

Subsistence Briefing

2-1-90

Alaska State Legislature

Senate Resources Committee

Senator Bettye Fahrenkamp, Chairman
Senator Jay Kerttula, Vice Chairman
Senator Dick Ellason
Senator Steve Frank
Senator Rick Halford
Senator Ailiss Sturgulewski
Senator Fred Zharoff



P.O. Box V
Juneau, Alaska 99811
(907) 465-4907

To: Senate Resources Committee members
From: Senator Bettye Fahrenkamp
Date: January 31, 1990
Re: Senate Resources Committee meeting

On Thursday, February 1, 1990, Ric Davidge will brief the Senate Resources Committee on the development of the draft Federal Subsistence Management Program. The meeting will be held in the Butrovich Room from 1:30 p.m. to 3:30 p.m.

In September, 1985, the U.S. Department of the Interior notified the State of Alaska that it was no longer in full compliance with the requirements of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). In preparation for assuming administration of subsistence uses, the federal government created the Federal Subsistence Resource Management Board consisting of officials from the Bureau of Indian Affairs, U. S. Forest Service and U.S. Fish and Wildlife Service. Ric Davidge served as Chairman of this Board and I think that his comments on the development of the draft federal regulations will serve as useful background as we grapple for a solution to this important, and sometimes volatile issue facing us.

I urge you to attend and welcome your participation.

Dr Gibbons, ~~USFW~~ U.S. Forest Service
586-7918

State of Alaska
CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS
250 Cushman Street, Suite 4H
Fairbanks, Alaska 99701
(907) 456-2012

F A X T R A N S M I T T A L M E M O

TO: Nancy Peterson
FROM: Stan Leaphart *SL*
DATE: January 30, 1990

TO: NANCY PETERSON - SEN. FAHRENKAMP
DEPT: _____ FAX #: 463-4867
FROM: S. LEAPHART PHONE: 456-2012
CO: CACFA FAX #: 456-2039
Post-It® brand fax transmittal memo 7871

NO. OF PAGES
12

RE: Federal Subsistence Resource Management Program

In September, 1985 the U.S. Department of the Interior notified the State of Alaska that it was no longer in full compliance with the requirements of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). This determination of non-compliance was based on the interpretation given by the Alaska Supreme Court to the Alaska subsistence statute in the Madison v. Alaska Department of Fish and Game, 696 P.2d 168 (Alaska 1985). In the same notification, the State was informed that the Department of the Interior would be forced to take over administration of subsistence use on public lands (federal lands) if the State program was not brought back into compliance with ANILCA by June 1, 1986. Passage of the State's 1986 subsistence statute prevented a federal take-over at that time.

In preparation for assuming administration of subsistence uses, the federal government created the Federal Subsistence Resource Management Board consisting of officials from the Bureau of Land Management, National Park Service, Bureau of Indian Affairs, Forest Service and U.S. Fish and Wildlife Service. These federal agencies also drafted regulations defining the operation of the Federal Subsistence Resource Management Program to manage subsistence activities within Alaska. These regulations were never released for public review and were shelved when the State subsistence statute was passed.

It is my understanding that these same federal agencies are now taking ~~another~~ look at this program because of the recent Alaska Supreme Court decision in the McDowell v. State of Alaska case, which overturned the current State subsistence statute. It appears, that if the federal government assumes management of subsistence activities on federal lands, this or a similar program would be utilized. It would be beneficial for our legislators to be aware of this proposal and to understand some of its ramifications.

The purpose of this memo is to briefly outline some of the key points of the draft proposal and to give you some idea about how the federal agency would manage subsistence activities under a federal program. I have also attached some additional material which should help clarify a number of the points in the draft proposal. You also have Ric Davidge's letter to Walter Stieglitz which discusses development of the program.

Subpart A- General Provisions

§30.1 through §30.3- These sections outline the Federal governments authority to manage subsistence under Title VIII of ANILCA. The language is derived directly from Title VIII.

§30.4- Definitions. The definition of "rural Alaska residents" in §30.4(a)(1) is essentially the same definition contained in the 1986 state subsistence statute. As you know, the courts ruled in the Kenaitze decision that this definition was inconsistent with the definition of "rural" as used in ANILCA, Title VIII. It would appear that this definition would require revision if the federal program is implemented. (See attachment #1 for an explanation of the process used for identification of rural Alaskan residents)

Both ANILCA and its legislative history provide little useful guidance on the definition of "rural". In fact, the legislative history generally only mentions a number of communities that Congress considered to be non-rural and several that they believed may be considered rural. Davidge explains this more fully in his letter to Stieglitz.

In determining whether or not subsistence uses of a community or area are "customary and traditional", the federal program would utilize the same eight criteria developed by the State Boards of Fisheries and Game. (See attachment #2, under A(2) for additional information)

Another important point to be considered (see: §30.4(b)(2)) is the application of this program to those lands, not federally owned, but within the exterior boundaries of a conservation system unit (national parks, monuments, preserves, national wildlife refuges, Forest Service wilderness areas, wild & scenic river corridors, national conservation areas, and national recreation areas). This means that subsistence activities on millions of acres of State and Native owned lands within these federal conservation system units would be under federal management. I would question the legal authority of the federal government to regulate hunting and fishing activities on State owned land, even if that land is within the exterior boundaries of a federal conservation system unit.

§30.5- Policy. This general policy is derived from Sections 802 & 804 of ANILCA which established the federal governments policy on subsistence and the preference for subsistence uses.

Subpart B- Program Structure

§30.10- Program diagram. I have attached an organizational chart for the subsistence resource management program. (See attachment #3)

§30.11- Use of State entities. The federal program would utilize the existing State system of local fish and game advisory committees, regional fish and game councils, the Board of Fisheries, and the Board of Game.

§30.12- Local fish and game advisory committees. This section of the proposal authorizes the Secretary of the Interior to establish advisory committees in addition to those established by the State, if he determines that the establishment of such committees are necessary to satisfy the requirements of ANILCA Section 805.

§§30.12 & 30.13 also outline the functions and responsibilities of the local fish and game advisory committees and the regional fish and game councils. I am not familiar enough with their current functions and responsibilities to determine how they might differ under a federal program. You may want to consult the Division of Boards in the Department of Fish & Game for additional analysis on this point.

§30.14- State Boards of Fisheries and Game. Under the current system, the Boards of Fisheries and Game set subsistence seasons and bag limits and make determinations of customary and traditional use of subsistence resources for communities and areas of the State. In the proposed federal program, it appears that the Boards would only fulfill an advisory role with respect to subsistence activities on federal lands. §30.14(b) of the proposal states, in part:

"With respect to the program, these State Boards may perform the following functions:

(3) Make recommendations to Federal agencies and the Federal Board concerning the program."

§30.14(c) further points to the strictly advisory role of the Boards in the federal program:

"Restrictions or other limitations established by the Boards of Fisheries and Game to govern the taking of fish and wildlife on lands under their jurisdiction, including but not limited to seasons, permit and license requirements, and quantity limits, may be adopted by the Secretary to regulate subsistence activities, to the extent that such measures are not in conflict with ANILCA or other applicable Federal laws or regulations."

Federal Subsistence Resource Management Program
Page 4

While it does appear that under a federal subsistence management program the Boards of Fisheries and Game will have only an advisory role with respect to subsistence activities on federal lands in Alaska, it is not clear whether they would still be able to establish regulations for sport fishing, sport hunting or commercial fishing activities on those same federal lands.

§30.16 Federal monitoring. Section 806 of ANILCA requires that federal agencies, on behalf of the Secretary of the Interior, monitor the functions of the local advisory committees and regional councils in providing for a preference for subsistence activities. The federal agencies would also monitor the actions of the State Boards of Fisheries and Game with respect to subsistence uses.

30.17 Park and park monument subsistence resource commissions. These commissions have already been established for seven park and park monument areas, as required by Section 808 of ANILCA. The proposal defines their responsibilities under a federal management program. Those responsibilities would remain essentially the same as they are under the current system.

One very important point that needs to be brought out is the fact that these subsistence resource commissions for the park units have been severely mismanaged by the National Park Service over the last six years. The agency has provided very little in the way of technical or administrative support which has served to delay the commission's development and implementation of subsistence hunting plans. Many of the commissions have submitted recommendations on subsistence activities to the Secretary of the Interior and with very few exceptions those recommendations have been rejected. The only recommendations that have been accepted are those which could actually result in a decrease in the number of people who could engage in subsistence activities in a given park unit.

The Secretary of the Interior has the responsibility to appoint 3 members to each of the subsistence resource commissions. In several cases these appointments have not been made for up to two years, again hindering the functioning of the commissions. In addition, the agency often dictates what items the commissions can place on their agendas for discussion and, in at least one instance, has failed to forward a recommendation to the secretary for consideration. In short, I have grave concerns about the future of subsistence activities within national park units if the federal government, in this case the National Park Service, assumes management.

§30.18 Federal land management agencies. This section of the proposal authorizes federal agencies to develop "(s)uch agency-specific regulations as are required to carry out agency responsibilities under the Program." Depending upon agency policies, programs and statutes other than ANILCA, this may also result in significant change in the current system. This may be one of the

most critical aspects of this proposed program. (See Attachment #2, page 3, Item E.)

§30.19 Federal Subsistence Resource Management Board. This is the entity that will govern the federal subsistence program if the federal government assumes control of subsistence activities on the federal lands in Alaska. The Board will consist of: the regional director for the U.S. Fish & Wildlife Service (chair and lead official for developing and implementing the program), the area director of the Bureau of Indian Affairs, the state director of the Bureau of Land Management, the regional director of the National Park Service, and the regional forester for the U.S. Forest Service.

The board will coordinate interagency implementation of the program, review recommendations of other entities in the program, develop policies and procedures necessary to operate the program and recommend to the Secretary of the Interior such regulations as are necessary to carry out the functions of the board and discharge the Secretary's responsibilities under Title VIII of ANILCA.

§30.20 Federal regulations. This section states that in the event that the Secretary of the Interior assumes control of subsistence activities, the regulations establishing the federal board and program will be supplemented by such additional regulations as are found to be necessary to implement federal control of these activities.

Subpart C- General Requirements

§30.31 Rural residents. This section clearly states that subsistence activities are limited to rural Alaska residents, as previously defined (§30.4(b)) and in accordance with supplementary criteria established by the board. (Again, see Attachments #1 & #2 for the supplementary criteria that would likely be used.)

§30.32 Aircraft Use. This section prohibits, except in extraordinary cases, any use of aircraft of any type for access to or from public lands for subsistence activities. This represents a significant departure from the current situation. Currently the only categorical prohibition of aircraft use for subsistence activities applies to national parks and park monuments. This proposal apparently would apply to all federal public lands, regardless of their designation.

Subpart D - Subsistence Hunting and Trapping

Subpart E- Subsistence Fishing

These sections contain specific guidelines on means and methods of harvest as well as area specific regulations. Again, I do not have sufficient knowledge of the current State regulations to determine if significant changes are proposed under a federal program. These

proposals are also subject to change on an annual basis, if the board determines changes are necessary.

Subpart F-Procedures for Issuance of Annual Regulations. This section provides guidance for the issuance of annual regulations and directs the board to develop regulations in consideration of the following:

- 1) The policies established by ANILCA to provide for a preference for subsistence uses of fish and wildlife,
- 2) Public input, scientific information, and recommendations received from the general public and from agencies and bodies such as local advisory committees, park and park monument subsistence resource commissions, regional councils, the State Boards of Fisheries and Game, the Alaska Department of Fish and Game, and federal land management agencies, and
- 3) Applicable non-conflicting State and federal laws and regulations.

§§30.101 & 30.102 provide for annual seasons and bag limits on hunting and fishing activities and for annual seasons and taking and possession limits for aquatic plants and finfish.

Conclusion

In developing this plan, the federal agency have proposed adoption of many of the existing definitions, guidelines and advisory mechanisms in the State's program. The obvious, most important change, is the fact that the federal government, not the State, would be setting policy and establishing regulations for subsistence activities on all federal lands in Alaska. The State would be relegated to an advisory role in the decisions made regarding subsistence activities on some 218 million acres of land.

Promulgation of federal regulations requires a nation-wide review before implementation. This, in my opinion, increases the risk that the federal agencies will be subjected to considerable public pressure to develop increasingly more restrictive regulations. An example that comes to mind is the national park units in Alaska. There are a considerable number of people who view consumptive uses in national parks as inappropriate, regardless of what ANILCA says. In fact, as a hunter yourself, you must be aware of the growing opposition to hunting anywhere! There is already pressure to limit the levels of subsistence activities that occur in the park units. Federal management, I believe would ultimately result in the elimination of much, if not all, subsistence hunting and fishing in the Alaskan park units.

Finally, a dual system of fish and game management in Alaska would be very complicated and confusing. The complicated land ownership patterns virtually ensure conflict between State hunting and

fishing regulations and those developed by the federal agencies for the lands under their control. I simply believe that a federal takeover of subsistence activities on federal lands would not be in the best interest of Alaskans.



IN REPLY REFER TO.

DRAFT

ATTACHMENT #1

United States Department of the Interior

FISH AND WILDLIFE SERVICE
1011 E. TUDOR RD.
ANCHORAGE, ALASKA 99503

PRIORITY

May 7, 1986

Process for Identification of Rural Alaska Residents

"Rural Alaska residents" are defined as those persons whose principal residence is in a community or area of Alaska in which a significant portion of the economy and culture is dependent on uses of fish or wildlife characterized by the following criteria:

1. a long-term consistent pattern of use of fish or wildlife populations, excluding interruption by circumstances beyond the user's control such as regulatory prohibitions
2. use patterns that usually recur in specific seasons of each year
3. use patterns consisting of methods and means of harvest that are characterized by efficiency and economy of effort and cost, conditioned by local circumstances
4. the consistent harvest and use of fish or wildlife near, or at locations reasonably accessible to, the residence of the persons taking such fish or wildlife
5. the handling, preparing, preserving and storing of such fish and wildlife in a manner that has traditionally been used by past generations, but not excluding recent technological advances in appropriate instances
6. use patterns that include the handing down of knowledge of fishing, trapping, or hunting skills and values from generation to generation
7. use patterns in which the products derived from such fish or wildlife are distributed or shared among others within a definable community of persons, including customary trade (excluding significant commercial enterprises) barter, sharing, gift-giving.
8. use patterns that include reliance upon the wide diversity of fish and wildlife populations of an area for personal and family consumption and that provide substantial benefits to the economic, cultural, social, and nutritional well-being of persons who take or consume fish and wildlife for their sustenance.

The Federal Subsistence Resource Management Board shall periodically review communities and areas of Alaska to determine whether they comply with these eight criteria. In the absence of adequate evidence documenting conformance with these criteria, the Federal Board shall determine whether or not a community or area is rural according to the definition of "rural" employed by the U.S. Bureau of Census. Those communities or areas with populations less than 2,500, as determined by the most recent certified State or Federal census, will be considered rural, and those communities or areas with populations greater than 2,500 will be considered non-rural until information related to the aforementioned eight criteria is presented to the Board to indicate otherwise.

DRAFT

DRAFT



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE
1011 E. TUDOR RD.
ANCHORAGE, ALASKA 99503

PRIORITY

FEDERAL SUBSISTENCE RESOURCE MANAGEMENT BOARD
SUBSISTENCE POLICY

I. SUBSISTENCE USES

MAY 7 1986

The Federal Subsistence Resource Management Board (Board) will implement the Federal Subsistence Resource Management Program (Program) to ensure the conservation of the fish and wildlife resources on federal lands in Alaska pursuant to existing federal laws and policies. The program will be consistent with the purposes of the conservation system units as defined by ANILCA.

A. The Program will be implemented as follows:

(1) The board will assess the biological status of fish and wildlife resources and determine whether a portion of a fish or wildlife population may be harvested during a regulatory year consistent with the conservation, protection and utilization of healthy populations of these resources as required by ANILCA.

(2) The board will identify subsistence uses of fish and wildlife resources, recognizing the customary and traditional subsistence uses by rural Alaska residents of renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. Subsistence uses shall be considered to be customary and traditional for a community or area conforming to the following criteria:

- a. a long-term consistent pattern of use of fish or wildlife populations excluding interruption by circumstances beyond the user's control such as regulatory prohibitions
- b. use patterns that usually recur in specific seasons of each year
- c. use patterns consisting of methods and means of harvest that are characterized by efficiency and economy of effort and cost, conditioned by local circumstances
- d. the consistent harvest and use of fish or wildlife near, or at locations reasonably accessible to, the residence of the persons taking such fish or wildlife
- e. the handling, preparing, preserving, and storing of such fish and wildlife in a manner that has traditionally been used by past generations, but not excluding recent technological advances in appropriate instances

DRAFT

f. use patterns that include the handing down of knowledge of fishing, trapping, or hunting skills and values from generation to generation

g. use patterns in which the products derived from such fish or wildlife are distributed or shared among others within a definable community of persons, including customary trade (excluding significant commercial enterprises), barter, sharing, gift-giving

h. use patterns that include reliance upon the wide diversity of fish and wildlife populations of an area for personal and family consumption and that provide substantial benefits to the economic, cultural, social, and nutritional well-being of persons who take or consume fish and wildlife for their sustenance.

(3) After identifying subsistence uses based upon the criteria as set out in A.(1) & (2) of this section and in accordance with section 905 of ANILCA, the board will determine the amount of fish and wildlife necessary to provide for reasonable opportunities to engage in these customary and traditional uses.

(4) The board will recommend to the Secretary of the Interior regulations that provide an opportunity for the subsistence taking of fish and wildlife resources in amounts sufficient to provide for the customary and traditional uses identified in A (2) of this section, while being consistent with sound conservation and management principles and the laws, regulations and policies governing the management of the conservation system units and other Federal Lands. In no instance will the level of subsistence uses of fish and wildlife within a conservation system unit be inconsistent with the conservation of healthy populations.

(5) When circumstances such as increased numbers of user, weather, predation, or loss of habitat may jeopardize fish or wildlife populations, the board will exercise all practical options for restricting non-subsistence harvest before subsistence uses are restricted. If all available restrictions for non-subsistence uses have been implemented and further restrictions are needed, the board will reduce the take for subsistence by giving maximum protection to subsistence users who:

- (1) live closest to the resources;
- (2) have fewest available alternative resources; and
- (3) have the greatest customary and direct dependence upon the resource.

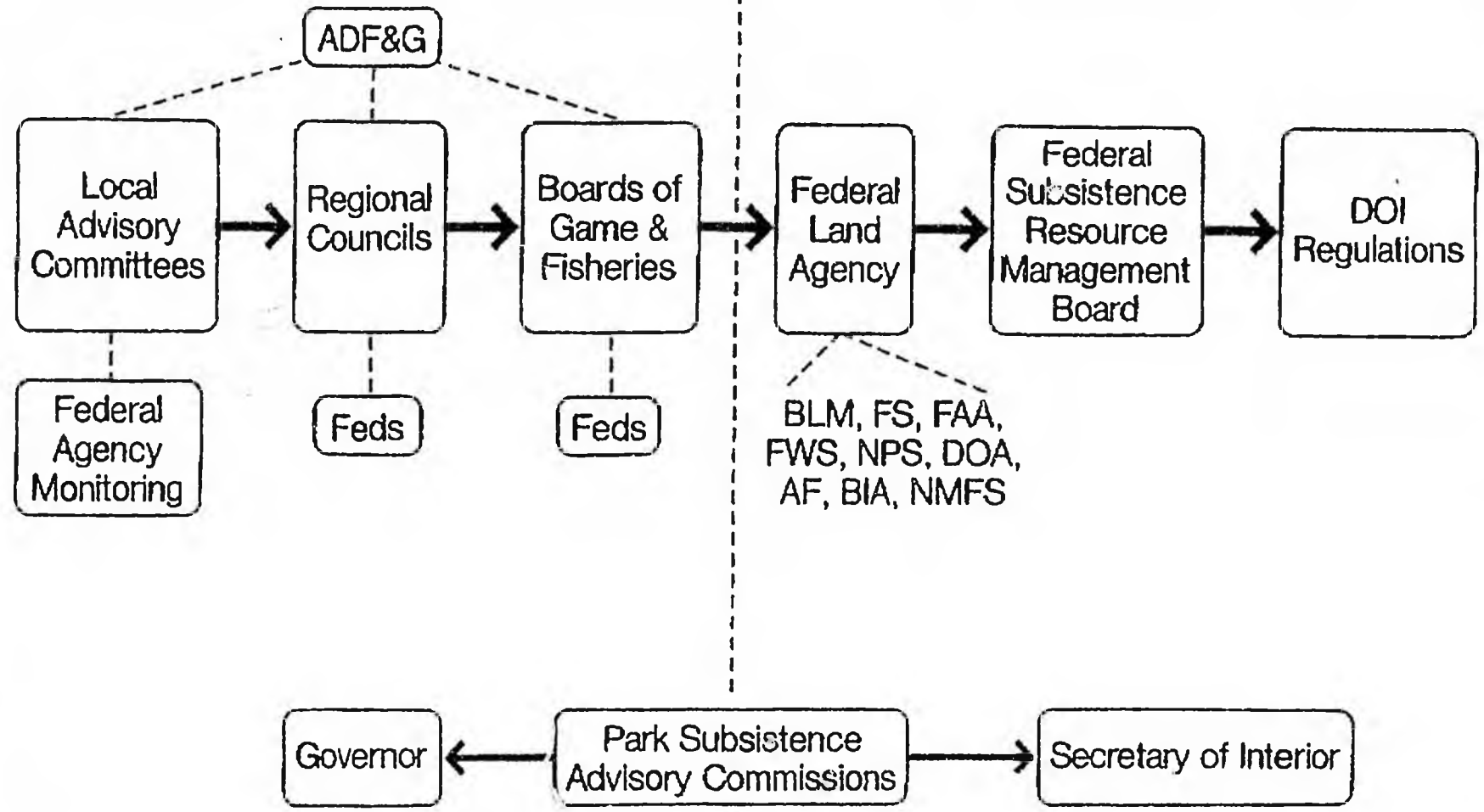
B. The board may, in cooperation with the State of Alaska, recommend to the Secretary of the Interior regulations that provide an opportunity for non-subsistence uses of the resource, to the extent that the non-subsistence uses do not jeopardize or interfere with the conservation of healthy populations or fish or wildlife resources or with the opportunity for taking these resources for customary and traditional subsistence uses as provided in A (4) of this section.

C. Except in extraordinary situations, aircraft shall not be used for access to fish and wildlife populations for subsistence purposes. Section 811 of ANILCA authorizes the use of snowmachines, and motor boats for subsistence purposes and also allows for the use of other means of surface transportation that have been traditionally used for subsistence.

D. In its discussions regarding implementation of the Program with regard to lands within the National Park System and the National Wildlife Refuge System, the Board shall, in conformance with the requirements of ANILCA, limit subsistence activities to use by local rural residents.

E. The Board shall, in making decisions or recommendations concerning the Program, consider and ensure compliance with specific statutory requirements regarding the management of resources on each type of conservation system unit or other type of Federal land, recognizing that the management policies applicable to some units may entail methods of resource and habitat management different from methods appropriate for other units.

FEDERAL SUBSISTENCE RESOURCE MANAGEMENT PROGRAM



Existing State System

ATTACHMENT #3

PRIORITY
DRAFT

WA/4532g

PART #30 - FEDERAL SUBSISTENCE RESOURCE MANAGEMENT PROGRAM

Subpart A - General Provisions

30.1 Purpose

The regulations in this part are intended to define the operation of the Federal Subsistence Resource Management Program as established by the Secretary of the Interior to manage subsistence activities within the State of Alaska.

30.2 Authority

The regulations in this part are issued pursuant to the Secretary of the Interior's authority in Section 814 of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, Pub. L. 96-487) to prescribe such regulations as are necessary and appropriate to carry out his responsibilities to provide for subsistence uses by rural Alaska residents of wild, renewable resources of public lands.

DRAFT

30.3 Applicability and scope

(a) The regulations in this part apply to all actions taken by Federal agencies, including agencies other than those within the Department of the Interior, with regard to managing subsistence activities.

(b) As provided in Title VIII of ANILCA, the management of subsistence activities shall be carried out by the State, as long as the program operated by the State is in compliance with ANILCA. Active management of subsistence activities by Federal agencies shall not take place unless the Secretary determines that:

(1) The State program is not in compliance with ANILCA; and

(2) The proper discharge of the Secretary's responsibilities under ANILCA requires that Federal agencies assume control over subsistence activities.

30.4 Definitions

The following definitions shall apply to all regulations contained in this part:

(a) The term "subsistence uses" shall mean the customary and traditional

DRAFT

uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and for customary trade. For the purposes of this paragraph;

(1) The term "rural Alaska residents" shall mean those persons domiciled in a community or area of the State of Alaska in which the customary and traditional use of fish, wildlife, or other renewable resources for personal or family consumption is a principal characteristic of the economy of the community or area.

(2) The term "family" shall mean all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis;

(3) The term "barter" shall mean the exchange of fish or wildlife or their parts taken for subsistence uses:

(i) For other fish, wildlife or their parts; or

(ii) For other food or for nonedible items other than money, if the exchange is of a limited and noncommercial nature.

(b) The term "subsistence activities": shall mean the taking, for subsistence uses as defined in paragraph (a) of this section, of fish or

DRAFT

wildlife resources of:

(1) Federally owned lands; and

(2) Lands not federally owned, but within the exterior boundaries of a conservation system unit, national recreation area, national conservation area, new national forest, or forest addition, as established by ANILCA.

(c) The term "Program" shall mean the Federal Subsistence Resource Management Program, as described in this part and established by the Secretary of the Interior to manage the taking of fish and wildlife resources of the public lands for subsistence uses.

(d) The term "ANILCA" shall mean the Alaska National Interest Lands Conservation Act (94 Stat. 2371, Pub. L. 96-487).

(e) The term "Federal Board" shall mean the Federal Subsistence Resource Management Board, as established by this part.

(f) The term "park monument" shall mean those national monuments under the management of the National Park Service.

(g) The term "fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk,

DRAFT

crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or part thereof.

(h) The terms "take" or "taking", as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

(i) The term "Secretary" shall mean the Secretary of the Interior or any official designated to act for the Secretary in carrying out his responsibilities under ANILCA.

30.5 Policy

(a) Consistent with sound management principles and the conservation of healthy populations of fish and wildlife, the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural Alaska residents who depend upon subsistence uses of the resources of such lands.

(b) Consistent with the management of fish and wildlife in accordance with recognized scientific principles, rural Alaska residents engaged in a subsistence way of life shall be provided an opportunity to do so, pursuant to applicable State and Federal law.

(c) Nonwasteful subsistence uses of fish, wildlife, and other wild renewable resources by rural Alaska residents shall be the priority

DRAFT

consumptive uses of such resources over other consumptive uses permitted on public lands pursuant to applicable State and Federal law.

(d) Whenever it is necessary to restrict subsistence activities in order to assure the continued viability of fish or wildlife populations, priority for subsistence uses shall be implemented through appropriate limitations based on the following criteria:

(1) Customary and direct dependence upon the resource as the mainstay of livelihood;

(2) Local residency; and

(3) Availability of alternative resources.

(e) Except as otherwise provided by Federal law, Federal agencies responsible for managing subsistence activities and for protecting the continued viability of all wild, renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native Corporations, appropriate State and Federal agencies, and other nations.

DRAFT

Subpart B - Program Structure

30.10 Program diagram.

The figure printed below is a diagrammatic representation of the structure of the Program, showing its component parts and the flow of information, recommendations, and decisions.

(Diagram to be inserted at this point)

30.11 Use of State entities.

The Program shall utilize the existing State system of local fish and game advisory committees, regional fish and game councils, the Board of Fisheries, and the Board of Game. When appropriate, these State entities will coordinate with the individual Federal agencies responsible for the management of subsistence activities and with the Federal Board.

30.12 Local fish and game advisory committees.

(a) The regulations in this section shall define the establishment,

DRAFT

responsibilities, and functions of local fish and game advisory committees with respect to their position in the Program. The committees may also perform functions not relating to the Program, as provided by State laws and regulations.

(b) Local fish and game advisory committees shall be established and administered in accordance with applicable State laws and regulations. In the event that the Secretary determine that, in order to fulfill the requirements of Section 805 of ANILCA, advisory committees in addition to those established by the State are required, the Secretary shall establish and administer such necessary committees in the same manner as prescribed in State laws and regulations.

(c) A local fish and game advisory committee may perform the following:

- (1) Develop regulatory proposals for submission to the appropriate Board of Fisheries or Game.
- (2) Evaluate regulatory proposals submitted to it and make recommendations to the appropriate Board.
- (3) Provide a local forum for fish and wildlife conservation and use.
- (4) Advise the appropriate regional council regarding the conservation, development, and use of fish and wildlife resources.
- (5) Work with the appropriate regional council to develop

substance management plans and harvest strategy proposals.

(6) Cooperate and consult with interested persons and organizations, including government agencies, to accomplish (1) - (5) of this paragraph.

30.13 Regional Fish and Game Councils.

(a) The regulations in this section shall define the establishment, responsibilities, and functions of the regional fish and game councils with respect to their position in the Program. The councils may also perform functions not relating to the Program, as provided by State laws and regulations.

(b) Regional fish and game councils shall be established and administered in accordance with applicable State laws and regulations.

(c) Each regional fish and game council is authorized to perform the following:

(1) Hold public meetings on fish and wildlife matters.

(2) Elect officers.

(3) In consultation with the local fish and game advisory committees in its region and with the Alaska Department of Fish and Game, review,

evaluate, and make recommendations to the Boards of Fisheries and Game on any existing or proposed regulation, policy, management plan, or any other matter relating to the use of fish and wildlife within its region.

(4) Submit to the Boards of Fisheries and Game and the Secretary, by November 15 of each year, an annual report, containing:

(i) An identification of current and anticipated subsistence uses of fish and wildlife populations within the region.

(ii) An evaluation of current and anticipated subsistence needs for use of fish and wildlife populations within the region.

(iii) A recommended strategy for the management of fish and wildlife populations within the region to accommodate the identified fish and wildlife uses and needs.

(iv) Recommendations concerning policies, standards, guidelines, and regulations to implement the strategy.

(d) A council shall provide a forum for, and assist its local fish and game advisory committees in obtaining the opinions and recommendations of people interested in fish and wildlife matters so as to achieve the greatest possible local participation in the decision-making process. If differences of opinion exist among the committees, the council shall attempt to develop areas of compromise and to reach a regional consensus on matters of

controversy.

(e) A council will, in its discretion, present recommendations concerning the conservation, regulation, management, and use of fish and wildlife resources within its region, along with the evidence upon which the recommendations are based, to the appropriate Board.

(f) A council will, in its discretion, make recommendations to the Boards of Fisheries and Game on the creation, consolidation, distribution, or operation of the committee system.

30.14 State Boards of Fisheries and Game.

(a) In compliance with State laws and regulations, the State Boards of Fisheries and Game promulgate regulations for the conservation, development and utilization of Alaska's fish and wildlife resources.

(b) With respect to the Program, these State Boards may perform the following functions:

(1) Review, comment upon, and take action on the recommendations of local fish and game advisory committees, regional fish and game advisory councils, and Federal agencies.

(2) Request input from the public, local committees, regional

councils, and Federal agencies concerning subsistence uses of fish and wildlife,

(3) Make recommendations to Federal agencies and the Federal Board concerning the Program.

(c) Restrictions or other limitations established by the Boards of Fisheries and Game to govern the taking of fish and wildlife on lands under their jurisdiction, including but not limited to seasons, permit and license requirements, and quantity limits, may be adopted by the Secretary to regulate subsistence activities, to the extent that such measures are not in conflict with ANILCA or other applicable Federal laws and regulations.

30.15 Alaska Department of Fish and Game.

The Alaska Department of Fish and Game conducts research and provides information relative to fish and wildlife resources and subsistence uses of these resources to the State Boards of Fisheries and Game, the regional councils, local committees, and Federal agencies. With regard to the Program this information will supplement that which is available from Federal and other sources.

30.16 Federal monitoring.

As required by Section 806 of ANILCA, Federal agencies, on behalf of the

Secretary, shall monitor the functions of the local advisory committees and regional councils in providing for a preference for subsistence activities. The actions of the State Boards of Fisheries and Game with respect to subsistence uses shall also be monitored by the Federal agencies. Such monitoring shall include active participation in the hearings, meetings, and other public participation activities of the committees, councils, and boards and the submission of recommendations to these bodies relevant to subsistence activities.

30.17 Park and park monument subsistence resource commissions.

(a) The regulations in this section shall define the establishment, responsibilities, and functions of park and park monument subsistence resource commissions with respect to their position in the Federal Subsistence Resource Management Program.

(b) In accordance with the procedures defined in paragraph (c), a subsistence resource commission shall be established for each of the following areas of the National Park System:

Aniakchak National Monument

Cape Krusenstern National Monument

Denali National Park

Gates of the Arctic National Park

Kobuk Valley National Park

DRAFT

Lake Clark National Park

Wrangell-St. Elias National Park

(c) Each commission shall be composed of the following:

(1) Three members to be appointed by the Secretary.

(2) Three members to be appointed by the Governor of the State of Alaska.

(3) Three members to be appointed by the regional fish and game advisory council for the region in which the park or park monument is located. Each such member shall be a member of either the regional advisory council or of one of the local fish and game advisory committees within the region, and shall also be engaged in subsistence uses within the park or park monument.

(d) A subsistence resource commission shall annually:

(1) Consult with local committees and the regional council concerning subsistence hunting within the park or park monument.

(2) Conduct, in the vicinity of the park or park monument, one or more public hearings concerning subsistence hunting.

(3) Make recommendations to the Secretary for changes in the

subsistence hunting program for the park or park monument.

30.18 Federal Land Management Agencies.

In accordance with ANILCA, other applicable Federal laws, and the regulations in this part, each Federal agency having a responsibility for the management of public lands shall:

- (a) Monitor the operation of the Program as it pertains to the fish and wildlife resources of the lands for which it is responsible.
- (b) Manage subsistence activities on lands under its administration, if the Secretary assumes control of these activities in accordance with Section 30.3 (b) of this part.
- (c) Develop such agency-specific regulations as are required to carry out agency responsibilities under the Program.

30.19 Federal Subsistence Resource Management Board.

- (a) The Federal Board shall be composed of the following officials:
 - (1) Regional Director, Fish and Wildlife Service. Chair and Lead Official for development and implementation of the Program.

DRAFT

- (2) Area Director, Bureau of Indian Affairs.
- (3) State Director, Bureau of Land Management.
- (4) Regional Director, National Park Service.
- (5) Regional Forester, Forest Service.

(b) The responsibilities of the Federal Board shall be to coordinate interagency implementation of the Program, to review recommendations of other entities within the Program, to develop policies and procedures necessary to provide for operation of the Program, and to recommend to the Secretary such regulations as are necessary to carry out the functions of the Federal Board and discharge the Secretary's responsibilities under Title VIII of ANILCA.

30.20 Federal Regulations

(a) The regulations contained in Subparts A, B, and C of this part define the program as it will operate under conditions in which the State manages subsistence activities.

(b) In the event that, in accordance with Section 30.3 (b) of this part, the Secretary assumes control of subsistence activities, the regulations in this part shall be supplemented by such additional regulations as he finds are

DRAFT

required to implement Federal control of such activities.

DRAFT

WA/4560

Subpart C - General Requirements

30.30 Licenses, permits, harvest tickets, tags, and fees

(a) All persons engaged in subsistence activities must comply with State procedures and conditions regarding licenses, permits, harvest tickets, tags, and the payment of fees.

(b) No person may refuse, upon request from a State or Federal law enforcement officer, inspection of licenses, permits, harvest tickets, tags, or other pertinent documents, or any apparatus designed to be, or capable of being used, to take fish or wildlife.

30.31 Rural residents

(a) Subsistence activities conducted pursuant to the provisions of this part are limited to rural Alaska residents, as defined in Section 30.4(b)(1) of this part and in accordance with supplementary criteria established for this purpose by the Federal Board.

(b) In units of the National Wildlife Refuge System and the National Park

DRAFT

System in Alaska, subsistence activities shall be further limited to local rural residents, as designated by the appropriate Federal land management agency.

30.32 Aircraft use

(a) Except as otherwise provided in this section or in regulations established by Federal land management agencies, the use of aircraft of any type for access to or from public lands for subsistence activities is prohibited. This prohibition applies to all aircraft use, including access to areas to be used; transportation of participants, equipment, supplies, and fish or wildlife taken; and searching for available fish or wildlife.

(b) In extraordinary cases where no reasonable alternative exists, Federal land management agencies may permit, subject to specified terms and conditions, an eligible subsistence user to use aircraft for access to or from public lands for subsistence activities. Such an exception may be granted only in extraordinary cases where no reasonable alternative exists, based upon a determination that the location of the subsistence resources depended upon and the difficulty of surface access, or other emergency situation, requires such relief. Such extraordinary cases will be rare and shall not permit aircraft to become a routine means of access to subsistence resources.

30.33 Commercial activities

DRAFT

No person may purchase, sell, or barter fish, wildlife, or the parts or products thereof if the fish or wildlife was taken in subsistence activities, except as follows:

(a) Handicraft articles made of nonedible byproducts of fish or wildlife taken for personal or family consumption may be sold.

(b) Fish or wildlife or their parts may be bartered for other fish or wildlife or their parts for personal consumption; for other food; or for nonedible items other than money, if the exchange is of a limited and noncommercial nature.

(c) Customary trade not constituting a significant commercial enterprise shall be permitted, subject to the provisions of such regulations as may be necessary to further define customary trade.

30.34 Penalties

A person who is convicted of violating a provision of any regulation in Subparts C, D, E, or F of this part shall be subject to the penalties prescribed by Federal laws or regulations applicable to the lands on which the violation occurred.

DRAFT

Subpart D - Subsistence Hunting and Trapping

30.50 Definitions

(a) The following definitions shall apply to all regulations contained in this subpart:

(1) "Airport" means an airport listed in the Federal Aviation Agency Alaska Airman's Guide and chart supplement.

(2) "Animal" means those species with a vertebral column (backbone).

(3) "Bag limit" means the number of any one species permitted to be taken by any one person in the unit or portion of a unit in which the taking occurs; however, additional numbers of a species may be taken in another designated open unit or portion of a unit where a greater limit on that species is prescribed. In no case may the total or cumulative bag for one person exceed the limit set for the unit or portion of a unit in which the additional animals are taken; a subsistence bag limit and a general bag limit for the same species are not cumulative.

(4) "Big game" means black bear, brown and grizzly bear, bison, caribou, deer, elk, mountain goat, moose, musk oxen, mountain or Dall sheep, wolf and wolverine.

DRAFT

(5) "Bow" means long bow, recurve bow, or compound bow, but not crossbow.

(6) "Broadhead" means an arrowhead with two or more steel cutting edges having minimum cutting diameter of not less than seven-eighths inch.

(7) "Brow tine" means a tine on the front portion of a moose antler, typically projecting forward from the base of the antler toward the nose.

(8) "Bull moose" means any male moose.

(9) "Closed season" means the time when wildlife may not be taken.

(10) "Cub bear" means a brown or grizzly bear in its first or second year of life, or a black bear (including cinnamon and blue phases) in its first year of life.

(11) "Dire emergency" means a situation in which a person

(i) Is in a remote area.

(ii) Is involuntarily experiencing an absence of food required for sustenance.

(iii) If wild game food is not immediately taken and consumed, will be unable to perform the functions necessary for survival, leading to a high risk of death or serious and permanent health problems; and

(iv) Cannot expect to obtain alternative food sources in time to avoid the consequences described in (iii) of this sub paragraph.

(12) "Domicile" means the location of a person's primary residence;

DRAFT

evidence of domicile may include, but is not limited to, the following:

(i) Statements made to obtain a license to drive, hunt, fish, or engage in an activity regulated by a government entity.

(ii) Affidavit of the person, or of other persons who may know of that person's domicile.

(iii) Place of voter registration.

(iv) Location of residences owned, rented, or leased.

(v) Location of storage of household goods.

(vi) Location of business owned or operated.

(vii) Residence of spouse and minor children or dependents.

(viii) Governments to which taxes are paid.

(ix) Whether the person has claimed residence in another location for the purpose of obtaining benefits provided by the governments in that location.

(13) "Drawing permit" means a permit issued in a limited number to people who are selected by means of a lottery held for all people submitting valid applications for such permits and who agree to abide by the conditions specified for each hunt.

(14) "Falconry" means the sport of taking wildlife by means of trained raptors.

(15) "Full curl horn" means the horn of a mature male mountain or Dall sheep, the tip of which has grown through 360 degrees of a circle described by the outer surface of the horn, as viewed from the side.

(16) "Fur animal" means coyote, arctic fox, red fox, lynx, raccoon, red squirrel, wolf, or wolverine, except domestically raised fur animals; "fur animals" is a classification of animals subject to taking with a hunting

DRAFT

license.

(17) "Fur bearer" means beaver, coyote, arctic fox, red fox, lynx, marten, mink, weasel, muskrat, river (land) otter, sea otter, raccoon, red squirrel, flying squirrel, marmot, wolf or wolverine.

(18) "Highway" means the drivesable surface of any constructed road.

(19) "Household" means that group of people domiciled in the same residence.

(20) "Hunting area" for a species means that portion of a game management unit where a season and a bag limit for that species are set.

(21) "Motorized vehicle" means a motor-driven land, water or air conveyance.

(22) "Open season" means the time when wildlife may be taken; each period prescribed as an open season includes the first and last days of the period prescribed.

(23) "Permit hunt" means a hunt for which permits are issued on a drawing or registration basis.

(24) "Person" means a natural person and does not include a corporation, company, partnership, firm, association, organization, business trust or society.

(25) "Poison" means any substance which is toxic or poisonous upon contact or ingestion.

(26) "Registration permit" means a hunting permit issued to a person who agrees to the conditions specified for each hunt; permits are issued in the order applications are received and are issued:

(i) Beginning on a date announced by the Alaska Department of Fish and Game and continuing throughout the open season, or until the season is

DRAFT

closed by emergency order when a harvest quota is reached; or

(ii) Beginning on a date announced by the Alaska Department of Fish and Game and continuing until a predetermined number of permits have been issued.

(27) "Regulatory year" means July 1 through June 30.

(28) "Sealing" means placing a mark or tag on a portion of an animal by an authorized representative of the Department of Fish and Game; "sealing" includes collecting and recording information concerning the conditions under which the animal was harvested and measurements of the specimen submitted for sealing or surrendering a specific portion of the animal for biological information.

(29) "Seven-eighths curl horn" means the horn of a mature mountain sheep, the tip of which has grown through seven-eighths of a circle (315 degrees), described by the outer surface of the horn, as viewed from the side.

(30) "Skin" means any tanned or untanned hide of an animal, including its claws.

(31) "Small game" means all species of grouse, hares, rabbits, ptarmigan and waterfowl, cranes and Wilson or jacksnipe.

(32) "Tine" or antler point refers to any point on an antler whose length is at least one inch, and, is greater in length than in width, measured in a straight line across the base.

(33) "Transport" means shipping, carrying, importing, exporting, or receiving or delivering for shipment, carriage or export.

(34) "Unclassified game" means all species of game not otherwise classified in the definitions.

(35) "Unit" means one of the 26 geographical areas listed under game

DRAFT

management units in the Alaska Department of Fish and Game's codified hunting, trapping and guiding regulations and the Game Management Unit Map of Alaska.

(36) "Year" means calendar year unless another year is specified.

30.51 Methods of taking wildlife.

(a) All big game may be taken as follows:

(1) With a shotgun, muzzle-loading rifle, or rifle or pistol using center-firing cartridges.

(2) With a crossbow, except that a crossbow may not be used to take big game in areas restricted to taking by bow and arrow only.

(3) With spears that are hand held or thrown.

(4) With a longbow, recurve bow, or compound bow capable of casting a broadhead-tipped arrow at least 175 yards horizontally, which collectively are termed "bow and arrow" for the purposes of these regulations. Arrows must be tipped with broadheads, and arrow and broadhead together must weigh at least one ounce (437.5 grains). Broadheads may not be barbed.

(5) Black bears may be taken with the use of bait; however

(i) Only biodegradable materials may be used for bait; only the heads, bones, viscera, or skin of legally harvested fish and wildlife may be used for bait.

(ii) No person may use bait within one-quarter mile of a publicly maintained road or trail.

(iii) No person may use bait within one mile of a house or other permanent dwelling, or within one mile of a developed campground or developed

DRAFT

recreational facility.

(iv) A hunter using bait shall clearly mark the bait station with a sign which displays the hunter's name and current address, phone number, and hunting license number.

(v) A hunter using bait shall remove litter and equipment from the bait station site when hunting is completed.

(6) Black bears may not be hunted using dogs.

(7) A motor driven boat underway may be used in taking wolves and coyotes in all units, and caribou in Unit 23.

(b) Small game and unclassified wildlife may be taken by any method unless prohibited in paragraph (f)

(c) Fur animals may be taken while hunting by any method unless prohibited in paragraph (f)

(d) Fur bearers may be taken while trapping by any method unless prohibited in paragraph (f), Section 30.54 of this part, or in State regulations.

(e) Waterfowl, snipe and cranes may be taken only:

(1) With a shotgun not larger than 10 gauge, and which is plugged to a three shell capacity, or less.

(2) With a bow and arrow.

(3) With a trained raptor, controlled by a falconer who holds a permit under State regulations.

(f) The following methods of taking game are prohibited:

(1) By shooting from, on, or across a highway.

(2) With the use of poisons except with the written consent of the Federal Board.

addition to the prohibitions in Section 30.51 of this part:

- (a) With the use of a dog, trap snare, net or fish trap; or aircraft.
- (b) By disturbing dens.

30.54 Unlawful methods of trapping fur bearers.

The following methods and means of trapping fur bearers are prohibited in addition to the prohibitions in State regulations:

- (a) Disturbing or destroying dens (except that muskrat pushups or feeding houses may be disturbed in course of trapping).
- (b) Disturbing or destroying beaver houses.
- (c) Taking beaver by any means other than steel traps or snares, except that firearms may be used to take beaver in Unit 18 from April 1 through June 10, and in Units 8 and 23.
- (d) Taking beaver by persons under 11 years of age.
- (e) Taking river (land) otter with steel traps having a jaw spread of less than five and seven-eighths inches during the closed season on mink and marten in the same game management unit.
- (f) With the use of a dog, net or fish trap (except a blackfish or fyke trap).
- (g) Trapping by methods other than with a snare, trap, mesh, or other implement designed to entrap animals other than fish.

30.55 Unlawful methods of hunting waterfowl, snipe, and cranes.

(a) The following methods and means of taking waterfowl, snipe, and cranes are prohibited in addition to the prohibitions in Section 30.51 of this part:

(1) With a rifle or pistol.

(2) From a motor-driven boat unless the motor has been completely shut off and the boat's progress from the motor's power has ceased.

(3) From any mechanical vehicle; however, a power or sailboat may be used as a means of retrieving dead or injured birds.

(b) A hunter may pluck waterfowl in the field, but must leave one fully feathered wing or the head attached while transporting the waterfowl.

(c) No person may take waterfowl from sunset to one-half hour before sunrise.

30.56 Local restrictions on taking wildlife.

(a) In addition to statewide restrictions on taking wildlife, the following restrictions apply locally as specified:

(1) In Units 1 through 5, no person may take big game, except wolves, from a boat.

(2) In Jim Creek in Unit 14(C) upstream from the confluence of the Swan Lake outlet stream, no person may take waterfowl or transport waterfowl, parts of waterfowl, waterfowl hunters, or waterfowl hunting gear, with the use

DRAFT

of a motorized vehicle.

(3) No person may take a wolf in Units 12 and 20(E) during April and October with a steel trap or snare smaller than 3X.

30.57 Unlawful possession or transportation of wildlife.

(a) No person may possess, transport, or place into the possession of another, any wildlife or parts of wildlife that the person has taken in violation of these regulations.

(b) No person may possess or transport wildlife or parts of wildlife received from a person who took the items contrary to these regulations, if the person receiving the items knows, has reason to know, or should know that the item was taken in violation of these regulations.

(c) No person may possess or transport wildlife or parts of wildlife that the person knows were taken in violation of these regulations.

30.58 Evidence of sex and identity.

(a) No person may possess or transport a mountain sheep unless both horns accompany the animal.

(b) If the taking of an animal, except sheep, is restricted to one sex,

DRAFT

no person may possess or transport the carcass of the animal which does not have sufficient portions of the external sex organs attached to indicate conclusively the sex of the animal. However, this section does not apply to the carcass of a big game animal which has been cut and placed in storage or otherwise prepared for consumption upon arrival at the location where it is to be consumed.

(c) If a moose bag limit includes an antler size or configuration requirement, no person may possess or transport the moose carcass or its parts unless both antlers accompany the carcass or its parts. A person possessing a set of antlers with less than the required number of brow lines on one antler must leave the antlers naturally attached to the unbroken, uncut skull plate; however, this paragraph does not apply to a moose carcass or its parts that has been cut and placed in storage or otherwise prepared for consumption after arrival at the place where it is to be stored or consumed.

30.59 Marked or tagged wildlife.

A person who takes an animal that has been marked or tagged for scientific studies must, within a reasonable time, notify State or Federal officials with the date when, and the place where, the animal was killed. Any ear tag, collar, radio, tattoo, or other identification must be retained with the hide until it is sealed, if sealing is required, and in all cases any identification equipment must be returned.

30.60 Sealing of bear skins and skulls.

DRAFT

(a) No person may possess, transport, or export from Alaska, the skin or skull of a bear, whether taken inside or outside of Alaska, unless the skin and skull have been sealed by an authorized representative within 30 days of the taking, or a lesser time if requested. Seals must remain on the hides while in Alaska or until the tanning process has commenced. A brown bear taken in Unit 8 may not be transported from that unit until it has been sealed.

(b) A person who possesses a bear skin and skull must bring the skin and skull for sealing to an authorized representative and must complete a report on the appropriate form provided. A skin and skull accompanied by a completed temporary sealing form signed by the person who took the bear shall be considered properly tendered for sealing if it is received by an authorized representative within 30 days from the time of taking.

(c) The hide and skull of a bear must accompany each other until a rudimentary premolar tooth has been removed from the skull and both the skull and the hide have been sealed.

(d) As used in this section, "bear" means brown and grizzly bear in all units, and black bear (including the cinnamon and blue color phases) in Units 1 through 7, 11 through 16, and 20.

(e) No person may falsify any information required to be set forth, either on the sealing form provided or on the temporary sealing form.

30.61 Sealing of Marten, Lynx, Otter, Wolf or Wolverine.

DRAFT

(a) No person may possess, transport, or export from the state, the untanned skin of a marten (in Units 1 through 5 only), or the untanned skin of a lynx, river (land) otter, wolf or wolverine, whether taken inside or outside the state, unless each skin has been sealed according to the following schedule:

DRAFT

SPECIES/METHOD OF TAKING	LATEST DATE FOR SEALING
Wolf and wolverine by hunting	60th day from date of taking.
Wolf and wolverine by trapping	30th day following close of trapping season for the species in the unit where taken.
Lynx by hunting	30th day following close of lynx hunting season in the unit where taken.
Marten (Units 1-5 only), Lynx, and River (Land) Otter, by trapping	30th day following close of trapping season for the species in the unit where taken.

(b) The sealing periods in (a) of this section may be reduced.

(c) A person who takes a species listed in (a) of this section must bring the skin for sealing and must complete a report on a form. The long bones of the left front leg (radius and ulna bones) must remain naturally attached to the hide of any wolf taken in Units 20, 23, 24, and 26 until the hide is sealed.

30.62 Wildlife as animal food or bait.

DRAFT

(a) The use of wildlife as food for dogs or fur bearers, or as bait, is prohibited except for the following:

(1) The hide, skin, viscera, or bones.

(2) The skinned carcass of a bear, fur bearer, or fur animal.

(3) Hare, rabbit, and red squirrels.

(4) Legally taken unclassified wildlife.

30.63 Salvage of meat, furs, and hides.

(a) Subject to additional requirements set out for a specific unit, the following parts of any carnivore taken must be salvaged for human use:

(1) The hide of a wolf, wolverine, coyote, fox, or lynx.

(2) The hide and skull of a brown/grizzly bear.

(3) The hide and skull of a black bear taken in a game management unit in which sealing is required.

(4) Either the hide or the meat of a black bear taken in any game

DRAFT

management unit in which sealing is not required by regulation.

(b) Any animal killed or injured by a vehicle is the property of the State. The operator of a motor vehicle that collides with a big game animal resulting in death or injury to the animal must notify the State Troopers or Division of Fish and Wildlife Protection as soon as possible.

(c) The meat of caribou taken in Units 22 through 26, and in Units 18 and 21 north of the Yukon River, must be removed immediately from the field.

(d) Salvage of meat from wildlife (1) The following definitions shall apply to this paragraph:

(i) "Wild fowl" means species of wild fowl for which seasons or bag limits have been established by State or Federal law.

(ii) "Edible meat" means, in the case of big game animals, the meat of the ribs, neck, brisket, front quarters as far as the juncture of the humerus and radius-ulna (knee), hindquarters as far as the distal joint of the tibia-fibula (stifle joint) and that portion of the animal between the front and hindquarters; in the case of wild fowl, the meat of the breast; however, "edible meat" of big game or wild fowl does not include: meat of the head; meat that has been damaged and made inedible by the method of taking; bones, sinew and incidental meat reasonably lost as a result of boning or a close trimming of the bones; or viscera.

(2) It is unlawful for a person who kills an animal or species of wild fowl to fail to salvage for human consumption the edible meat of the animal or fowl. Failure to salvage from a big game animal at least the hindquarters as

DRAFT

far as the distal joint of the tibia-fibula (stifle joint) will result in the imposition of additional fines and penalties.

(3) Failure to salvage or possess the edible meat may not be a violation if due to circumstances beyond the control of a person, including theft of the animal or fowl, unanticipated weather conditions or other acts of God, or unavoidable loss in the field to another wild animal.

(4) It is unlawful for a person to possess the horns or antlers of a big game animal that was killed after the opening of the current or most recent lawful season for that animal unless the person also possesses the edible meat of the animal. However, this does not apply to the acquisition of the horns or antlers as a gift after the edible meat of the big game animal was salvaged, or the edible meat is no longer present due to personal consumption.

30.64 Feeding of Wildlife.

No person may intentionally feed a bear, wolf, fox or wolverine, or intentionally leave human food or garbage in a manner that attracts these animals. This does not apply to bait used for trapping fur bearers or hunting black bears consistent with this subpart.

30.65 Taking cub bears and female bears with cubs prohibited.

No person may take a cub bear or a female bear accompanied by a cub bear.

DRAFT

30.66 Emergency taking of wildlife.

Nothing in this subpart prohibits a person from taking wildlife for food during a closed season in case of dire emergency. Whenever it is reasonable to do so, all edible portions of the meat of an animal so taken must be salvaged and all portions surplus to the alleviation of the dire emergency must be surrendered to the State.

30.67 Taking of wildlife in defense of life or property.

(a) Nothing in this subpart prohibits a person from taking wildlife in defense of life or property if:

(1) The necessity for the taking is not brought about by harassment or provocation of the animal or an unreasonable invasion of the animal's habitat;

(2) The necessity for the taking is not brought about by the improper disposal of garbage or a similar attractive nuisance; and

(3) All other practicable means to protect life and property are exhausted before the animal is taken.

(b) Wildlife taken in defense of life or property is the property of the State. A person taking such wildlife is required to salvage immediately the meat, or, in the case of a black bear, wolf, wolverine, or coyote, the hide and surrender it to the State immediately. In the case of brown or grizzly

DRAFT

bear, the hide and skull must be salvaged and surrendered to the State immediately. The person taking the wildlife must notify the Alaska Department of Fish and Game of the taking immediately and must submit a written report of the circumstances of the taking of wildlife in defense of life or property to the Department within 15 days of the taking.

(c) As used in this section, "property" is limited to:

- (1) A dwelling, permanent or temporary.
- (2) An aircraft, boat, automobile, or other means of conveyance;
- (3) A domesticated animal.
- (4) Other property of substantial value necessary for the livelihood or survival of the owner.

30.68 Endangered species.

(a) The following wildlife species are endangered in Alaska:

Eskimo curlew	<u>Numenius borealis</u>
Alautian Canada goose	<u>Branta canadensis leucopareia</u>
American peregrine falcon	<u>Falco peregrinus anatum</u>
Arctic peregrine falcon	<u>Falco peregrinus tundrius</u>
Short-tailed albatross	<u>Diomedea albatrus</u>

KNAUER 5887P 5/9/86

DRAFT

Subpart E - Subsistence Fishing

30.80 Subsistence fishing permitted.

Aquatic plants and finfish other than salmon may be taken for subsistence purposes at any time on public lands, by any method, unless restricted by the regulations in this part. Salmon may be taken for subsistence purposes only as provided in this part.

30.81 Types of legal gear.

- (a) All gear shall be operated in a manner conforming to its basic design.
- (b) The size of meshes of a gill net shall be substantially consistent.
- (c) All references to mesh size in the regulations are considered to be "stretched measure."

(d) Unless otherwise provided, the following are legal types of gear for subsistence fishing:

(1) A gill net is a net primarily designed to catch fish by entanglement in the mesh and consisting of a single sheet of webbing hung between cork line and lead line, and fished from the surface of the water.

(2) A set gill net is a gill net that has been intentionally set, staked, anchored or otherwise fixed.

(3) A drift gill net is a drifting gill net that has not been intentionally staked, anchored or otherwise fixed.

(4) A purse seine is a floating net designed to surround fish and

DRAFT

which can be closed at the bottom by means of a free-running line through one or more rings attached to the lead line.

(5) A hand purse seine is a floating net designed to surround fish and which can be closed at the bottom by pursing the lead line; pursing may only be done by hand power, and a free-running line through one or more rings attached to the lead line is not allowed.

(6) A beach seine is a floating net designed to surround fish which is set from and hauled to the beach.

(7) Power gurdy troll gear consists of a line or lines with lures or baited hooks which are drawn through the water by a gurdy.

(8) Hand troll gear consists of a line or lines with lures or baited hooks which are drawn through the water from a vessel by hand trolling, strip fishing or other types of trolling, and which are retrieved by hand power or hand powered crank and not by any type of electrical, hydraulic, mechanical or other device or attachment.

(9) A fishwheel is a fixed, rotating device for catching fish which is driven by river current or other means of power.

(10) A ring net is a bag-shaped net suspended from a circular or rectangular frame.

(11) A longline is a stationary buoyed or anchored line or a floating, free drifting line with lures or baited hooks attached.

(12) A fyke net is a fixed, funneling (fyke) device used to entrap fish.

(13) Diving gear is any type of hard hat or skin diving equipment.

(14) A grappling hook is a hooked device with flukes or claws and attached to a line and operated by hand.

DRAFT

(15) A dip net is a bag-shaped net suspended from a frame, which may not exceed five feet in diameter, the frame is attached to a single handle and is operated by hand.

(16) Jigging gear consists of a line or lines with lures or baited hooks which are operated during periods of ice cover from holes cut in the ice and are drawn through the water by hand.

(17) A spear is a shaft with a sharp point or fork-like implement attached to one end, used to thrust through the water to impale or retrieve fish and is operated by hand.

(18) A lead is a length of net employed for guiding fish into a seine or a length of net or fencing employed for guiding fish into a fishwheel, fyke net or dip net.

(19) An abalone iron is a flat device used for taking abalone and which is more than 1 inch (25 mm) in width and less than 24 inches (61 cm) in length and with all prying edges rounded and smooth.

(e) Gill nets used for subsistence fishing for salmon may not exceed 50 fathoms in length, unless otherwise specified by the regulations in particular areas.

(f) Taking or molesting fish by any means, or for any purpose, is prohibited within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction.

(g) The use of explosives and chemicals is prohibited.

(h) Subsistence fishing by the use of a line attached to a rod or pole is prohibited except when fishing through the ice in the Kotzebue-Northern, Norton Sound-Port Clarence, Yukon, Kuskokwim and Bristol Bay areas.

(i) Each subsistence fisherman shall plainly and legibly inscribe his

first initial, last name, and address on his fishwheel, or on a keg or buoy attached to gill nets and other unattended subsistence fishing gear.

(j) No person may use a gill net web that contains less than 30 filaments in the taking of salmon for subsistence purposes.

30.82 Unlawful possession of subsistence finfish.

No person may possess, transport or place into the possession of another person, raw or unprocessed subsistence-taken fish or their parts that the person has taken contrary to State or Federal law or regulation.

30.83 Bristol Bay area

(a) Description. The Bristol Bay area consists of all waters of Bristol Bay including drainages enclosed by a line from Cape Newenham to Cape Menshikof.

(b) Fishing seasons and weekly fishing periods. (1) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Bristol Bay area.

(2) Within any district, salmon may only be taken during open weekly commercial salmon fishing periods except as follows:

(i) During the period from June 15 through 9:00 a.m., July 17, salmon for subsistence purposes may be taken in the Nushagak district from the Department of Fish and Game regulatory marker two statute miles below Bradford

DRAFT

Point to a marker at Red Bluff on the west shore of Wood River, only during the following periods: 9:00 a.m. Monday to 9:00 a.m. Tuesday, 9:00 a.m. Wednesday to 9:00 a.m. Thursday, 9:00 a.m. Friday to 9:00 a.m. Saturday.

(ii) During the period from June 23 through 9:00 a.m. July 17, salmon for subsistence purposes may be taken in the Naknek, Egegik and Ugashik rivers only during the following period: 9:00 a.m. Tuesday to 9:00 a.m. Wednesday and 9:00 a.m. Saturday to 9:00 a.m. Sunday.

(3) Subsistence fishermen should check with the National Park Service before fishing in Naknek Lake.

(c) Lawful gear and gear specifications. (1) Within any district, salmon, herring, and capelin may only be taken by drift and set gill nets.

(2) Outside the boundaries of any district, salmon may only be taken by set gill net, except that salmon may also be taken by spear in the Togiak River excluding its tributaries.

(3) The maximum lengths for set gill nets used to take salmon are as follows:

(i) In the Naknek, Egegik and Ugashik Rivers, and in Naknek Lake as described, set gill nets may not exceed 10 fathoms in length.

(ii) In the remaining waters of the area, set gill nets may not exceed 25 fathoms in length.

(4) No part of a set gill net may be operated within 300 feet of any part of another set gill net, except that in the Nushagak district from the Department of Fish and Game regulatory marker two statute miles below Bradford Point to a marker at Red Bluff on the west shore of Wood River, no part of a set gill net may be operated within 100 feet of any part of another set gill

DRAFT

net.

(5) No set gill net may obstruct more than one-half the width of a stream.

(6) Each set gill net must be staked and bouyed.

(7) No person may operate or assist in operating subsistence salmon net gear while simultaneously operating or assisting in operating commercial salmon net gear.

(d) Waters closed to subsistence fishing. (1) Except for the western shore of the Newhalen River, waters used by salmon are closed to the subsistence taking of fish within 300 feet of a stream mouth.

(2) Gill nets are prohibited in that portion of the Naknek river upstream from Sovonaski.

(3) Subsistence fishing with nets is prohibited in the following waters and within one-fourth mile of the terminus of those waters during the period from September 1 through June 14:

Lower Talarik Creek	Roadhouse Creek	Nick G. Creek
Middle Talarik Creek	Alexi Creek	Copper River
Upper Talarik Creek	Tazimina River	Kakhonak River
Pete Andrew Creek	Young's Creek	Gibraltar River
Zacker Creek	Chekok Creek	Dennis Creek
Newhalen River	Tomokok Creek	Belinda Creek

(e) Subsistence fishing permits. (1) Salmon, trout and char may only be taken under authority of a subsistence fishing permit.

(2) Only one subsistence fishing permit may be issued to each

DRAFT

household per year.

(3) Subsistence salmon fishing permits for the Naknek River drainage will be issued only to those persons domiciled in the Naknek and Kvichak River drainages.

(4) Subsistence salmon fishing permits for the Iliamna-Lake Clark drainages will be issued only to persons domiciled in the Iliamna-Lake Clark drainages.

(f) Marking of subsistence taken salmon. After August 20, no person may possess coho salmon for subsistence purposes in the Togiak River section and the Togiak River drainage unless the head has been immediately removed from the salmon. It is unlawful to purchase or sell coho salmon from which the head has been removed.

(g) Subsistence bag and possession limits. The total annual possession limit for a subsistence salmon fishing permit issued for the fisheries described is 200 sockeye salmon.

30.84 Aleutian Islands area

(a) Description. The Aleutian Islands area includes all waters of Alaska west of the longitude of the tip of Cape Sarichef, east of 172 degrees E., and south of 54 degrees 36' N.

(b) Fishing seasons. (1) In the Unalaska district, salmon may be taken at any time except within 24 hours before and within 12 hours following each open weekly commercial salmon fishing period within a 50 mile radius of the area open to commercial salmon fishing, or as may be specified on a subsistence

DRAFT

fishing permit.

(2) In the Akutan, Umnak and Adak districts, salmon may be taken at any time.

(3) Fish other than salmon may be taken at any time unless restricted under the terms of a subsistence fishing permit.

(c) Lawful gear and gear specifications. (1) Salmon may be taken by seine and gill net, or with gear specified on a subsistence fishing permit.

(2) Fish other than salmon may be taken at any time unless restricted under the terms of a subsistence fishing permit.

(d) Waters closed to subsistence fishing. The waters of Unalaska Lake (at Unalaska Village), its drainages and the outlet stream, and within 500 yards of its terminus are closed to subsistence fishing.

(e) Subsistence fishing permits. (1) Salmon, trout and char may be taken only under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak and Adak districts.

(2) Not more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit.

(3) A record of subsistence caught fish must be kept on the reverse side of the permit. The record must be completed immediately upon taking subsistence caught fish and must be returned.

30.85 Alaska Peninsula area

(a) Description. The Alaska Peninsula area includes all Pacific Ocean waters of Alaska between a line extending southeast (135 degrees) from the tip

of Kupreanof Point and the longitude of the tip of Cape Sarichef, and all Bering Sea waters of Alaska east of the longitude of the tip of Cape Sarichef and south of the latitude of the tip of Cape Menshikof.

(b) Fishing seasons. (1) Salmon may be taken at any time except within 24 hours before and within 12 hours following each open weekly commercial salmon fishing period within a 50 mile radius of the area open to commercial salmon fishing, or as may be specified on a subsistence fishing permit.

(2) Fish other than salmon may be taken at any time unless restricted under the terms of a subsistence fishing permit.

(c) Lawful gear and gear specifications. (1) Salmon may be taken by seine and gill net, or with gear specified on a subsistence fishing permit.

(2) No set gill net may exceed 100 fathoms in length.

(d) Waters closed to subsistence fishing. The following waters are closed to subsistence fishing for salmon:

(1) Russell Creek and Nurse Lagoon and within 500 yards outside the mouth of Nurse Lagoon.

(2) Trout Creek and within 500 yards outside its mouth.

(3) Inshore of a line from the Pacific Pearl dock to Black Point including the inlet and Humboldt Creek.

(e) Subsistence fishing permits. (1) Salmon, trout and char may be taken only under the authority of a subsistence fishing permit.

(2) Not more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit.

(3) A record of subsistence caught fish must be kept on the reverse side of the permit. The record must be completed immediately upon taking subsistence caught fish and must be returned no later than October 31.

30.86 Chignik area

(a) Description. The Chignik area includes all waters of Alaska on the south side of the Alaska Peninsula enclosed by 156 degrees 20'13" W., (the longitude of the southern entrance to Imuya Bay near Kilokak Rocks) and a line extending southeast (135 degrees) from the tip of Kupreanof Point.

(b) Fishing seasons. Fish may be taken at any time, except as may be specified by the subsistence fishing permit.

(c) Lawful gear and gear specifications. Salmon may be taken by seines and gill nets, or with gear specified on a subsistence fishing permit, except that in Chignik Lake, salmon may not be taken with purse seines.

(d) Waters closed to subsistence fishing. Salmon may not be taken in the Chignik River, upstream from the weir site or counting tower, in Black Lake, or any tributary to Black and Chignik Lakes.

(e) Subsistence fishing permits. (1) Salmon, trout and char may only be taken under the authority of a subsistence fishing permit.

(2) Not more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit.

(3) A record of subsistence caught fish must be kept on the reverse side of the permit. The record must be completed immediately upon taking subsistence caught fish and must be returned no later than October 31.

30.87 Kodiak area

DRAFT

(a) Description. The Kodiak area includes all waters of Alaska south of a line extending east from Cape Douglas (58 degrees 52' N.), west of 150 degrees W., north of 55 degrees 30' N.; and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (156 degrees 20'13" W.).

(b) Fishing seasons. Salmon may be taken for subsistence purposes from 6:00 a.m. until 9:00 p.m. from June 1 through July 30.

(c) Lawful gear and gear specifications. (1) Unless restricted by this section or under the terms of a subsistence fishing permit, fish may be taken by gear listed in Section 30.84(d) of this part.

(2) Salmon may be taken only by gill net and seine.

(3) Subsistence fishermen must be physically present at the net at all times the net is being fished.

(d) Waters closed to subsistence fishing. The following locations are closed to the subsistence taking of salmon:

(1) All waters of Mill Bay and all those waters bounded by a line from Spruce Cape to the northernmost point of Woody Island, then to the northernmost point of Holiday Island, then to a point on Near Island opposite the Kodiak small boat harbor entrance and then to the small boat harbor entrance.

(2) All freshwater systems of Little Afognak River and Portage Creek drainage in Discoverer Bay.

(3) All waters closed to commercial salmon fishing in the Barbara Cove, Chiniak Bay, Slatery Cove, Pasagshak Bay, Monashka Bay and Anton Larsen Bay and all waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek and north and west of a line from the tip of Last

DRAFT

Point to the tip of River Mouth Point in Afognak Bay.

(4) All waters 300 yards seaward of the terminus of Monks Creek.

(e) Subsistence fishing permits. (1) A subsistence fishing permit is required for taking salmon, trout and char for subsistence purposes.

(2) A subsistence salmon fishing permit allows the holder to take 25 salmon plus an additional 25 salmon for each member of the same household whose names are listed on the permit. An additional permit may be obtained if it can be shown that more fish are needed.

(3) All subsistence fishermen shall keep a record of the number of subsistence fish taken each year. The number of subsistence fish taken shall be recorded on the reverse side of the permit. The record must be completed immediately upon landing subsistence caught fish and must be returned by February 1 of the year following the year the permit was issued.

30.88 Cook Inlet area

(a) Description. The Cook Inlet area includes all waters of Alaska enclosed by a line extending east from Cape Douglas (58 degrees 52' N.) and a line extending south from Cape Fairfield (148 degrees 40' W.).

(b) Description of district and subdistricts. (1) Districts and subdistricts are as described in State regulations, 5 AAC 21.200.

(2) In addition to (1) of this paragraph, the Tyonek subdistrict includes those waters of the Northern district within mean lower tide from a point one mile south of the southern edge of the Chuitna River south to the easternmost tip of Granite Point.

DRAFT

(c) Fishing seasons and weekly fishing periods. (1) Unless restricted or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Cook Inlet area.

(2) Salmon may be taken for subsistence purposes only as follows:

(1) In the Tyonek subdistrict:

(A) From June 1 through June 15 from 4:00 a.m. to 8:00 p.m. on Tuesdays, Thursdays and Fridays.

(B) From June 16 through October 30 from 6:00 a.m. to 6:00 p.m. on Saturdays.

(C) The season described in (B) of this subparagraph shall not open until July 1 if 4,200 king salmon are taken before June 16.

(ii) In the Port Graham subdistrict from June 1 through June 15, from 6:00 a.m. Monday until 6:00 a.m. Wednesday, and from 6:00 a.m. Thursday, until 6:00 a.m. Saturday.

(d) Lawful gear and gear specifications. (1) Salmon may be taken only as follows:

(i) In the Tyonek subdistrict by set gill nets not exceeding 10 fathoms in length, six inches in mesh size and 45 meshes in depth.

(ii) In the Port Graham subdistrict by set gill nets not exceeding 35 fathoms in length, six inches in mesh size and 45 meshes in depth.

(iii) No part of a set gill net may be set or operated within 600 feet of any part of another set gill net.

(2) No person may operate or assist in the operation of subsistence salmon net gear on the same day that person operates or assists in the operation of commercial salmon gear.

(3) Smelt may be taken only with gill nets and dip nets. Gill nets

DRAFT

used to take smelt may not exceed 50 feet in length and two inches in mesh size.

(4) Gill nets may not be used in fresh water, except for the taking of whitefish in the Tyonek River drainage.

(e) Waters closed to subsistence fishing. (1) All salt water is closed to the taking of finfish, except for the Tyonek and Port Graham subdistricts.

(2) Salmon may not be taken in waters described in 5 AAC 39.290.

(3) Trout, grayling, char, and burbot may not be taken in fresh water.

(f) Subsistence fishing permits. (1) Only one subsistence salmon fishing permit may be issued to each household per year.

(i) Subsistence salmon fishing permits for the Tyonek subdistrict will be issued only to those persons domiciled in the village of Tyonek.

(ii) Subsistence salmon fishing permits for the Port Graham subdistrict will be issued only to those persons domiciled in the villages of Port Graham and English Bay.

(2) Whitefish may be taken only in the Tyonek River drainage.

(g) Marking of subsistence taken salmon. (1) No person may possess salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) have been immediately removed from the salmon.

(2) It is unlawful to purchase or sell salmon from which both lobes of the caudal fin (tail) have been removed.

(h) Subsistence bag and possession limits. The total annual possession limit for each subsistence salmon permit is as follows:

(1) There is no total annual possession limit for holders of Port Graham subdistrict subsistence salmon fishing permits; subsistence salmon

DRAFT

catches must be recorded.

(2) Twenty-five (25) salmon for the head of household and 10 salmon for each dependent of the permit holder.

(3) In addition to the limits in (2) of this paragraph; the holder of a Tyonek subdistrict subsistence salmon fishing permit may take 70 king salmon.

30.89 Prince William Sound area

(a) Description. The Prince William Sound area includes all waters of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling.

(b) Description of districts and subdistricts. The Upper Copper River District consists of all waters of the mainstem Copper River from the mouth of Slana River downstream to an east-west line crossing the Copper River at the upstream side of Haley Creek as designated by regulatory markers:

(1) The Chitina Subdistrict consists of waters of the Upper Copper River District downstream of the downstream edge of the Chitina-McCarthy Road Bridge and the east side of the Copper River from the upstream edge of the bridge to a regulatory marker located one quarter of a mile upstream of the bridge.

(2) the Glennallen Subdistrict consists of all remaining waters of the Upper Copper River District.

(c) Fishing seasons. (1) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Prince William Sound area.

DRAFT

(2) Salmon may be taken in the Upper Copper River District only as follows:

(i) In the Glennallen Subdistrict, from June 1 through September 30.

(ii) In the Chitina Subdistrict, only when that subdistrict is open to personal use salmon fishing.

(iii) When the Copper River subsistence fishery is closed or restricted because of an inadequate escapement of sockeye or chinook salmon. The fishery may be reopened September 1 for the taking of coho salmon.

(d) Lawful gear and gear specifications. (1) Salmon may be taken only by the following types of gear:

(i) In the Glennallen Subdistrict by fishwheels or dip nets.

(ii) In the Chitina Subdistrict by dip nets when the personal use salmon fishery is open in that subdistrict.

(2) Fishwheels used for subsistence fishing may not be rented, leased, or otherwise used for personal gain. Subsistence fishwheels must be removed from the water at the end of the permit period. Each permittee may operate only one fishwheel at any one time. No person may set or operate a fishwheel within 75 feet of another fishwheel. No fishwheel may have more than two baskets.

(3) The permit holder (permittee) must personally operate the fishwheel or dip net. A subsistence fishwheel or dip net permit may not be loaned or transferred.

(4) A wood or metal plate at least 12 inches high by 12 inches wide, bearing the permit holder's name and address in letters and numerals at least one inch high, must be attached to each fishwheel so that the name and address

DRAFT

are plainly visible.

(a) Waters closed to subsistence fishing. (1) All tributaries of the Copper River and waters of the Copper River not in the Upper Copper River District are closed to the taking of salmon.

(2) Crosswind Lake is closed to all subsistence fishing.

(3) Salmon may not be taken in any area closed to commercial salmon fishing.

(4) Salmon may not be taken in the Chitina Subdistrict, or in any portion of the subdistrict, when those waters are closed to personal use salmon fishing.

(5) Salmon may not be taken on the east side of the Copper River from the upstream edge of the Chitina-McCarthy Road Bridge upstream to the ADF&G regulatory marker located one quarter of a mile upstream of the bridge.

(f) Subsistence fishing permits. (1) Except as provided in this paragraph, fish other than salmon and freshwater fish species may be taken for subsistence purposes without a subsistence fishing permit.

(2) Salmon and freshwater fish species may be taken only under the authority of a subsistence fishing permit.

(3) Only one subsistence fishing permit will be issued to each household per year.

(4) Subsistence salmon fishing permits for the Upper Copper River District will be issued only to persons domiciled in Game Management Units 11, 13-A, 13-B, 13-C and 13-D as described in State regulation, (5 AAC 90.010), in the Jacksina River drainage to its confluence with the Nabesna River, and in the communities of Tetlin, Northway, Dot Lake, Tanacross, and Tok. The following apply to Upper Copper River District subsistence salmon fishing

DRAFT

permits:

(i) Only one type of gear may be specified on a permit.
(ii) Only one permit per year may be issued to a household.
(iii) Permits must be returned to the department no later than October 31, or a permit for the following year may be denied.

(5) The total annual possession limit for an Upper Copper River District subsistence salmon fishing permit is as follows:

(i) Thirty (30) salmon for a household with one person.
(ii) Sixty (60) salmon for a household with two persons.
(iii) Ten (10) salmon for each additional person in a household over those specified in (ii) of this subparagraph.

(iv) Upon request, permits for additional salmon will be issued with the following limits:

(A) No more than a total of 200 salmon for a permit issued to a household with one person.

(B) No more than a total of 500 salmon for a permit issued to a household with two or more persons.

(g) Marking of subsistence taken salmon. No person may possess salmon taken under the authority of an Upper Copper River District subsistence fishing permit unless the dorsal fin has been immediately removed from the salmon.

(h) Subsistence bag and possession limits. (1) Possession limits for salmon in the Upper Copper River District are described in subparagraph (f) (5) of this section.

(2) In locations open to commercial salmon fishing and in conformance with commercial salmon fishing regulations, the annual subsistence salmon

DRAFT

Limit is as follows:

- (i) Fifteen (15) salmon for a household with one person.
- (ii) Thirty (30) salmon for a household with two persons.
- (iii) Ten (10) salmon for each additional person in a household over those specified in (2) of this subsection.
- (iv) No more than five king salmon may be taken per permit.

30.90 Yakutat area

(a) Description. The Yakutat area includes all waters of Alaska between the longitude of Cape Suckling and the longitude of Cape Fairweather.

(b) Fishing seasons. (1) Unless restricted in this part, or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Yakutat area.

(2) Salmon may not be taken during the period commencing 48 hours before an opening until 48 hours after the closure of an open commercial salmon net fishing season. This applies to each river or bay fishery individually.

(c) Lawful gear and gear specifications. Fish may be taken by gear listed in Section 30.81 (d) of this part, unless restricted in this section or under the terms of a subsistence fishing permit.

(d) Subsistence fishing permits. Salmon, trout and char may be taken only under authority of a subsistence fishing permit.

(e) Marking of subsistence taken salmon. Subsistence fishermen must remove the dorsal fin from subsistence caught salmon when taken.

DRAFT

30.91 Southeastern Alaska area

(a) Description. The Southeastern Alaska area includes all waters between a line projecting southwest from the westernmost tip of Cape Fairweather and Dixon Entrance.

(b) Description of districts and sections. Districts and sections are as described in State regulation (5 AAC 33.200).

(c) Fishing seasons. Unless restricted in this section or under the terms of a subsistence fishing permit, fish may be taken in the Southeastern Alaska area at any time.

(d) Lawful gear and gear specifications. Fish may be taken by gear listed in Section 30.81 (d) of this part, except as may be restricted under the terms of a subsistence fishing permit and except as follows:

(1) In District 13, Redoubt Bay, gill net or seine gear may not be used to take salmon in any waters of the bay closed to commercial salmon fishing.

(2) Set gill nets may not be used to take salmon except in the mainstream and side channels, but not the tributaries, of the Chilkat River from the latitude of Zimovia Point to one mile upstream of Wells Bridge.

(3) Beach seines and gaffs only may be used to take coho salmon from Salt Lake and Mitchell Bay from August 1 through October 31.

(e) Waters closed to subsistence fishing. The following waters are closed to subsistence salmon fishing.

(1) District 1:

DRAFT

(1) Mahoney Creek in George Inlet.

(11) Naha Bay: Roosevelt Lagoon and within one statute mile of the falls at the outlet of Roosevelt Lagoon.

(2) District 11: The Taku River drainage.

(3) In District 15: Lynn Canal including Chilikat, Chilikoot and Lutak inlets, during the closed period of the commercial salmon net fishery in the district.

(f) Subsistence fishing permits. (1) Salmon, trout and char may be taken only under authority of a subsistence fishing permit.

(2) Permits will not be issued for taking king or coho salmon, except for king and coho salmon in the Chilkat River adjacent to Klukwan and for coho salmon as provided in subparagraph (d) (3) of this section.

(3) In the Chilkat River north of the latitude of Zimovia Point, the subsistence fishing permit holder shall be physically present at the net while it is fishing.

(4) Subsistence salmon fishing permits for the fishery provided for in subparagraph (d) (3) of this section will be issued only to those persons domiciled in Angoon and only one permit will be issued for a household. The number of coho salmon that may be taken on a permit will be specified by the Alaska Department of Fish and Game after it has assessed the level of effort that will be involved in that fishery.

(5) Permits may be issued specifying times, areas, species and numbers of fish that may be taken.

(g) Marking of subsistence taken salmon. Subsistence fishermen shall remove the dorsal fin from all salmon when taken.

(h) Subsistence fishing policy for the Juneau, Petersburg, Wrangell, Sitka

DRAFT

and Ketchikan road systems. Salmon streams flowing across or adjacent to the road systems of Juneau, Petersburg, Wrangell, Sitka and Ketchikan support only limited runs of salmon. Harvestable numbers of salmon in excess to the spawning escapement needs for those streams are normally of such a small magnitude that these numbers alone are not sufficient to support the consumptive demands of those communities. Therefore, permits allowing the use of nets shall not be issued for streams along the road systems of those communities.

KNAUER 5910P 5/12/86

DRAFT

Subpart F - Procedures for Issuance of Annual Regulations

30.100 General provisions

(a) Purposes and scope: The rules of this subpart apply to the issuance of annual regulations establishing seasons and bag and possession limits for subsistence activities. The rules in this part are supplemented by 36 CFR Part 13 and 50 CFR Part 36, containing subsistence regulations specific to the National Park System and the National Wildlife Refuge System, respectively.

(b) Regulation development: The Federal Board shall recommend to the Secretary of the Interior annual regulations governing subsistence activities. The Federal Board will develop regulations in consideration of the following:

(1) The policies established by ANILCA to provide for a preference for subsistence uses of fish and wildlife, as set out in Section 30.5 of this part.

(2) Public input, scientific information, and recommendations received from the general public and from agencies and bodies such as local advisory committees, park and park monument subsistence resource commissions, regional councils, the State Boards of Fisheries and Game, the Alaska Department of Fish and Game, and Federal land management agencies.

DRAFT

(3) Applicable non-conflicting State and Federal laws and regulations.

30.101 Subsistence hunting and subsistence trapping seasons and bag limits.

This section provides for annual hunting and trapping seasons and bag limits on big game, small game, fur animals, fur-bearers and unclassified game, and the units portion of units to which they apply.

Note: For Federal Register citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

30.102 Subsistence fishing seasons and taking and possession limits.

This section provides for annual fishing seasons and taking and possession limits for aquatic plants and finfish, and the areas to which they apply.

Note: For Federal Register citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

SUBSISTENCE OPTIONS EXPLORED BY THE DEPARTMENT OF LAW

- *1 Ask the Alaska Supreme Court to reconsider its decision in McDowell
- *2 Amend the Alaska Constitution to authorize a subsistence priority for rural residents
- *3 Amend ANILCA to eliminate the federal subsistence priority for rural residents
- *4 Amend ANILCA to preempt state law as necessary to grant rural residents a subsistence priority statewide
- *5 Interpret section 804 of ANILCA as preempting state law on federal lands (as those may ultimately be defined by the courts), with implementation carried out by state officials
- *6 Seek cooperative agreements with the Secretaries of Interior and Agriculture under which the ANILCA priority would be implemented by them, perhaps only through closure authority to avoid dual management of the resource
- *7 Amend state law to provide a subsistence priority to state residents most dependent on fish and wildlife, and then amend ANILCA to conform to the state law
- *8 Use current management tools -- seasons, bag limits, same-day (or even two-day) airborne prohibitions, etc. -- creatively to benefit those most dependent on fish and wildlife
- *9 Challenge the ANILCA subsistence priority for rural residents and/or Congress' power to require such a priority on constitutional grounds



UNITED FISHERMEN OF ALASKA

211 4th Street, Suite 106
Juneau, AK 99801
907-586-2820

UNITED FISHERMEN OF ALASKA

ISSUE PAPER ON SUBSISTENCE

UFA supports subsistence-based use of fish and game populations in Alaska, but believes that such uses must be bound at an historical level.

UFA recognizes the problems of conflicting federal and state laws relative to subsistence. UFA members and all other commercial fishermen in Alaska have a great deal at stake as subsistence law and practices are re-defined in the wake of recent legal decisions. We desire to work with the administration, legislature, Congress, and subsistence users in resolving this complex issue.

Any resolution must, to be acceptable to UFA, address the following points:

* Problems resulting from multiple jurisdiction in fisheries management (i.e. Glacier Bay) need to be addressed immediately. If the federal government takes over, the state should attempt to reach an agreement that would limit jurisdiction over fish and game resources on state lands and waters. The question of how far beyond federal lands the jurisdiction extends for purposes of subsistence management must be answered to the state's satisfaction. Should the state pursue control of our fish and game resources to protect the conservation of the resources and economic stability of its residents?

* Clear policy direction needs to be provided to the Boards of Fisheries and Game and other regulatory agencies creating subsistence regulations.

* UFA members are concerned with an apparent pattern of increasing sales of subsistence harvests. The potential for major growth of subsistence catches sold under the "customary trade and barter" clause as evidenced in the *U.S. v. Tadamitsu Sakurai* decision needs to be examined.

* An enforceable and mutually protective definition for "priority" as it relates to competing fishery uses must be developed. There is a flurry of law suits, both filed and pending, that are using subsistence "priority" as a legal weapon against commercial fishermen.

* The definition of subsistence "use" and subsistence "user" needs to be clarified for the public as it relates to the implementation of Title VIII, Section 804 of ANILCA which affords priority.

* Alaska's population has grown over time and will continue to do so. As urban and rural areas become more heavily populated, it will not be possible to provide for the increasing subsistence demands for fisheries resources without displacing other users, including historical subsistence users and commercial fishermen. Subsistence conflict resolution must provide protection for existing commercial fisheries.