DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
50 CFR Part 100
RIN 1018–A162
Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2003–2004
Subsistence Taking of Wildlife Regulations

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulations for hunting and trapping seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses during the 2003–2004 regulatory year. The rulemaking is necessary because Subpart D is subject to an annual public review cycle. When final, this rulemaking would replace the wildlife taking regulations included in the “Subsistence Management Regulations for Public Lands in Alaska, Subpart D—2002–2003 Subsistence Taking of Fish and Wildlife Regulations,” which expire on June 30, 2003. This rule would also amend the Customary and Traditional Use Determinations of the Federal Subsistence Board and the General Regulations related to the taking of wildlife.

DATES: The Federal Subsistence Board must receive your written public comments and proposals to change this proposed rule no later than October 18, 2002, Federal Subsistence Regional Advisory Councils (Regional Councils) will hold public meetings to receive proposals to change this proposed rule from September 4, 2002–October 11, 2002. See SUPPLEMENTARY INFORMATION for additional information on the public meetings.

ADDRESSES: You may submit proposals electronically to Subsistence@fws.gov. See SUPPLEMENTARY INFORMATION for file formats and other information about electronic filing. You may also submit written comments and proposals to the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, Alaska 99503. The public meetings will be held at various locations in Alaska. See SUPPLEMENTARY INFORMATION for additional information on locations of the public meetings.


SUPPLEMENTARY INFORMATION:
Public Review Process—Regulation Comments, Proposals, and Public Meetings

The Federal Subsistence Board (Board) will hold meetings on this proposed rule at the following locations in Alaska:
Region 1—Southeast Regional Council, Hoonah, September 30, 2002
Region 2—Southcentral Regional Council, Cordova, October 2, 2002
Region 3—Kodiak/Aleutians Regional Council, Nelson Lagoon, September 18, 2002
Region 4—Bristol Bay Regional Council, Naknek, September 30, 2002
Region 5—Yukon-Kuskokwim Delta Regional Council, Chevak, October 10, 2002
Region 6—Western Interior Regional Council, Holy Cross, October 3, 2002
Region 7—Seward Peninsula Regional Council, Nome, October 10, 2002
Region 8—Northwest Arctic Regional Council, Kotzebue, September 18, 2002
Region 9—Eastern Interior Regional Council, Beaver, October 8, 2002
Region 10—North Slope Regional Council, Barrow, September 4, 2002

We will publish notice of specific dates, times, and meeting locations in local and statewide newspapers prior to the meetings. We may need to change locations and dates based on weather or local circumstances. The amount of work on each Regional Council’s agenda will determine the length of the Regional Council meetings.

Electronic filing of comments (preferred method): You may submit electronic comments (proposals) and other data to Subsistence@fws.gov. Please submit as either WordPerfect or MS Word files, avoiding the use of any special characters and any form of encryption.

We will compile and distribute for additional public review during November 2002 the written proposals to change Subpart D hunting and trapping regulations and customary and traditional use determinations in Subpart C. A 30-day public comment period will follow distribution of the compiled proposal packet. We will accept written public comments on distributed proposals during the public comment period, which is presently scheduled to end on January 6, 2003.

We will hold a second series of Regional Council meetings in February and March 2003, to assist the Regional Councils in developing recommendations to the Board. You may also present comments on published proposals to change hunting and trapping and customary and traditional use determination regulations to the Regional Councils at those winter meetings.

The Board will discuss and evaluate proposed changes to this rule during a public meeting scheduled to be held in Anchorage, May 2003. You may provide additional oral testimony on specific proposals before the Board at that time. The Board will then deliberate and take final action on proposals received that request changes to this proposed rule at that public meeting.

Please Note: The Board will not consider proposals for changes relating to fish or shellfish regulations at this time. The Board will be calling for proposed changes to those regulations in January 2003.

The Board’s review of your comments and wildlife proposals will be facilitated by you providing the following information: (a) Your name, address, and telephone number; (b) The section and/or paragraph of the proposed rule for which your change is being suggested; (c) A statement explaining why the change is necessary; (d) The proposed wording change; (e) Any additional information you believe will help the Board in evaluating your proposal. Proposals that fail to include the above information, or proposals that are beyond the scope of authorities in §.24, Subpart C and §§.25 or .26, Subpart D, may be rejected. The Board may defer review and action on some proposals if workload exceeds work capacity of staff, Regional Councils, or Board. These deferrals will be based on recommendations of the affected Regional Council, staff members, and on the basis of least harm to the subsistence user and the resource involved.

Proposals should be specific to customary and traditional use determinations or to subsistence hunting and trapping seasons, harvest limits, and/or methods and means.

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior
and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enact[s] and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA.

However, in December 1989, the Alaska Supreme Court ruled in McDowell v. State of Alaska that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court’s ruling in McDowell required the State to delete the rural preference from the subsistence statute and, therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990. As a result of the McDowell decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the Federal Register (55 FR 27114–27170). Consistent with Subparts A, B, and C of these regulations, as revised June 12, 2001, (66 FR 31533), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board’s composition includes 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; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for Subparts A, B, and C, and the annual Subpart D regulations.

All Board members have reviewed this rule and agree with its substance. Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text would be incorporated into 36 CFR part 242 and 50 CFR part 100.

**Applicability of Subparts A, B, and C**

Subparts A, B, and C (unless otherwise amended) of the Subsistence Management Regulations for Public Lands in Alaska, 50 CFR 100.1 to 100.23 and 36 CFR 242.1 to 242.23, remain effective and apply to this rule. Therefore, all definitions located at 50 CFR 100.4 and 36 CFR 242.4 would apply to regulations found in this subpart.

**Federal Subsistence Regional Advisory Councils**

Pursuant to the Record of Decision, Subsistence Management Regulations for Federal Public Lands in Alaska, April 6, 1992, and the Subsistence Management Regulations for Federal Public Lands in Alaska, 36 CFR 242.11 (2001) and 50 CFR 100.11 (2001), and for the purposes identified therein, we divide Alaska into ten subsistence resource regions, each of which is represented by a Regional Council. The Regional 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 Alaska public lands. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

The Regional Councils have a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, the Council Chairs, or their designated representatives, will present their Council’s recommendations at the Board meeting in May 2003.

**Proposed Changes From 2002–2003 Seasons and Bag Limit Regulations**

Subpart D regulations (§§ _25 and _26) are subject to an annual cycle and require development of an entire new rule each year. Customary and traditional use determinations (§ _24 of Subpart C) are also subject to an annual review process providing for modification each year. The text of the 2002–2003 Subparts C and D final rule, without modification, served as the foundation for the 2003–2004 Subparts C and D proposed rule. Please see 67 FR 4709, June 28, 2002. The amendments made to subparts C and D in that rule are the same as the amendments we are proposing in this rule. The regulations contained in this proposed rule would take effect on July 1, 2003, unless elements are changed by subsequent Board action following the public review process outlined herein.

**Conformance With Statutory and Regulatory Authorities**

National Environmental Policy Act Compliance—A Draft Environmental Impact Statement (DEIS) that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments, and staff analysis and examined the environmental consequences of the four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comment received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior’s Subsistence Policy Group, it was the decision of the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, to implement Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940–22964, published May 29, 1992) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations.

An environmental assessment was prepared in 1997 on the expansion of Federal jurisdiction over fisheries and is available by contacting the office listed under FOR FURTHER INFORMATION CONTACT. The Secretary of the Interior with the concurrence of the Secretary of Agriculture determined that the expansion of Federal jurisdiction does not constitute a major Federal action, significantly affecting the human environment and has, therefore, signed a Finding of No Significant Impact.

Compliance with Section 810 of ANILCA—A 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, which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but it does not appear that the program may significantly restrict subsistence uses.

During the environmental assessment process, an evaluation of the effects of this rule was also conducted in accordance with Section 810. This evaluation supports the Secretaries’ determination that the rule will not reach the “may significantly restrict” threshold for notice and hearings under ANILCA Section 810(a) for any subsistence resources or uses.

Paperwork Reduction Act—This rule contains information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. It applies to the use of public lands in Alaska. The information collection requirements are approved by OMB under 44 U.S.C. 3501 and have been assigned control number 1018–0075, which expires July 31, 2003. Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

Currently, information is being collected by the use of a Federal Subsistence Registration Permit and Designated Hunter Application. The information collected on these two permits establishes whether an applicant qualifies to participate in a Federal subsistence hunt on public land in Alaska and provides a report of harvest and the location of harvest. The collected information is necessary to determine harvest success, harvest location, and population health in order to make management decisions relative to the conservation of healthy wildlife populations. Additional harvest information is obtained from harvest reports submitted to the State of Alaska. The recordkeeping burden for this aspect of the program is negligible (1 hour or less). This information is accessed via computer data base.

<table>
<thead>
<tr>
<th>Form</th>
<th>Estimated number of respondents</th>
<th>Completion time for each form (hour)</th>
<th>Estimated annual response</th>
<th>Estimated annual burden (hours)</th>
<th>Hourly cost for respondent</th>
<th>Financial burden on respondents</th>
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<tr>
<td>Federal Subsistence Registration Permit</td>
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<td>Designated Hunter Application</td>
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<td>1⁄4</td>
<td>2,000</td>
<td>500</td>
<td>20.00</td>
<td>$5.00 each or $10,000 total.</td>
</tr>
</tbody>
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You may direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (Subsistence), Washington, DC 20503. Additional information collection requirements may be imposed if local advisory committees subject to the Federal Advisory Committee Act are established under subpart B. Such requirements will be submitted to OMB for approval prior to their implementation.

Economic Effects—This rule is not a significant rule subject to OMB review under Executive Order 12866.

This rulemaking will impose no significant costs on small entities; this rule does not restrict any existing sport or commercial fishery on the public lands, and subsistence fisheries will continue at essentially the same levels as they presently occur. The exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as ammunition, snowmachine, and gasoline dealers. The number of small entities affected is unknown; but, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that they will not be significant.

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 2 million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, would equate to about $6 million in food value state-wide.

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. The Departments certify based on the above figures 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. 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.

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.

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.

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.

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State...
DEPARTMENT OF HEALTH AND
HUMAN SERVICES
Public Health Service
42 CFR Part 68d
RIN 0925-AA18
Public Health Service; National
Institutes of Health Loan Repayment
Program for Research Generally (GR–
LRP)
AGENCY: National Institutes of Health,
Public Health Service, HHS.
ACTION: Notice of proposed rulemaking.
SUMMARY: The National Institutes of
Health (NIH) proposes to issue
regulations to implement section 487C
of the Public Health Service Act, as
amended, authorizing the NIH Loan
Repayment Program for Research
Generally. The purpose of the program
is to recruit and retain appropriately
qualified health professionals, as
employees of the NIH, to conduct
research by providing repayment of
qualified educational loans.
DATES: Comments must be received on
or before October 4, 2002, in order to
assure that NIH will be able to consider
the comments in preparing the final
rule.
ADDRESSES: Comments should be sent to
Jerry Moore, NIH Regulations Officer,
Office of Management Assessment, NIH,
6011 Executive Blvd., Room 601, MSC
7669, Rockville, MD 20892. Comments
may also be sent electronically by FAX
(301-402-0169) or e-mail
jm40z@nih.gov.
FOR FURTHER INFORMATION CONTACT: Jerry
Moore at the address above or telephone
301-496-4607 (not a toll-free number).
SUPPLEMENTARY INFORMATION: On June
10, 1993, the United States Congress
enacted the NIH Revitalization Act of
1993 (Public Law 103–43). Section 1621
of Pub. L. 103–43 amended the Public
Health Service (PHS) Act by adding a
new section 487C (42 U.S.C. 288–3).
Subsequently, section 410 of the Health
Professions Education Partnership Act
of 1998 (Public Law 105–392), enacted
on November 13, 1998, amended section
487C. As amended, section 487C directs
the Secretary to implement and
establish a program of entering into
agreements with appropriately qualified
health professionals under which such
health professionals agree to conduct
research as employees of NIH for a
period of at least three years, research in
consideration of the Federal
Government agreeing to repay, for each
year of service, not more than $35,000
of the principal and interest of the
educational loans of such health
professionals. This program is known as
the NIH Loan Repayment Program for
Research Generally (GR–LRP). Section
487C further states that the provisions of
subpart III of part D of title III of the PHS
Act, which apply to the National Health
Service Corps Loan Repayment
Program, apply to the Loan Repayment
Program for Research Generally, except
to the extent they are inconsistent with
the provisions of section 487C. The NIH
is proposing to amend title 42 of the
Code of Federal Regulations by adding
a new part 68d to govern the
administration of this loan repayment
program.
The proposed regulations specify the
scope and purpose of the program, who
is eligible to apply, how individuals
apply to participate in the program, how
participants are selected, and the terms
and conditions of the program. The
purpose of this notice is to invite public
comment on the proposed regulations.
The following is provided as public
information.

Executive Order 12866
Executive Order 12866, Regulatory
Planning and Review, requires that all
regulatory actions reflect consideration
of the costs and benefits they generate,
and that they meet certain standards,
such as avoiding the imposition of
unnecessary burdens on the affected
public. If a regulatory action is deemed
to fall within the scope of the definition of
the term "significant regulatory action"
contained in § 3(f) of the Order,
pre-publication review by the Office of
Management and Budget’s Office of
Information and Regulatory Affairs
(OIRA) is necessary. The OIRA reviewed
this proposed rule under Executive
Order 12866 and is deemed a significant
regulatory action.

Regulatory Flexibility Act
The Regulatory Flexibility Act of 1980
requires that regulatory proposals be
analyzed to determine whether they
create a significant impact on a
substantial number of small entities.
The Secretary certifies that any final
rule resulting from this proposal will
not have any such impact.

Executive Order 13132
Executive Order 13132, Federalism,
requires that federal agencies consult
with State and local government
officials in the development of
regulatory policies with federalism
implications. The Acting Director, NIH,
reviewed the proposed rule as required
under the Order and determined that it
does not have any federalism
implications. The Secretary certifies that

from exercising subsistence
management authority over fish and
wildlife resources on Federal lands
unless it meets certain requirements.

In accordance with the President’s
memorandum of April 29, 1994,
“Government-to-Government Relations
with Native American Tribal
Governments” (59 FR 22951), Executive
Order 13175, and 512 DM 2, we have
evaluated possible effects on Federally
recognized Indian tribes and have
determined that there are no effects. The
Bureau of Indian Affairs is a
participating agency in this rulemaking.

On May 18, 2001, the President issued
Executive Order 13211 on regulations
that significantly affect energy supply,
distribution, or use. This Executive
Order requires agencies to prepare
Statements of Energy Effects when
undertaking certain actions. As this rule
is not a significant regulatory action
under Executive Order 13211, affecting
energy supply, distribution, or use, this
action is not a significant action and no
Statement of Energy Effects is required.

Drafting Information—William
Knauer drafted these regulations under the
guidance of Thomas H. Boyd, of the
Office of Subsistence Management,
Alaska Regional Office, U.S. Fish and
Wildlife Service, Anchorage, Alaska.
Taylor Brelsford, Alaska State Office,
Bureau of Land Management; Sandy
Rabinowitch, Alaska Regional Office,
National Park Service; Warren Eastland,
Alaska Regional Office, Bureau of
Indian Affairs; Greg Bos, Alaska
Regional Office, U.S. Fish and Wildlife
Service; and Ken Thompson, USDA-
Forest Service provided additional
guidance.

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.

Dated: July 24, 2002.

Kenneth E. Thompson,
Subsistence Program Manager, USDA-Forest
Service.

Peggy Fox,
Acting Chair, Federal Subsistence Board.