for the appropriate Federal and State agencies to review analyses and justifications associated with special actions and emergency orders affecting subsistence uses on Federal public lands, prior to implementing such actions. Where possible and as required, Federal and State agencies will provide advance notice to Regional Advisory Council, Subsistence Resource Commission, and/or State Advisory Committee representatives, tribes and other interested members of the public before issuing special actions or emergency orders. Where conservation of the resource or continuation of subsistence uses is of immediate concern, the review shall not delay timely management action.

11) To cooperatively review existing, and develop as needed, Federal subsistence management plans and State fish and wildlife management plans that affect subsistence uses on Federal public lands. Provide an opportunity for Regional Advisory Council, Subsistence Resource Commission and/or State Advisory Committee representatives, tribes and other public to participate in the review. Consider Federal, State and cooperative fish and wildlife management plans as the initial basis for any management actions so long as they provide for subsistence priorities. Procedures for management plan reviews and revisions will be developed by the respective Federal and State Boards in a protocol.

12) To use the State's harvest reporting and assessment systems supplemented by information from other sources to monitor subsistence uses of fish and wildlife resources on Federal public lands. In some cases, Federal subsistence seasons, harvest limits, or data needs necessitate separate Federal subsistence permits and harvest reports.

13) To ensure that local residents, tribes and other users will have meaningful involvement in subsistence wildlife and fisheries regulatory processes that affect subsistence uses on Federal public lands.

V. GENERAL PROVISIONS

1) No member of, or Delegate to, Congress shall be admitted to any share or part of this document, or to any benefit that may arise from it.

2) This MOU is complementary to and is not intended to replace the Master Memoranda of Understanding between the individual Federal agencies and ADF&G, with the exception of specific Federal responsibilities for subsistence uses of fish and wildlife on

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Federal public lands. Supplemental protocols to this document may be developed to promote further interaction and coordination among the parties.

- 3) Nothing herein is intended to conflict with Federal, State, or local laws or regulations.
- 4) Nothing in this MOU enlarges or diminishes each party's existing responsibilities and authorities.
- 5) Upon signing, the parties shall each designate an individual and an alternate to serve as the principal contact or liaison for implementation of this MOU.
- 6) This MOU becomes effective upon signing by all signatories and will remain in force until such time as the Secretary of the Interior determines that the State of Alaska has implemented a subsistence management program in compliance with Title VIII of ANILCA, or, signatories terminate their participation in this MOU by providing 60 days written notice. Termination of participation by one signatory has no impact on this MOU's effectiveness between the remaining signatories.
- 7) Regional Advisory Councils, Subsistence Resource Commissions and State Advisory Committees will be asked annually to provide comments to the signatories concerning Federal/State coordination. The signatories will meet annually or more frequently if necessary, to review coordinated programs established under this MOU, to consider Regional Advisory Council, Subsistence Resource Commission and State Advisory Committee comments, and to consider modifications to this MOU that would further improve interagency working relationships. Any modifications of this MOU shall be made by mutual consent of the signatories, in writing, signed and dated by all parties.
- 8) Nothing in this document shall be construed as obligating the signatories to expend funds or involving the United States or the State of Alaska in any contract or other obligations for the future payment of money, except as may be negotiated in future cooperative funding agreements.
- 9) This MOU establishes guidelines and mutual management goals by which the signatories shall coordinate, but does not create legally enforceable obligations or rights.
- 10) This MOU does not restrict the signatories from participating in similar agreements with other public or private agencies, tribes, organizations, and individuals.

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SIGNATORIES

In WITNESS THEREOF, the parties hereto have executed this MOU as of the last date written bellow.

Commissioner
Alaska Department of Fish and Game
Date:

Chair of the Federal Subsistence Board
Date:

Chair
Alaska Board of Fisheries
Date:

Regional Director
U.S. Fish and Wildlife Service
Date:

Chair
Alaska Board of Game
Date:

Regional Forester
USDA Forest Service
Date:

Regional Director
National Park Service
Date:

State Director
Bureau of Land Management
Date:

Regional Director
Bureau of Indian Affairs
Date:

Member of the Federal Subsistence Board
Date:

Member of the Federal Subsistence Board
Date:

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APPENDIX

SCOPE FOR PROTOCOLS AND/OR PROCEDURES

- 1) Joint technical committees or workgroups may be appointed to develop protocols and/or procedures.
- 2) Individual protocols and/or procedures should:
 - a. Be developed by an interagency committee. The committee shall involve, as appropriate, Regional Advisory Council, Subsistence Resource Commissions and/or State Advisory Committee representatives and other Federal/State regional or technical experts.
 - b. Identify the subject or topic of the protocol and provide justification.
 - c. Identify the parties to the protocol.
 - d. Identify the process to be used for implementing the protocol.
 - e. Provide for appropriate involvement of Regional Advisory Councils, Subsistence Resource Commissions and/or State Advisory Committees, tribes and/or other Alaska Native organizations, governmental organizations, and other affected members of the public when implementing protocols.
 - f. Specify technical committee or workgroup memberships.
 - g. Develop a timeline to complete tasks.
 - h. Identify funding obligations of the parties.
 - i. Define the mechanism to be used for review and evaluation.
- 3) Protocols or procedures require concurrence by the land agencies party to the specific protocols as appropriate and prior to implementation.

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.



Federal Subsistence Board

1011 East Tudor Road, MS121
Anchorage, Alaska 99503



FISH and WILDLIFE SERVICE
BUREAU of LAND MANAGEMENT
NATIONAL PARK SERVICE
BUREAU of INDIAN AFFAIRS

FOREST SERVICE

FWS/OSM 16084.CJ

SEP 14 2016

Harry Brower, Jr., Chair
North Slope Subsistence
Regional Advisory Council
U.S. Fish and Wildlife Service
Office of Subsistence Management
1011 East Tudor Road, MS 121
Anchorage, Alaska 99503

Dear Chairman Brower:

This letter responds to the North Slope Subsistence Regional Advisory Council's (Council) fiscal year 2015 Annual Report. The Secretaries of the Interior and Agriculture have delegated to the Federal Subsistence Board (Board) the responsibility to respond to these reports. The Board appreciates your effort in developing the Annual Report. Annual Reports allow the Board to become aware of the issues outside of the regulatory process that affect subsistence users in your region. We value this opportunity to review the issues concerning your region.

1. Preventing Deflection of Caribou and Food Security Management

The Council addressed the Board last year in its annual report about pressing concerns for food security for communities in the North Slope Region. The Council would like to further address this issue in regards to the current situation with the decline of the Western Arctic and Teshekpuk Caribou Herds. The Council held its fall 2015 meeting in Anaktuvuk Pass and heard extensive testimony from many residents there on the hardships they are experiencing due to both the decline in the caribou herds and shift in the normal migration route that no longer brings caribou close enough to the community to hunt in the past few years.

The Council seeks avenues through the Federal Subsistence Management Program to respond to the situation that the community of Anaktuvuk Pass is faced with, not having met there

Chairman Brower

2

subsistence needs for several years due to the decline and deflection of the caribou herd. Being an inland Inupiaq community, Anaktuvuk Pass relies extensively on caribou for subsistence and has little access to marine resources and migratory birds or fish that other communities in the North Slope region can rely on when caribou are not as plentiful. Harvest data collected by the Alaska Department of Fish and Game (ADF&G) Subsistence Division confirms that caribou is the predominant subsistence resource and makes up the largest food by weight eaten annually by residents of Anaktuvuk Pass. The Council will be submitting a letter to the Board that shares some of the heartfelt testimony by residents of Anaktuvuk Pass that provides preponderance of evidence of just how critical this subsistence resource is to the community.

Given that caribou specifically is the primary subsistence food that feeds this community, it is imperative to ensure subsistence priority is met. The Council seeks avenues through the Federal Subsistence Management Program to ensure that federal subsistence priority for caribou is met and this also entails ensuring that activities on non-Federal public lands do not deflect caribou from their migratory path through Anaktuvuk Pass. This is a very real matter of food security and the Council seeks the assistance of the Federal Subsistence Program to generate solutions to alleviate the situation.

This is a concern that goes beyond the community of Anaktuvuk Pass. The Council would like to reiterate that access to subsistence resources is an essential aspect of meeting subsistence needs. While the Federal Subsistence Board does not have direct jurisdiction over development or management of non-Federal public lands if caribou are deflected away from communities or subsistence hunt areas, this action affects realizing any subsistence priority over other uses and is detrimental to communities meeting their subsistence needs. The Council seeks to work with the Federal Subsistence Program on solutions to address sources of disturbance to caribou. While some factors driving the decline of the herds may be elusive – disturbance by human activity can readily be mitigated.

Successful examples of policies currently in place to avoid disturbance of migratory routes and subsistence activities can be used as a template for approaches through the Federal Subsistence Management Program. Council members highlight their own experience with their efforts to protect the subsistence whale hunt and the whales themselves from disturbance during the migration. It is now enforceable policy that activities that cause noise or would intercept or interfere with the subsistence hunt are halted until the community harvests whale. Similar policies could also be developed in order to protect subsistence opportunity for the harvest of caribou, even with regard to activities that occur on non-Federal public lands.

Response:

The Board acknowledges the hardship faced by residents of Anaktuvuk Pass due to the lack of accessible caribou near the community. Anaktuvuk Pass is an example of Native community

where the local reliance on natural resources, in this case caribou, remains high, and combined with effects of climate change (i.e. increasing frequency of rain on snow events) and difficult economic circumstances, has created a situation which puts their traditional way of life at risk.

Disturbance of caribou during the migration of the Western Arctic and Teshekpuk Caribou herds is an issue the Federal Subsistence Board (Board) has heard about from rural users for many years. However, mitigating human disturbance to lead animals is difficult and would involve the coordinated efforts among local land managers, private land owners, local communities, and agencies responsible for managing caribou on Federal and State lands. The Board encourages efforts by the Councils to submit proposals to the Alaska Board of Game to address some of these issues. Restricting or limiting the use of aircraft, adjusting hunt timing and seasons, and restricting the take of cows during critical caribou migration periods are just a few of the suggestions. The Board took into consideration the situation in Anaktuvuk Pass when considering recent changes to the caribou regulations in Units 24 and 26A, and 26B and is committed to addressing regulatory changes that would increase subsistence opportunity for the residents of Anaktuvuk Pass.

2. Development Impacts and Multi-jurisdiction Cooperation

In follow up on the concerns for food security, the Council would like to revisit some of the concerns that were articulated in the Council's fiscal year 2014 annual report but not fully addressed in the Federal Subsistence Board's reply. There are many factors creating challenges for subsistence communities to meet their food needs. Changes in the environment are affecting safe travel or access to resources or are changing the timing of the migration or condition of subsistence resources, subsistence fish and wildlife populations are declining, and cost of gas and resources needed to hunt and fish are continuing to rise. In addition, this Council has brought concerns to the Board about the interaction of industrial development and other activities such as remote access transporters for hunters or recreation, and even flights and activities of researchers that have been observed to disturb or deflect important subsistence resources such as caribou.

The Council again asks for understanding and awareness of the interaction of industrial development or transporter flights with subsistence activities. While the Federal Subsistence Management Program does not have direct jurisdiction over development activities and air traffic on the North Slope, impacts to subsistence foods on federal lands is a direct concern of the program in that barriers to migratory routes, disturbance that deflects or stresses animals, or contaminants that may impact subsistence foods all have direct bearing on access, harvest, and safe consumption of important subsistence foods that the Federal program does manage. Additionally, the Federal Subsistence Management Program could be more engaged in ensuring that Federal agencies involved in those activities are properly conducting and executing the analyses required under ANILCA Section 810.

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Response:

The Board appreciates the vigilance and extended awareness that the Council has placed on this important topic. As the Board stated in the 2014 Annual Report replies, “the Board is beginning to understand that Alaska Native peoples and other rural residents are discussing food security concepts and issues to help define and articulate how they see current regulations and changing environmental conditions affecting their access to traditional foods.” It remains an integral part of the Council’s responsibilities to make the Board aware of projects, especially Federal undertakings, that have the potential to negatively impact subsistence resources on Federal public lands and that are occurring in your region or that you have received notification of through the ANILCA 810 analysis process. It is important to reiterate that the Board has limited, at best, jurisdiction or authority over Federal undertakings that occur outside of the Federal Subsistence Management Program. However, if there is an undeniable concern from the Council, it is reasonable to expect the Board to consider the concern and if appropriate share that concern with the Secretaries in a similar fashion as the Board ensures the Secretaries are informed when non-Department rulemaking entities develop regulations that may adversely affect Federally qualified subsistence users.

3. Access to Native Allotments within Gates of the Arctic National Park

The Council received testimony from numerous public participants at the fall 2015 meeting in Anaktuvuk Pass about challenges to access their Native allotments within Gates of the Arctic National Park. The absence of travel corridor easements in these areas prevents residents from being able to readily access these allotments which are private land inholdings within the Park. Many allotments are far from the community and accessing the inholdings by some form of motorized transportation is important to maintain cabins and conduct subsistence activities there which otherwise would require walking for days and having to carry heavy supplies and equipment. These allotments are important to subsistence hunting and other subsistence activities but otherwise are not able to be utilized because of the difficulty of long overland travel.

The Council wishes to bring this issue to the attention of the Federal Subsistence Board and also seeks avenues to assist the community with more information and potential avenues to secure access to their allotments through the National Park Service.

Response:

The National Park Service (NPS) has been conducting ongoing outreach efforts regarding access to Native allotments within Gates of the Arctic National Park. Several park service staff were in attendance at the Council’s fall 2015 meeting held in Anaktuvuk Pass and heard the concerns expressed by residents of the community about accessing their Native Allotments within the park. In response park service staff reached out to community members to offer assistance with

the right-of-way application process. As part of the outreach an informational flyer was developed (enclosed) and this foundational information on ANILCA Section 1110 which guides this process shared with all. Gates of the Arctic National Park and Preserve staff are committed to working with residents of the community of Anaktuvuk Pass and assist allotment owners with the permit process to access their Native allotments.

In November 2015, an Anaktuvuk Pass resident showed interest in submitting an NPS right-of-way application to access their Native allotment. NPS staff were able to help the interested party with the application and subsequently received an SF299 right of way application from the Anaktuvuk Pass resident in January, 2016 requesting access via Argo to their Native allotment on the John River. NPS staff met with this applicant in Anaktuvuk Pass in February, 2016 to answer any questions that may have arisen regarding the right of way permitting process. At this time NPS staff also shared allotment access information in meetings with another heir to the same allotment, as well as a family member for another Native allotment on the John River. On April 13, 2016, NPS staff presented information regarding Native allotment access to the Naqragmiut Tribal Council. Tribal Council members were interested in having another meeting where community members would be able to provide input and share their concerns. The opportunity to have a community meeting came in the form of the Gates of the Arctic National Park Subsistence Resource Commission meeting held in Anaktuvuk Pass on April 26, 2016. Subsistence Resource Commission meetings are open to the public and the right of way applicant was in attendance at this meeting, as well as another Native allotment holder and two tribal council members. The NPS plans on keeping the right of way applicant and her family informed throughout the right of way process.

Additionally, NPS staff provided an update on the Anaktuvuk Pass Native allotment access request to the North Slope Subsistence Regional Advisory Council (Council) at their March 9, 2016 meeting in Anchorage. The information shared at this meeting, the user's guide to accessing inholdings, and the SF299 right of way form are enclosed. As always, NPS staff are available for more information or discuss questions and concerns. At the Council's request, NPS staff will provide further updates at the next scheduled meeting of the North Slope Subsistence Regional Advisory Council.

4. Adequate time to conduct Council business and engage with public participation.

The Council requests again more time to conduct Council business and fully engage with public participants. Based on experience, the Council feels strongly that three days is a minimal requirement to be able to convene, share information with each other to be apprised of subsistence knowledge and concerns from throughout the region, hear public and tribal feedback and be able to discuss and fully deliberate critical subsistence issues before making recommendations.

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The Council has on numerous occasions felt rushed to take action without the opportunity to fully understand, ask questions, and deliberate with the people we serve in the region and amongst the Council itself. The Council takes to heart the gravity of the potential impacts of the decisions made through the Federal Subsistence Management Program and seeks to carefully and thoroughly consider all aspects before making a recommendation to the Board.

The Council requests that it routinely be permitted to hold three day meetings (as the Southeast Alaska Subsistence Regional Advisory Council always does without seeking special permission) to cover all agenda items thoroughly when it is full of complex proposals or challenging issues. Members of the Council are appointed to serve the subsistence users in the region, and it is critical to have ample time for public involvement and adequate Council deliberation when making fully informed recommendations on regulatory proposals and generating positive solutions to complex subsistence management issues. The Council greatly appreciates that the Office of Subsistence Management has been supportive of meeting in villages in the North Slope region outside of Barrow in order to engage directly with subsistence communities. The Council is very pleased at the broad level of participation, testimony and feedback on subsistence issues when meeting in Nuiqsut and recently in Anaktuvuk Pass. These were important opportunities for the Council to connect with the many and diverse people that attended the meetings; however, the Council received feedback that the very full agenda prevented adequate time to listen and for all who wanted to address the Council on important subsistence issues of the community. The Council requests three day meetings to accomplish its work effectively and for understanding of cultural ways of communication that may take more time to fully engage with the people we are appointed to serve.

Response:

The Board appreciates and understands the Council desire to have adequate time to conduct its business. It is up to the Councils to identify how many days they need to conduct their business. The typical meeting length for a Council is two days. Meeting length should be determined by the number and complexity of relevant issues to discuss. If the Council has relevant issues that require a longer meeting time for discussion, then it needs to be planned with their council coordinator to determine an adequate number of days.

All Councils are provided the tools they need to conduct their business, and in order to address all the issues of importance during the meeting also have a responsibility to work diligently through their agendas. It is also the Board's understanding that this Council has recently engaged in the practice of having a work session the day before in order to understand and

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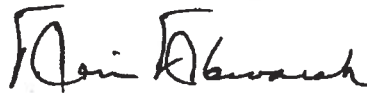
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prepare for the agenda, and that this has been helpful. The Board encourages the Council to take advantage of that opportunity if it will aid in the completion of its business in a timely manner.

Each Council plans and executes its own agenda. It is difficult to compare councils, but every effort will be made to accommodate and ensure meetings are beneficial and are meeting each Council's needs.

In closing, I want to thank you and your Council for their continued involvement and diligence in matters regarding the Federal Subsistence Management Program. I speak for the entire Board in expressing our appreciation for your efforts and our confidence that the subsistence users of the North Slope Region are well represented through your work.

Sincerely,



Tim Towarak
Chair

Enclosures

cc: North Slope Subsistence Regional Advisory Council
Eugene R. Peltola, Jr., Assistant Regional Director, Office of Subsistence Management
Stewart Cogswell, Acting Deputy Assistant Regional Director
Office of Subsistence Management
Carl Johnson, Council Coordination Division Chief, Office of Subsistence Management
Eva Patton, Subsistence Council Coordinator, Office of Subsistence Management
Federal Subsistence Board
Interagency Staff Committee
Administrative Record

An Interim User's Guide to Accessing Inholdings in National Park System Units in Alaska July 2007

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An Interim User's Guide to Accessing Inholdings in National Park System Units in Alaska July 2007

Notwithstanding any other provisions of this Act, or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or is effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands.

Section 1110(b) of the Alaska National Interest Lands Conservation Act

INTRODUCTION

Owners of non-federal lands and holders of valid occupancies that lie within units of the National Park System in Alaska were granted the right of adequate and feasible access to their lands by Section 1110(b) of the Alaska National Interest Lands Conservation Act (ANILCA). This guide presents the process for obtaining an ANILCA 1110(b) Right-of-Way Certificates of Access (RWCAs) from the National Park Service (NPS), and presents other information that may be useful in understanding this subject.

As the stewards of America's National Park System, the NPS has responsibilities to manage public land in ways that protect the values Congress recognized in establishing these parks, monuments, and preserves. The NPS also has the responsibility to faithfully implement Section 1110(b) by working with the owners and valid occupiers of non-federal lands that lie within National Park System units in Alaska, to see that they obtain the access rights they need to use and enjoy their lands. The NPS wants the process of obtaining RWCAs to be as simple and straightforward as possible.

This guide is intended to address all types of access needs to inholdings, from unimproved trails for Off Road Vehicles, to new road construction, to installation of utilities. It also addresses all types of inholdings, from small homesites to tracts that contains thousands of acres.

This guide is considered an "interim" document. It follows the preparation of "draft" guides in 2005 and 2006. Those drafts were distributed for public comment. Public meetings were held, as well as meetings with numerous "stakeholder" groups. Written comments and the comments from those meetings were used to revise the guide. This interim guide will be used by the NPS to begin issuing RWCAs. The experience gained in processing and issuing RWCAs will be used to revise the guide as necessary. It is expected that a final guide will be prepared within two years. There will be opportunities for public input for the final guide.

Definitions of the key terms used in this Access Guide are provided in Appendix A.

Guiding Principles

The following principles will guide the NPS in fulfilling its responsibilities under Section 1110(b) of ANILCA.

- Residents within Alaska's national parks are part of the essential fabric of the parks. We acknowledge their value in providing services to park visitors and continuing traditional lifestyles.
- The NPS wants to see residents and communities within and around parks thrive. The NPS seeks to establish mutually respectful long-term relationships with all of our neighbors.
- ANILCA 1110(b) requires the NPS to give the owners of properties within National Park System units such rights as may be necessary to assure adequate and feasible access to their properties for economic and other purposes.
- ANILCA 1110(b) gives the NPS the responsibility to reasonably regulate access to inholdings to protect natural and other values of National Park System units.
- The NPS recognizes that access is crucial to the use and enjoyment of the non-federal lands in National Park System units in Alaska. The NPS will work with the owners of these non-federal lands and holders of valid occupancies to meet their access needs across NPS lands.
- Documenting ANILCA 1110(b) access rights across park lands provides certainty to the landowner and to the NPS. Certainty of access will allow landowners to make long-term plans and insure that access occurs in ways that minimize effects on park resources.
- The documentation and authorization process should be as quick, simple, inexpensive and enduring as possible. This process should be transparent to the public and fully understood by all NPS managers.
- Access under ANILCA 1110(b) does not affect the status or validity of other access rights under other state and federal authorities (such as RS 2477).
- The NPS will treat all landowners fairly and consistently across the state and over time.

Inholdings and Access

Inholdings are private, state and other non-federal lands or valid occupancies within the boundaries of National Park System units, or are effectively surrounded by one or more conservation system units.

Some National Park System units in Alaska are quite old. The original Mount McKinley National Park was established in 1917, Katmai National Monument was established in 1918, and Glacier Bay in 1925. These parks were generally established from federal public land and included few non-federal parcels.

The majority of Alaska's national park areas were established in 1980 with passage of ANILCA. Coming after years of staking of homesteads, homesites, mining claims, and Native allotments, and passage of laws such as the Alaska Statehood Act and the Alaska Native Claims Settlement Act, the boundaries of the new parks and park expansions included many parcels of private and state land. There are approximately 1,666,500 acres of private, state, and municipal lands within

the boundaries of National Park System units in Alaska. All Alaska parklands are subject to ANILCA 1110(b) provisions.

In 1980, methods of accessing inholdings varied greatly. Today people continue to use many different means to get to their properties. In some cases, private property is along a state road or a park road. In other cases owners reach their property by air or water. There are cases where access across federal land began at some time in the past without a right of way or other authorization. While such use was generally allowed by the federal land managing agency, this did not create a right of way or easement.

Section 1109 of ANILCA recognizes that some owners and occupiers may already have rights of way or easements to their lands. It states “Nothing in this title shall be construed to adversely affect any valid existing right of access.” Such valid existing rights of access most commonly are state highways. The NPS will respect any valid existing rights of access.

Categories of Access

Title XI of ANILCA addresses many types of access, including major systems, like pipelines, highways, and power transmission lines that cross National Park System units in Alaska, as well as other conservation system units. Section 1110(b) of Title XI is specific to access to inholdings. This user’s guide addresses access to non-federal lands where there is a need to cross NPS managed lands.

Section 1110(a) authorizes the public’s use of motorboats, airplanes (fixed-wing), and snowmachines, as well as non-motorized methods, for traditional activities, in National Park System units. Snowmachine access requires adequate snow cover. Access to some inholdings is effectively provided by the means authorized by Section 1110(a). Access by these means generally does not require an authorization from the NPS.

Section 1110(b) and this Access Guide specifically address access to non-federal lands within NPS areas, otherwise known as inholdings. Section 1110(b) is a statutory guarantee that non-federal landowners will be given the rights they need to access their lands, subject to reasonable regulation. Section 1110(b) applies to access to non-federal lands that would require use of an access method not authorized by 1110(a) or would require construction or maintenance of a road, trail, powerline, landing strip, or other access improvements. The NPS will issue ANILCA 1110(b) Right-of-Way Certificates of Access (RWCA) unless adequate and feasible access to non-federal properties is available using methods that do not require a RWCA.

When is an ANILCA 1110(b) Right-of-Way Certificate of Access not needed?

Generally you do not need a RWCA if: 1) you will be using a motorboat, airplane (fixed-wing), snowmachine or a non-motorized means of travel to access your land; 2) this access does not require construction or maintenance of a facility on national park areas; and 3) there are no other park regulations otherwise restricting or controlling access to the area. Also, a RWCA is not necessary if there is a valid, existing right of way (such as a state highway) to your land, or if there is a designated park road or trail to your land that is open to use by the general public.

When is an ANILCA 1110(b) Right-of-Way Certificates of Access needed?

If the paragraph above does not describe your type of access, then you most likely will need a RWCA. RWCA's to inholdings are usually needed when operating motorized highway vehicles or ORVs on National Park System lands where no designated road or trail exists, or when construction or maintenance of a trail, road, powerline, or a landing strip occur on National Park System lands. Please note that specific park requirements (such as for vessels during the summer in Glacier Bay National Park and Preserve) may apply.

Established Access Routes and Facilities at Wrangell-St. Elias National Park and Preserve

Wrangell-St. Elias is unique among Alaska parks because it contains many more inholdings than any other unit. To evaluate access routes or facilities, existing as of 2006, to land holdings within or effectively surrounded by Wrangell-St. Elias National Park and Preserve, in 2007 the NPS is preparing a programmatic Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA).

In consultation with individual landowners, the NPS will

- Obtain a description of the established access route or facility.
- Visit the site to map or record the route or facility.
- Inventory existing environmental conditions, and assess the sustainability/manageability of the established route or facility.
- Prepare a programmatic EA to evaluate the route and means of access prior to issuing a RWCA.

The programmatic EA will document the footprint of the established access, identify reasonable, sustainable maintenance options available to the landowner, and provide guidance to mitigate and/or avoid unnecessary impacts of the access route or facility. The authorization process should generally be straightforward for access routes and facilities that can be maintained within the established footprint in their present condition and character, with negligible to minor new impacts on park resources and values. Once the programmatic EA is completed, RWCA's will be issued for qualifying routes and facilities.

Some existing access facilities may not be sustainable, and may require extensive construction, realignment and/or investigation of alternative access means because of ongoing or potential new environmental impacts. Addressing these more complex access cases and any proposed new access route or facility will require a separate environmental document (EA or EIS).

Programmatic EAs may also be prepared for other National Park System units that have existing, sustainable access routes that require RWCA's.

THE PROCESS FOR OBTAINING AN ANILCA 1110(b) RWCA

The 1110(b) RWCA process allows the NPS to manage and protect public resources, for example, salmon streams, wildlife habitat, and historical sites, while assuring access to non-federal properties. The NPS is committed to assisting and working with people who need RWCA's and making it as simple and easy as possible to obtain a RWCA.

For access across federal land that requires authorization by the NPS, planning ahead and working with the park superintendent are essential to expedite issuance of RWCA. Processing time will depend upon several factors, including the complexity of the access, availability of information, and staff availability. Authorization for complex projects with substantial new construction can take a year or longer.

Step 1: Starting the Process

To apply for a RWCA for access across National Park System land to your property, you will need to identify what kind of physical access you need or are currently using. As stated above, if access by snowmachine, motorboat, airplane, or by non-motorized means is sufficient for you, it's likely no RWCA will be needed. However, if you need to use other modes of transportation, or if you need to construct or maintain a road, airstrip or utility line on NPS lands, then a right-of-way is generally required. Consider what modes of access, as well as what routes of access would be adequate and feasible for your needs. Then contact the superintendent of the national park area to schedule a pre-application meeting. Park superintendents' addresses and phone numbers are included in Appendix B.

Step 2: Pre-Application Meeting

A pre-application meeting provides an opportunity for you to discuss your access needs in detail and for the park staff to further explain the process. The pre-application meeting will cover information needs, timelines, any applicable fees and other topics. This meeting can save you and the NPS time and expense. The meeting will help determine if you even need a RWCA. Discussing your ideas about the types and routes of access with park staff can help everyone focus on practical and feasible options that will expedite a decision. The meeting also can help identify other agencies that will need to consider your proposed access. Be sure to bring any information that may be useful during this session, particularly useful are maps and drawings of your proposed access route and facilities.

Existing ANILCA regulations (43 CFR 36) require the use of the SF 299 application form. To get the most out of the pre-application meeting, we recommend that prior to the meeting you review this application form. NPS staff can assist in determining what information is needed on your application for your specific access request, and can indicate which sections of the application do not need to be filled out. You can obtain the application either from the park superintendent or from the website:

<http://www.gsa.gov/portal/forms/download/117318>

Step 3: Applying for an 1110(b) RWCA

Based on the information gained at the pre-application meeting, complete the application (SF 299) to the best of your ability. The SF 299 is used for all accesses, from a minor road to a major highway, so some sections of the SF 299 will not apply to small-scale access, and the amount of detail needed will vary greatly. Only those sections of the SF 299 relevant to your access need to be completed. The NPS may be able to assist you in preparing the SF 299 or relevant support documents. An incomplete application or insufficient information can slow processing. Send the completed application to the park superintendent.

Step 4: Processing the Application

The NPS will review the submitted application for completeness and has up to 60 days to inform you of the need for any additional information. If additional information is needed you will be asked to provide it. The application process and related deadlines (noted below) begin when the application is determined to be complete.

Issuance of a RWCA for access across National Park System lands requires environmental analysis under NEPA (for a description of NEPA requirements see Appendix C). If you are applying for access on a road, trail or other facility that already exists and is sustainable in its present condition, it may be covered by a programmatic EA, and your RWCA will be considered for approval under a categorical exclusion (CE). Requests for new or more complex access routes and means will require their own EAs or EISs.

The NPS has up to nine months from receipt of a complete application to prepare an EA or draft EIS and has an additional three months to prepare the final EIS. Following completion of the EIS, the NPS has up to four months to make a final decision on the request. These are maximum periods established by law and regulation (43 CFR 36.6), but they may be extended for good cause, for example at the applicant's request to consider new information. EAs generally take significantly less time than EISs.

As specified in the Title XI regulations (43 CFR 36.10(e)(1)), the NPS will approve the route and method of access desired by the applicant unless: 1) the requested access would result in significant impacts on natural or other values; or 2) the requested access would jeopardize health or human safety; or 3) the requested access is inconsistent with the management plan(s) for the area or purposes for which the area was established; or 4) the requested method of access is unnecessary to accomplish the applicant's land use objective. If none of these conditions exists, then the applicant is to receive a RWCA for the access as requested. However, if the NPS makes findings that any of these four conditions exists, after consultation with the applicant, the NPS must specify an alternative route(s) and/or method(s) in a RWCA that will provide the applicant with adequate and feasible access.

In the end, the applicant must be provided adequate and feasible access to his/her land. Another possibility is that no RWCA is needed. For example, if an inholding is on the shore of a large lake, and access is available by float or ski-equipped plane, a new road might not be necessary or economically practicable. In this example, if air access would provide adequate and feasible access, there would be no need for a RWCA for overland access.

Step 5: Other Agency Involvement

Depending on the complexity of an access request and the issues involved, other agencies may have roles in evaluating your request. For example, if stream crossings are involved, the State of Alaska has an interest in protecting fish populations and habitat, especially for anadromous species such as salmon. The Alaska Department of Natural Resources may require State authorization(s) for activities in anadromous streams, as well as navigable water bodies. If gravel, sediment or other materials are discharged into a stream or connected wetlands, a Clean Water Act Section 10 or 404 permit may be required by the U.S. Army Corps of Engineers.

The NPS will work with applicants to help identify other agency authorizations that may be necessary, but it is the applicant's responsibility to obtain the necessary permits and authorizations from these or other agencies. RWCA's will be issued with a requirement that the applicant obtain required permits from other agencies and that these permits are issued before construction or maintenance begins.

The following links will take you to additional resource agencies that may be involved in some access projects.

1. U.S. Army Corps of Engineers: www.poa.usace.army.mil/reg/PNnew.htm
2. State of Alaska Department of Natural Resources (DNR) Office of Habitat Management & Permitting: www.dnr.state.ak.us/habitat/
3. State of Alaska DNR Public Information Center: www.dnr.state.ak.us/pic/

Step 6: 1110(b) RWCA Issued

Where the NPS determines that a RWCA is needed, the NPS will issue a RWCA to the landowner or holder of a valid occupancy. Appropriate terms and conditions will be included in the RWCA. Terms may, for example, specify the route and width of a road, types of vehicles, maintenance requirements, seasonal restrictions or other measures to protect park resources and values. Mitigation measures to avoid or reduce impacts on resources and other park uses will also be specified in the RWCA. RWCA's will be signed by the NPS Alaska Regional Director and the landowner or the holder of a valid occupancy. Appendix D contains a sample ANILCA 1110(b) RWCA. This sample presents some of the standard stipulations that will be in RWCA's. Each RWCA will need to address the specific conditions applicable to individual routes, facilities and environments.

STIPULATIONS FOR ANILCA 1110(b) RWCA's

The Alaska Region of the NPS will implement the following policies regarding access to non-federally owned lands and valid occupancies within National Park System units in Alaska. Stipulations in 1110(b) RWCA's will reflect the following statements:

Fees

- The Title XI regulations (43 CFR 36.6(c)) state that fees are to be charged in accordance with agency-specific laws and procedures, except for access requests that require an environmental impact statement (EIS). EISs require cost reimbursement pursuant to the regulations implementing the Federal Land Policy and Management Act. It is the policy of the NPS not to charge fees and costs regarding the exercise of rights (not privileges)(NPS

Reference Manual 53, C5-1 & C10-2), such as the ANILCA 1110(b) access right, to the extent allowable by law and regulation. Accordingly, the NPS will charge fees only for an access request that requires an EIS. RWCA's for established access and for some new accesses are not expected to require EISs.

- The fee for EIS cost recovery will be determined by the NPS Regional Director, based on the applicable regulations of 43 CFR 2804.14. These regulations allow for reductions and waivers of fees.
- Except in the case of an EIS, the NPS will not charge applicants for mitigation, as required by NPS policy, for replacement of wetlands or the costs associated with an NPS wetlands delineation. Any wetlands delineation or compensation required by the Corps of Engineers, however, will be the responsibility of the applicant.
- If the NPS lacks sufficient funds or other resources to process an 1110(b) access request, the applicant may pay for the costs to expedite processing.
- NPS does not have authority to waive fees charged by the State of Alaska or other federal agencies.

Wetlands

NPS policy is to limit impacts to wetlands and to compensate for any loss of wetlands from any project. Compensatory mitigation refers to those actions, such as restoration and creation of wetlands, that are designed to offset wetland losses.

- Impacts to wetlands will be avoided where possible.
- The NPS will provide wetlands compensation if the 1110(b) access request can be evaluated in an Environmental Assessment.
- Landowners will need to obtain U.S. Army Corps of Engineers Section 404 permits as required by that agency for filling wetlands or other "waters of the US," and compensate for the loss of wetlands as required by that agency.
- Landowners will generally be responsible for wetlands compensation if an EIS is required. Wetlands compensation could take the form of restoration or creation of wetlands by the landowner where practical, or payment that would be used for these purposes. Wetlands compensation (both actual restoration and/or compensation payments) will be treated in a manner similar to EIS cost recovery (43 CFR 2804.14). These regulations allow for reductions and waivers of cost recovery in certain circumstances.
- Wetlands compensation required by the NPS will not be additive to the Corps of Engineers' requirements, rather the Corps' requirements will fulfill all or part of the NPS requirement.

Duration

The NPS will generally issue 1110(b) RWCA's that have no fixed expiration dates. These RWCA's will be valid as long as they are needed for access to the subject inholding. However, the duration of RWCA's may vary. In some instances, RWCA terms may be relatively short, if that meets the needs of the owner. For example, if the overland transport of building supplies using heavy equipment is needed for a single season, after which access will be by foot or snowmachine, a RWCA can be written to reflect that temporary need. The duration of a RWCA may also be tied to the duration of a valid occupier's use, for example, the RWCA may be issued to a lessee for the duration of his/her lease.

Amendments

An approved RWCA may be amended to adjust the stipulations for changed conditions, to correct oversights, or to address conditions not previously contemplated. Either party may initiate an amendment by notifying the other in writing and providing a justification for the proposed revision or supplement. Amendments by mutual consent of the NPS and RWCA holder may occur, but the NPS may require an amendment without the consent of the holder if the RWCA conditions become inconsistent with the regulatory standards of Title 43 CFR 36.9 and 36.10(e)(1). The NPS will consult with the holder when any amendment is initiated. Any amendment must result in the RWCA holder continuing to have adequate and feasible access to his/her property.

Transfer or Assignment

Any proposed transfer or assignment of an existing RWCA due to a change in ownership must be filed in writing with the Superintendent and must be supported by a written, signed statement that the transferee/assignee agrees to comply with and be bound by the terms and conditions of the current RWCA. If these conditions are met, the NPS Regional Director will approve the transfer of the RWCA.

Compliance with Terms of a RWCA

1110(b) of ANILCA guarantees property owners and holders of valid occupancies adequate and feasible access to their inholdings for as long as they need the access. This statutory right cannot be revoked, though it is subject to reasonable regulation to protect natural and other values. Securing the 1110(b) access right in a RWCA serves the interests of both the inholder and the NPS. Should violations of RWCA terms or other violations of law occur, the NPS will take appropriate action, including civil or criminal action to protect park resources or uses.

Reconsideration of a Decision

The Title XI regulations (43 CFR 36.10(g)) provide that the agency decision is the final administrative decision, which means it can be challenged in Federal District Court. If an applicant disagrees with the decision of the Regional Director on an application for an 1110(b) RWCA, the applicant has the option to request reconsideration of the decision before filing a lawsuit. The applicant must submit a written request for reconsideration to the Regional Director within thirty (30) days of his/her receipt of the decision. The request for reconsideration must state the reasons for the reconsideration. A hearing on the reconsideration may be conducted, at the discretion of the Regional Director. The Regional Director will inform the applicant in writing of the result of the reconsideration. If the applicant requests reconsideration, the NPS will not regard its decision as final until the conclusion of the reconsideration. If the applicant does not request reconsideration, NPS decision will be treated as final upon its issuance.

CONCLUSION

The owners of non-federal lands and the holders of valid occupancies in NPS units in Alaska are assured adequate and feasible access by Congress in Section 1110(b) of ANILCA. The NPS is committed to working with owners and valid occupiers to provide access to their lands, while also protecting National Park System units for the enjoyment of present and future generations.

FREQUENTLY ASKED QUESTIONS

An Interim User's Guide to Accessing Inholdings in a National Park System Units in Alaska

The following questions came from the public, NPS employees, and people living and working in Alaska's national parks. If we have not adequately answered questions you have, please contact the appropriate park superintendent. Park addresses and phone numbers are given in Appendix B of this guide.

NEED FOR AN 1110(b) RIGHT-OF-WAY CERTIFICATE OF ACCESS (RWCA)

1) Why do I need an 1110(b) RWCA?

A RWCA allows you to do things in NPS parklands that otherwise would generally be prohibited, such as construct or maintain roads, install utilities, and drive most types of motorized vehicles off state highways or designated park roads.

2) What laws and regulations apply to 1110(b) RWCA and access to inholdings?

Most of the National Park System units in Alaska were created or expanded by the Alaska National Interest Lands Conservation Act (ANILCA) in 1980. Section 1110(b) of ANILCA directs the Secretary of the Interior to give owners of non-federal lands and other valid occupancies adequate and feasible access to those inholdings, subject to reasonable regulation. The regulations implementing Section 1110(b) of ANILCA are at 43 CFR 36.10. These regulations direct that the NPS will use rights of way to authorize needed access to inholdings while protecting park values. These regulations are available at the park headquarters or online at: <http://www.nps.gov/akso/regulations/index.htm>. As directed by these regulations, all requests for access to inholdings that require an authorization from the NPS will be processed under the regulations at 43 CFR 36.10 (Access to Inholdings), rather than other regulatory provisions, such as 43 CFR 36.12 (Temporary Access).

3) Do I need an 1110(b) RWCA to travel across national park areas to reach my inholding?

You **do not need** a RWCA if you are traveling over an established public right of way or a designated park road (an exception is the Denali Park Road, where a RWCA is needed for access to inholdings). You **do not need** a RWCA to use a state highway. Also you do not need a RWCA if you are walking or using non-motorized means of surface transportation, such as sled dogs or a pack or saddle animal, or if you are using a motorboat, snowmachine, or airplane (fixed-wing aircraft) (ANILCA 1110(a) and 43 CFR 36.11(a)). Snowmachine use is dependent upon adequate snow cover. In Kenai Fjords National Park and Denali National Park and Preserve, the park superintendent announces when adequate snow cover exists. Snowmachines are prohibited at all times within the former Mt. McKinley National Park (36 CFR 13.952). Additional regulations regarding boat access at Glacier Bay National Park also apply. You **do not need** a RWCA to use ORVs if you are traveling only on trails designated by the NPS for such use. National Park System units may occasionally be closed to some access methods to protect park resource values. There will be public notice of these closures.

You will need an 1110(b) RWCA:

- To use other motorized surface transportation vehicles on NPS managed lands (except as discussed above for snowmachines and ORVs, or on designated park roads or highways).
- To reroute roads or trails on National Park System lands.
- To build new roads or trails on National Park System lands.
- To construct or maintain a landing strip with motorized tools on National Park System lands.
- To install utilities, such as telephone lines and repeaters, communication sites, power lines, and waterlines, on National Park System lands.

4) Instead of getting an 1110(b) RWCA, can I use a park road to access my property?

In some situations access routes or facilities not only serve as access to inholdings but also are open to public travel or serve NPS administrative needs. The NPS has the authority to designate such routes or facilities as park roads, trails and facilities. We intend to work with the users of these access routes and facilities and either issue RWCA's or designate them as park roads.

5) My property predates the national park. Do I need an 1110(b) RWCA?

Depending on your access needs, you may need a RWCA. Most inholdings predate creation of the national parks. Most lands that are now parklands were previously managed by the Bureau of Land Management (BLM). Until 1968, most lands were open to homesteaders, Native allottees, and miners. Until the mid-1970s many federal lands were open to selection by the state and Native corporations.

Even though your property predated the national park, unless there is an existing authorization for your access, you will need to obtain an authorization from the NPS. Two Appeals Court decisions hold that when the United States government granted title to private lands, such as homesteads, it did not grant easements across the public lands (*Fitzgerald Living Trust v. U.S.*, 460 F.3d 1259 (9th Cir. 2006) and *U.S. v. Jenks*, 129 F. 3d 1348, 1354 (10th Cir. 1997)). ANILCA is the statutory authority for giving access rights to owners of inholdings in NPS units in Alaska.

6) My neighbor won't let me cross his land. Therefore, I have to cross a national park to reach my property. Can I receive an 1110(b) RWCA?

We encourage you to explore other routes across private land to access your inholding. However, it is not required that you obtain access to your inholding across non-federal lands before applying for a right of way. The NPS will work with you to file an application and help you find adequate and feasible access to your land.

7) If an access route is used by more than one private property owner, does each owner need authorization from the NPS?

If the method of access is not already allowed and National Park System lands must be crossed in order to reach separate properties, then each owner would need a separate authorization. There may be some circumstances where adjoining property owners join together to file a shared application. Joining with neighboring private landowners and agreeing on a single physical access route could simplify the process with the NPS.

8) How is access gained to state lands and Native corporation lands within a park area?

As with accessing other non-federal lands within National Park System lands, no NPS authorization is generally needed to cross park lands if you access the state or Native corporation lands by non-motorized means, snowmachine, motorboat, fixed-wing aircraft, ORV on a route designated for ORV use, or by a state road right of way. However, if the public needs to use a means of access that is not already authorized to reach state lands, an RWCA will be required. It will generally be the responsibility of the State of Alaska to obtain such authorization, rather than individual citizens. In a similar situation, for shareholder access across parklands to their Native corporation lands, it will generally be the responsibility of a Native corporation to obtain any necessary right of way, rather than individual shareholders.

9) Although my property isn't within a park area, the only feasible access to it is across parklands. Can I access my property across parklands?

The owners and occupiers of properties that are outside but "effectively surrounded" by a unit of the National Park System in Alaska, due to rugged terrain or waterways or other physical obstructions, are entitled to the same access rights across parklands as are the owners or valid occupiers of properties that lie within the boundaries of a National Park System unit. Such owners and occupiers can apply for and obtain rights of way to cross the parklands.

ACCESS VIA OTHER LAWS AND LEGAL RIGHTS

1) What about Revised Statute (RS) 2477 Right of Way?

An RS 2477 right of way is a public highway right of way owned by the State of Alaska or a borough or municipality.

The State of Alaska has asserted many RS 2477 rights of way in Alaska, including many within NPS units. The NPS acknowledges these assertions, however, a 2005 decision of the U.S. Court of Appeals for the Tenth Circuit (*Southern Utah Wilderness Alliance v. Bureau of Land Management*, 425 F.3d 735, 2005) declared that only a federal court has the authority to determine the validity of an asserted RS 2477. The Secretary of the Interior has stated that Department of Interior agencies will be guided by that Tenth Circuit opinion. There have been no court determinations of RS 2477 rights of way in NPS units in Alaska. Until an asserted RS 2477 is determined to be valid by a federal court, the NPS will work with landowners to issue an 1110(b) RWCA for access on whatever routes are needed for such access.

2) Can I use a section line easement?

A section line easement is a kind of RS 2477 right of way asserted by the State of Alaska under state law. Neither the federal courts nor the Department of the Interior has confirmed the validity of any section line easements across federal lands in Alaska's national park areas. Therefore, a landowner would need a 1110(b) RWCA to use of a section line on federal lands.

There may be valid section line easements on park lands that were acquired from the State or private owners. Research will be required on individual cases. On federal lands the validity of section line easements, as with other asserted RS 2477 rights of way, can be determined only by a federal court, and no such determinations have occurred to date within National Park System units in Alaska.

3) I'm on a state road; do I still need an 1110(b) RWCA?

State roads are on rights of way belonging to the State of Alaska. Within units of the National Park System these rights of way overlie NPS lands. The Alaska Department of Transportation and Public Facilities (ADOT&PF) manages the road and has the right to use the right of way for "road purposes." The NPS and ADOT&PF share management of the road right of way. If your property abuts or is inside the state-owned road right of way you will need a driveway permit from ADOTPF (<http://www.dot.state.ak.us/permits/index.html>).

The NPS may require an 1110(b) RWCA for that portion of your driveway covered by the ADOT&PF driveway permit if there are particular resource or public use issues. You will need an RWCA for the portions of a driveway crossing National Park System lands outside the state right of way. You will also need an RWCA for other access, such as utilities or a developed parking lot in the state-owned road right of way. If you have questions about whether an 1110(b) RWCA is needed, please contact the park superintendent.

4) Do I need an 1110(b) RWCA to access my property on or across a navigable water body?

If you are using a motorboat, snowmachine, or airplane to access your property, then the navigability of the water body is not an issue because both the NPS and the State already generally allow these access modes without a RWCA. If you want to use other motor vehicles or construct a facility such as a dock, other state and federal laws may apply and permits may be required. Check with both the Alaska Department of Natural Resources (ADNR) and the park superintendent.

5) Do I need an 1110(b) RWCA to use an Alaska Native Claims Settlement Act 17(b) easement to reach my property?

No. 17(b) easements provide public access across lands belonging to Alaska Native corporations. The easements were reserved to provide public access from public lands and waters across Native corporation land to other public lands and waters. You should learn the allowable uses of the easement before using it. These easements have limitations on types of vehicular use and season of use. Depending on your route and use, you may need a RWCA once you reach National Park System lands.

GENERAL ACCESS QUESTIONS

1) I do not own the land, but the owner gave me permission to drive out there this summer. Can I do that?

Yes, but you will need to have permission from the landowner to use the landowner's 1110(b) RWCA. It is also necessary for you to comply with the terms of the RWCA.

2) I'm not the owner of the land (inholding), but I have a lease from the owner. Can I get an 1110(b) RWCA?

Yes. An 1110(b) RWCA can be issued to the landowner, with the right to use the RWCA by lessees, or in some cases can be issued to the lessee. If the RWCA is to be issued to a lessee, there will need to be documentation of the lease and coordination with the landowner. Anyone using the RWCA will need to comply with its terms.

3) I tried to get to my inholding by snowmachine last winter, but some trappers told me I can't use the trail because they have some wolf traps set and claim the trail as their own. Is that right?

No. Trapping trails do not confer rights of exclusive use. Misunderstandings can often be avoided by talking with the trappers and trying to identify a suitable solution. Any conflicts may also be brought to the attention of the park superintendent or the Alaska Department of Fish and Game (ADF&G).

4) There is platted access in my subdivision, but it is in a terrible location. Can I get access through the park?

Generally you will be required to use platted access, but if it is prohibitively expensive or physically infeasible to use the platted right of way, you may be able to obtain an 1110(b) RWCA to cross National Park System lands.

AIRCRAFT AND AIRSTRIP ACCESS

1) When would airplane access on a lake, gravel bar, or dry ridge, within walking distance of my land be required rather than less expensive overland travel?

Adequate and feasible access must be economically practicable but does not necessarily have to be the least costly way to access your property (43 CFR 36.10(a)(1)). Fixed-wing aircraft access is generally allowed and does not require a right of way or other authorization (43 CFR 36.11(f)). To the extent air access is economically practicable it could be a reasonable alternative to avoid significant adverse impacts of other access methods (43 CFR 36.10(e)(1)). Many landowners currently use air and boat access to their properties and find it an appropriate method of access.

2) Do I need a permit to maintain the airstrip in a park area that I use to access my property?

If you use non-motorized hand tools to maintain an existing landing strip that is used to access your property, an 1110(b) RWCA is not necessary. You do need authorization from the NPS in National Park System units to construct or expand a landing site with non-motorized tools or to construct, expand, or maintain a landing site with motorized tools.

3) I need to get from my airstrip to my inholding. Do I need an 1110(b) RWCA to drive my off road vehicle (ORV) from the airstrip to the inholding?

You need an 1110(b) RWCA to cross park lands with an ORV if the access is off state highways or designated park roads or designated ORV trails.

MINING ACCESS

1) I am going to lease a mining claim. I need access across parklands and want to do it in the summer time. How should I do that?

Mining activities on federal patented and unpatented mining claims within the boundaries of National Park System units are regulated under Title 36 CFR part 9(a). These regulations require the submission and approval of a Plan of Operations. The Plan of Operations may authorize access, or the NPS may issue a separate right of way under the Access to Inholdings regulations

(43 CFR 36.10(c)). Contact the park superintendent for specific information about accessing mining claims.

2) I am considering leasing some unpatented placer claims and want to go in and check them out in the summer by ORV before deciding whether I want to enter into a formal agreement and work the ground. Can I do that?

First check with the claim holder to see if he already has an 1110(b) RWCA that allows ORV access to the claims. If he does, then he can authorize you to use the RWCA for access. If the claim holder does not have a RWCA, he will need to apply for one from the NPS.

OBTAINING AN ANILCA 1110(b) RWCA

1) What laws and regulations govern access to private lands and where can I look for further information regarding access?

The primary law addressing access to non-federal lands in National Park System units in Alaska is the Alaska National Interest Lands Conservation Act (ANILCA). Section 1110(b) of ANILCA is specific to access to inholdings. The regulations dealing with access to inholdings in National Park System units in Alaska are found at Title 43 of the Code of Federal Regulations part 36 (43 CFR 36.10). These regulations are available at the park headquarters or online at:

<http://www.nps.gov/akso/regulations/index.htm>

2) Is getting an 1110(b) RWCA going to be difficult?

Simple proposals with few potential environmental impacts take less time to process. Complex proposals and those involving new uses require more time to process. The better the NPS understands your proposed access, the easier it will be to process your application and issue the right of way.

A pre-application meeting with the park superintendent is highly recommended. The pre-application meeting allows you to explain your needs, proposed route, types of vehicles, and any construction or maintenance that is necessary. The pre-application meeting is a good time to explore options on how to provide access while protecting park resources.

Once you have filed a complete application, the NPS will conduct an environmental analysis, which is usually an environmental assessment (EA) or, in some cases, an environmental impact statement (EIS). An EIS may be necessary if the proposal has the potential for significant environmental effects. The environmental analysis will evaluate your proposal and reasonable alternatives, and most likely, recommend terms and conditions to protect park resources. These terms and conditions would then be included in your RWCA.

3) Why does the NPS want to know my land use objectives?

Knowing your plans will enable the NPS to assess whether the requested access is adequate and feasible to meet your needs.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

1. Why is NEPA required for an 1110(b) RWCA?

Issuing a 1110(b) RWCA—whether new or existing access—is considered a potentially major federal action with measurable impacts on the human environment that requires analysis under NEPA. Applications for RWCA for routes or facilities on National Park System lands are not categorically excluded from preparation of an environmental assessment (EA) or environmental impact statement (EIS), so an environmental analysis must be conducted. The NEPA documentation will generally be an EA.

2. Why does the NPS need to consider the “no action” alternative when my access is assured under ANILCA?

Inclusion of the “no action” alternative in the NEPA document is based on NEPA regulations and NPS policy, and in this case provides a baseline for analysis of existing impacts against which to compare impacts of the proposed access. Your access is assured under ANILCA, and the regulations require the NPS to issue a right of way unless adequate and feasible access already exists without one.

3. Why is issuing an 1110(b) RWCA not categorically excluded?

A “categorical exclusion” is a class of actions which agency experience has indicated will not have individual or cumulatively significant environmental effects. Most federal agencies have a list of specific actions, based on past experience, that have been shown to have no significant effects and which are listed as categorical exclusions. It has not been demonstrated that the action of issuing a right of way would not result in environmental impacts. Establishing a new categorical exclusion requires the NPS to follow certain notification procedures, and to demonstrate a rationale and history that shows the action will not individually or cumulatively have significant effects on the human environment.

USE OF AN ANILCA 1110(b) RWCA

1) Can the public also use my road that’s authorized by an 1110(b) RWCA?

Regulating motorized use of an 1110(b) RWCA by others is a NPS responsibility. The RWCA allows you and your guests to use a specified location on National Park System lands for access. In many cases, use of the RWCA will be limited to the inholder and the NPS. However, in some situations it may be appropriate to allow the public to use the RWCA. If a non-federal parcel is being subdivided, State of Alaska regulations may require that the right of way to the subdivision be open to the public (11 AAC 53.630. Legal Access). Other users of the RWCA will be addressed during the processing of the application, and the RWCA will specify who is authorized to use the road or trail. Public access that is generally allowed on adjacent park lands, such as hiking, snowmobiling and subsistence activities, will continue to be allowed on the RWCA. A landowner who has a RWCA will not be held responsible for damage to parklands caused by public use of the RWCA. The NPS also recognizes that inholders should not bear the burden of the additional maintenance that may be required for public use of a RWCA for park purposes.

2) If I subdivide my land, will I need to obtain an 1110(b) RWCA to it?

Current State of Alaska regulations (11 AAC 53.630. Legal Access) require that subdivisions have public access. However, the Alaska Department of Natural Resources (DNR) has determined that the access guarantees provided by Title XI of ANILCA are sufficient to fulfill the public access requirements of these regulations, and DNR does not require that RWCA's be issued to subdivisions within National Park System units in the Unorganized Borough. However, if 1110(b) RWCA's are to be issued for access to new subdivisions, DNR will likely require, as a condition of approval of the subdivision plats, that the RWCA's be open to public access.

3) With an 1110(b) RWCA, can I make route improvements along the access route to my private land?

The terms and conditions in your RWCA will specify what maintenance and improvements are authorized.

4) When I get to my property I will need to go on national park areas to cut firewood or conduct other activities. Can I use my truck, car, or ORV?

Your right of way is only for access to your property. Consult the park superintendent regarding access needs for other activities on National Park System lands.

5) I may need to drive back to the highway for materials or emergencies. Can I do that?

1110(b) RWCA's generally will not set limits on the number of trips. In unusual cases where unlimited vehicle use may result in impacts to park resources, the number of trips would be limited. However, RWCA terms will insure that the frequency of travel will meet the needs of the applicant.

6) Will special restrictions for maintaining my access route be required in the RWCA?

The Environmental Assessment will evaluate the access and will include a section on maintenance. The RWCA will specify the types of allowable and any required maintenance.

Appendix A

DEFINITIONS

An Interim User's Guide to Accessing Inholdings in a National Park System Units in Alaska

Access means how you, your family, clients, lessees, employees, business partners, friends, and guests get to your private land. Access is also how utilities such as fuel, power, and communication are delivered to your property.

- **Physical access** refers to the land used and the improvements constructed, such as roads, trails, poles, power and telephone lines.
- **Legal access** is the authorized right to use or occupy National Park System lands for access. A right of way provides for legal access across NPS lands.

Adequate and feasible access means a route and method of access that is shown to be reasonably necessary and economically practicable, but not necessarily the least costly alternative for achieving the use and development by the applicant on the applicant's non-federal land or occupancy interest. See 43 CFR 36.10 (a) (1).

Airstrip means visible, marked, or known aircraft landing areas in park areas. Airstrips may be marked with cones, lights, flagging, or windsocks, or be unmarked but recognizable because they have been cleared of vegetation or other obstructions. See 36 CFR 13.1.

Categorical Exclusion means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which are described in one of the categorical exclusion lists in the NPS DO-12 Handbook and for which no exceptional circumstances exist.

Effectively surrounded by means that physical barriers prevent adequate and feasible access to state or private lands or valid interests in land except across a park area. See 43 CFR 36.10(a)(3).

Environmental Assessment is a public document in which a proposed agency action and any alternatives are described and evaluated. An EA is a useful planning tool that helps inform the public about a proposal and solicit their ideas and concerns, and that also helps the decision-maker understand the implications of an action before making a decision. Agencies also use EAs to determine whether potential environmental impacts are significant and an Environmental Impact Statement would be warranted. See 40 CFR 1508.9.

Environmental Impact Statement is a detailed study prepared when an agency knows the impacts of a proposed action would be significant. EISs require more extensive public involvement than EAs, including public scoping, a 60-day public comment period on the draft EIS, and a 30-day waiting period after the final EIS is published and before a decision is made. See 40 CFR 1508.11.

Inholding (for the purposes of access) means state owned or privately owned land, including subsurface rights underlying park areas or a valid mining claim or other valid occupancy within or effectively surrounded by one or more park areas. See 43 CFR 36.10(a)(4).

Major Federal Action for the purposes of NEPA means actions that have the potential for significant impacts to the human environment. They include adopting policy, implementing rules or regulations; adopting plans, programs, or projects; ongoing activities; issuing permits; or financing projects completed by another entity.

Off-road vehicle (ORV) means any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland, or other natural terrain, except snowmachines or snowmobiles. See 36 CFR 13.1(m).

Park road means the main-traveled surface of a roadway open to motor vehicles, owned, controlled or otherwise administered by the NPS. See CFR 36 CFR 1.4.

Snowmachine or Snowmobile means a self-propelled vehicle intended for off-road travel primarily on snow having a curb weight of not more than 1,000 pounds (450 kg), driven by a track or tracks in contact with the snow and steered by a ski or skis in contact with the snow. See 36 CFR 13.1.

Appendix B CONTACT INFORMATION

National Park System Units in Alaska--July 2007

<p>ALASKA AFFILIATED AREAS (AFAR) Aleutian WWII National Historic Area Inupiat Heritage Center Superintendent 240 West 5th Avenue, Room 114 Anchorage, Alaska 99501</p> <p>Phone: (907) 644-3503/Fax: (907) 644-3816</p>	<p>LAKE CLARK NATIONAL PARK AND PRESERVE (LACL) Superintendent 240 West 5th Avenue, Suite 236 Anchorage, AK 99501</p> <p>Phone: (907) 644-3626/Fax (907) 644-3810</p> <p>Port Alsworth: (907) 781-2218/Fax (907) 781-2119 Port Alsworth physical address: Port Alsworth, AK 99653</p>
<p>DENALI NATIONAL PARK AND PRESERVE (DENA) Superintendent P.O. Box 9 Denali Park, Alaska 99755</p> <p>Phone: (907) 683-2294/Fax: (907) 683-9612 Physical address: Milepost 238, Parks Highway</p>	<p>SITKA NATIONAL HISTORICAL PARK (SITK) Superintendent 103 Monastery Street Sitka, Alaska 99835</p> <p>Phone: (907) 747-6281/Fax: (907) 747-5938</p>
<p>GLACIER BAY NATIONAL PARK AND PRESERVE (GLBA) Superintendent Box 140 Gustavus, Alaska 99826</p> <p>Phone: (907) 697-2232/Fax: (907) 697-2654</p> <p>Physical address: #1 Park Road</p>	<p>WESTERN ARCTIC PARKLANDS (WEAR=CAKR, KOVA, NOAT, BELA)</p> <p>Superintendent Cape Krusenstern National Monument (CAKR) Kobuk Valley National Park (KOVA) Noatak National Preserve (NOAT) P.O. Box 1029 Kotzebue, Alaska 99752</p> <p>Phone: (907) 442-3890/Fax: (907) 442-8316 Physical address: 333 Shore Ave, rear of Eskimo Bldg</p>
<p>KATMAI NATIONAL PARK AND PRESERVE (KATM) Aniakchak National Monument and Preserve (ANIA) Superintendent P.O. Box 7 King Salmon, AK 99613</p> <p>Phone: (907) 246-3305/Fax (907) 246-2116</p> <p>Physical address: #1 King Salmon Mall</p>	<p>Superintendent Bering Land Bridge National Preserve (BELA) P.O. Box 220 Nome, Alaska 99762</p> <p>Phone: (907) 443-2522/Fax: (907) 443-6139 Physical address: 214 Front Street, Suite 121</p>
<p>KENAI FJORDS NATIONAL PARK (KEFJ) Superintendent P.O. Box 1727 Seward, Alaska 99664</p> <p>Phone: (907) 224-7500/Fax: (907) 224-7505 Physical address: HQ: 500 Adams St./VC: 1212 4th Ave.</p>	<p>WRANGELL-ST. ELIAS NATIONAL PARK AND PRESERVE (WRST) Superintendent P.O. Box 439 Copper Center, Alaska 99573</p> <p>Phone: (907) 822-5234/Fax: (907) 822-7216 Physical address: 106.8 Richardson Highway</p>
<p>KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK (KLGO) Superintendent P.O. Box 517 Skagway, Alaska 99840</p> <p>Phone: (907) 983-2921/Fax: (907) 983-9249</p> <p>Physical address: 2nd & Broadway</p>	<p>YUKON-CHARLEY RIVERS AND GATES OF THE ARCTIC (YUGA) Yukon-Charley Rivers National Preserve (YUCH) Gates of the Arctic National Park and Preserve (GAAR) Superintendent 4175 Geist Road Fairbanks, Alaska 99709</p> <p>Phone: (907) 457-5752/Fax: (907) 455-0601 Eagle: (907) 547-2233/Fax: (907) 547-2247</p>

Appendix C

National Environmental Policy Act (NEPA) Requirements

Approving a right of way is a federal action with potential environmental impacts that requires the NPS to comply with NEPA. Depending on the degree or severity of impact, requests for ANILCA 1110(b) Right-of-Way Certificates of Access (RWCA) will be evaluated in environmental assessments (EA) or environmental impact statements (EIS). The NEPA document is an objective, scientific analysis of the environmental effects of your proposal and reasonable alternatives, which helps the park superintendent and regional director make informed decisions.

Most RWCA requests will be analyzed in EAs. However, if there are potentially significant impacts, an EIS must be prepared. NEPA regulations present significance criteria (40 CFR 1508.27) that trigger an EIS. The criteria include consideration of the context of the proposed action, the intensity of the impacts, the proximity to or impact on wetlands, threatened and endangered species, and areas of recognized scenic, recreational, archeological or historic value, impacts on health and human safety, and whether the proposal is highly controversial or involves unknown risks.

EA Process

Prepare EA (up to 9 months including public review)
30-day public review of EA
Decision: Finding of No Significant Impact (FONSI)

EIS Process

Notice of Intent: Public Scoping
Prepare draft EIS (up to 9 months from complete application)
Notice draft EIS: 60-day public review
Prepare final EIS, addressing public comments (up to 4 months from the draft EIS)
Notice final EIS: 30-day No Action period
Decision: Record of Decision (ROD) (up to 4 months from the final EIS)

Appendix D
SAMPLE--ANILCA 1110(b) Right-of-Way Certificate of Access (RWCA)
July 21, 2007 DRAFT

National Park Service Alaska Region 240 West 5th Avenue, Room 114 Anchorage, Alaska 99501	RWCA No.: _____
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1. An ANILCA 1110(b) Right-of-Way Certificate of Access (hereinafter “RWCA”) is hereby issued pursuant to Section 1110(b) of the Alaska National Interest Lands Conservation Act (ANILCA) of December 2, 1980 (16 USC 3170).

2. Nature of Interest:

a. By this instrument _____ (Holder’s Name) (hereinafter “Holder”), whose address is _____, receives a right to construct, operate, use, maintain, and terminate a _____ (road, trail, airstrip, etc.) on National Park Service (hereinafter “NPS”) managed lands in _____ (NPS Unit Name) and within an area described as follows:

(Description of area of use authorized by RWCA)

Located in Township _____, Range _____, _____ Meridian, Alaska,
Section(s) _____, _____ Recording District, Alaska.

The area of use authorized by this RWCA is illustrated on the attached map(s) (Exhibit B).

b. The area authorized by this RWCA is _____ feet wide, _____ feet long, and contains _____ acres, more or less. If a site type facility, the facility contains _____ acres.

c. This RWCA shall not be construed as an interest in the land authorized for use by this RWCA, or as an abandonment of use and occupancy by the United States, but shall be considered a use of the land as described, anything contained herein to the contrary notwithstanding.

d. The stipulations, plans, maps, or designs set forth in Exhibit(s) _____, dated _____, attached hereto, are incorporated into and made part of this instrument as fully and effectively as if they were set forth herein in their entirety.

3. Rental Fee. No rental fees apply because it is NPS policy not to charge fees when a requested use involves exercise of a right (not a privilege).

4. General Terms and Conditions:

a. The Holder shall comply with all applicable State and Federal law and existing regulations in the construction, operation and/or maintenance within the area authorized by this RWCA.

- b. This RWCA will expire when it is no longer needed for the purposes for which it is issued unless, prior thereto, it is relinquished, abandoned, or modified pursuant to the terms and conditions of this instrument or of any other applicable federal law or regulation.
- c. This RWCA may be amended to adjust the terms and conditions for changed conditions, to correct oversights, or to address conditions not previously contemplated. Either the NPS or Holder may initiate an amendment by notifying the other in writing and providing a justification for the proposed revision or supplement. Amendments by mutual consent of the NPS and Holder may occur, but the NPS may also require an amendment without the consent of the Holder if uses within the area authorized by this RWCA or other conditions become inconsistent with the regulatory standards of Title 43 CFR 36.9 and 36.10(e)(1). The NPS will consult with the Holder when any amendment is initiated. Any amendment must result in the Holder continuing to have adequate and feasible access to his/her property.
- d. The Holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and health and safety of the public.
- e. This RWCA is for the purpose of providing the Holder with access across NPS lands to his/her non-federal land or valid occupancy. It does not authorize the Holder to use the area authorized by this RWCA for any activities other than access.
- f. This RWCA may be assigned. The proposed assignee must state in writing that he/she agrees to comply with and to be bound by the terms and conditions of the existing RWCA. With such a written statement from the proposed assignee, the NPS Regional Director will approve the assignment of the RWCA to the assignee, who shall become the Holder. The assignment becomes effective upon the written approval of the NPS Regional Director, Alaska Region.
- g. The Holder shall take adequate measures as directed and approved by the superintendent of the NPS unit to prevent or minimize damage to resources. This may include restoration, soil conservation and protection measures, landscaping with indigenous grasses and shrubs, and repairing roads, trails, etc. The superintendent or his/her representative may enter and inspect the area authorized by this RWCA and any facilities in it, as deemed necessary by the NPS and without restriction.
- h. The Holder will halt any activities in the area authorized by this RWCA and notify the superintendent of the NPS unit upon discovery of archeological, paleontological or historical artifacts. All artifacts unearthed remain the property of the United States.
- i. Use of pesticides or herbicides is prohibited within the area authorized by this RWCA.
- j. Use by the Holder is subject to the right of the NPS to establish trails, roads, and other improvements and betterments over, upon or through the area authorized by this RWCA. Also, at the discretion of the NPS, the area authorized by this RWCA may be open to use by the public and others. If it is necessary for the NPS to exercise such right, every effort will be made

by the NPS to refrain from unduly interfering with use of this area by the Holder for the purposes intended under this RWCA. The Holder agrees and consents to the occupancy and use by the NPS and by individuals and entities authorized by the NPS, of any part of the area authorized by this RWCA. The Holder's right to "adequate and feasible access" under Title XI of ANILCA will be respected by the NPS.

k. No deviations from the locations authorized in this RWCA shall be undertaken without the prior written approval of the superintendent of the NPS unit. The superintendent may require the filing of a new or amended application for a proposed deviation.

l. Notwithstanding the relinquishment or abandonment of this RWCA by the Holder, the provisions of this RWCA, to the extent applicable, shall continue in effect and shall be binding on the Holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein.

m. Upon expiration or termination of this RWCA, in the absence of any agreement to the contrary, the Holder will be allowed six (6) months or such additional time as may be granted in which to remove from the area authorized by this RWCA all property or improvements of any kind, other than a road and usable improvements to a road, placed thereon by the Holder; but if not removed within the time allowed, all such property and improvements shall become the property of the United States.

n. Upon expiration or termination of this RWCA the Holder may be required by the NPS to restore the NPS lands affected by the RWCA.

o. This RWCA has no effect on any valid existing rights of access pursuant to any other authority.

p. The Holder agrees that in undertaking all activities pursuant to this RWCA, it will not discriminate against any person because of race, color, religion, sex, or national origin.

q. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this RWCA or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this RWCA if made with a corporation for its general benefit.

r. This agreement is made upon the express condition that the United States, its agents and employees shall be free from all liabilities and claims for damages and/or suits for or by reason of any injury, or death to any person or property of any kind whatsoever, whether to the person or property of the Holder, its agents or employees, or third parties, from any cause or causes whatsoever while in or upon said premises or any part thereof during the term of this agreement or occasioned by any occupancy or use of said premises or any activity carried on by the Holder in connection herewith, and the Holder hereby covenants and agrees to indemnify, defend, save and hold harmless the United States, its agents and employees from all liabilities, charges, expenses and costs on account of or by reason of any such injuries, deaths, liabilities, claims, suits or losses however occurring or damages growing out of the same.

- s. Any alterations to this instrument must be in writing and signed by the NPS and Holder.
- t. Nothing herein contained shall be construed as binding the NPS to expend in any one fiscal year any sum in excess of appropriations made by Congress or administratively allocated for the purpose of this RWCA for the fiscal year, or to involve the NPS in any contract or other obligation for the further expenditure of money in excess of such appropriations or allocations.
- u. The waiver of any breach of any provision of this RWCA, whether such waiver be expressed or implied, shall not be construed to be a continuing waiver or a waiver of, or consent, to any subsequent or prior breach of the same or any other provision of this RWCA.

IN WITNESS WHEREOF, the Regional Director, Alaska Region of the National Park Service, acting on behalf of the United States, in the exercise of the delegated authority from the Secretary of the Department of the Interior, has caused this ANILCA 1110(b) Right-of-Way Certificate of Access (RWCA _____) to be executed this _____ day of _____, 2007.

Regional Director, Alaska Region
National Park Service
United States Department of the Interior

ACCEPTED this _____ day of _____, 2007.

Printed name of Holder

Signature of Holder

Appendix D (Continuation)
SAMPLE--ANILCA 1110(b) Right-of-Way Certificate of Access (RWCA)
July 21, 2007 DRAFT

Exhibit A (of Sample 1110(b) RWCA): Specific Stipulations

RWCA No.: _____

Stipulations specific to the RWCA are listed here, for example:

- Vehicle classes
- Maintenance methods
- Use of culverts
- Season of use or maintenance, if applicable
- Signing and/or gating, if applicable

Exhibit B A (of Sample 1110(b) RWCA): Map

RWCA No.: _____

Standards

- a. Survey or engineer's drawing not generally required
- b. Map drawn by NPS or Holder (reviewed and accepted by NPS)
- c. Minimum scale 1 inch equals 1 mile
- d. Map based on USGS quadrangle map or rectified orthographic photograph.

Required

1. Name of the USGS 15' (1 inch equals 1 mile) quadrangle map
2. Orthographic photograph (if used): flight line, date filmed, frame number
3. Legal description of the inholding: US Survey, State of Alaska Survey, or lot and aliquot parts
4. Authorized area beginning and ending: latitude and longitude. Bearing and distance from a United States or State of Alaska survey monument can be used instead of latitude and longitude.
5. Centerline plot of authorized area using Global Positioning System (GPS) or other method acceptable to NPS.

STANDARD FORM 299 (05/2009)
 Prescribed by DOI/USDA/DOT
 P.L. 96-487 and Federal
 Register Notice 5-22-95

**APPLICATION FOR TRANSPORTATION AND
 UTILITY SYSTEMS AND FACILITIES
 ON FEDERAL LANDS**

FORM APPROVED
 OMB Control Number: 0596-0082
 Expiration Date: 10/31/2012

FOR AGENCY USE ONLY

NOTE: Before completing and filing the application, the applicant should completely review this package and schedule a preapplication meeting with representatives of the agency responsible for processing the application. Each agency may have specific and unique requirements to be met in preparing and processing the application. Many times, with the help of the agency representative, the application can be completed at the preapplication meeting.

Application Number

Date Filed

1. Name and address of applicant (*include zip code*)

2. Name, title, and address of authorized agent if different from item 1 (*include zip code*)

3. Telephone (area code)

Applicant

Authorized Agent

4. As applicant are you? (*check one*)

- a. Individual
- b. Corporation*
- c. Partnership/Association*
- d. State Government/State Agency
- e. Local Government
- f. Federal Agency

* If checked, complete supplemental page

5. Specify what application is for: (*check one*)

- a. New authorization
- b. Renewing existing authorization No.
- c. Amend existing authorization No.
- d. Assign existing authorization No.
- e. Existing use for which no authorization has been received *
- f. Other*

* If checked, provide details under item 7

6. If an individual, or partnership are you a citizen(s) of the United States? Yes No

7. Project description (describe in detail): (a) Type of system or facility, (*e.g., canal, pipeline, road*); (b) related structures and facilities; (c) physical specifications (*Length, width, grading, etc.*); (d) term of years needed; (e) time of year of use or operation; (f) Volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction (*Attach additional sheets, if additional space is needed.*)

8. Attach a map covering area and show location of project proposal

9. State or Local government approval: Attached Applied for Not Required

10. Nonreturnable application fee: Attached Not required

11. Does project cross international boundary or affect international waterways? Yes No (*if "yes," indicate on map*)

12. Give statement of your technical and financial capability to construct, operate, maintain, and terminate system for which authorization is being requested.

13a. Describe other reasonable alternative routes and modes considered.

b. Why were these alternatives not selected?

c. Give explanation as to why it is necessary to cross Federal Lands.

14. List authorizations and pending applications filed for similar projects which may provide information to the authorizing agency. (Specify number, date, code, or name)

15. Provide statement of need for project, including the economic feasibility and items such as: (a) cost of proposal (construction, operation, and maintenance); (b) estimated cost of next best alternative; and (c) expected public benefits.

16. Describe probable effects on the population in the area, including the social and economic aspects, and the rural lifestyles.

17. Describe likely environmental effects that the proposed project will have on: (a) air quality; (b) visual impact; (c) surface and ground water quality and quantity; (d) the control or structural change on any stream or other body of water; (e) existing noise levels; and (f) the surface of the land, including vegetation, permafrost, soil, and soil stability.

18. Describe the probable effects that the proposed project will have on (a) populations of fish, plantlife, wildlife, and marine life, including threatened and endangered species; and (b) marine mammals, including hunting, capturing, collecting, or killing these animals.

19. State whether any hazardous material, as defined in this paragraph, will be used, produced, transported or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6901 et seq., and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA Section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.

20. Name all the Department(s)/Agency(ies) where this application is being filed.

I HEREBY CERTIFY, That I am of legal age and authorized to do business in the State and that I have personally examined the information contained in the application and believe that the information submitted is correct to the best of my knowledge.

Signature of Applicant

Date

Title 18, U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

GENERAL INFORMATION
ALASKA NATIONAL INTEREST LANDS

This application will be used when applying for a right-of-way, permit, license, lease, or certificate for the use of Federal lands which lie within conservation system units and National Recreation or Conservation Areas as defined in the Alaska National Interest lands Conservation Act. Conservation system units include the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, and National Forest Monuments.

Transportation and utility systems and facility uses for which the application may be used are:

1. Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.
2. Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.
3. Pipelines, slurry and emulsion systems, and conveyor belts for transportation of solid materials.
4. Systems for the transmission and distribution of electric energy.
5. Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communications.
6. Improved right-of-way for snow machines, air cushion vehicles, and all-terrain vehicles.
7. Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

This application must be filed simultaneously with each Federal department or agency requiring authorization to establish and operate your proposal.

In Alaska, the following agencies will help the applicant file an application and identify the other agencies the applicant should contact and possibly file with:

Department of Agriculture
Regional Forester, Forest Service (USFS)
Federal Office Building,
P.O. Box 21628
Juneau, Alaska 99802-1628
Telephone: (907) 586-7847 (or a local Forest Service Office)

Department of the Interior
Bureau of Indian Affairs (BIA)
Juneau Area Office
Federal Building Annex
9109 Mendenhall Mall Road, Suite 5
Juneau, Alaska 99802
Telephone: (907) 586-7177

Department of the Interior
Bureau of Land Management
222 West 7th Avenue
P.O. Box 13
Anchorage, Alaska 99513-7599
Telephone: (907) 271-5477 (or a local BLM Office)

U.S. Fish & Wildlife Service (FWS) Office of the Regional Director 1011 East Tudor Road Anchorage, Alaska 99503 Telephone: (907) 786-3440	National Park Service (NPA) Alaska Regional Office, 2225 Gambell St., Rm. 107 Anchorage, Alaska 99502-2892 Telephone: (907) 786-3440
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Note - Filings with any Interior agency may be filed with any office noted above or with the Office of the Secretary of the Interior, Regional Environmental Office, P.O. Box 120, 1675 C Street, Anchorage, Alaska 9513.

Department of Transportation
Federal Aviation Administration
Alaska Region AAL-4, 222 West 7th Ave., Box 14
Anchorage, Alaska 99513-7587
Telephone: (907) 271-5285

NOTE - The Department of Transportation has established the above central filing point for agencies within that Department. Affected agencies are: Federal Aviation Administration (FAA), Coast Guard (USCG), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA).

OTHER THAN ALASKA NATIONAL INTEREST LANDS

Use of this form is not limited to National Interest Conservation Lands of Alaska.

Individual department/agencies may authorize the use of this form by applicants for transportation and utility systems and facilities on other Federal lands outside those areas described above.

For proposals located outside of Alaska, applications will be filed at the local agency office or at a location specified by the responsible Federal agency.

SPECIFIC INSTRUCTIONS
(Items not listed are self-explanatory)

- 7 Attach preliminary site and facility construction plans. The responsible agency will provide instructions whenever specific plans are required.
- 8 Generally, the map must show the section(s), township(s), and range(s) within which the project is to be located. Show the proposed location of the project on the map as accurately as possible. Some agencies require detailed survey maps. The responsible agency will provide additional instructions.
- 9, 10, and 12 The responsible agency will provide additional instructions.
- 13 Providing information on alternate routes and modes in as much detail as possible, discussing why certain routes or modes were rejected and why it is necessary to cross Federal lands will assist the agency(ies) in processing your application and reaching a final decision. Include only reasonable alternate routes and modes as related to current technology and economics.
- 14 The responsible agency will provide instructions.
- 15 Generally, a simple statement of the purpose of the proposal will be sufficient. However, major proposals located in critical or sensitive areas may require a full analysis with additional specific information. The responsible agency will provide additional instructions.
- 16 through 19 Providing this information in as much detail as possible will assist the Federal agency(ies) in processing the application and reaching a decision. When completing these items, you should use a sound judgment in furnishing relevant information. For example, if the project is not near a stream or other body of water, do not address this subject. The responsible agency will provide additional instructions.

Application must be signed by the applicant or applicant's authorized representative.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is voluntary. If all the information is not provided, the application may be rejected.

DATA COLLECTION STATEMENT

The Federal agencies collect this information from applicants requesting right-of-way, permit, license, lease, or certification for the use of Federal lands. The Federal agencies use this information to evaluate the applicant's proposal. The public is obligated to submit this form if they wish to obtain permission to use Federal lands.

SUPPLEMENTAL		
NOTE: The responsible agency(ies) will provide instructions	CHECK APPROPRIATE BLOCK	
I - PRIVATE CORPORATIONS	ATTACHED	FILED*
a. Articles of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>
b. Corporation Bylaws	<input type="checkbox"/>	<input type="checkbox"/>
c. A certification from the State showing the corporation is in good standing and is entitled to operate within the State	<input type="checkbox"/>	<input type="checkbox"/>
d. Copy of resolution authorizing filing	<input type="checkbox"/>	<input type="checkbox"/>
e. The name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote and the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.	<input type="checkbox"/>	<input type="checkbox"/>
f. If application is for an oil or gas pipeline, describe any related right-of-way or temporary use permit applications, and identify previous applications.	<input type="checkbox"/>	<input type="checkbox"/>
g. If application is for an oil and gas pipeline, identify all Federal lands by agency impacted by proposal.	<input type="checkbox"/>	<input type="checkbox"/>
II - PUBLIC CORPORATIONS		
a. Copy of law forming corporation	<input type="checkbox"/>	<input type="checkbox"/>
b. Proof of organization	<input type="checkbox"/>	<input type="checkbox"/>
c. Copy of Bylaws	<input type="checkbox"/>	<input type="checkbox"/>
d. Copy of resolution authorizing filing	<input type="checkbox"/>	<input type="checkbox"/>
e. If application is for an oil or gas pipeline, provide information required by item "I - f" and "I - g" above.	<input type="checkbox"/>	<input type="checkbox"/>
III - PARTNERSHIP OR OTHER UNINCORPORATED ENTITY		
a. Articles of association, if any	<input type="checkbox"/>	<input type="checkbox"/>
b. If one partner is authorized to sign, resolution authorizing action is	<input type="checkbox"/>	<input type="checkbox"/>
c. Name and address of each participant, partner, association, or other	<input type="checkbox"/>	<input type="checkbox"/>
d. If application is for an oil or gas pipeline, provide information required by item "I - f" and "I - g" above.	<input type="checkbox"/>	<input type="checkbox"/>

*If the required information is already filed with the agency processing this application and is current, check block entitled "Filed." Provide the file identification information (e.g., number, date, code, name). If not on file or current, attach the requested information.

NOTICES

Note: This applies to the Department of Agriculture/Forest Service (FS)

This information is needed by the Forest Service to evaluate the requests to use National Forest System lands and manage those lands to protect natural resources, administer the use, and ensure public health and safety. This information is required to obtain or retain a benefit. The authority for that requirement is provided by the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the secretary of Agriculture to promulgate rules and regulations for authorizing and managing National Forest System lands. These statutes, along with the Term Permit Act, National Forest Ski Area Permit Act, Granger-Thye Act, Mineral Leasing Act, Alaska Term Permit Act, Act of September 3, 1954, Wilderness Act, National Forest Roads and Trails Act, Act of November 16, 1973, Archeological Resources Protection Act, and Alaska National Interest Lands Conservation Act, authorize the Secretary of Agriculture to issue authorizations or the use and occupancy of National Forest System lands. The Secretary of Agriculture's regulations at 36 CFR Part 251, Subpart B, establish procedures for issuing those authorizations.

BURDEN AND NONDISCRIMINATION STATEMENTS

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average 8 hours hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720- 2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

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

North Slope Subsistence Regional Advisory Council

Charter

1. **Committee's Official Designation.** The Council's official designation is the North Slope Subsistence Regional Advisory (Council).
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. Appoint one member to the Gates of the Arctic National Park Subsistence Resource Commission in accordance with Section 808 of the Alaska National Interest Lands Conservation Act (ANILCA).
 - f. Make recommendations on determinations of customary and traditional use of subsistence resources.
 - g. Make recommendations on determinations of rural status.
 - h. Provide recommendations on the establishment and membership of Federal local advisory committees.
5. **Agency or Official to Whom the Council Reports.** The Council reports to the Federal Subsistence Board Chair, who is appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture.
 6. **Support.** The U.S. Fish and Wildlife Service will provide administrative support for the activities of the Council through the Office of Subsistence Management.
 7. **Estimated Annual Operating Costs and Staff Years.** The annual operating costs associated with supporting the Council's functions are estimated to be \$120,000, including all direct and indirect expenses and 0.9 staff years.
 8. **Designated Federal Officer.** The DFO is the Subsistence Council Coordinator for the Region or such other Federal employee as may be designated by the Assistant Regional Director – Subsistence, Region 7, U.S. Fish and Wildlife Service. The DFO is a full-time Federal employee appointed in accordance with Agency procedures. The DFO will:
 - Approve or call all of the advisory committee's and subcommittees' meetings,
 - Prepare and approve all meeting agendas,
 - Attend all committee and subcommittee meetings,
 - Adjourn any meeting when the DFO determines adjournment to be in the public interest, and
 - Chair meetings when directed to do so by the official to whom the advisory committee reports.

9. **Estimated Number and Frequency of Meetings.** The Council will meet 1-2 times per year, and at such times as designated by the Federal Subsistence Board Chair or the DFO.
10. **Duration.** Continuing.
11. **Termination.** The Council will 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.

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.

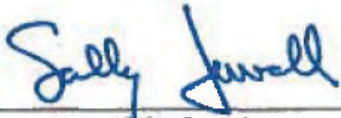
Council members will elect a Chair, Vice-Chair, and Secretary for a 1-year term.

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.



Secretary of the Interior

NOV 20 2015

Date Signed

DEC 03 2015

Date Filed

Subsistence Regional Advisory Councils

U.S. Fish and Wildlife Service
c/o Office of Subsistence Management
1011 East Tudor Road M/S 121
Anchorage, Alaska 99503

RAC 15083.RL

AUG 25 2016

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

Dear Chairman Towarak:

The ten Federal Subsistence Regional Advisory Councils (Councils) appreciated the opportunity to meet in Anchorage for a joint session on March 7-8, 2016. The meeting was extremely informative, and the Council members were unanimous in finding value in hearing summary reports from each Council. While there were numerous concerns that were specific to each region, it was very enlightening to hear there were several subsistence concerns that were common to all regions.

The Councils would like to inform the Federal Subsistence Board (Board) of the issues that resonated with each of the Councils. Although many of these issues have been brought up previously by individual Councils in their annual reports, we would like to take this opportunity to jointly bring these requests to the Board as a collective voice:

1. We request the Board seek an increase in funding to meet the programmatic requirements of operating as a Regional Advisory Council. Reduced program funding has made it difficult for us to do our business. One example is our inability to regularly meet in the remote communities we are appointed to represent. We are currently restricted to hub communities, with only occasional opportunities to meet in non-hub communities.
2. We request the Board seek an increase in funding for conducting fish and wildlife population assessments and monitoring. The data collected in these projects are essential for us to continue to make recommendations on managing these resources appropriately. Initiate funding for a wildlife resource monitoring program was identified as an issue of concern during the Secretarial Review, but has not been acted upon due to lack of funding.
3. We request the Board seek an avenue for having a designated subsistence seat on the North Pacific Fisheries Management Council. The representative for such a seat

Chairman Towarak

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should have experience on a Council. The Councils have expressed this recently to the Board, asking that the Board forward the request to the Secretary of Commerce. The response, however, did not address the underlying concern.

4. We request the Board develop a program that will allow each of the ten Councils a mechanism to engage youth in the subsistence regulatory process. This would be in line with the Secretary of the Interior's implementation of a Play Learn Serve and Work Program, oriented toward developing youth programs. The Secretary specifically created a position in Alaska to facilitate implementation of that program.
5. We request the Board engage in formal rulemaking that includes giving deference to the Councils not only in taking of fish and wildlife, but also for other regulatory issues affecting subsistence users in our regions such as non-rural and customary and traditional use determinations. While this is currently the policy of the Board, there is no assurance that a future Board would implement policy unless it is clear in regulation.
6. The identification of priority information needs is the basis for soliciting fisheries projects for the Fisheries Resource Monitoring Program. The Councils appreciate recent efforts to make the development of those priorities more accessible and successful. The Councils request the Board to continue to support the provision of adequate technical support that will enable us to make meaningful recommendations.
7. Bringing all the Councils together allows the effective sharing of information between council members and allows the councils to identify common concerns for big picture issues. The Councils request the Board engage the Office of Subsistence Management to allow the periodic planning of joint council meetings. It is the recommendation of the Councils that such joint sessions occur at least once every five years.

In summary, we feel the joint Council meeting was very successful and will enable Council members the experiences and training necessary for us to be more effective and productive members of our Councils. We have made new friends and established contacts within the greater subsistence management community that will allow us to communicate more effectively among ourselves and with the staff. Thank for your making this opportunity available to us.

Sincerely,



Michael Bangs, Chair
Southeast Alaska Subsistence
Regional Advisory Council

Chairman Towarak

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Richard G. Encelewski, Chair
Southcentral Alaska Subsistence
Regional Advisory Council



Speridon M. Simeonoff, Chair
Kodiak/Aleutians Subsistence
Regional Advisory Council



Molly Chythlook, Chair
Bristol Bay Subsistence
Regional Advisory Council




Lester Wilde, Sr., Chair
Yukon-Kuskokwim Delta Subsistence
Regional Advisory Council



Jack Reakoff, Chair
Western Interior Alaska Subsistence
Regional Advisory Council



Louis Green, Chair
Seward Peninsula Subsistence
Regional Advisory Council



Raymond Stony, Chair
Northwest Arctic Subsistence
Regional Advisory Council

Chairman Towarak

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Sue Entsminger, Chair
Eastern Interior Alaska Subsistence
Regional Advisory Council



Rosemary Ahtuanguaruak, Acting Chair
North Slope Subsistence
Regional Advisory Council

cc: Federal Subsistence Board
Southeast Alaska Subsistence Regional Advisory Council
Southcentral Alaska Subsistence Regional Advisory Council
Kodiak/Aleutians Subsistence Regional Advisory Council
Bristol Bay Subsistence Regional Advisory Council
Yukon-Kuskokwim Delta Subsistence Regional Advisory Council
Western Interior Alaska Subsistence Regional Advisory Council
Seward Peninsula Subsistence Regional Advisory Council
Northwest Arctic Subsistence Regional Advisory Council
Eastern Interior Alaska Subsistence Regional Advisory Council
North Slope Subsistence Regional Advisory Council
Eugene R. Peltola, Jr., Assistant Regional Director, Office of Subsistence Management
Stewart Cogswell, Acting Deputy Assistant Regional Director,
Office of Subsistence Management
Carl Johnson, Council Coordination Division Chief, Office of Subsistence Management
Chris Mckee, Wildlife Division Chief, Office of Subsistence Management
Mitch Ellis, Director of Refuges, Alaska Region, U.S. Fish and Wildlife Service
Interagency Staff Committee
Administrative Record

applicants by the proposed priority would be limited to paperwork burden related to preparing an application for a discretionary grant program that is using the priority in its competition. Because the costs of carrying out activities would be paid for with program funds, the costs of implementation would not be a burden for any eligible applicants, including small entities.

Regulatory Flexibility Act Certification: For these reasons as well, the Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

Intergovernmental Review: Some of the programs affected by this proposed priority are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., Braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

John B. King, Jr.,
Secretary of Education.

[FR Doc. 2016-13456 Filed 6-7-16; 8:45 am]

BILLING CODE 4000-01-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-2015-0159; FXRS12610700000167-FF07J00000; FBMS# 4500088147]

RIN 1018-BB22

Subsistence Management Regulations for Public Lands in Alaska—Applicability and Scope; Tongass National Forest Submerged Lands

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

ACTION: Proposed rule.

SUMMARY: The U.S. District Court for Alaska in its October 17, 2011, order in *Peratrovich et al. v. United States and the State of Alaska*, 3:92-cv-0734-HRH (D. Alaska), enjoined the United States “to promptly initiate regulatory proceedings for the purpose of implementing the subsistence provisions in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) with respect to submerged public lands within Tongass National Forest” and directed entry of judgment. To comply with the order, the Federal Subsistence Board (Board) must initiate a regulatory proceeding to identify those submerged lands within the Tongass National Forest that did not pass to the State of Alaska at statehood and, therefore, remain Federal public lands subject to the subsistence provisions of ANILCA.

Following the Court’s decision, the Bureau of Land Management (BLM) and the USDA–Forest Service (USDA–FS) started a review of hundreds of potential pre-statehood (January 3, 1959) withdrawals in the marine waters of the Tongass National Forest. In April and October of 2015, BLM submitted initial lists of submerged public lands to the Board. This proposed rule would add those submerged parcels to the subsistence regulations to ensure compliance with the Court order. Additional listings will be published as BLM and the USDA–FS continue their review of pre-statehood withdrawals.

DATES: *Public comments:* Comments on this proposed rule must be received or postmarked by August 8, 2016.

Public meetings: The Federal Subsistence Regional Advisory Councils

(Councils) will hold public meetings to receive comments on this proposed rule on several dates between September 28 and November 2, 2016, and make recommendations to the Federal Subsistence Board. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, in January 2017. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

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

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

- *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov> and search for FWS-R7-SM-2015-0159, 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.

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

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786-3888 or subsistence@fws.gov. 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 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 (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, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

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

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council (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.

Public Review Process—Comments and Public Meetings

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

following locations in Alaska, on the following dates:

- Region 1—Southeast Regional Council, Petersburg, October 4, 2016
- Region 2—Southcentral Regional Council, Anchorage, October 18, 2016
- Region 3—Kodiak/Aleutians Regional Council, Cold Bay, September 28, 2016
- Region 4—Bristol Bay Regional Council, Dillingham, October 26, 2016
- Region 5—Yukon-Kuskokwim Delta Regional Council, Bethel, October 12, 2016
- Region 6—Western Interior Regional Council, McGrath, October 11, 2016
- Region 7—Seward Peninsula Regional Council, Nome, November 1, 2016
- Region 8—Northwest Arctic Regional Council, Selawik, October 5, 2016
- Region 9—Eastern Interior Regional Council, Fort Yukon, October 25, 2016
- Region 10—North Slope Regional Council, Barrow, November 1, 2016

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

The Board will discuss and evaluate submitted comments and public testimony on this proposed rule during a public meeting scheduled for January 2017 in Anchorage, Alaska. The Federal Subsistence Regional Advisory Council Chairs, or their designated representatives, will present their respective Councils' recommendations at the Board meeting. Additional public testimony may be provided to the Board on this proposed rule at that time. At that public meeting, the Board will deliberate and make final recommendations to the Secretaries on this proposed rule.

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

Comments and materials we receive, as well as supporting documentation we

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

Reasonable Accommodations

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

Tribal Consultation and Comment

As expressed in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and Federally Recognized Indian Tribes (Tribes) as listed in 75 FR 60810 (October 1, 2010). Consultation with Alaska Native corporations is based on Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175."

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

The Board will engage in outreach efforts for this proposed rule, including a notification letter, to ensure that Tribes and Alaska Native corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: Proposing changes to the existing rule; commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Advisory Council meetings; engaging in dialogue

at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process. The Board will commit to efficiently and adequately providing an opportunity to Tribes and Alaska Native corporations for consultation in regard to subsistence rulemaking.

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

Jurisdictional Background and Perspective

The *Peratrovich* case dates back to 1992 and has a long and involved procedural history. The plaintiffs in that litigation raised the question of which marine waters in the Tongass National Forest, if any, are subject to the jurisdiction of the Federal Subsistence Management Program. In its May 31, 2011, order, the U.S. District Court for Alaska (Court) stated that "it is the duty of the Secretaries [Agriculture & Interior] to identify any submerged lands (and the marine waters overlying them) within the Tongass National Forest to which the United States holds title." It also stated that, if such title exists, it "creates an interest in [the overlying] waters sufficient to make those marine waters public lands for purposes of [the subsistence provisions] of ANILCA."

Most of the marine waters within the Tongass National Forest were not initially identified in the regulations as public lands subject to the subsistence priority based upon a determination that the submerged lands were State lands, and later through reliance upon a disclaimer of interest filed by the United States in *Alaska v. United States*, No. 128 Orig., 546 U.S. 413 (2006). In that case, the State of Alaska had sought to quiet title to all lands underlying marine waters in southeast Alaska, which includes most of the Tongass National Forest. Ultimately, the United States disclaimed ownership to most of the submerged lands in the Tongass National Forest. The Supreme Court accepted the disclaimer by the United States to title to the marine waters within the Tongass National Forest, excepting from that disclaimer several classes of submerged public lands that generally involve small tracts. *Alaska v. United States*, 546 U.S. at 415.

When the United States took over the subsistence program in Alaska in 1990, the Departments of the Interior and Agriculture stated in response to comments on the scope of the program during promulgation of the interim

regulations that "the United States generally does not hold title to navigable waters and thus navigable waters generally are not included within the definition of public lands" (55 FR 27115; June 29, 1990). That position was changed in 1999 when the subsistence priority was extended to waters subject to a Federal reserved water right following the *Katie John* litigation. The Board identified certain submerged marine lands that did not pass to the State and, therefore, where the subsistence priority applied. However, the Board did not attempt to identify each and every small parcel of submerged public lands and thereby marine water possibly subject to the Federal Subsistence Management Program because of the potentially overwhelming administrative burden. Instead the Board invited the public to petition to have submerged marine lands included. Over the years, several small areas of submerged marine lands in the Tongass National Forest have been identified as public lands subject to the subsistence priority.

In its May 31, 2011, order, the Court stated that the petition process was not sufficient and found that "concerns about costs and management problems simply cannot trump the congressional policy that the subsistence lifestyle of rural Alaskans be preserved as to public lands." The Court acknowledged in its order that inventorying all these lands could be an expensive undertaking, but that it is a burden "necessitated by the 'complicated regulatory scheme' which has resulted from the inability of the State of Alaska to implement Title VIII of ANILCA." The Court then "enjoined" the United States "to promptly initiate regulatory proceedings for the purpose of implementing the subsistence provisions in Title VIII of ANILCA with respect to submerged public lands within Tongass National Forest" and directed entry of judgment.

The BLM and USDA-FS started a time- and resource-consuming review of hundreds of potential pre-statehood (January 3, 1959) withdrawals in the marine waters of the Tongass National Forest. Both agencies are reviewing their records to identify dock sites, log transfer sites, and other areas that may not have passed to the State at statehood. The review process is ongoing and expected to take quite some time.

Developing the Applicability and Scope; Tongass National Forest Submerged Lands Proposed Regulations

In April and October of 2015, BLM submitted initial listings of parcels of

submerged public lands to the Board. This proposed rule will add those listings to the subsistence regulations to ensure compliance with the Court's order. Additional listings will be published as BLM and USDA-FS continue their reviews of pre-statehood withdrawals. In addition, this proposed rule would make nonsubstantive changes to 36 CFR 242.3 and 50 CFR 100.3 to correct errors, such as misspellings and punctuation errors, which occur in the existing regulations.

Because this proposed 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.

Compliance With Statutory and Regulatory Authorities

National Environmental Policy Act

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

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

Section 810 of ANILCA

An ANILCA § 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final § 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Federal Subsistence Management

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

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

Paperwork Reduction Act of 1995 (PRA)

This proposed rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 *et seq.*) OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR 242 and 50 CFR 100, and assigned OMB Control Number 1018-0075. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Regulatory Planning and Review (Executive Order 12866)

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 proposed 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 proposed 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 proposed 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 proposed rule is not a major rule. It will 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 will 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 proposed 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 proposed 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 proposed regulations meet the applicable standards provided in §§ 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

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

Executive Order 13175

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

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

Executive Order 13211

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

Drafting Information

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

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;

- Trevor Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, USDA—Forest Service.

List of Subjects

36 CFR Part 242

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

50 CFR Part 100

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

Proposed Regulation Promulgation

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

PART—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

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

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

Subpart A—General Provisions

■ 2. In subpart A of 36 CFR part 242 and 50 CFR part 100, amend § 3 as follows:

■ a. In paragraph (a), remove the word “or” and in its place add the word “of” and remove the word “poortion” and in its place add the word “portion”;

■ b. In paragraph (b)(1)(iii), remove the word “A” and in its place add the word “All”;

■ c. In paragraph (b)(1)(v), remove the word “Latitute” and in its place add the word “Latitude”;

■ d. In paragraph (b)(2), remove “70 10’” and in its place add “70°10’” and remove “145 51’” and in its place add “145°51’”;

■ e. In paragraph (b)(3), remove the word “cape” and in its place add the word “Cape”, remove the word “Latitute” and in its place add the word “Latitude”, and remove “161 46’” and in its place add “161°46’”; and

■ f. Revise paragraph (b)(5) to read as set forth below:

§ 3 Applicability and scope.

* * * * *

(5) Southeastern Alaska, including the:

(i) Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 57°02'35" north latitude, 135°21'07" west longitude as shown on

United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the point of beginning, by metes and bounds; S. 58° W., 2,500 feet, to the southern point of Nepovorotni Rocks; S. 83° W., 5,600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N. 6° W., 4,200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N. 24° E., 3,000 feet, to a point, 57°03'15" north latitude, 134°23'07" west longitude; East, 2,900 feet, to a point in course No. 45 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1,496 to angle point No. 35, on the southwestern point of Japonski Island; S. 60° E., 3,300 feet, along the boundary line of Naval reservation described in Executive Order No. 8216, July 25, 1939, to the point of beginning, and that part of Sitka Bay lying south of Japonski Island and west of the main channel, but not including Aleutski Island as revoked in Public Land Order 925, October 27, 1953, described by metes and bounds as follows: Beginning at the southeast point of Japonski Island at angle point No. 7 of the meanders of U.S. Survey No. 1496; thence east approximately 12.00 chains to the center of the main channel; thence S. 45° E. along the main channel approximately 20.00 chains; thence S. 45° W. approximately 9.00 chains to the southeastern point of Aleutski Island; thence S. 79° W. approximately 40.00 chains to the southern point of Fruit Island; thence N. 60° W. approximately 50.00 chains to the southwestern point of Japonski Island at angle point No. 35 of U.S. Survey No. 1496; thence easterly with the meanders of Japonski Island to the point of beginning including Charcoal, Harbor, Alice, Love, and Fruit islands and a number of smaller unnamed islands.

(ii) Tongass National Forest:

(A) Beacon Point, Frederick Sound, and Kupreanof Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8210—Sheet No. 16. The reference location is marked as 57 south, 79 east, CRM, SEC 8, U.S. Survey No. 1604. The point begins on the low-water line at N. 63° W., true and approximately 1,520 feet from Beacon Point beacon; thence due south true 1,520 feet; thence true East 1,800 feet, more or less to an intersection with a low-water line; thence following, is the low-water line round the point to point of the beginning (Approx. Long. 133°00' W. Lat. 56°56¼' N.).

(B) Bushy Island and Snow Passage are shown on the U.S. Coast and Geodetic Survey Chart, labeled No. 8160—Sheet No. 12. The reference location is marked as 64 south, 80 east, CRM, SEC. 31/32 on the map labeled, USS 1607. The point begins on a low-water line about ¼ nautical miles and southwesterly from the northwest point of the island, from which a left tangent to an island that is 300 yards in diameter and 100 yards offshore, bears the location—N. 60° W., true; thence S. 60° E., true and more or less 2,000 feet to an intersection with a low-water line on the easterly side of the island; thence forward along the winding of the low-water line northwesterly and southwesterly to the point of the beginning, including all adjacent rocks and reefs not covered at low water (Approx. Long. 132°58' W. Lat. 56°16½' N.).

(C) Cape Strait, Frederick Sound, and Kupreanof Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8210—Sheet No. 16. The reference location is marked as 56 south, 77478 east, CRM, on the map labeled as USS 1011. It begins at a point on a low-water line that is westerly from the lighthouse and distant 1,520 feet in a direct line from the center of the concrete pier upon which the light tower is erected; thence South 45° E., true by 1,520 feet; thence east true by 1,520 feet, more or less to an intersection with the low-water line; thence north-westerly and westerly, following the windings of the low-water line to the point of beginning (Approx. Long. 133°05' W. Lat. 57°00' N.).

(D) Point Colpoys and Sumner Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Prince of Wales Island—Sheet No. 12. The reference location is marked as 64 south, 78 east, CRM, SECs. 10, 11, 12 on the map labeled as USS 1634. Location is north of a true east-and-west line running across the point to 1,520 feet true south from the high-water line at the northernmost extremity. Map includes all adjacent rocks and ledges not covered at low water and also includes two rocks awash about 1¼ nautical miles east and South and 75° East, respectively, from the aforementioned point (Approx. Long. 133°12' W. Lat. 56°20' N.).

(E) Vank Island and Stikine Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 18. Located at 62 south, 82 east, CRM, SEC 34, on the map labeled as USS 1648. This part of the island is lying south of a true east-and-west line that is drawn across the island from low water to low water. Island is 760 feet due North from

the center of the concrete pier upon which the structure for the light is erected (Approx. Long. 132°35' W. Lat. 56°27' N.).

(F) High Point, and Woronkofski Island, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 18. The location begins at a point on low water at the head of the first bight easterly of the point and about 1/8 nautical mile distant therefrom; thence south true 1,520 feet; thence west true 1,100 feet, more or less to an intersection with the low-water line; thence northerly and easterly, following the windings of the low-water line to point of the beginning (Approx. Long. 132°33' W. Lat. 56°24' N.).

(G) Key Reef and Clarence Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 11. The reef lies 3/4 miles S. 80° E., true, from Bluff Island and becomes awash at extreme high water. Chart includes all adjacent ledges and rocks not covered at low water (Approx. Long. 132°50' W. Lat. 56°10' N.).

(H) Low Point and Zarembo Island, Alaska, are shown on U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 22. The location begins at a point on a low-water line that is 760 feet in a direct line, easterly, from the center of Low Point Beacon. The position is located on a point of shoreline about 1 mile easterly from Low Point; thence S. 35°, W true 760 feet; thence N. 800 feet and W. 760 feet, more or less, to an intersection with the low-water line to the point of beginning (Approx. Long. 132°55 1/2' W. Lat. 56°27 1/2' N.).

(I) McNamara Point and Zarembo Island, Alaska, are shown on U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 25. Location begins at a point on a low-water line that is 1,520 feet in a direct line, northerly, from McNamara Point Beacon—a slatted tripod structure; thence true east 1,520 feet; thence true south, more or less, 2,500 feet to an intersection with the low-water line; thence northwesterly and northerly following the windings of the low-water line to the point of the beginning (Approx. Long. 133°04' W. Lat. 56°20' N.).

(J) Mountain Point and Wrangell Narrows, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8170—Sheet No. 27. The location begins at a point on a low-water line southerly from the center of Mountain Point Beacon and distant there from 1,520 feet in a direct line; thence true west 1,520 feet; thence true north, more or less, 3,480 feet to an intersection with the low-water line; thence southeasterly and southerly following the windings of the low-water line to the point of the

beginning (Approx. Long. 132°57 1/2' W. Lat. 56°44' N.).

(K) Angle Point, Revillagigedo Channel, and Bold Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 3. The reference location is marked as 76 south, 92 east, CRM, USS 1603. The location begins at a point on a low-water line abreast of the lighthouse on Angle Point, the southwestern extremity of Bold Island; thence easterly along the low-water line to a point that is 3,040 feet in a straight line from the beginning point; thence N. 30° W. True 3,040 feet; thence true west to an intersection with the low-water line, 3,000 feet, more or less; thence southeasterly along the low-water line to the point of the beginning (Approx. Long. 131°26' W. Lat. 55°14' N.).

(L) Cape Chacon, Dixon Entrance, and Prince of Wales Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8074—Sheet No. 29. The reference location is marked as 83 south, 89 and 90 east, CRM, USS 1608. The location begins at a point at the low-water mark on the shore line of Dixon Entrance from which the southern extremity of Cape Chacon bears south 64° true East and approximately 3/4 nautical miles; thence N. 45° true East and about 1 nautical mile, more or less, to an intersection with a low-water line on the shore of Clarence Strait; thence southerly, following the meanderings of the low-water line of the shore, to and around Cape Chacon, and continuing to the point of the beginning. Reference includes all adjacent islands, islets, rocks, and reefs that are not covered at the low-water line (Approx. Long. 132° W. Lat. 54°42' N.).

(M) Lewis Reef and Tongass Narrows are shown on the U.S. Coast and Geodetic Survey Chart No. 8094—Sheet No. 71. The reference location is marked as 75 south, 90 east, CRM, SEC 9. The area point begins at the reef off of Lewis Point and partly bare at low water. This part of the reef is not covered at low water and lies on the northeast side of a true northwest-and-southeast line that is located 300 feet true southwest from the center of the concrete pier of Lewis Reef Light (Approx. Long. 131°44 1/2' W. Lat. 55°22'25" N.).

(N) Lyman Point and Clarence Strait are shown on the U.S. Coast and Geodetic Survey, Chart No. 8076—Sheet No. 8. The reference location is marked as 73 south, 86 east, CRM, SEC 13, on a map labeled as USS 2174 TRC. It begins at a point at the low-water mark. The aforementioned point is 300 feet in a direct line easterly from Lyman Point light; thence due south 300 feet; thence due west to a low-water mark 400 feet,

more or less; thence following the winding of the low-water mark to place of beginning (Approx. Long. 132°18' W. Lat. 35°35' N.).

(O) Narrow Point, Clarence Strait, and Prince of Wales Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 9. The reference location is marked as 70 south, 84 east, CRM, on a map labeled as USS 1628. The point begins at a point on a low-water line about 1 nautical mile southerly from Narrow Point Light, from which point a left tangent to a high-water line of an islet about 500 yards in diameter and about 300 yards off shore, bears south 30° true East; thence north 30° W., true 7,600 feet; thence N. 60° E., 3,200 feet, more or less to an intersection with a low-water line; thence southeasterly, southerly, and southwesterly, following the winding of the low-water line to the point of the beginning. The map includes all adjacent rocks not covered at low water (Approx. Long. 132°28' W. Lat. 55°47 1/2' N.).

(P) Niblack Point, Cleveland Peninsula, and Clarence Strait, Alaska, are shown on the U.S. coast and Geodetic Survey Chart No. 8102—Sheet No. 6, which is the same sheet used for Caamano Point. The location begins at a point on a low-water line from which Niblack Point Beacon, a tripod anchored to three concrete piers, bears southeasterly and is 1,520 feet in a direct line; thence true northeast 1,520 feet; thence true southeast 3,040 feet; thence true southwest at 600 feet, more or less, to an intersection with a low-water line; thence northwesterly following the windings of the low-water line to the point of the beginning (Approx. Long. 132°07' W. Lat. 55°33' N.).

(Q) Rosa Reef and Tongass Narrows are shown on the U.S. Coast and Geodetic Survey Chart No. 8094—Sheet No. 71. The reference location is marked as 74 south, 90 east, CRM, SEC 31. That part of the reef is not covered at low water and lies east of a true north-and-south line, located 600 feet true west from the center of the concrete pier of Rosa Reef Light. The reef is covered at high water (Approx. Long. 131°48' W. Lat. 55°24'15" N.).

(R) Ship Island and Clarence Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 9. The reference location is marked as south, 8 east, CRM, SEC 27. The point begins as a small island on the northwesterly side of the Clarence Strait, about 10 nautical miles northwesterly from Caamano Point and 1/4 mile off the shore of Cleveland Peninsula. The sheet includes all

adjacent islets and rocks not connected to the main shore and not covered at low water (Approx. Long. 132°12' W. Lat. 55°36' N.).

(S) Spire Island Reef and Revillagigedo Channel are shown on the U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 3. The reference location is marked as 76 south, 92 east, CRM, SEC 19. The detached reef, covered at high water and partly bare at low water, is located northeast of Spire Island. Spire Island Light is located on the reef and consists of small houses and lanterns surmounting a concrete pier. See chart for “Angle Pt.” (Approx. Long. 131°30' W. Lat. 55°16' N.).

(T) Surprise Point and Nakat Inlet are shown on the U.S. Coast and Geodetic Survey Chart No. 8051—Sheet No. 1. The reference location is marked as 80 south, 89 east, CRM. This point lies north of a true east-and-west line. The true east-and-west line lies 3,040 feet true south from the northernmost extremity of the point together with adjacent rocks and islets (Approx. Long. 130°44' W. Lat. 54°49' N.).

(U) Caamano Point, Cleveland Peninsula, and Clarence Strait, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8102—Sheet No. 6. Location consists of everything apart of the extreme south end of the Cleveland Peninsula lying on a south side of a true east-and-west line that is drawn across the point at a distance of 800 feet true north from the southernmost point of the low-water line. This includes off-lying rocks and islets that are not covered at low water (Approx. Long. 131°59' W. Lat. 55°30' N.).

(V) Meyers Chuck and Clarence Strait, Alaska, are shown on the U.S. and Geodetic Survey Chart No. 8124—Sheet No. 26. The small island is about 150 yards in diameter and located about 200 yards northwest of Meyers Island (Approx. Long. 132°16' W. Lat. 55°44½' N.).

(W) Round Island and Cordova Bay, Alaska, are shown on the U.S. coast and Geodetic Survey Chart No. 8145—Sheet No. 36. The Southwestern Island of the group is about 700 yards long, including off-lying rocks and reefs that are not covered at low water (Approx. Long. 132°30½' W. Lat. 54°46½' N.).

(X) Mary Island begins at a point that is placed at a low-water mark. The aforementioned point is southward 500 feet from a crosscut on the side of a large rock on the second point below Point Winslow and Mary Island; thence due west ¾ mile, statute; thence due north to a low-water mark; thence following the winding of the low water

to the place of the beginning (Approx. Long. 131°11'00" W. Lat. 55°05'55" N.).

(Y) Tree Point starts at a point of a low-water mark. The aforementioned point is southerly ½ mile from extreme westerly point of a low-water mark on Tree Point, on the Alaska Mainland; thence due true east, ¾ mile; thence due north 1 mile; thence due west to a low-water mark; thence following the winding of the low-water mark to the place of the beginning (Approx. Long. 130°57'44" W. Lat. 54°48'27" N.).

* * * * *

Dated: May 31, 2016.

Dated: February 17, 2016.

Sally Jewell,

Secretary of the Interior.

Beth G. Pendleton,

Regional Forester USDA—Forest Service.

[FR Doc. 2016–13374 Filed 6–7–16; 8:45 am]

BILLING CODE 3410–11–4333–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2016–0247; FRL–9947–40–Region 4]

Air Plan Approval; South Carolina; Prong 4—2008 Ozone, 2010 NO₂, SO₂, and 2012 PM_{2.5}

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to conditionally approve the portions of revisions to the South Carolina State Implementation Plan (SIP), submitted by the South Carolina Department of Health and Environmental Control (SC DHEC), addressing the Clean Air Act (CAA or Act) visibility transport (prong 4) infrastructure SIP requirements for the 2008 8-hour Ozone, 2010 1-hour Nitrogen Dioxide (NO₂), 2010 1-hour Sulfur Dioxide (SO₂), and 2012 annual Fine Particulate Matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, commonly referred to as an “infrastructure SIP.” Specifically, EPA is proposing to conditionally approve the prong 4 portions of South Carolina’s July 17, 2008, 8-hour Ozone infrastructure SIP submission; April 30, 2014, 2010 1-hour NO₂ infrastructure SIP submission; May 8, 2014, 2010 1-hour SO₂ infrastructure SIP submission; and December 18, 2015,

2012 annual PM_{2.5} infrastructure SIP submission. All other applicable infrastructure requirements for these SIP submissions have been or will be addressed in separate rulemakings.

DATES: Comments must be received on or before July 8, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No EPA–R04–OAR–2016–0247 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Lakeman can be reached by telephone at (404) 562–9043 or via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) of the CAA are to be submitted by states within three years after promulgation of a new or revised NAAQS to provide for the implementation, maintenance, and enforcement of the new or revised NAAQS. EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of sections 110(a)(1) and 110(a)(2) as “infrastructure SIP” submissions. Sections 110(a)(1) and (2) require states to address basic SIP elements such as the requirements for monitoring, basic program requirements, and legal



THE STATE
of ALASKA
GOVERNOR BILL WALKER

Department of Natural Resources

DIVISION OF MINING, LAND AND WATER

DIRECTOR'S OFFICE

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Main: 907.269.8600

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August 8, 2016

US Fish and Wildlife Service
Office of Subsistence Management
1011 East Tudor Road
MS 121
Attn: Theo Matuskowitz
Anchorage, AK 99503-6199

VIA ELECTRONICALLY & US MAIL

Re: Docket No. FWS-R7-SM-2015-0159

Dear Mr. Matuskowitz:

The State of Alaska reviewed the June 8, 2016 Federal Register Notice regarding the proposed rule to add certain submerged parcels of land to the subsistence management regulations for public lands in Alaska as indicated by the above-mentioned docket number. The proposed rule intends to identify and add the following submerged lands as "lands within the Tongass National Forest that did not pass to the State of Alaska at Statehood" and, therefore, are subject to the subsistence provisions of ANILCA:

(5) Southeastern Alaska, including the:

(i) Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 57°02'35" north latitude, 135°21'07" west longitude as shown on United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the point of beginning, by metes and bounds; S. 58° W., 2,500 feet, to the southern point of Nepovorotni Rocks; S. 83° W., 5,600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N. 6° W., 4,200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N. 24° E., 3,000 feet, to a point, 57°03'15" north latitude, 134°23'07" west longitude; East, 2,900 feet, to a point in course No. 45 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1,496 to angle point No. 35, on the southwestern point of Japonski Island; S. 60° E., 3,300 feet, along the boundary line of Naval reservation described in Executive Order No. 8216, July 25, 1939, to the point of beginning, and that part of Sitka Bay lying south of Japonski Island and west of the main channel, but not including Aleutski Island as revoked in Public Land Order 925, October 27, 1953, described by metes and bounds as follows: Beginning at the southeast point of Japonski Island at angle point No. 7 of the meanders of U.S. Survey No. 1496; thence east approximately 12.00 chains to the center of the main channel; thence S. 45° E. along the main channel approximately 20.00 chains; thence S. 45° W. approximately 9.00 chains to the southeastern point of Aleutski Island; thence S. 79° W. approximately 40.00 chains to the southern point of Fruit Island; thence N. 60° W. approximately 50.00 chains to the southwestern point of Japonski Island at angle point No. 35 of U.S. Survey No.

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1496; thence easterly with the meanders of Japonski Island to the point of beginning including Charcoal, Harbor, Alice, Love, and Fruit islands and a number of smaller unnamed islands.

The State of Alaska objects to the inclusion of these above-described lands as being identified as remaining in Federal public ownership. Title to the above-described lands has already passed to and is held by the State of Alaska by virtue of the Patent issued February 15, 1968 as Patent No. 50-68-0194 and by virtue of the Patent issued May 11, 1990 as Patent No. 50-90-0267. These lands are no longer part of the federal public domain. Rather, they are state-owned lands, managed and controlled by the State of Alaska.

The State of Alaska does not oppose or object to the inclusion of the remainder of lands identified as Federal public lands subject to the subsistence provisions of ANILCA.

Thank you for your consideration.

Sincerely,



Kristin A. Hess
Division Operations Manager
State of Alaska
Department of Natural Resources
Division of Mining, Land & Water



The Arctic Council: A background

What is the Arctic Council?

The Arctic Council is the leading intergovernmental forum promoting cooperation, coordination and interaction among the Arctic states, Arctic Indigenous communities and other Arctic inhabitants on common Arctic issues, in particular on issues of sustainable development and environmental protection in the Arctic.

Who takes part?

The *Ottawa Declaration* lists the following countries as Members of the Arctic Council: Canada, the Kingdom of Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States.

In addition, six organizations representing Arctic Indigenous peoples have status as Permanent Participants. The category of Permanent Participant was created to provide for active participation and full consultation with the Arctic Indigenous peoples within the Council. They include: the Aleut International Association, the Arctic Athabaskan Council, Gwich'in Council International, the Inuit Circumpolar Council, the Russian Association of Indigenous Peoples of the North and the Saami Council.

Observer status in the Arctic Council is open to non-Arctic states, along with inter-governmental, inter-parliamentary, global, regional and non-governmental organizations that the Council determines can contribute to its work. Arctic Council Observers primarily contribute through their engagement in the Council at the level of Working Groups.

The standing Arctic Council Secretariat formally became operational in 2013 in Tromsø, Norway. It was established to provide administrative capacity, institutional memory, enhanced communication and outreach and general support to the activities of the Arctic Council.

What does it do?

The work of the Council is primarily carried out in six Working Groups.

- The Arctic Contaminants Action Program (ACAP) acts as a strengthening and supporting mechanism to encourage national actions to reduce emissions and other releases of pollutants.
- The Arctic Monitoring and Assessment Programme (AMAP) monitors the Arctic environment, ecosystems and human populations, and provides scientific advice to support governments as they tackle pollution and adverse effects of climate change.
- The Conservation of Arctic Flora and Fauna Working Group (CAFF) addresses the conservation of Arctic biodiversity, working to ensure the sustainability of the Arctic's living resources.

- The Emergency Prevention, Preparedness and Response Working Group (EPPR) works to protect the Arctic environment from the threat or impact of an accidental release of pollutants or radionuclides.
- The Protection of the Arctic Marine Environment (PAME) Working Group is the focal point of the Arctic Council's activities related to the protection and sustainable use of the Arctic marine environment.
- The Sustainable Development Working Group (SDWG) works to advance sustainable development in the Arctic and to improve the conditions of Arctic communities as a whole.

The Council may also establish Task Forces or expert groups to carry out specific work. The Task Forces operating during the United States Chairmanship (2015-2017) are:

- Task Force on Arctic Marine Cooperation (TFAMC)
- Task Force on Telecommunications Infrastructure in the Arctic (TFTIA)
- Task Force for Enhancing Scientific Cooperation in the Arctic (SCTF)

What are some of its accomplishments?

The Arctic Council regularly produces comprehensive, cutting-edge environmental, ecological and social assessments through its working groups. The Council has also provided a forum for the negotiation of two important legally binding agreements among the eight Arctic states. The first, the *Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic*, was signed in Nuuk, Greenland, at the 2011 Ministerial Meeting. The second, the *Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic*, was signed in Kiruna, Sweden, at the 2013 Ministerial Meeting.

How does it work?

Arctic Council assessments and recommendations are the result of analysis and efforts undertaken by the Working Groups. Decisions of the Arctic Council are taken by consensus among the eight Arctic Council states, with full consultation and involvement of the Permanent Participants. The Chairmanship of the Arctic Council rotates every two years among Arctic states. The first country to chair the Arctic Council was Canada (1996-1998), followed by the United States, Finland, Iceland, Russia, Norway, Denmark and Sweden. The second cycle began in 2013, as Canada assumed the Chairmanship for the second time. On 24 April 2015, the second Canadian Chairmanship concluded, and the second Chairmanship of the United States (2015-2017) began. The next country to assume the Chairmanship will be Finland (2017-2019).

What doesn't it do?

The Arctic Council is a forum; it has no programming budget. All projects or initiatives are sponsored by one or more Arctic States. Some projects also receive support from other entities. The Arctic Council does not and cannot implement or enforce its guidelines, assessments or recommendations. That responsibility belongs to each individual Arctic State. The Arctic Council's mandate, as articulated in the *Ottawa Declaration*, explicitly excludes military security.



Summary of Activities

Arctic National Wildlife Refuge



**Prepared for North Slope Regional Advisory Council
September 2016**



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➤ **Research and Monitoring**

Caribou:

Management of the Porcupine Caribou Herd is a cooperative effort involving:

- 2 federal governments
- 3 state or territorial governments
- 8 native land claim agreements
- 5 national parks, preserves, or refuges
- 1 territorial park
- 2 special management areas
- Local residents of several small communities in Alaska and Canada

Management is coordinated by the International Porcupine Caribou Board, consisting of representatives from Canadian and U.S. national governments, Yukon and Northwest Territories provincial governments, the State of Alaska, and local citizens from Alaska and Canada. The International Board generally meets twice per year; the most recent meeting was held in November 2015 in Yellowknife, NWT. Biologists from the responsible agencies also work together through the Porcupine Caribou Technical Committee, which reports to the International Board.

Examples of work being done include:

- Capture and radio-collaring caribou: mainly done in March each year by YTG, with assistance from USFWS and ADF&G.
- Purchase of radio-collars: funding provided by multiple agencies, primarily (in recent years) by Inuvialuit Final Agreement funds (Canada).
- Radio-tracking and costs of satellite data processing: mainly USFWS with assistance from YTG and others.
- Annual estimates of calving distribution and success: ADF&G
- Photo census (every 2 – 5 years): ADF&G with assistance from USFWS and others.
- Harvest summaries: YTG, NWT, ADF&G, with assistance from local communities.
- Body condition monitoring: YTG with assistance from local communities.

After declining slowly during the 1990s and early 2000s, the Porcupine Caribou Herd has been increasing for several years. The 2010 census estimated herd size at 169,000 and the 2013 census found 197,000 caribou, which is the highest population yet recorded for this herd. Staff from the

Alaska Department of Fish and Game prepared for an aerial photo census in early July 2016. However, the caribou were never concentrated enough for a good census. Another attempt at a census will be made next year.

During the winter of 2015-2016 caribou were concentrated in 3 main areas, including:

- Southern Brooks Range of Alaska, mostly west of Arctic Village, extending north and west of Chandalar Lake.
- Ogilve River basin of Yukon Territory
- Richardson Mountains along the border of Yukon and Northwest Territories.

Spring migration began during late April, and proceeded rapidly through May. Caribou from Alaska mainly moved east into Yukon Territory, joining with caribou moving north from the Ogilve Mountains. These caribou then moved north to the coast, then west into Alaska. Caribou from the Richardson Mountains were mostly bulls. They moved generally northwestward to the coast, then west into Alaska (Figure 1).

Calving was spread across a wide stretch of coastal plain, from the northeastern Yukon into the Arctic National Wildlife Refuge. As in 2015, much of the calving this year occurred on the Refuge, although many caribou calved on the Yukon coastal plain as well. Details of calving rates and distributions will be provided by the Alaska Department of Fish and Game later this summer.

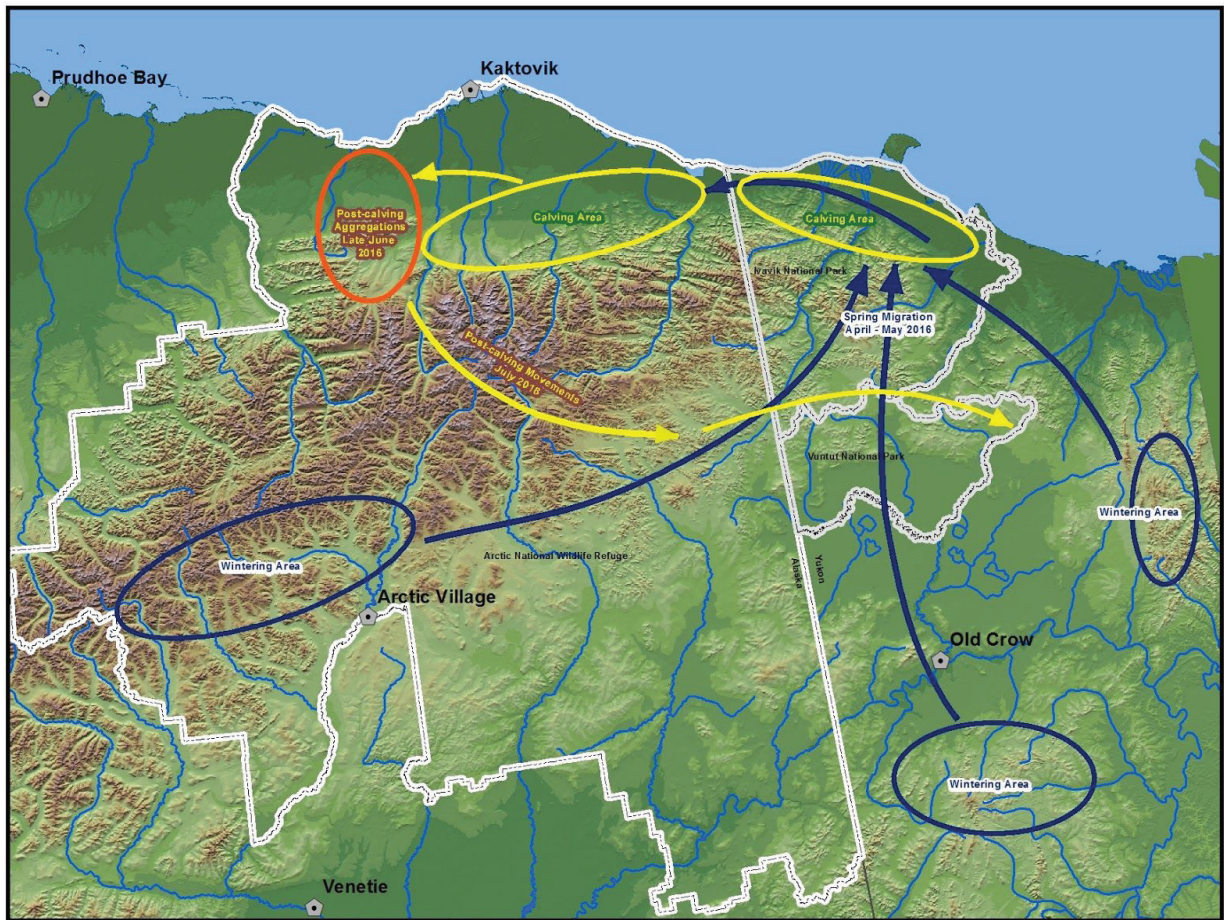


Figure 1. Distribution and movements of the Porcupine Caribou Herd, January - July 2016. This figure is a generalized depiction based on information provided by the Alaska Department of Fish and Game, Yukon Department of Environment, and U.S. Fish and Wildlife Service.

Post calving aggregations occurred on the Alaskan coastal plain, near the the Katakturuk and Hulahula Rivers. This area was used frequently by this herd during the late 1980s and early 1990s, but has seen relatively less use during the past 10 years. Large numbers of caribou gathered along the upper Sadlerochit River and near the Neruokpuk Lakes in late June before moving south and then east through the Brooks Range in early July. By July 15 many caribou had reached the Canadian border, and they continued east along the northern edge of Old Crow Flats to the Richardson Mountains. In early August, several collared caribou began moving back westward toward the Alaska/Canada border.

Long-term Changes in Caribou Distribution and Abundance in the Alaskan Arctic:

For several years, Arctic Refuge personnel have been providing assistance to Dr. Josh Miller of the University of Cincinnati on a study of changes in relative abundance of arctic caribou during the past >800 years. The study examines the abundance and ages of caribou antlers and bones collected on the arctic tundra. These objects may persist in the cold, arctic environment for many centuries (Figure 2). Dr. Miller has developed protocols for determining ages of these samples based on predictable patterns of weathering and accumulation of lichens, mosses, and other material, calibrated to ages estimated by radiocarbon dating techniques. This year, Refuge staff traveled to the Jago River to collect 170 samples of antlers that had been located by Dr. Miller on a previous trip. Dr. Miller will use this information to investigate how long term changes in climate patterns might influence distributions of the large arctic caribou herds.



Figure 2. Antlers on the tundra indicate long-term changes in caribou abundance.

Moose:

North Slope, GMU 26C

FWS staff conducted a moose survey of North Slope river drainages in Game Management Unit 26C during April 2016. River corridors were flown to cover all available moose habitat. Rivers included in the survey were the Sadlerochit, Hulahula, Okpilak, Okpirourak, Jago, Aichilik, Egaksrak, Ekaluakat, and Kongakut.

We observed 42 moose within the entire area surveyed, including 9 short-yearlings, 2 of which were a set of twins. Most moose were observed in the upper tributaries of the Kongakut River drainage. Last year we counted a total of 36 moose in the survey area, 5 of which were short yearlings. These results suggest that calf or short-yearling survival is relatively low in this system, but it was higher during the past 2 years than during 2014 when no young of the year were observed.

The FWS requested a Special Action to the Federal Subsistence Board to close moose hunting in GMU 26C for the 2015/2016 regulatory year. The season is now closed and because the population remains lower than our long-term average (~50 moose) we recommend that it remain closed until the moose population improves in this region.

Because of the continued low population and closure of the moose hunt in this area, we plan to survey these drainages again during April 2017.

South Side of Brooks Range, GMU 25A

Data from recent surveys indicate a stable population of moose in this area since 2000. Thus, no survey was attempted during 2016. If funds are available, we will survey this area again in April 2017.

Muskoxen:

No survey was conducted for muskoxen in the Refuge during 2016. A small group (approximately 18 to 20) was observed along the lower Kongakut River in summer 2015 and a group of 6 (including one radiocollared muskox) was seen by Canadian biologists just west of the international border during March 2016. However, these groups are thought to be found more usually in Canada. No visitors or FWS staff reported observing muskoxen in the Refuge this summer.

Sheep:

Traditional ground-based estimates of Dall's sheep sex and age composition were not conducted during 2016. Instead, FWS and National Park Service biologists collaborated on a trial of an aerial transect survey covering approximately 4,000 square miles (10,117 sq. km) in the center of the Refuge. The survey area included the Hulahula River watershed on the north side of the Brooks Range and the Arctic Village Sheep Management Area on the the south side, both of which have been surveyed during previous years. During July 9-13, we surveyed 115 transects, each 15 km long. We observed a total of 283 sheep in 52 groups. Most groups were small, although a few large groups of ewes and lambs were seen in the upper Hulahula drainage (Figure 3). These data will be used to estimate total sheep abundance in this area; results will be available later this fall. Overall, sheep abundance seems to be low compared to numbers seen in the past, but similar to levels observed during the last few years.



Figure 3. Dall's sheep ewes and lambs observed during an aerial survey within the Arctic National Wildlife Refuge, July 2016.

Pacific Common Eider on Beaufort Sea Barrier Islands:

The Pacific common eider declined by 50–90% between 1957 to 1992 and has since stabilized at these reduced numbers. It is a FWS Bird of Management Concern and Tier 1 Priority Species. Across their range, COEI are an important subsistence species, contributing to food security in many communities. Although Pacific COEI has declined throughout their range, those breeding on barrier islands in the Beaufort and Chukchi Seas are especially susceptible to climate-mediated factors and effects from development.

Pilot work conducted in 2014 suggested the population of eiders nesting on Refuge barrier islands may be increasing in some areas and decreasing at others, possibly in response to human disturbance, changes in predator communities, and overwash and reshaping of islands due to climate-induced increases in storm surges. So in 2015, Arctic Refuge staff, in partnership with the University of Alaska Fairbanks and the Wildlife Conservation Society, began a multi-year study to determine demographics and limiting factors of Pacific Common Eider along the Beaufort and Chukchi Sea coasts.

From June 8-August 25, 4-5 Refuge staff conducted an inventory of nesting waterbirds on barrier islands between the Staines River and Canadian border. As part of this work, we captured eider for banding and disease surveillance and placed cameras at some nests to monitor predation. Data are still being analyzed, but early results suggest nests were more concentrated in small colonies than occurred in 2003/04 and 1976 surveys; glaucous gulls, arctic fox, and golden eagle are depredating nests; and 78% of birds had heavy *E. coli* burdens in the GI and based on antigen subtyping and genetic characterization, ~10% of the strains are pathogenic.



Figure 6. Common Eider survey, Beaufort Sea barrier island.

Plant Reconnaissance at Upper Coleen River

Arctic Refuge staff periodically inventory plant species in parts of the Refuge where little or no plant collecting has been done before. In late June the Arctic Refuge botanist, botany biological technician and a wetlands specialist spent a week inventorying plant species in the area around the Bear Mountain airstrip. Although it is situated in the headwaters of the Coleen River in the Brooks Range, the valley is very broad providing many different habitats from alpine peaks to spruce forest to extensive wetlands. Our objectives for this investigation were to (1) to compile a complete plant species list for the survey area, with species listed by habitat type including forest, bogs, fens, riparian areas, limestone uplands, and slate-conglomerate uplands and (2) collect specimens for the Arctic Refuge and UAF herbaria. The crew is busy compiling plant lists and they are especially proud of their collection of at least two dozen wetland sedge species.

Long Term Ecological Monitoring — Vegetation Monitoring on the Jago River

From 1996-1999 the refuge established one Long Term Ecological Monitoring (LTEM) site in each of the five ecological zones of the refuge: coastal marine (Beaufort Lagoon), coastal plain

tundra (Jago River), alpine zone (Atigun Gorge), forest-tundra transition zone (Sheenjek River), and boreal forest (Coleen River). These sites are visited every 5 years and provide a record of change over time for plant species occurrence, plant cover, plant community type and soil characteristics including depth to permafrost and soil and air temperatures. The plots use International Tundra Experiment (ITEX) methods which makes them comparable to over 300 other permanent ITEX quadrants established in Alaska, Yukon, and Northwest Territories. Now 17-20 years old, our monitoring sites are developing into long-term databases that will document directional changes in ecological communities related to climate.

This year the refuge botany crew visited the coastal plain tundra site on the Jago River — established 1996 — where they collected data on plant species occurrence, plant percent cover, plant community type and depth to permafrost, and replaced temperature loggers that will provide a 5 year record of near-permafrost and near-surface soil temperatures. Sampling areas at this site include moist sedge-Dryas tundra and tussock tundra vegetation communities. The latter type is considered to provide the best caribou forage during the calving period. These studies will help biologists monitor potential changes in plant communities, and the impacts of these changes on wildlife communities.

Public Use Management

Staff continues to work together with area residents in a variety of ways to help keep habitat healthy, and to convey important messages about issues affecting communities to the Refuge visitors and businesses who serve them.

Commercial Permits:

Arctic Refuge is required to regulate the businesses that bring clients onto the Refuge and that guide clients during their stays. In 2016, the Refuge issued 19 permits for air operator businesses, 23 permits for recreational guide businesses, 19 polar bear viewing guide and/or boat operator businesses, and 11 hunting guide businesses.

Polar Bear Viewing:

While there are concerns about human safety and impacts to bears and the community, refuge staff have been working closely with community members as well as the Fish and Wildlife Service Marine Mammals Management program and scientists from USGS to develop guidelines for safe and sustainable viewing on refuge waters. In 2015, six guides were permitted by the

Refuge to conduct boat-based guiding of viewers on refuge waters surrounding Barter Island, and 15 additional guides who utilize the services of the permitted boat operators were authorized. In 2016, we permitted eight boat operators/guides, and 11 additional guides who utilize the services of the permitted boat operators.

In order to help the Refuge evaluate the Commercial Polar Bear Viewing program, the Refuge invited Dr. Robert Dvorak of Central Michigan University to return to Kaktovik, this time with Dr. Jeffrey Hallo of Clemson University, to observe the work of the Refuge staff with the goal of helping us to better manage visitors to the Refuge. They tried to meet and talk with as many Kaktovik community leaders as they could while there in order to fully understand the program. As we continue this evaluation of the program, we are committed to working with the community and those interested in this program and will be seeking additional input from local communities and stakeholders later this fall.

Because increasing use of Barter Island by both polar bears and people is expected to continue in future years, a strong commitment by all to work together to insure the Refuge’s boat-based polar bear viewing program can complement community planning goals will be needed. One way the refuge is complementing community goals is by continuing to support and fund the Kaktovik Youth Ambassadors program.

U.S. Fish & Wildlife Service
Kaktovik Youth Ambassadors
Alaska Native Youth take leadership role in polar bear management and conservation

Connecting visitors with community concerns

Each fall since 2012, high school students from Kaktovik, Alaska have played a major role in polar bear conservation and visitor management within Arctic National Wildlife Refuge, administered by the U.S. Fish and Wildlife Service (USFWS). Kaktovik is a remote village along the coast of the Beaufort Sea within the Arctic Ocean, and is not accessible by road. Most residents lead a subsistence-based lifestyle, depending largely on the resources of surrounding lands and waters to feed their families.

The youth are accustomed to seeing polar bears wandering outside their homes. However, polar bears are residents here's lives have been being so close. While youth grow up with polar bears as neighbors, the older generations in Kaktovik remember bears ranging farther out on the sea, and only occasionally venturing to shore. Polar bears have increasingly been coming to shore all along the Beaufort Sea Coast due to factors including retreating sea ice.

Recently have polar bears been congregating around Kaktovik? Later fall sea ice forms further around Kaktovik than other areas of the coast, and may be found in higher density near Kaktovik, and remains from earlier years have occasionally drawn polar bears to the area.

Kaktovik Youth Ambassador Chelsea Brown in her village, Kaktovik, AK, a remote northern coastal community located within Arctic Refuge.

Increasing numbers of bears around Kaktovik, coupled with increasing international awareness of the plight of the Beaufort Sea polar bears, has rapidly expanded the local polar bear tourism industry. People come from around the world to view the magnificent bears in the wild.

Since viewing polar bears in the wild is an inherently dangerous activity, and resources in remote areas like Kaktovik are limited, there are increasing concerns about public safety, community well-being, and welfare of the polar bears.

Kaktovik residents often habitat with polar bears along the coast of the Arctic Ocean.

continued on back

Kaktovik Youth Ambassadors



Working for polar bears and people

Figures 8 and 9. Information Sheet available in Kaktovik and at refuge website describing the efforts of the KYAs to connect visitors with community concerns; and the KYA logo.

Kaktovik began the program in 2012, with help from the refuge, for local youth to educate ever-increasing polar bear viewing visitors on safety practices and Inupiat culture. Ambassadors and staff collaborate to update Kaktovik City and Tribal Councils, informing community leaders as they make decisions on managing the effects of the influx of both polar bears and people that congregate there until the sea ice returns. By 2015, the Ambassadors met with over 200 groups totaling 700 individuals from 21 countries. The KYAs are learning first-hand that rural residents can be strained by the burden of visitors to their communities, but they can also strategically direct the ways visitors experience hosting villages to benefit communities. Funds donated by the National Fish and Wildlife Foundation insure that the KYA program can continue into 2017 and expand ways the KYAs can help maintain the values of their local community, while accommodating the international focus on Kaktovik and taking a youth leadership role in polar bear management and conservation.

Law Enforcement:

Law enforcement patrols were conducted in August and September of 2016 with routine compliance checks at airstrips primarily in major drainages on the south side of the Brooks Range due to weather conditions. Good compliance was observed of both state and federal regulations from the majority of the hunters checked. Special emphasis was placed again on ensuring only federally qualified subsistence users from Arctic Village, Venetie, Fort Yukon and Chalkyitsik were hunting sheep in the Arctic Village Sheep Management Area. Routine compliance checks were made of big game hunting guides to ensure they were operating within the guidelines of their submitted operations plans. Moose hunting patrols were conducted in September on several of the major river drainages to ensure compliance of state and federal regulations. Overall, the majority of the hunters encountered on the ANWR during the 2016 season were in compliance.

As stated earlier in this report, sheep abundance seems to be low compared to numbers seen in the past, but similar to levels observed during the last few years. Reports of declining sheep populations were consistent among hunters, guides and air taxi operators across the refuge. Most hunters indicated that they had to hunt longer and harder to find qualified rams. This fall we will have a new Officer/Pilot with Alaska experience transferring to Arctic Refuge and we plan to travel to communities and villages for meetings with local leaders and community members to become acquainted and to better understand local concerns and issues.

Education and Outreach:

Kaktovik Marine Science Camp:

The 2016 Marine Science Oceanography Program connected Kaktovik students to the scientific world through field-based, hands-on activities from August 8-13. The University of Texas Marine Science Institute led the program with support from Arctic Refuge. This year's theme was "Exploring our Oceans" and the goal was to expose students to diverse tools, techniques, and technologies including using a Remotely Operated Vehicle (ROV) that oceanographers commonly use. The Kaktovik Lagoon acted as a natural classroom enabling students to explore their local environments. This week-long program provides students a better understanding of stream inflows, lagoons, and erosion occurring on the Beaufort Sea coast. Students learned how to seine and identify invertebrates and fish, measure groundwater levels, and various career opportunities with the U.S. Fish and Wildlife Service.



Figure 10. Kaktovik students complete a GPS-based survey of cliff erosion with Lead Instructor Cliff Strain, Allyssa Morris, USFWS Education Specialist and Christina Bonsell, UTMSI graduate student.

Arctic Borderlands:

Refuge staff have been working with Arctic Borderlands to collect traditional knowledge from local residents for about 15 years now. This year, approximately 20 surveys were conducted by Mildred Allen, the local community monitor for Arctic Borderlands. To receive a copy of the 2015 annual report, contact Joanne Bryant (907) 455-1834, or joanne_bryant@fws.gov.

Arctic Village Camp Goonzhii:

Arctic Refuge staff conducted the annual science and culture camp in Arctic Village in August. The 4-day camp emphasized place-based education and involved a variety of instructors and community elders. This was the 14th year we've hosted this very successful camp.

Office of Subsistence Management

Staffing Update Fall 2016

Departures

The following staff have left the Office of Subsistence Management since the last staffing update:

Chuck Ardizzone left his position as Deputy Assistant Regional Director to take another position with U.S. Fish and Wildlife Service in the Lower 48. Recruitment efforts are currently underway to find a replacement. In the interim, Stewart Cogswell has been serving as the Acting Deputy Assistant Regional Director.

Deborah Coble left her position as Subsistence Outreach Coordinator to take a position with the National Park Service at its Alaska Region headquarters. Recruitment efforts are currently underway to find a replacement. Katya Wessels and Kayla McKinney have been performing the duties as Subsistence Outreach Coordinator.

Melinda Burke left her position as Council Coordinator to become the Tribal Relations Program Manager for U.S. Forest Service in Alaska.

New Arrivals

Scott Ayers was hired as a Fisheries Biologist and will be providing expertise with analysis of fisheries regulatory and Fisheries Resource Monitoring Program proposals. He was previously employed by the Alaska Department of Fish and Game (ADFG) in Anchorage. As the permit coordinator for ADFG, he had statewide responsibility for reviewing application materials and drafting permits for freshwater and estuarine projects for the take of fish outside the Board of Fisheries promulgated regulations. He was involved with analyzing applications to ensure correct sampling methodologies were used that did not conflict with existing users or damage fish populations and were authorized under ADFG's statutory responsibilities. Scott also has experience as a field crew leader on the Kuskokwim and Yukon Rivers. He also has extensive experience working remotely throughout Alaska on various weir and radio telemetry surveys. Scott received his Bachelor and Master's Degrees from the University of Alaska-Fairbanks.

Gary Decossas was hired as the Fisheries Biometrician and will provide statistical expertise and assistance with the Fisheries Resource Monitoring Program and with fishery regulatory proposals. He was previously employed by the Louisiana Department of Wildlife and Fisheries (LDWF), where he was responsible for the design, analysis, and management of various fisheries data (recreational, commercial, independent) collected by the LDWF. He created the various statistical inputs and estimates that go into fisheries stock assessment models that are used to inform marine and freshwater managers about the status of the fisheries stock within and across the coast of Louisiana. As a part of his tenure at LDWF, he created the LA CREEL program, which is a large complementary creel survey used to estimate real-time estimates of

fisheries landings, angler effort, and harvest rates. He also assisted with various fisheries dependent and independent sampling programs undertaken by biologists working for the department. As a part of the stock assessment team, he updated and strengthened the statistical catch-at-age models used by the state to manage a large saltwater fishing industry. As a statistician with a fisheries background, he always strives to bridge the gap between the complex/easily misunderstood statistical realm with that of the sturdiness and practicality of the fisheries world. Gary received his Bachelor and Masters Degrees from the Louisiana State University.

Srinath Doraiswamy was hired as the IT Oracle Database Administrator. He moved from Houston, Texas, with his wife and child, enjoys biking, walking, outdoor sports, loves nature, and travel. He previously worked for more than six years in IT for the Texas State Department of Family Protective Services, Health and Human Service Commission, Texas Tech University Health Sciences Center, and University of Texas Permian Basin. He looks forward to exploring Alaska.

Frank Harris was hired as a Fisheries Biologist and will be providing expertise with analysis of fisheries regulatory and Fisheries Resource Monitoring Program proposals. This includes assisting with the preparation of preliminary plans and technical specifications for projects designed to collect and analyze data related to fishery resources including habitat quality, sport, commercial, and subsistence fishing areas and areas impacted by development. He previously was employed by the Koyukuk/Nowitna/Innoko National Wildlife Refuge. Frank has lived in Alaska for almost 20 years and has built strong relationships throughout the State. He has been responsible for developing fisheries inventory and monitoring plans, working with native and rural organizations, conducting fisheries studies and performing regulatory duties. With his experience comes an understanding of subsistence uses, including the people and places of rural/remote Alaska. Frank has been with the U.S. Fish and Wildlife Service for over 14 years and brings strong fisheries experience and an extensive knowledge of working in remote areas of Alaska to this position. Frank received his Bachelor Degree from the Central Michigan University and will complete his Master's Degree from West Virginia University in May 2017.

Megan Klosterman was hired as a new Wildlife Biologist. Megan has been working as a Wildlife Refuge Specialist for the Arapaho National Wildlife Refuge Complex in Colorado since April of 2015. In this position, she has conducted wildlife surveys in remote Refuge locations and served as the manager of the GIS database for these surveys. She has worked with a diverse variety of stakeholders on complex natural resource issues and has prepared technical written documents related to resource surveys, grazing plans, and grant proposals. Prior to her position at Arapaho National Refuge, she worked as a Wildlife Biologist for the USDA's Wildlife Services Division, and as a Wildlife Intern with Lassen Volcanic National Park in California. She earned her Bachelors of Science in Wildlife Science from Ohio State University, and a Masters of Science in Zoology from North Dakota State University.

Dr. Joshua Ream joined the Anthropology Division as a new cultural anthropologist in June of 2016. Dr. Ream is an interdisciplinary scientist and ethnobiologist with an academic and professional background focusing on the relationships between humans and the natural world. His doctoral research involved the use of local and traditional knowledge, citizen science, and

service learning programs to document species diversity and distributions in Alaska, specifically amphibians. Dr. Ream spent the last five years working as a Subsistence Resource Specialist with the Division of Subsistence at the Alaska Department of Fish and Game. His academic and professional trajectories have shaped his understanding of the traditional and customary uses of wild resources in Alaska and cultivated his dedication to supporting the subsistence priority of rural Alaskans. He is delighted to join the team at OSM.

Michelle St. Peters was hired as the new Grants Management Specialist. Her prior work assignment was in the Financial Assistance department where she assisted with Region 7 USFWS Grants and Cooperative Agreements. Before doing grants and cooperative agreements, Michelle was a biologist with USFWS Migratory Bird Management for 8 years. During that time, she worked for the seabird section, was the assistant coordinator of the Avian Influenza program, and eventually transitioned into a budget technician. Michelle moved to Alaska in 2001 and spent 7 years with the U.S. Geological Service (Alaska Science Center) assisting on the development of the North Pacific pelagic seabird database.

Khristoffer Santos was hired as the new IT Specialist. Besides providing customer support for OSM employees, he is responsible for maintenance of the OSM permits database. His prior assignment was from Information Resources and Technology Management (IRTM), USFWS Region 7 headquarters as an IT Assistant. During his tenure in IRTM, Khristoffer was part of the IRTM team which provided customer and hardware support for the entirety of Region 7. He has also worked as a Junior Systems Administrator for Copper River Seafoods. His job included server maintenance of the email system, hardware/software support and assisting Alaskan fishermen with day-to-day technological needs.

Sabrina Schmidt was hired as a new receptionist. She previously worked for almost three years as an Office Automation Assistant at the Child Development Center on Joint Base Elmendorf-Richardson for the 673rd Force Support Squadron. Prior to that, she worked several positions including forklift operator at a blower factory, security guard, financial representative and did work for the Chickasaw Nation. She is an avid outdoors person and has lived most of her life in small towns of Minnesota, Oklahoma and South Dakota.

Zach Stevenson was hired as a Council Coordinator, and has been assigned to the Western Interior and Northwest Arctic regions. Zach was previously employed with the Northwest Arctic Borough as a Subsistence Mapping Coordinator, where he worked for five years on an extensive project to map the subsistence activities and resources in the NWA Borough. The final document, an 800-page report, required extensive travel to villages and stakeholder development and will provide incredible levels of detail for use by land managers. Prior to that, he worked as a campaign manager for a State House campaign, a Development Officer for Planned Parenthood of the Great Northwest, and as a Program Director for the Renewable Resources Coalition.

Jarred Stone was hired as a Graduate Pathways Program Student Trainee in the Fisheries Division. Jarred attained his undergraduate in Fisheries Management from Northland College in Ashland, Wisconsin. Since then he has come to Alaska and worked as a fisheries crew leader with the USFWS and other agencies. Jarred was accepted into Alaska Pacific University Fisheries Aquatic Science & Technology Lab where he is studying Eastern Bering Sea juvenile

Chinook Salmon stock origin, and the role of diet on growth and condition. This research will lead to a Masters degree and will enhance the knowledge of the marine life phase of juvenile Chinook and how important diet and condition are for pre-winter survival. Jarred and his wife live in Palmer and have resided in Alaska for the past six years.

Katya Wessels was hired as a Council Coordinator, and has been assigned to the Eastern Interior Region. She is also responsible for the Regional Advisory Council meeting book production. Katya was previously employed by the National Park Service as a Beringia Program Specialist for sixteen years. In that capacity, she managed numerous cooperative agreements and facilitated several annual meetings to carry out the mandates of the program. During her employment with NPS, she also worked several detail assignments with the USFWS Marine Mammals Program and the U.S.-Russia Polar Bear Commission. Prior to 1999, she worked as an interpreter and historian through the Smithsonian Institute for the National Park Service, Alaska Regional Office.

As of the date of this report, the Office of Subsistence Management is staffed at 38 out of 44 positions on its organization chart. Of the six vacancies, two are student trainee positions. This is the first time in over five years where the Fisheries, Wildlife, and Anthropology divisions are fully staffed with all full-time analysts and division chiefs on the organization chart.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
1011 E. Tudor Rd.
Anchorage, Alaska 99503



IN REPLY REFER TO:
FWS/R7/NWRS0054

August 3, 2016

Subject: Notification of Published Federal Regulations for Alaska National Wildlife Refuges:
Non-subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National
Wildlife Refuges in Alaska

Dear Regional Advisory Council Coordinators and Chairs:

The United States Fish and Wildlife Service has published final regulations in the Federal Register for National Wildlife Refuges (refuges) in Alaska that clarify when predator control will be authorized on refuges, limits allowable practices for the non-subsistence take of predators on refuges, and updates existing refuge regulations for closures and restrictions. The rule was developed in response to public interest and concern about predator control and recent liberalization of predator harvest within the State of Alaska.

General (sport) hunting remains a priority public use on refuges in Alaska. Also under the Alaska National Interest Lands Conservation Act (ANILCA), all refuges in Alaska are mandated to provide the opportunity for continued subsistence use by rural Alaska residents in a manner consistent with the purposes of the refuges and the conservation of healthy fish and wildlife populations. The final rule does not change Federal subsistence regulations (36 CFR 242 and 50 CFR 100) or restrict taking of fish or wildlife for subsistence uses under Federal subsistence regulations. The Service will continue to support sustainable harvest of fish and wildlife, including predators. We thank you for your engagement and input received during our comment period (1/8/2016 to 4/7/2016) and we are available to clarify any questions you may have about the new regulations.

The final rule, environmental assessment, Finding of No Significant Impact (FONSI), and other informative materials will be available from our website (http://www.fws.gov/alaska/nwr/ak_sp_hunt_regs.htm).

If you would like to meet with someone to discuss the final rule, please contact myself at 907-786-3667 (mitch_ellis@fws.gov).

Sincerely,

Mitch Ellis
Chief of Refuges - Alaska
National Wildlife Refuge System

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

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 KARAC - Cold Bay	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
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

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