

ALASKA LEGISLATURE COMMITTEE FILES 1985 - 1986 8672

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If such programs are essentially management plans, they may reduce significantly the extent of state management control on park and park monument lands. Indeed, the language of section 808 (c) 16 suggests that direct management by the commission and the Secretary is possible--regardless of whether the state properly is implementing the subsistence preference on other federal lands.

H. Access (Section 811)

The provisions of this section apply to the federal land managing authority. Nevertheless, state management choices also may be affected.

The Secretary must permit appropriate use of surface transportation traditionally employed for subsistence purposes by local residents. Obviously, exercise of the Secretary's discretion with respect to non-local people and nonsurface transportation could affect significantly the scope of permissible regulations enacted by the Boards of Fisheries and Game. Questions to be resolved include:

- (1) What is the meaning of "local"?
- (2) What criteria will the Secretary use to determine whether a particular means of surface transportation has been employed traditionally?

(3) What criteria will the Secretary use to evaluate "appropriate" uses of surface transportation?

IV. Concluding Note

The sections of Title VIII discussed in this memorandum have been selected because they pose, in my view, significant interpretive problems or potential legal difficulties that may affect the State of Alaska in attempting to comply with Title VIII requirements. Other sections and provisions suggest both important practical impacts on subsistence users and major policy implications for the state. I have not attempted to deal with these matters or with interpretive problems that may confront federal agencies in their implementation efforts. Several discussion drafts prepared by Department staff have identified a variety of policy related issues. See, e.g., Memorandum from Greg Cook, Executive Director of Alaska Boards of Fisheries and Game, to Board of Fisheries and Board of Game (Sept. 2, 1980); G. Cook, D-2 Title VIII Implementation (Draft); Memorandum from Tom Lonner, Chief, Subsistence Section, to Deputy Commissioner Bill Demmert, Alaska Department of Fish and Game (Sept. 15, 1980); Game Division, H.R. 39 - Legal Questions.

Footnotes

1. Examination of possible issues arising under the Federal Constitution requires research and discussion beyond the scope of this memorandum. For example: Are equal protection guarantees infringed by granting a preference to rural residents? Do Alaska Natives living in nonrural areas have an equal protection claim in light of the traditional and cultural values recognized by section 801 (1)? Is the preference unconstitutionally vague?

2. A validly enacted federal statute is the supreme law of the land, and all inconsistent state enactments are invalid. See, e.g., Sperry v. Florida, 373 U.S. 379, 384 (1963); Free v. Bland, 369 U.S. 663, 666 (1962); Gibbons v. Ogden 22 U.S. (9 Wheat.) 1, 211 (1824). If a state law is in direct conflict with a federal statute, the state law is superseded. See generally Fouke Co. v. Mandel, 386 F. Supp. 1341, 1358 (D. Md. 1974); see also Pennsylvania v. Nelson, 350 U.S. 497, 502-506 (1956); Skiriotes v. Florida, 313 U.S. 69, 75 (1941). Where Congress has intended to occupy fully a field in which power has been granted to it, all state enactments touching the area are invalid if they impair the operation and objectives of federal statutes; that is, Congress may "pre-empt" the field. See, e.g., Fouke Co. v. Mandel, 386 F. Supp. 1341, 1360 (D. Md. 1974).

3. This idea does not reappear in the management provisions of Title VIII. Indeed, the preference described in section 304 does not

hinge on any showing of dependency. Accordingly, I have not discussed this potential discontinuity between state and federal provisions.

4. Section 802 (2) provides, in part:

[N]onwasteful subsistence uses of fish and wildlife . . . shall be the priority consumptive uses . . . on the public lands of Alaska.

There may be a question whether inclusion of the words "consumptive uses" in Title VIII, section 802 (2) indicates that taking for subsistence uses might not be preferred over taking for non-consumptive uses in some circumstances. In my view, a potential problem could arise if courts rely on this language to explain the scope of the preference. Although section 804 does not refer specifically to "consumptive uses," it states:

[T]he taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded preference over the taking on such lands of fish and wildlife for other purposes.

(Emphasis added.)

Section 802 (1) also bears on this question but offers no firm resolution. In part, it states:

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

(Emphasis added.) This language suggests that Congress intends for non-consumptive uses of federal land to be limited if adverse impacts would result for subsistence-dependent rural residents. However, section 802 (1) also states:

[C]onsistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for each unit established, designated, or expanded by or pursuant to Titles II through VII of this Act, the purpose of this title is to provide the opportunity for rural residents engaged in a subsistence way of life to do so.

These provisions identify possible tension between the Title VIII subsistence preference and the other purposes to be served by the federal conservation system units.

Despite such limitations on the preference, some additional protection may be afforded through subsistence hunting programs on lands classified as parks or park monuments. Under section 808, the Secretary of the Interior must implement promptly the program and recommendations of the subsistence resources commission established for each national park or park monument unless he finds in writing that the purposes or recommendations would (1) violate recognized principles of wildlife conservation, (2) threaten conservation of "healthy populations" of wildlife in the park or park monument, (3) be contrary to the purposes for which the park or park monument is established or (4) be detrimental to the satisfaction of local residents' subsistence needs. §208 (b). Under this approach, a commission could submit a program which favors subsistence harvesting over non-consumptive activities; and the Secretary

apparently would be required to adopt the plan unless he determines that it comes within one or more of the listed bases for rejection. As indicated earlier under section 802 (1), the extent of the subsistence preference in relation to non-consumptive uses ultimately may depend upon the Secretary's interpretation of "purposes for which the parks or park monument is established."

Whether Alaska's statutory subsistence priority applies against non-consumptive users is ambiguous. The legislative findings of the 1978 Session Laws of Alaska, chapter 151, section 1 state, in part:

[I]t is in the public interest to clearly establish subsistence use as a priority use of Alaska's fish and game resources.

This language does not limit application of the statute to consumptive uses; indeed the Alaska Boards of Fisheries and Game are required to adopt regulations "permitting the taking of [fish or game] unless the board determines . . . that adoption of such regulations will jeopardize or interfere with the maintenance of [fish stocks or game resources] on a sustained-yield basis." AS 16.06.251(b), .255(b). These provisions suggest that the legislature may have intended to permit taking for subsistence uses even when non-consumptive uses would be impaired. However, the first-tier priority established by AS 16.05.251(b) and AS 16.05.255(b) begins to operate only when "it is necessary to restrict the taking of [fish or game] to assure the maintenance of [fish stocks or game resources] on a sustained-yield basis or to assure the continuation of subsistence uses of such resources." AS 16.05.251(b), .255 (b) (emphasis added). Therefore, it is

not entirely clear whether Alaska's current subsistence priority or the Title VIII preference provides the more rigorous guarantees if each set of provisions is considered as a whole.

Although important interpretation and policy issues are involved in whether the section 804 preference favors subsistence uses over non-consumptive uses, this question probably does not pose serious barriers to state implementation of relevant Title VIII provisions. That is, competition with non-consumptive users on federal lands is most likely to arise because of land management decisions or activities occurring within particular classifications. State fish and game management decisions normally would not affect these sources of potential competition for use of subsistence resources. Even if Alaska's statute differs from Title VIII in the extent of the priority granted to subsistence uses against non-consumptive uses, management under the state approach probably would have no practical effect on the balance struck by Congress or the Secretary of the Interior between these types of use. (On state lands, of course, the situation would differ substantially.) Therefore, the state's regulatory provisions need not address this possible difficulty on federal lands. The question remains, though, whether a state enabling statute granting a priority more broadly applicable than the section 804 preference would be invalid under federal supremacy principles--especially the pre-emption doctrine. See generally citations at note 2 supra. Because Title VIII expressly contemplates shared responsibility for management--including state enactments addressed to a subsistence priority--it is arguable that Congress did not intend to occupy the field to the exclusion of state enabling

legislation which is more broadly based than the Title VIII preference as long as operation of the federal statute is not impaired.

5. Title VIII is ambiguous about whether the state's participation in management as specified in sections 803, 804 and 805 is entirely optional. Indeed, certain language may suggest that state actions in conformity with Title VIII standards are mandatory. See discussion at III. F. and notes 14 & 15 infra. If so, a potentially important legal question is whether Congress can override the provisions of Alaska's constitution and require state action which otherwise would be invalid. See generally L. Tribe, American Constitutional Law §5-20 (1978). In this connection, it must be asked whether an Act of Congress purporting to assure compliance with fundamental guarantees of the federal Constitution (e.g., civil rights legislation) stands on a different footing from one such as Title VIII which implements policy choices based upon the United States' relationship with Alaska Natives (derived, in part, from the commerce clause) and congressional power under the property clause. See generally id. §§5-11 to 5-15. See generally id. §§5-11 to 5-15.

6. Although AS 16.05.251(b) and AS 16.05.255(b) make subsistence "the priority" (emphasis added) whenever the taking of fish or game must be restricted to maintain resource stocks on a sustained-yield basis or to assure continuation of subsistence uses, the Alaska legislature's statement of intent refers to subsistence use as "a priority use of Alaska's fish and game resources." 1978 Alaska Sess. Laws ch.151, §1 (emphasis added). Such statements of intent or legislative findings normally are not

viewed by the courts as conveying rights or powers. C. Sands, 1A Sutherland Statutory Construction §20.03 (4th ed. 1972 & supp. 1980). However, as discussed in III. A. supra, such findings sometimes are used to explain the basis for the legislature's action or to indicate how the codified portions of the statute are to be implemented.

7. The state and federal criteria differ in two respects. First, the word "resource" in AS 16.05.251(b) (1) and AS 16.05.255(b) (1) is replaced by "populations" in Title VIII, section 304 (1). The importance of this difference is unclear. Greg Cook has suggested that no real significance should be attached to this change. See Memorandum from Greg Cook, Executive Director, Alaska Boards of Fisheries and Game, to the Board of Fisheries and the Board of Game (Sept. 2, 1980) at 2. I agree that no substantive change from state law is effected by this difference, although the language appearing in section 304 may make explicit certain considerations which are implicit in Alaska's subsistence priority. Possibly the word "populations" was intended to clarify that population-specific or stock-specific dependence should be considered in implementing the subsistence preference. The language also may be meant to emphasize that the preference is addressed to taking of particular stocks or populations of resources--not general types of resources or substitute resources. In the context of AS 16.05.251(b), this interpretation problem was considered partially by the court in the Tyonek king salmon subsistence controversy. See Native Village of Tyonek v. Alaska Bd. of Fisheries, Civ. Action No. 3AN-20-3073 (Alaska Superior Ct., 3rd Jud. Dist., May 23, 1980) (order granting preliminary injunction).

Another difference between the criteria of section 804 and those in current Alaska statutes is the omission in section 804 (1) of the word "one's" from the language appearing in AS 16.05.251(b) (1) and AS 16.05.255(b) (1): "mainstay of one's livelihood" (emphasis added). This change possibly reflects the drafters' intention to de-emphasize individual dependency levels and to permit consideration of community livelihood. However, the local residency criterion of section 804 (2) appears to be directed at individuals.

8. Unlike plants and other relatively immovable objects, birds and other animals have not generally been considered to be anyone's property as long as they are wild. That is, "ownership of wild animals, so far as they are capable of ownership, is in the state not as a proprietor but in its sovereign capacity as the representative and for the benefit of all its people in common." *State v. Rodman*, 58 Minn. 393, 400, 59 N.W. 1098 (1894), quoted with approval in *Geer v. Connecticut*, 161 U.S. 519, 529 (1896). The state has absolute power to regulate taking of game as part of its quasi-sovereignty insofar as its exercise is not incompatible with, or restrained by, the rights conveyed to the federal government by the United States Constitution. *Geer v. Connecticut*, 161 U.S. 519 (1896). The state may regulate or prohibit the killing of game; but such power is to be exercised "as a trust for the benefit of the people, and not as a prerogative for the advantage of the government, as distinct from the people, or for the benefit of private individuals as distinguished from the public good." *Id.* at 529. For a more complete discussion of the public trust doctrine, see G. Cook, *The Natural Resources*

Article (Article VIII) of the Alaska Constitution and its Relation to Management of Fisheries and Wildlife (1979).

9. Title VIII also contains other terms suggesting management standards that may differ from "sustained yield." See, e.g., §302 (1) ("healthy populations"); §815 (1) ("healthy populations," "natural and healthy populations"); §815 (3) ("healthy populations"). It is not clear whether such standards require the Secretary of the Interior to administer public lands in a manner at variance with state management principles. Nor does Title VIII clarify the extent of the differences among these terms. For example, the context of section 815 (1) suggests that "natural and healthy populations" (the standard for national parks and monuments) is a subset of "healthy populations" (the standard generally applicable to federal conservation system units). The term "natural and healthy" may require that characteristics typical of "natural" populations (e.g., age structure) be retained. However, Title VIII neither provides definitions nor indicates how these standards affect the "continued viability" threshold of section 804.

Section 815 (1) provides, in part:

Nothing in this title shall be construed as . . . permitting the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the conservation of healthy populations, and within a national park or monument to be inconsistent with the conservation of natural and healthy populations, of fish and wildlife.

if "continued viability" is a less rigorous standard than either "healthy" or "natural and healthy," a strict reading of section 815 (1) suggests that harvests on conservation system units may never be allowed to reach the level at which "it is necessary to restrict the taking of populations of fish and wildlife . . . in order to protect the continued viability of such populations." Accordingly, the three criteria of section 804 may never be used if the population remains above the "continued viability" threshold. It should be remembered, however, that the criteria also could be triggered when the taking of fish or wildlife populations must be restricted "to continue [subsistence] uses." Under this interpretation, the preference framework of section 804 might have substantially fewer applications on federal conservation system units (including national parks and monuments) than on other public lands.

Analogous problems may result from interaction of the "healthy population" standard of section 815 (1) and the "continued viability" standard of section 816 (b) which provides, in part:

Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses of a particular fish or wildlife population only if necessary . . . to assure the continued viability of such population. If the Secretary determines that an emergency situation exists and that extraordinary measures must be taken . . . to assure the continued viability of a particular fish or wildlife population, the Secretary may immediately close the public lands, or any portion thereof, to the subsistence uses of such population.

Thus, a potential conflict exists between sections 815 (1) and 816 (b), and it remains unclear whether on conservation system units (including national parks and monuments) closures will occur before the "continued viability" level is reached. The confusion is increased by other provisions of section 816 (b) which seem inconsistent with the standards of section 815 (1):

Except as specifically provided otherwise by this section, nothing in this title is intended to enlarge or diminish the authority of the Secretary to designate areas where, and establish periods when, no taking of fish and wildlife shall be permitted on the public lands . . . to assure the continued viability of a particular fish or wildlife population.

Accordingly, Title VIII is ambiguous and potentially contradictory about the effects of these different management standards and their interactions. Also uncertain are their impacts on the subsistence preference of section 804.

10. The effect of appropriately worded state laws is not entirely clear from the language of section 305 (d):

[S]uch laws, unless and until repealed, shall supersede such sections [803, 804, 805] insofar as such sections govern State responsibility pursuant to this title for the taking of fish and wildlife on the public lands for subsistence uses.

A close reading of sections 803, 804, and 805 shows that they do not purport to "govern" State responsibility at all. Instead, they address the responsibilities of the Secretary of the Interior and establish certain standards which apply to all federal lands in Alaska. To the extent that the state's management would be inconsistent with these requirements, the Secretary could displace the state's traditional authority.

However, none of the cited sections of Title VIII expressly indicates that Congress intends to compel or "govern" state management directly. But see note 5 supra, discussion at III. F. and notes 14 and 15 infra. Accordingly, there may be a question about the effectiveness of this language in returning management to the State of Alaska. Given this section's obvious intention to permit replacement of secretarial activity by state management, however, it seems likely that a court would construe these provisions in a manner which leaves intact state management of subsistence if appropriate "laws of general applicability" are enacted.

11. Given the subsistence focus of Title VIII and the explicit delineation of authority in section 805 (a) (3) for the regional councils, there may be a question whether the councils are limited to consideration of subsistence matters only. In my view, the authority required by section 805 (a) (3) is broad enough to encompass the full range of fish and wildlife issues contemplated by the present regulations establishing the state's regional fish and game council system. See generally 5 AAC 96.200. Section 805 (a) (3) suggests that the listed content areas must be part of the council's inquiries--regardless of any other authority they may have.

12. In order to retain management authority over the taking of fish and game for subsistence uses on federal lands, the State of Alaska must enact and implement "laws of general applicability" containing certain elements. §805 (d). Promulgation of appropriate administrative regulations apparently would not be sufficient in light of the implication in section 805 (d) that "laws" means enactments at the level of enabling legislation

which limit the authority of the Boards of Fisheries and Game. See §805 (d) at 137, line 25 and 138, lines 1-6. Thus, Title VIII seems to require statutory conformity with these sections.

13. For example, the quasi-regulatory authority of the regional advisory councils would be insulated from some of the procedural constraints and political checks which normally affect Alaska's legislative and administrative bodies. The Alaska Constitution states:

The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

Alaska Const., art. VIII, §2 (emphasis added). Accordingly, there may be a question whether regulations derived from regional council recommendations would be valid if the Boards of Fisheries and Game--the administrative extension of the state's legislative processes and power--are not free to reject such recommendations except in limited circumstances.

14. Questions may remain as to whether Title VIII attempts to compel state management according to the section 804 preference regardless of the state's choice under section 805. See note supra and discussion at III. F. and note 15 infra.

15. The language of section 805 (d) seems to support such a reading:

[State laws of general applicability which are consistent with, and which provide for the definition, preference and participation specified by sections 803, 804 and 805, respectively] shall supersede such sections insofar as such sections govern State responsibility pursuant to this title for the taking of fish and wildlife on the public lands for subsistence uses.

(Emphasis added.)

16. Section 808 (c) provides:

Pending the implementation of a program under subsection (a) of this section, the Secretary shall permit subsistence uses by local residents in accordance with the provisions of this title and other applicable Federal and State law.

If state laws which address the taking of fish and game for subsistence uses apply on park and park monument lands only until a program is adopted under section 808 (a), the state's management authority would be substantially reduced--regardless of whether the requirements of sections 803, 804 and 805 were met.

APPENDIX I

AS 16.05.940(26) and (27)

(26) "[S]ubsistence uses" means the customary and traditional uses in Alaska 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, and for the customary trade, barter or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis;

(27) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

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

Title VIII, §803

As used in this Act, the term "subsistence uses" means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption, for barter, or sharing for personal or family consumption and for customary trade. For the purposes of this section, the term--

(1) "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "barter" means the exchange of fish or wildlife or their parts, taken for subsistence uses--

(A) for other fish or game or their parts; or

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

APPENDIX II

AS 16.05.251

(b) The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of fish for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of such regulations will jeopardize or interfere with the maintenance of fish stocks on a sustained-yield basis. Whenever it is necessary to restrict the taking of fish to assure the maintenance of fish stocks on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

- (1) customary and direct dependence upon the resources as the mainstay of one's livelihood;
- (2) local residency; and
- (3) availability of alternative resources.

NOTE: AS 16.05.255(b) is identical to AS 16.05.251(b) except that AS 16.05.255(b) refers to the Board of Game, game, and game resources.

Title VIII, 6804

Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded preference over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such preference shall be implemented through appropriate limitations based on the application of the following criteria:

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

APPENDIX III

Title VIII, §805 (1)

(d) The Secretary shall not implement subsections (a), (b), and (c) of this section if within one year from the date of enactment of this Act, the State enacts and implements laws of general applicability which are consistent with, and which provide for the definition, preference, and participation specified in, sections 803, 804, and 805, such laws, unless and until repealed, shall supersede such sections insofar as such sections govern State responsibility pursuant to this title for the taking of fish and wildlife on the public lands for subsistence uses. Laws establishing a system of local advisory committees and regional advisory councils consistent with section 805 shall provide that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses. The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall set forth the factual basis and the reasons for its decision.

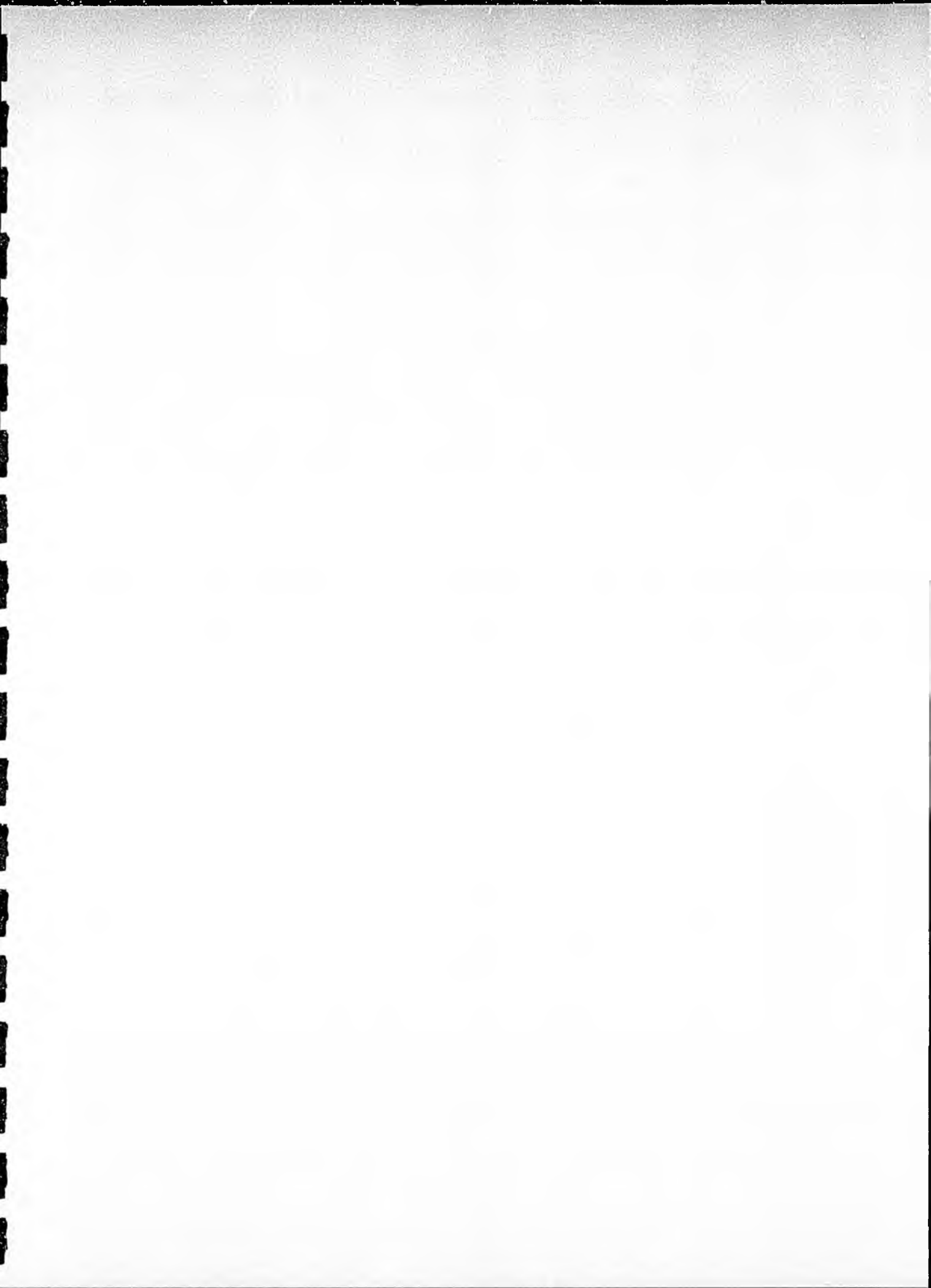
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1	A	Andersen, David B. 1982 Regional Subsistence Bibliography, North Slope, Alaska. Volume I, Number 1.
2	I	Andersen, David B. 1982 Regional Subsistence Bibliography, Interior, Alaska. Volume II, Number 1.
3	A	Caulfield, Richard A. and Sverre Pedersen 1981 Some Elements of Subsistence Land and Resource Use Within the Range of the Porcupine Caribou Herd in Alaska.
4	A	Magdanz, James S. 1981 Northern Bering Sea Subsistence Report.
5	A	Magdanz, James S. and Dora E. Punguk 1981 Nome River Fishery II.
6	A	Magdanz, James S. 1982 Norton Sound-Bering Strait Subsistence King Crab Fishery Update.
7	A	Moore, Gregory D. 1979 Issue Background: Buckland Food Shortage.
8	A	Moore, Gregory 1980 Report on the Special Caribou Season for Buckland, Alaska, December 5, 1979--February 4, 1980.
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10	A	Thomas, Daniel C. 1980 Issue Paper on the Nome River Subsistence Salmon Fishery.
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12	A	Thomas, Dan 1981 Norton Sound-Bering Strait Subsistence King Crab Fishery.
13	A	Thomas, Daniel C. 1982 The Role of Local Fish and Wildlife Resources in the Community of Shaktoolik, Alaska.
14	I	Caulfield, Richard A. 1981 Final Report on the Survey of Permit Holders in the Tanana River Subsistence Salmon Permit Fishery, 1981.
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16*	I	Caulfield, Richard A. 1983 Subsistence Land Use in Upper Yukon-Porcupine Communities, Alaska.

<u>NO.</u>	<u>REGION</u>	<u>AUTHOR, DATE, AND TITLE</u>
17	I	Huntington, Carole C. 1981 Issue Paper on Subsistence King Salmon Drift Gillnetting, Yukon Area Subdistrict 4-A
18	I	Marcotte, James R. 1982 The King Salmon Drift Net Fishery on the Middle Yukon: An Overview and Study of the 1982 Season.
19	I	Martin, Gayle 1983 Use of Natural Resources by the Residents of Dot Lake, Alaska.
20	I	Stickney, Alice 1980 Subsistence Resource Utilization: Nikolai and Telida--Interim Report.
21	I	Stickney, Alice 1981 Subsistence Resource Utilization: Nikolai and Telida--Interim Report II.
22	I	Stokes, Jeff and Elizabeth Andrews 1982 Subsistence Hunting of Moose in the Upper Kuskokwim Controlled Use Area, 1981.
23	I	Stokes, Jeff 1982 Subsistence Salmon Fishing in the Upper Kuskokwim River System, 1981 and 1982.
24	SC	Cunningham, Paul 1981 A Technical Report Describing an Algorithm to Estimate Number of Participants Who Have Participated in the Cook Inlet Subsistence Fishery Four or More Years.
25	SC	Fall, James A. 1981 Traditional Resource Uses in the Knik Arm Area: Historical and Contemporary Patterns.
26	SC	Foster, Daniel J. 1982 Tyonek Moose Utilization, 1981.
27	SC	Foster, Daniel J. 1982 The Utilization of King Salmon and the Annual Round of Resource Uses in Tyonek, Alaska.
28	SC	Stanek, Ronald T. 1981 Nelc'ina Caribou User Group Assessment.
29	SC	Stanek, Ronald T. 1981 Preliminary Harvest Data: Port Graham/English Bay Subsistence Set Net Fishery.
30	SC	Stanek, Ronald T. 1981 Subsistence Fishery Permit Surveys, Cook Inlet--1980.
31	SC	Stanek, Ronald T. 1981 Supplemental Notes: Copper River Subsistence Fisheries, 1979 and 1980.
32	SC	Stanek, Ronald T. 1982 Natural Resource Harvest at Port Graham and English Bay, 1982: An Interim Report.
33	SC	Stanek, Ronald T. and Daniel J. Foster 1980 Tyonek King Salmon Subsistence Fishery: 1980 Activities Report.
34	SC	Stanek, Ronald T., James Fall, and Dan Foster. 1982 Subsistence Shellfish Use in Three Cook Inlet Villages, 1981: A Preliminary Report.

<u>NO.</u>	<u>REGION</u>	<u>AUTHOR, DATE, AND TITLE</u>
35	SC	Stickney, Alice A. 1980 Report on the Survey Conducted in Tyonek, 1980.
36	SC	Stickney, Alice A. and Paul Cunningham. 1980 Report on the Survey of Permitholders in the Copper River Subsistence Fishery, 1979.
37	SC	Stratton, Lee 1982 The Dipnet and Fishwheel Fisheries of the Copper River, 1982.
38	SC	Stratton, Lee 1982 Patterns of Use of the Nelchina Caribou Herd.
39	SE	Hall, Janet E. 1981 Angoon Subsistence Coho Fishery: An Interim Report.
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42	SW	Ehnke, Steven R. 1980 Memorandum: The Status of Subsistence Fisheries in Bristol Bay, 1980.
43	SW	Behnke, Steven R. 1980 Naknek River Subsistence Proposals.
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45	SW	Behnke, Steven R. 1981 Background: Proposed Closure of the Upper Naknek River to Gill-net Fishery.
46	SW	Behnke, Steven R. 1981 Subsistence Use of Brown Bear in the Bristol Bay Area: A Review of Available Information.
47	SW	Behnke, Steven R. 1982 Wildlife Utilization and the Economy of Nondalton
48	SW	Morris, Judith M. 1982 Naknek River Subsistence and Personal Use Fisheries, 1982.
49	SW	Staff 1981 Draft Options for Naknek River Subsistence Fishery.
50	W	Charnley, Susan 1982 Resource Use Areas in the Aniak and Oskawalik River Drainages.
51	W	Jonrowe, DeeDee 1980 Middle Kuskokwim Food Survey, December 1979.
52	W	Stickney, Alice A. 1980 Middle Kuskokwim Food Resources Survey: Status Report.
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56	A	Sherrod, George K. 1982 The Harvest and Use of Marine Mammals in Fifteen Eskimo Communities.
57	SW	Veltre, Douglas W. and Mary J. Veltre 1981 A Preliminary Baseline Study of Subsistence Resource Utilization in the Pribilof Islands.
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62	G	Kelso, Dennis D. 1980 Implementation Issues Posed by Title VIII of the Senate-Passed D-2 Bill.
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64	G	Kelso, Dennis D. 1981 Technical Overview of the State's Subsistence Program.
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74	SC	Fall, James A., Dan J. Foster, and Ronald T. Stanek 1983 The Use of Moose and Other Wild Resources in the Tyonek and Upper Yentna Area: A Background Report.
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76	W	Charnley, Susan 1983 Moose Hunting in Two Central Kuskokwim Communities: Chuathbaluk and Sleetmute.
77	A	Ellanna, Linda J. 1983 Bering Strait Insular Eskimo: A Diachronic Study of Economy and Population Structure.
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79	A	Ellanna, Linda J. 1983 Technological and Social Change of Marine Mammal Hunting Patterns in Bering Strait.
80	I	Kari, Priscilla Russell 1983 Land Use and Economy of Lime Village.
81	W	Charnley, Susan 1984 Human Ecology of Two Central Kuskokwim Communities: Chuathbaluk and Sleetmute.
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84	I	Robert, Michelle 1984 Trapping Patterns in the Vicinity of the Kaiyuh Flats, West Central Alaska.
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92	A	Pedersen, Sverre and Michael Coffing 1984 Caribou Hunting: Land Use Dimensions and Recent Harvest Patterns in Kaktovik, Northeast Alaska.
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121	I	Sumida, Valerie and Clarence Alexander 1985 Moose Hunting by Residents of Beaver. Birch Creek, Fort Yukon, and Stevens Village in the Western GMU 25(D) Permit Moose Hunt Area, 1984-85.
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DRAFT POSITION ON SUBSISTENCE ISSUES

BACKGROUND

The Alaska Supreme Court decision in Madison holds that pre-1978 urban subsistence users cannot be disqualified on the basis of urban residency if sport and commercial uses of the resource in question is still allowed. Federal subsistence priority is for rural Alaskans only; the state law did not restrict the priority to rural residents only.

The state has been managing subsistence on all lands, but that legal ability is now in doubt because of Madison. In order for the state to manage subsistence on federal lands, and effectively set other harvest regulations applicable on federal lands, the State priority must agree with the federal. Otherwise the federal government will be required to manage subsistence of federal lands. Both the federal and state subsistence laws have an unstated, but now judicially recognized, two-tier approach. Tier one is the priority afforded subsistence over sport and commercial users when resource shortage demands restrictions. Tier one is where sport and commercial users are eliminated (when that occurs). Tier two provides that if further restriction on harvest is necessary, then local subsistence residents dependent on the resource and without alternatives shall have priority. This two tier approach must also be maintained if state law is to be consistent with federal.

ENVIRONMENTAL AND SPORT POSITIONS

Environmental groups have not taken positions on the subsistence issues, but may do so this fall, after hearing a presentation by Judge Berger at the Alaska Environmental Assembly. Judge Berger is chairing a commission reviewing the Settlement Act. The environmental groups will probably take a general position favoring subsistence for rural residents only. Sport groups are generally looking at a variety of positions, running from their traditional total opposition to attempts to struggle with specific subsistence issues related to: (1) targeting subsistence on specific stocks, (2) qualification for subsistence use, and (3) whether the first and second tier preferences can or should be implemented without totally eliminating recreational use.

POSSIBLE WFA POSITION

(1) Support amending the law to allow the Board of Fish and Game to identify particular stocks that are customarily, traditionally, culturally and in terms of consumption, significant subsistence stocks and therefore to target subsistence preference on them. Whether subsistence should be targeted on hatchery fish, transplanted game (bison, black-tail deer on Kodiak and Afognak, musk oxen), whether subsistence should be targeted or not targeted on steelhead and rainbow trout in specific locales, whether

subsistence should be targeted on moose in the Nome area where they never existed until twenty years ago, are reasonable questions regardless of the answers.

(2) Support criteria for allowing or prohibiting the Boards to shift target stocks. A criterion might be the availability of prior or contemporaneous stocks that are abundant and suitable. Therefore, the board could shift the subsistence harvest on the east beaches of Cook Inlet of late Kanai River coho (13,000 fish of a 20,000 fish run over which sport and subsistence competition is intense) to the more abundant, generally more palatable sockeye that run the east beaches a month before. In contrast, the same criterion would prohibit shifting the Tyonek king salmon harvest (3500 fish off an 80,000 fish run) because those fish are the first fresh fish of the year.

(3) Support amending the law to allow subsistence for rural residents only.

(4) Support making first tier qualification as follows: the subsistence user must be (1) rural, and (2) must be further qualified by being customarily and traditionally tied to subsistence use by virtue of (a) residing in an area for which the Board for reasons of administrative simplicity has qualified everyone, or (b) residing in a community for which the Board has qualified everyone, or (c) by being a member of a rural cultural group for which the board has qualified everyone, or (d) qualified on that basis of individual customary and traditional need.

Examples could be qualifying everyone in Kotzebue for simplicity, qualifying Dot Lake and Copper Center (but not Glen Allen) in the Glen Allen area, qualifying customarily and traditionally dependent groups in Kaktovik or Bethel but not the transient employees of ITT at the Kaktovik DEW-Line Station or the Bethel newcomers providing social services in the cash economy.

Such a scheme would allow the rural-only federal requirement to be met, and so could most of the sport opposition to allowing an unrestricted preference for rural residents who are in the mainstream cash economy and not significantly tied to subsistence culture, economics and traditions. Urban subsistence would be prohibited. The permit sport hunts now closed by urban subsistence needs could open and probably would allow slightly increased sport harvest by virtue of eliminating rural residents not customarily and traditionally tied to subsistence. Tier-two subsistence would remain as it is. State management of subsistence on federal lands would remain.

Jeff Parker

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Dept of Fish + Game

1983

REGULATIONS

for

LOCAL FISH AND GAME ADVISORY COMMITTEES

and

REGIONAL COUNCILS



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NOTE: This published copy is for information use. These regulations are from the official regulations in the Alaska Administrative Code filed with the Lieutenant Governor.

TITLE 5. FISH AND GAME
PART 7. FISH AND GAME ADVISORY COMMITTEES
CHAPTER 96. LOCAL FISH AND GAME ADVISORY
COMMITTEES
AND REGIONAL FISH AND GAME COUNCILS

ARTICLE 1. LOCAL FISH AND GAME ADVISORY COMMITTEES

5 AAC 96.010. ESTABLISHMENT OF A LOCAL FISH AND GAME ADVISORY COMMITTEE SYSTEM. There is established a system of local fish and game advisory committees to provide a local forum for the collection and expression of opinions and recommendations on matters relating to the management of fish and wildlife resources.

Authority: AS 16.05.260

5 AAC 96.020. CREATION OF LOCAL FISH AND GAME ADVISORY COMMITTEES. The boards, in accordance with the Administrative Procedure Act (AS 44.62), will establish advisory committees within each of the fish and game resource management regions described in 5 AAC 96.210. A committee must represent all user groups in the region as required in 5 AAC 96.060 (e)(1). A group of 25 interested persons may request the boards to create a committee. When considering a request to create a committee, the boards will consider the factors in 5 AAC 96.420. A committee must be approved by the boards before starting its operations. (In effect before 1983; am / 183, Register)

Authority: AS 16.05.260

5 AAC 96.021. ESTABLISHMENT OF ADVISORY COMMITTEES. (a) The following local fish and game advisory committees are established:

(1) in the **Southeast Alaska Region**: Angoon, Elfin Cove, Craig, Klawock, Ketchikan, Hydaburg, Wrangell, Petersburg, Kake, Gastineau Channel, Upper Lynn Canal, Sitka, Pelican, Hoonah, Yskutat, Port Alexander, Hyder, Sumner Strait;

(2) in the **Southcentral Alaska Region**: Copper River/Prince William Sound, Valdez, Copper Basin, Anchorage, Seward, Kenai/Soldotna, Central Peninsula, Homer, Port Graham/English Bay, Seldovia, Tok Cutoff/Nabesna Road, Paxson, Denali, Matanuska Valley, Mt. Yenlo, Tyonek;

(3) in the **Southwest Alaska Region**: Nushagak, Naknek/Kvichak, Lake Iliamna, Nelson Lagoon, Chignik, Kodiak, Sand Point, King Cove, False Pass, Unalaska/Dutch Harbor, Lower Bristol Bay, Togiak;

(4) in the **Western Alaska Region**: Central Bering Sea, Lower Kuskokwim, Central Kuskokwim, Lower Yukon;

(5) in the **Arctic Alaska Region**: Norton Sound, Kotzebue, Northern Seward Peninsula, Upper Kobuk, Lower Kobuk, Noatak/Kivalina, Western Arctic, Eastern Arctic, St. Lawrence Island, Southern Norton Sound; and

(6) in the Interior Alaska Region: McGrath, Clear/Healy, Delta, Upper Tanana/Forty-mile, Yukon Flats, Fairbanks, Tanana, Ruby, Galena, Koyukuk, Grayling/Anvik/Shageluk/Holy Cross, Eagle. (Eff. / /83, Register)

Authority: AS 16.05.260

5 AAC 96.022. DETERMINATION OF COMPLIANCES. Repealed 12/13/79.

5 AAC 96.025. QUALIFICATION OF MEMBERS. Repealed 12/13/79.

5 AAC 96.030. COMPOSITION OF LOCAL FISH AND GAME ADVISORY COMMITTEES. Repealed / /83.

5 AAC 96.040. QUALIFICATIONS FOR MEMBERS. To qualify for membership on a committee, a candidate must have knowledge of and experience with the fish and wildlife resources and their uses in the area, and have a reputation within the community consistent with the responsibilities of committee membership. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.045. REMOVAL FOR CAUSE. Repealed 12/13/79.

5 AAC 96.050. FUNCTIONS OF LOCAL FISH AND GAME ADVISORY COMMITTEES. A committee may:

- (1) develop regulatory proposals for submission to the boards;
- (2) evaluate regulatory proposals submitted to them 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 subsistence management plans and harvest strategy proposals; and
- (6) cooperate and consult with interested persons and organizations (including government agencies) to accomplish the foregoing. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.080. UNIFORM RULES OF OPERATION. (a) Each committee must comply with the uniform rules of operation contained in this section.

(b) Organization. All committees are organized under authority of AS 16.05.260 and are administered by the boards.

(c) Responsibilities. Each committee is responsible for performing the functions described in 5 AAC 96.010 and 5 AAC 96.050 in accordance with provisions of 5 AAC 96 — 5 AAC 99.

(d) Title. Each committee must have a title.

(e) Membership.

(1) Each committee must have at least 5, but not more than 15 members. The members must be representative of fish and game user groups in the area served by the committee. To the extent possible, at least three user groups shall be represented on each committee, and membership shall include representatives from each town or village located in the area that the committee represents. To insure full representation of an area, the boards may assign seats on the committee to represent specific user groups.

(2) The boards will appoint the original five members of each committee; additional members will be selected by the boards from names submitted to them by a committee.

(3) Each committee member and each voting age resident of the area of committee jurisdiction under 5 AAC 97.005 who attends a committee election may vote on nominations for membership. Nominees receiving the most votes are elected. A committee need not establish a quorum to elect new members. The committee may not refuse membership to an elected nominee if committee membership is less than 15.

(4) A newly-elected member has full voting and office-holding privileges upon election, but is subject to confirmation by the boards.

(5) A newly-elected member loses membership status if his confirmation is refused by the boards.

(6) A committee must begin its duties when the first five members are appointed by the boards.

(7) Each advisory committee may appoint two alternates; however, any member of an advisory committee who is the sole representative from a village or town may also appoint an alternate. Each alternate must satisfy all criteria and qualifications required of advisory committee members as set out in this chapter. When acting as a member of an advisory committee, an alternate is entitled to the benefits, privileges, and responsibilities of a regular member.

(f) Terms of members. Each committee shall establish the terms of its members so that not more than one-third of the committee members' terms expire in one calendar year. Terms commence on January 1 and expire on December 31 of the year designated or until a successor has been duly elected at the next committee meeting. Maximum length of a term is three years.

(g) Vacancies. A committee shall fill vacancies through nomination and election as set out in (e) of this section. A committee must give reasonable public notice of vacancies. The term of a member filling a vacancy must be in accordance with (e) of this sec-

(1) the death, resignation, or refusal to accept election by any member;

(2) the recurring absence of a member from regularly advertised meetings without reasonable justification, as determined by a majority vote of the committee; or

(3) removal of a member by the boards for cause.

(h) Nominations. A nomination for committee membership may be submitted to the committee orally or in writing, at any regular meeting (even if there is no quorum) by a member or by a qualifying resident of the area served by the committee. The committee must act on all nominations in accordance with (e) of this section at the next regular meeting. A qualifying resident is a person who maintains an abode in the area served by the committee as defined in 5 AAC 97.005 and is a resident of Alaska as defined in AS 16.05.940(14).

(i) Officers. The officers of a committee consist of a chairman, vice-chairman, and a secretary. The term of office for officers is two years starting January 1 and ending December 31 of the following year, or until the next meeting when new officers can be elected.

(j) Chairman. The chairman is elected by a majority vote of a quorum of the committee and is the presiding officer. A chairman must meet the qualifications of 5 AAC 96.040. The chairman of a committee, or his designee, is also a member of the regional council established in 5 AAC 96.220; however, any committee member who is a member of the council must be a resident of the region.

(k) Vice-chairman. The vice-chairman is elected by a majority vote of a quorum of a committee and shall assist the chairman and assume his duties when the chairman is absent.

(l) Secretary. The secretary is elected by a majority vote of a quorum of a committee and may be, but need not be, a member of the committee. The secretary shall carry out the usual duties associated with the office. If the secretary is not a committee member, he has no vote on committee business.

(m) Resignation of Officers. When an officer resigns before his term expires, the committee shall hold a special election to fill the office for the unexpired term.

(n) Removal for Cause. The boards may remove any member of a committee for cause. As used in this section, "cause" includes:

(1) repeated unjustifiable absence from meetings;

(2) conviction of a crime or administrative disciplinary action for behavior inconsistent with the responsibility of committee or council membership within the last five years;

(3) disregard for or violation of the provisions of 5 AAC 96 — 5 AAC 97 governing the committee and council system; or

(4) failure, at any time, to meet the qualifications for committee membership.

(o) Meetings.

(1) Regular Meetings. A committee must meet at least twice a year to remain active under 5 AAC 96.450. A committee may meet at times appropriate to the process described in 5 AAC 96.610, and at other times considered desirable, to formulate regulatory proposals, review and comment on proposals, and consider matters appropriate to the committee's functions set out in 5 AAC 96.050.

(2) Special Meetings. A chairman, with the concurrence of a majority of the committee members, may call special meetings at which any person may submit statements to the committee on any matter relating to the committee's functions set out in 5 AAC 96.050.

(3) All meetings of a committee are open to the public and must be advertised in the area where the committee is organized.

(4) Whenever feasible, notice should be given at least ten days before a regular meeting and three days before a special meeting.

(p) Joint Committee Meetings. Each committee shall cooperate with other committees on matters of mutual interest and concern, and may upon approval of the chairman of the joint boards or his designee, hold joint meetings to accomplish this purpose.

(q) Quorum. A majority of all the members serving on a committee constitutes a quorum for the transaction of business. Every action or decision of a majority of the members present at a duly held meeting of a committee, at which a quorum is present, is an act of the committee.

(r) Rules of Meetings. Meetings of a committee must be conducted according to the latest edition of Robert's Rules of Order.

(s) Record of Meetings. Preliminary minutes of committee meetings must be recorded in writing and forwarded to the director of the division of boards within three weeks after each meeting. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.070. REPORT OF ACTIVITIES. Repealed / /83.

5 AAC 96.080. INTERACTION OF LOCAL ADVISORY COMMITTEES WITH REGIONAL FISH AND GAME COUNCILS. (a) A committee chairman, or his designee, is a member of a council established in 5 AAC 96.220. The chairman of each committee, or his designee, shall attend meetings of the applicable council in accordance with 5 AAC 96.530(a). Any committee member who is a member of a council must be a resident of the region.

(b) A committee is the primary forum for discussion by local residents of fisheries and wildlife management issues in their area. Councils shall assist the committees to this end. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

ARTICLE 2. REGIONAL FISH AND GAME COUNCILS

5 AAC 96.200. ESTABLISHMENT OF A REGIONAL FISH AND GAME COUNCIL SYSTEM. There is established a system of regional fish and game councils to provide a regional forum for the collection and expression of opinions and recommendations on matters relating to fish and wildlife resources, to assist the boards in deliberations concerning regulations, and to provide for public participation in the regulatory process to help adequately protect subsistence uses. (In effect before 1982; am 6/2/82, Register 82; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.210. FISH AND GAME RESOURCE MANAGEMENT REGIONS. (a) For the purposes of conservation and management of the fish and wildlife resources of the state there are created the following fish and game resource management regions:

(1) Southeast Alaska, consisting of all lands and waters of Game Management Units 1 through 5, that part of Unit 6 east of Cape Suckling, and adjacent marine waters;

(2) Southcentral Alaska, consisting of all lands and waters of Game Management Units 6 west of Cape Suckling, 7, 9A, 11, 13 through 16, and adjacent marine waters;

(3) Southwest Alaska, consisting of all lands and waters of Game Management Units 8, 9B—E, 10, 17, and adjacent marine waters;

(4) Western Alaska, consisting of all lands and waters of Game Management Unit 18 and that portion of the Kuskokwim River drainage in Game Management Unit 19 downstream from, and including, the George River drainage and the Hoholtna River drainage, and adjacent marine waters;

(5) Arctic Alaska, consisting of all lands and waters of Game Management Units 22, 23, 26, and adjacent marine waters; and

(6) Interior Alaska, consisting of all lands and waters of Game Management Units 12, 20, 21, 24, 25, and that portion of the Kuskokwim River drainage in Unit 19 upstream from the George River drainage and the Hoholtna River drainage.

(b) The Game Management Units mentioned in (a) of this section are described in 5 AAC 90.010.

(c) A board will, in its discretion, temporarily change the boundaries of regions for individual resource issues. (In effect before 1982; am 6/2/82, Register 82; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.220. REGIONAL FISH AND GAME COUNCILS. (a) The boards will establish a council within each region defined in 5 AAC 96.210. Each council will

consist of the chairmen, or their designees, of the active committees established within the region. Any committee member who is a member of a council must be a resident of the region. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.230. QUALIFICATIONS FOR MEMBERSHIP. Repealed / /83.

5 AAC 96.240. NON-VOTING MEMBERS. Repealed / /83.

5 AAC 96.250. FUNCTIONS OF REGIONAL FISH AND GAME COUNCILS.

(a) Each council is authorized to:

(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 department, review, evaluate, and make recommendations to a board on existing and proposed regulations, policies, and management plans, and other matters relating to the uses of fish and wildlife resources within its region;

(4) perform other duties specified by a board; and

(5) submit to the boards, the department, and the Secretary of the Interior of the United States, by November 15 of each year, an annual report, containing

(A) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region, and other fish and wildlife uses that the council identifies;

(B) an evaluation of current and anticipated subsistence needs for use of fish and wildlife populations within the region, and of other fish and wildlife needs that the council identifies;

(C) a recommended strategy for the management of fish and wildlife populations within the region to accommodate the identified fish and wildlife uses and needs; and

(D) recommendations concerning policies, standards, guidelines, and regulations to implement the strategy.

(b) A council shall provide a forum for, and assist its local fish and game advisory committees in, or 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.

(c) 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.

(d) A council will, in its discretion, make recommendations to the boards on the creation, consolidation, distribution, or operation of the committee system. (In effect before 1982; am 6/2/82, Register 82; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.260. UNIFORM RULES OF OPERATION. (a) Rules. Every action taken by a council must comply with the uniform rules of operation for committees set out in 5 AAC 96.060(j), (k), (m), (q), (r), and (s). The rules in (b) through (d) of this section supersede the corresponding rules in 5 AAC 96.060(c), (e), (o), and (t).

(b) Responsibilities. A council shall perform the functions described in 5 AAC 96.250 in accordance with the provisions of 5 AAC 96 and 97.

(c) Membership. Membership on a council is as provided in 5 AAC 96.220.

(d) Meetings. Each council shall hold regular meetings at times appropriate to the process described in 5 AAC 96.610. The chairman or a majority of a council's members may call a special meeting at which any interested person may submit statements to the council on any matter related to the purposes for which the meeting is called. Council meetings are public meetings under AS 44.62.310 and 44.62.312 and must be advertised in the region. The council shall allow public testimony at every council meeting.

(e) Recommendations. A council must convey any recommendation to the appropriate board, in writing and with a justification or explanation, 10 working days before the start of the board meeting. (In effect before 1982; am 6/2/82, Register 82; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.270. REPORT OF ACTIVITIES. Repealed / /83.

5 AAC 96.280. ATTENDANCE AT MEETINGS. When adequate funding exists, the chairman, or his designee, shall attend regulatory meetings of the boards. Each council shall cooperate with other councils on matters of mutual interest and concern, and will in its discretion, hold joint meetings, authorized by the boards, to accomplish this purpose. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

ARTICLE 3. ADMINISTRATION OF LOCAL FISH AND GAME ADVISORY COMMITTEES

5 AAC 96.400. OPERATION OF LOCAL FISH AND GAME ADVISORY COMMITTEE SYSTEM. Repealed / /83.

5 AAC 96.410. DISTRIBUTION OF LOCAL FISH AND GAME ADVISORY COMMITTEES. The boards will, to the extent feasible, establish and locate committees to allow an opportunity for all citizens of the state to participate in the regulatory system. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.420. REVIEW OF REQUESTS FOR LOCAL FISH AND GAME ADVISORY COMMITTEES. (a) The boards will review requests to create committees. Factors that the boards will evaluate include:

(1) whether an existing committee could be expanded to include members who represent the interests of the persons making the request;

(2) whether representation of all user groups on existing committees in the area is adequate;

(3) whether residents of the local area are likely to participate actively on the proposed committee;

(4) whether there are likely to be enough qualified people interested in serving on the proposed committee;

(5) whether logistical problems would make it difficult to provide assistance to the proposed committee;

(6) whether the committee would enhance participation in the decision-making process by persons dependent on fish and wildlife resources;

(7) the recommendation of the appropriate council; and

(8) the efficiency of existing committees. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.430. REVIEW OF NOMINATIONS FOR MEMBERSHIP ON LOCAL FISH AND GAME ADVISORY COMMITTEES. (a) The boards will review nominations for membership on committees at the first joint meeting following receipt of the nominations. Factors that the boards will evaluate include:

(1) whether a candidate meets the qualifications of 5 AAC 96.040;

(2) whether confirmation of a candidate will enhance the purposes of the committee as described in 5 AAC 96.010 and 5 AAC 96.050; and

(3) whether confirmation of a candidate would result in broader or more balanced representation of user groups in the area.

(b) Before considering any candidate for committee membership, the boards will ask the Commissioner of the Department of Public Safety to determine

whether the candidate has been convicted of violating a fish and game law or regulation within the preceding five years. The boards' determination on any candidacy is final. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.440. BOARD ASSISTANCE. The boards will provide information regarding board meetings to committees so that committees may plan maximum participation in the boards' deliberations. In addition, a board may request a committee to meet and to formulate recommendations on a subject or issue identified by the board. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 98.450. COMMITTEE STATUS AND MODIFICATIONS TO STATUS. (a) A committee is active if it forwards minutes from two meetings per year to the boards' office in Juneau.

(b) The boards may place a committee on an inactive list by committee request or board action. The committee may reactivate by holding a meeting and informing the boards of their active status through committee minutes.

(c) Committees may merge if each affected committee votes to request merger, and if the boards determine that the merger should occur, after considering the factors in 5 AAC 96.420.

(d) The boards may merge an inactive committee with an active committee if the boards give the committees notice of the proposed merger, if the inactive committee does not express an intention to reactivate, or if it does not do so within a reasonable time after notice, and if the boards determine that the merger should occur, after considering the factors in 5 AAC 96.420.

(e) The boards may dissolve a committee if it has been inactive for two years and if it fails to respond to board inquiries about its desire to remain in existence, or for failure to act in accordance with the provisions of 5 AAC 96 and 97. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.460. ATTENDANCE AT MEETINGS. (a) When adequate funding exists the boards will, in their discretion, request the department to reimburse committee members for the following:

(1) travel to local committee meetings and necessary related expenses;

(2) travel, approved in advance, for the purpose of joint meetings between two or more committees; and

(3) travel and other necessary expenses approved in advance by the boards for committee chairmen or their designees to attend board meetings. A chairman's

designee must be a committee member. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

ARTICLE 4. ADMINISTRATION OF REGIONAL FISH AND GAME COUNCILS

5 AAC 96.500. OPERATION OF REGIONAL FISH AND GAME COUNCIL SYSTEM. The boards will, in their discretion, provide assistance to councils and maintain the council system so as to enable the councils to comply with the purposes and functions described in 5 AAC 96.200 and .250. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.510. STAFF ASSISTANCE. The commissioner may assign staff or hire regional coordinators to aid councils in achieving maximum interaction with committees, the boards, and the department. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.520. REGULAR AND SPECIAL MEETINGS. The boards will provide information to councils so that councils can schedule meetings at times that will maximize the council's participation in the boards' deliberations concerning fish and wildlife resources. In addition, a board may request a council to meet and to formulate recommendations on other issues affecting fish and wildlife resources. A board may require a regional fish and game council to review and comment on any recommendation received by a board from a committee or from a council, or require that a council meet with another council on matters of mutual concern. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.530. ATTENDANCE AT MEETINGS. (a) When adequate funding exists, the boards will request the department to reimburse council members for travel and expenses incurred in attending council meetings approved by the boards, and will request reimbursement for each council chairman or his designee for travel and other approved expenses incurred in attending board meetings. A chairman's designee must be a council member.

(b) When adequate funding exists, the boards will request the department to provide funds to councils for travel to joint council meetings approved by the boards and for other approved expenses necessary for joint council business and meetings. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.540. DIRECTION FROM THE BOARDS. The boards will, in their discretion, give direction to the councils on the nature and format of council actions in order

to enhance council assistance to the boards. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

ARTICLE 5. ADOPTION OF FISH AND GAME REGULATIONS

5 AAC 96.600. MEETINGS. The boards will each hold at least one regular meeting a year and as many other meetings, including special meetings on specific issues, as the boards consider necessary. The attendance of a Board of Fisheries member at a council meeting constitutes a board hearing in accordance with AS 16.05.300(b). The boards will hold at least one joint meeting each year to consider matters of mutual concern, including matters relating to committees and councils. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.610. PROCEDURE FOR DEVELOPING FISH AND GAME REGULATIONS. (a) For the purpose of developing fish and game regulations, each board will observe the procedures set forth in this section. The deadlines for each phase will be set by the appropriate board for each meeting and will be announced to committees, councils, and the public.

(b) Phase 1. Each board will solicit regulatory proposals or comments to facilitate their deliberations. The boards may limit those sections or portions of the existing regulations that will be open for change. The boards will provide forms to be used in preparing proposals. Notices soliciting proposals will be distributed statewide. In order to be considered, a proposal must be received by the boards before the designated deadline unless provided otherwise by a board.

(c) Phase 2. After the deadline for receiving proposals, the division of boards will compile all proposals received on time, including proposals from department staff and other government agencies, distribute them to the public through department offices, and send them to committees and councils. Proposals postmarked after the deadline may be considered if the proposal is covered in the legal notice.

(d) Phase 3. Committees and councils may review the proposals at a public meeting in accordance with the following:

(1) each council shall attempt to reach a consensus before making its recommendation to the board;

(2) each committee and council may request technical and scientific support data and prepared testimony from the department, and

(3) each recommendation to a board from a council must include a justification or explanation for the request.

(e) Phase 4. Each board will give legal notice of timely received proposals. In accordance with the Administrative Procedure Act (AS 44.62), each board will hold a public hearing and will act on proposals or develop alternatives on the subject matter legally noticed, after reviewing the recommendations by a council. The final decision

on all proposals remains the responsibility of a board. However, if a recommendation or proposal from a council concerns the subsistence use of fish or wildlife within its region, a board may choose not to follow the recommendation only if the board determines that it is not supported by substantial evidence presented during the course of the board's administrative proceedings, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation regarding subsistence use is not adopted by a board, the board will set out in writing the factual basis and the reasons for its decision.

(f) Phase 5. After completion of procedures required by the Administrative Procedure Act (AS 44.62), a board will notify each committee and council of the actions taken on their respective proposals and the reasons for those actions, including any decision made under (e) of this section regarding a recommendation from a council concerning the subsistence use of fish or wildlife within its region. (In effect before 1982; am 6/2/82, Register 82; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.620. SUPPLEMENTAL REGULATIONS AND ACTIONS. Repealed / /83.

5 AAC 96.630. SPECIAL MEETINGS. In conjunction with any special meeting called under 5 AAC 96.600, each board will follow the procedures set out in 5 AAC 96.610 to the extent time permits; however, a board may modify the procedures if it would be more suitable for any particular special meeting. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.640. REGULAR MEETINGS. A board may modify the procedures set out in 5 AAC 96.610 in conjunction with any regular meeting if to do so would enhance public, committee, or council participation in the board's deliberations. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

5 AAC 96.650. STAFF ASSISTANCE. Repealed / /83.

5 AAC 96.660. COMPLIANCE. The failure of a committee, council, or a board to observe procedures set out in 5 AAC 96 — 5 AAC 97, except as may be required by the Administrative Procedure Act (AS 44.62), does not invalidate a regulation adopted by a board. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

ARTICLE 6. GENERAL PROVISIONS

5 AAC 96.900. REMOVAL FOR CAUSE. Repealed / /83

5 AAC 96.910. DEFINITIONS. In 5 AAC 96 — 5 AAC 99

(1) "boards" means the Board of Fisheries and the Board of Game acting jointly;

(2) "board" means the Board of Fisheries or the Board of Game acting individually;

(3) "committee" means a local fish and game advisory committee;

(4) "council" means a regional fish and game council;

(5) "region" means a fish and game resource management region; and

(6) "designee" means a committee or council member who has been designated by the chairman. (In effect before 1983; am / /83, Register)

Authority: AS 16.05.260

AS 16.05.251

AS 16.05.255

5 AAC 98.920. SUPPLEMENTAL ACTION. Repealed / /83.

CHAPTER 97. ADVISORY COMMITTEE CLOSURES

ARTICLE 1. AREAS OF JURISDICTION

5 AAC 97.005. AREAS OF JURISDICTION FOR ADVISORY COMMITTEES. For the purpose of emergency closures on taking fish and game during established seasons, the following areas of jurisdiction are established for the advisory committees specified in this section:

(1) finfish

(A) Southeastern Alaska area

(i) all waters of Alaska between the latitude of Cape Fairweather and the International Boundary at Dixon Entrance;

(ii) fish and game advisory committees with concurrent jurisdiction are Ketchikan Advisory Committee, Craig Advisory Committee, Anqoon Advisory Committee, Sitka Advisory Committee, Gastineau Channel Advisory Committee, Upper Lynn Canal Advisory Committee, Pelican Advisory Committee, Kake Advisory Committee, Wrangell Advisory Committee, Petersburg Advisory Committee, Hydaburg Advisory Committee, Hoonah Advisory Committee, and Elfin Cove Advisory Committee;

(B) Yakutat-Yakataga area

(ii) fish and game advisory committees with concurrent jurisdiction are Copper Basin Advisory Committee, Tok Cutoff/Nebesna Road Advisory Committee, and Paxson Advisory Committee;

(E) Cook Inlet - Resurrection Bay area

(i) all waters of Alaska north of the latitude of Cape Douglas and west of the longitude of Cape Fairfield;

(ii) fish and game advisory committees with concurrent jurisdiction are Seward Advisory Committee, Kenai/Soldotna Advisory Committee, Mt. Yenlo Advisory Committee, Homer Advisory Committee, Anchorage Advisory Committee, Matanuska Advisory Committee, Central Peninsula Advisory Committee, Seldovia Advisory Committee, Denali Advisory Committee, and English Bay/Port Graham Advisory Committee;

(F) Kodiak - Chignik area

(i) all waters of Alaska south of the latitude of Cape Douglas and east of a line extending southeast from Kupreanof Point;

(ii) fish and game advisory committees with concurrent jurisdiction are Kodiak Advisory Committee and Chignik Advisory Committee;

(G) Alaska Peninsula - Aleutian Islands area

(i) all Pacific Ocean waters of Alaska west of a line extending southeast from Kupreanof Point and Bering Sea waters south and west of a line extending northwest from Cape Menshikof;

(i) all waters of Alaska north of the latitude of Cape Fairweather and east of the longitude of Cape Suckling;

(ii) fish and game advisory committees with concurrent jurisdiction are Yakutat Advisory Committee and Copper River/Prince William Sound Advisory Committee;

(C) Prince William Sound - Lower Copper River area

(i) all waters of Alaska west of the longitude of Cape Suckling and east of the longitude of Cape Fairfield, and the Copper River below the Million Dollar Bridge;

(ii) fish and game advisory committees with concurrent jurisdiction are Copper River/Prince William Sound Advisory Committee, Copper Basin Advisory Committee, and Valdez Advisory Committee;

(D) Upper Copper River area

(i) all waters of the Copper River drainage above the Million Dollar Bridge;

(ii) fish and game advisory committees with concurrent jurisdiction are Sand Point Advisory Committee, King Cove Advisory Committee, False Pass Advisory Committee, Nelson Lagoon Advisory Committee, and Unalaska/Dutch Harbor Advisory Committee;

(H) Bristol Bay area

(i) all waters of Alaska east of a line from Cape Newenham to Cape Men-shikof;

(ii) fish and game advisory committees with concurrent jurisdiction are Iliamna Advisory Committee, Lower Bristol Bay Advisory Committee, Nushagak Advisory Committee, Naknek/Kvichak Advisory Committee, and Togiak Advisory Committee;

(I) Kuskokwim area

(i) all waters of the Kuskokwim River drainage and all waters of Alaska south of the latitude of Cape Romanzof, north of the latitude of Cape Newenham and including Nunivak and St. Matthew Island waters;

(ii) fish and game advisory committees with concurrent jurisdiction are Lower Kuskokwim Advisory Committee, Central Kuskokwim Advisory Committee, Central Bering Sea Advisory Committee, and McGrath Advisory Committee;

(J) Lower Yukon area

(i) all waters of the Yukon River drainage below the mouth of the Bonasila River and waters of Alaska between the latitude of Canal Point Light and the latitude of Cape Romanzof;

(ii) fish and game advisory committees with concurrent jurisdiction are Lower Yukon Advisory Committee, Grayling/Anvik/Shageluk/Holy Cross Advisory Committee, and Koyukuk Advisory Committee;

(K) Upper Yukon River area

(i) all waters of the Yukon River drainage from the mouth of the Bonasila River to the U.S./Canada border, excluding the Tanana River drainage;

(ii) fish and game advisory committees with concurrent jurisdiction are Fort Yukon Advisory Committee, Tanana Advisory Committee, Galena Advisory Committee, Ruby Advisory Committee, Lower Yukon Advisory Committee, Grayling/Anvik/Shageluk/Holy Cross Advisory Committee, and Koyukuk Advisory Committee;

(L) Tanana River area

(i) all waters of the Tanana River drainage;

(ii) fish and game advisory committees with concurrent jurisdiction are Tanana Advisory Committee, Delta Advisory Committee, Clear/Healy Advisory

Committee, Tok Cutoff/Nabesna Road Advisory Committee, Tok Advisory Committee, and Fairbanks Advisory Committee;

(M) Norton Sound - Port Clarence area

(i) all waters of Alaska between the latitude of Cape Prince of Wales and the latitude of Canal Point Light;

(ii) fish and game advisory committees with concurrent jurisdiction are Norton Sound Advisory Committee and Southern Norton Sound Advisory Committee;

(N) Kotzebue Sound area

(i) all waters of Alaska between the latitude of Point Hope and the latitude of Cape Prince of Wales;

(ii) fish and game advisory committees with concurrent jurisdiction are Kotzebue Advisory Committee, Upper Kobuk Advisory Committee, Lower Kobuk Advisory Committee, Northern Seward Peninsula Advisory Committee, and Noatak/Kivalina Advisory Committee;

(2) shellfish

(A) Southeastern Alaska - Yakutat area

(i) all waters subject to the jurisdiction of the state between the longitude of Cape Suckling and the International Boundary at Dixon Entrance;

(ii) fish and game advisory committees with concurrent jurisdiction are Angoon Advisory Committee, Ketchikan Advisory Committee, Craig Advisory Committee, Klawock Advisory Committee, Sitka Advisory Committee, Gastineau Channel Advisory Committee, Kake Advisory Committee, Upper Lynn Canal Advisory Committee, Wrangell Advisory Committee, Petersburg Advisory Committee, Pelican Advisory Committee, Yakutat Advisory Committee, Hydaburg Advisory Committee, Elfin Cove Advisory Committee, and Hoonah Advisory Committee;

(B) Prince William Sound area

(i) all waters subject to the jurisdiction of the state between the longitude of Cape Suckling and the longitude of Cape Fairfield;

(ii) fish and game advisory committees with concurrent jurisdiction are Copper River/Prince William Sound Advisory Committee, Valdez Advisory Committee, and Seward Advisory Committee;

(C) Cook Inlet area

(i) all waters subject to the jurisdiction of the state west of the longitude of Cape Fairfield and north of the latitude of Cape Douglas;

(ii) fish and game advisory committees with concurrent jurisdiction are Seward Advisory Committee, Seldovia Advisory Committee, Homer Advisory Committee, English Bay/Port Graham Advisory Committee, and Central Peninsula Advisory Committee;

(D) Westward area shellfish other than king crab

(i) all Pacific Ocean waters subject to the jurisdiction of the state south of the latitude of Cape Douglas, east of 172° E. longitude and Bering Sea waters east of 172° E. longitude;

(ii) fish and game advisory committees with concurrent jurisdiction are Kodiak Advisory Committee, Chignik Advisory Committee, Sand Point Advisory Committee, King Cove Advisory Committee, False Pass Advisory Committee, and Unalaska/Dutch Harbor Advisory Committee;

(E) Westward area king crab

(i) in king crab statistical area K as defined by 5 AAC 34.400, the Kodiak Advisory Committee shall have jurisdiction;

(ii) in king crab statistical area M as defined by 5 AAC 34.500, the Chignik Advisory Committee, Sand Point Advisory Committee, King Cove Advisory Committee, and False Pass Advisory Committee shall have concurrent jurisdiction;

(iii) in king crab statistical area O as defined by 5 AAC 34.600, the Unalaska/Dutch Harbor Advisory Committee, King Cove Advisory Committee, and False Pass Advisory Committee have concurrent jurisdiction;

(iv) in king crab statistical area Q as defined by 5 AAC 34.900, the Kodiak Advisory Committee, Chignik Advisory Committee, Sand Point Advisory Committee, King Cove Advisory Committee, False Pass Advisory Committee, Unalaska/Dutch Harbor Advisory Committee, and Norton Sound Advisory Committee have concurrent jurisdiction;

(3) game

(A) Southeastern Alaska

(i) in Game Management Unit 1A as defined by 5 AAC 90.010(1)(a), the Ketchikan Advisory Committee, Craig/Klawock Advisory Committee, and Hydaburg Advisory Committee have concurrent jurisdiction;

(ii) in Game Management Unit 1B as defined by 5 AAC 90.010(1)(B), the Wrangell Advisory Committee, Petersburg Advisory Committee, and Kake Advisory Committee have concurrent jurisdiction;

(iii) in Game Management Unit 1C as defined by 5 AAC 90.010(1)(C), the Gastineau Channel Advisory Committee, Upper Lynn Canal Advisory Committee, Angoon Advisory Committee, Petersburg Advisory Committee, Wrangell Advisory Committee, Kake Advisory Committee, and Sitka Advisory Committee have concurrent jurisdiction;

(iv) in Game Management Unit 1D as defined by 5 AAC 90.010(1)(D), the Upper Lynn Canal Advisory Committee and Gastineau Channel Advisory Committee have concurrent jurisdiction;

(v) in Game Management Unit 2 as defined by 5 AAC 90.010(2), the Craig Advisory Committee, Klawock Advisory Committee, Ketchikan Advisory Committee, Wrangell Advisory Committee, Petersburg Advisory Committee, Kake Advisory Committee, and Hydaburg Advisory Committee have concurrent jurisdiction;

(vi) in Game Management Unit 3 as defined by 5 AAC 90.010(3), the Petersburg Advisory Committee, Wrangell Advisory Committee, Kake Advisory Committee, and Sitka Advisory Committee have concurrent jurisdiction;

(vii) in Game Management Unit 4 as defined by 5 AAC 90.010(4), the Sitka Advisory Committee, Gastineau Channel Advisory Committee, Petersburg Advisory Committee, Pelican Advisory Committee, Wrangell Advisory Committee, Kake Advisory Committee, Upper Lynn Canal Advisory Committee, Hoonah Advisory Committee, and Elfin Cove Advisory Committee have concurrent jurisdiction;

(viii) in Game Management Unit 5 as defined by 5 AAC 90.010(5), the Yakutat Advisory Committee, Gastineau Channel Advisory Committee, and Copper River/Prince William Sound Advisory Committee have concurrent jurisdiction;

(B) Southcentral Alaska

(i) in Game Management Unit 6 as defined by 5 AAC 90.010(6), the Seward Advisory Committee, Copper River/Prince William Sound Advisory Committee, Valdez Advisory Committee, Copper Basin Advisory Committee, and Anchorage Advisory Committee have concurrent jurisdiction;

(ii) in Game Management Unit 7 as defined by 5 AAC 90.010(7), the Seward Advisory Committee, Anchorage Advisory Committee, Kenai/Soldotna Advisory Committee, Central Peninsula Advisory Committee, Homer Advisory Committee, and English Bay/Port Graham Advisory Committee have concurrent jurisdiction;

(iii) in Game Management Unit 8 as defined by 5 AAC 90.010(8), the Kodiak Advisory Committee and Anchorage Advisory Committee have concurrent jurisdiction;

(iv) in Game Management Unit 11 as defined by 5 AAC 90.010(11), the Copper Basin Advisory Committee, Tok Cutoff/Nabesna Road Advisory Committee, Paxson Advisory Committee, and Anchorage Advisory Committee have concurrent jurisdiction;

tion. A chairman shall declare a vacancy on the committee when any of the following events occur:

(v) in Game Management Unit 12 as defined by 5 AAC 90.010(12), the Tok Cutoff/Nabesna Road Advisory Committee, Fairbanks Advisory Committee, Delta Advisory Committee, and Paxson Advisory Committee have concurrent jurisdiction;

(vi) in Game Management Unit 13 as defined by 5 AAC 90.010(13), the Paxson Advisory Committee, Copper Basin Advisory Committee, Clear/Healy Advisory Committee, Tok Cutoff/Nabesna Road Advisory Committee, Denali Advisory Committee, Anchorage Advisory Committee, Matanuska Advisory Committee, and Copper River/Prince William Sound Advisory Committee have concurrent jurisdiction;

(vii) in Game Management Unit 14 as defined by 5 AAC 90.010(14), the Mt. Yenlo Advisory Committee, Matanuska Advisory Committee, Anchorage Advisory Committee, and Denali Advisory Committee have concurrent jurisdiction;

(viii) in Game Management Unit 15 as defined by 5 AAC 90.010(15), the Central Peninsula Advisory Committee, Kenai/Soldotna Advisory Committee, Homer Advisory Committee, Seldovia Advisory Committee, Seward Advisory Committee, Anchorage Advisory Committee, and English Bay/Port Graham Advisory Committee have concurrent jurisdiction;

(ix) in Game Management Unit 16 as defined by 5 AAC 90.010(16), the Central Peninsula Advisory Committee, Anchorage Advisory Committee, Mt. Yenlo Advisory Committee, Matanuska Advisory Committee, Denali Advisory Committee, and Kenai/Soldotna Advisory Committee have concurrent jurisdiction;

(C) Bristol Bay - Western Alaska

(i) in Game Management Unit 9 as defined by 5 AAC 90.010(9), the Naknek/Kvichak Advisory Committee, Iliamna Advisory Committee, Nelson Lagoon Advisory Committee, Chignik Advisory Committee, Kodiak Advisory Committee, Sand Point Advisory Committee, King Cove Advisory Committee, False Pass Advisory Committee, and Anchorage Advisory Committee have concurrent jurisdiction;

(ii) in Game Management Unit 10 as defined by 5 AAC 90.010(10), the False Pass Advisory Committee and Unalaska/Dutch Harbor Advisory Committee have concurrent jurisdiction;

(iii) in Game Management Unit 17 as defined by 5 AAC 90.010(17), the Nushagak Advisory Committee, Naknek/Kvichak Advisory Committee, and Iliamna Advisory Committee have concurrent jurisdiction;

(iv) in Game Management Unit 18 as defined by 5 AAC 90.010(18), the Central Bering Sea Advisory Committee, Lower Kuskokwim Advisory Committee, Lower Yukon Advisory Committee, and Central Kuskokwim Advisory Committee have concurrent jurisdiction;

(D) Northern Alaska

(i) In Game Management Unit 19 as defined by 5 AAC 90.010(19), the McGrath Advisory Committee, Central Kuskokwim Advisory Committee, Lower Kuskokwim Advisory Committee, and Anchorage Advisory Committee have concurrent jurisdiction;

(ii) In Game Management Unit 20 as defined by 5 AAC 90.010(20) the Fairbanks Advisory Committee, Clear/Healy Advisory Committee, Paxson Advisory Committee, Tok Cutoff/Nahesna Road Advisory Committee, Denali Advisory Committee, Delta Advisory Committee, Fort Yukon Advisory Committee, and Tok Advisory Committee have concurrent jurisdiction;

(iii) In Game Management Unit 21 as defined by 5 AAC 90.010(21), the Ruby Advisory Committee, Galena Advisory Committee, Clear/Healy Advisory Committee, Central Kuskokwim Advisory Committee, Lower Yukon Advisory Committee, Koyukuk Advisory Committee, Grayling/Anvik/Shageluk/Holy Cross Advisory Committee, Fairbanks Advisory Committee, and Tanana Advisory Committee have concurrent jurisdiction;

(iv) In Game Management Unit 22 as defined by 5 AAC 90.010(22), the Norton Sound Advisory Committee, Kotzebue Advisory Committee, Northern Seward Peninsula Advisory Committee, and Southern Norton Sound Advisory Committee have concurrent jurisdiction;

(v) In Game Management Unit 23 as defined by 5 AAC 90.010(23), the Kotzebue Advisory Committee, Norton Sound Advisory Committee, Northern Seward Peninsula Advisory Committee, Upper Kobuk Advisory Committee, Lower Kobuk Advisory Committee, and Noatak/Kivalina Advisory Committee have concurrent jurisdiction;

(vi) In Game Management Unit 24 as defined by 5 AAC 90.010(24), the Galena Advisory Committee, Koyukuk Advisory Committee, Ruby Advisory Committee, Tanana Advisory Committee, and Fairbanks Advisory Committee have concurrent jurisdiction;

(vii) In Game Management Unit 25 as defined by 5 AAC 90.010(25), the Fort Yukon Advisory Committee, Tanana Advisory Committee, and Fairbanks Advisory Committee have concurrent jurisdiction;

(viii) In Game Management Unit 26 as defined by 5 AAC 90.010(26), the Barrow Advisory Committee and the Fairbanks Advisory Committee have concurrent jurisdiction. (In effect before 1980; am 7/11/81; Reg 79)

Authority: AS 16.05.260

ARTICLE 2. EMERGENCY CLOSURES

5 AAC 97.010. ADVISORY COMMITTEE EMERGENCY CLOSURES. (a) After delegation of authority from the commissioner, a committee may initiate an emergency closure during an established season for the taking of fish or game within its area of jurisdiction described in 5 AAC 97.005, under the procedures in this section. No committee may initiate an emergency opening.

(b) After initiation of an emergency closure by a committee, a majority of the members of a majority of the committees in the affected area of jurisdiction described in 5 AAC 97.005 must, by affirmative vote, ratify the action. A committee member may not vote by proxy or delegation. An emergency closure initiated by a committee is not effective until reviewed by the commissioner under (c) and (d) of this section and until field announcement is made under (f) of this section.

(c) An emergency closure initiated by a committee must be based on sound conservation reasoning and the sustained-yield principle. An emergency closure initiated by a committee must be necessary for the immediate protection of a stock, species, or population, and may not be initiated for the purpose of achieving primarily social, economic, or other nonbiological goals. The commissioner or his authorized representative shall review the emergency closure initiated by a local advisory committee to ensure compliance with these standards.

(d) The chairman of a committee voting to initiate an emergency closure must:

(1) at least 48 hours before the closure is to become effective, notify the commissioner by telegram, telephone, or in writing, of the decision to initiate the emergency closure; the time, area, and species involved; which committees the initiating committee contacted, and the vote of each committee regarding the closure.

(2) prepare a signed affidavit identifying the roll call vote of the committee, and a written emergency order, following the format specified in the Advisory Committee Emergency Order Manual printed by the department, stating the findings of fact made by the committee to justify the closure, and specifying the evidence relied upon by the committee; the chairman must provide these documents to the department office nearest the affected area at least 48 hours before the effective date of the emergency closure.

(e) Upon receipt of the documents specified in (d)(2) of this section, the commissioner shall make a reasonable effort to contact the chairmen of other committees of the appropriate council, so that the committees can vote for or against ratifying the closure. The commissioner shall notify the chairman or vice-chairman of the appropriate board, of a committee's emergency closure action. The commissioner shall provide the appropriate board with a copy of all written material pertinent to the emergency closure.

(f) The commissioner shall take appropriate action to make field announcement of the emergency closure within 48 hours after receipt of the documents specified in (d)(2) of this section, if the commissioner finds that the closure meets the standards of (b), (c), and (d) of this section. An emergency closure becomes effective after formal field announcement by the commissioner or his authorized representative.

(g) An emergency closure adopted by a committee under this section expires 120 days after its effective date or when superseded by regulation. (In effect before 1980: am 7/11/81, Register 79; am / /83, Register)

Authority: AS 16.05.260

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

(b) After initiation of an emergency closure by a committee, a majority of the members of a majority of the committees in the affected area of jurisdiction described in 5 AAC 97.005 must, by affirmative vote, ratify the action. A committee member may not vote by proxy or delegation. An emergency closure initiated by a committee is not effective until reviewed by the commissioner under (c) and (d) of this section and until field announcement is made under (f) of this section.

(c) An emergency closure initiated by a committee must be based on sound conservation reasoning and the sustained-yield principle. An emergency closure initiated by a committee must be necessary for the immediate protection of a stock, species, or population, and may not be initiated for the purpose of achieving primarily social, economic, or other nonbiological goals. The commissioner or his authorized representative shall review the emergency closure initiated by a local advisory committee to ensure compliance with these standards.

(d) The chairman of a committee voting to initiate an emergency closure must:

(1) at least 48 hours before the closure is to become effective, notify the commissioner by telegram, telephone, or in writing, of the decision to initiate the emergency closure; the time, area, and species involved; which committees the initiating committee contacted, and the vote of each committee regarding the closure.

(2) prepare a signed affidavit identifying the roll call vote of the committee, and a written emergency order, following the format specified in the Advisory Committee Emergency Order Manual printed by the department, stating the findings of fact made by the committee to justify the closure, and specifying the evidence relied upon by the committee; the chairman must provide these documents to the department office nearest the affected area at least 48 hours before the effective date of the emergency closure.

(e) Upon receipt of the documents specified in (d)(2) of this section, the commissioner shall make a reasonable effort to contact the chairmen of other committees of the appropriate council, so that the committees can vote for or against ratifying the closure. The commissioner shall notify the chairman or vice-chairman of the appropriate board, of a committee's emergency closure action. The commissioner shall provide the appropriate board with a copy of all written material pertinent to the emergency closure.

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(g) An emergency closure adopted by a committee under this section expires 120 days after its effective date or when superseded by regulation. (In effect before 1980, 7/11/81, Register 79; amended 1/1/83, Register 1)

Authority: AS 16.05.260

5 AAC 97.015. AUTHORITY OF THE BOARDS OVER EMERGENCY CLOSURES.
Repealed / /83.

5 AAC 97.020. NOTICE TO PUBLIC OF EMERGENCY CLOSURES. Repealed
/ /83.

CHAPTER 98. AREAS OF JURSDICTION FOR ANTLERLESS MOOSE SEASONS

ARTICLE 1. AREAS OF JURISDICTION

5 AAC 98.005. AREAS OF JURISDICTION FOR ANTLERLESS MOOSE SEASONS. Repealed / /83.



United States Senate

WASHINGTON, D.C. 20510

September 25, 1982

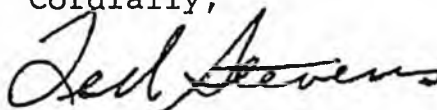
Dear Fellow Alaskan:

In response to the many requests from Alaskans for background and my position on the subsistence hunting issue, I prepared a review of the federal and state laws affecting subsistence. The paper also includes some observations about the referendum to repeal our subsistence law.

Because the issue is of such great importance to all of us, I am sending you a copy of that position paper.

With best wishes,

Cordially,



TED STEVENS

United States Senator

THE SUBSISTENCE HUNTING ISSUE IN ALASKA

By Ted Stevens

For the last quarter of a century I have been involved in the fight for Alaska's rights to manage fish and game on all lands within its borders -- including Federal lands. We fought against Federal management during the Statehood fight. When we were granted Statehood, fish and game management was withheld until the State submitted a fish and game management program which was approved by the Secretary of the Interior. It was a long, hard battle, but we did gain that right.

Our right to manage fish and game was not easily gained and we should never jeopardize our authority. Federal management could lead to fish traps, to closed areas to "protect" the wolves, to prohibition on hunting -- not only on Federal lands but on those state and private lands near Federal lands. In short, it could lead to total disaster for Alaska's fishermen and hunters.

Yet, despite those high stakes, Alaska's right to manage fish and game is in jeopardy because of the "subsistence" controversy in our State. I think this controversy is widely misunderstood.

This is not an issue of native vs. non-native; it is not even a question of who has "rights" that others do not have. The question, most simply, is one of allocation. What I mean by allocation is this: if there is ever a shortage of any species of fish or game, who will be allowed to take that particular species first? Of course, under proper game management, shortages of fish or game may occur only on occasion and only in specific areas. But, because the potential does exist, contingency plans must be made in advance by the State.

One of the arguments I hear most often is that the Alaska Constitution prohibits a hunting preference. Proponents of that argument cite Article VIII, Section 3 of the Alaska Constitution which states: "Whenever occurring in the natural state, fish, wildlife and waters are reserved to the people for common use." That is what section 3 says and I support section 3.

However, what I never hear quoted is the next section of Article VIII of Alaska's Constitution. It says, "Fish, forests, wildlife, grasslands and all other replenishable resources belonging to the State shall be utilized, developed and maintained on the sustained yield principle, subject to preferences among beneficial uses." It is clear to me that the drafters of the Constitution understood the need to provide for allocations -- preferences among users -- in times of shortages and explicitly allowed for those allocations in Article VIII.

Fish and game allocation in Alaska has always been managed with an eye toward the interests of the local residents of any one area. Alaska has 26 game units. Under subsistence management schemes developed under state law, there is a preference for residents in the game unit near the area to be hunted or fished.

For instance, in the Nelchina area, which is the only area that I am aware of which will be specifically restricted for subsistence caribou hunters this year, out of 1,750 permits to be issued for the hunt, 450 are for the local residents. The remainder will go for other hunters on an equal basis including a predominant number of Anchorage and Fairbanks hunters. This allocation is virtually identical to the historic state management of caribou when permits are required to preserve the herds.

The Cook Inlet area -- perhaps the most competitive fishery in the state -- is another example. The harvest of fish in that region can be broken down roughly as 95% commercial, 4.5% sport and 5% subsistence. State

I think most Alaskans would agree that, if there is a shortage despite the best efforts of the State to prevent it, those who depend on fish and game for their daily survival ought to have preference. Similarly, a preference should exist for personal consumption over pure sport hunting. This is what the Alaska Constitution contemplates for resource allocation, that was the Alaska law before passage of the D-2 bill, and that is the law today.

However, the initiative on the ballot this fall, which, if passed would repeal the State law, will ultimately result in Federal management of fish and game to preserve a subsistence preference already existing in state law.

So, how did we get here and why are we now facing the loss of our right to manage fish and game on Federal lands within the State?

During consideration of the D-2 bill, the State encountered another threat to its right to manage fish and game. The Udall/Andrus legislation introduced in the House of Representatives required Federal management of fish and game on virtually all Federal lands in Alaska. When D-2 came to the Senate Energy Committee, I tried to delete the House-passed requirement of Federal management. Frankly, we were not successful in deleting the House position altogether. However, it was obvious that the Senate Committee did have some reluctance to deprive Alaska of its management authority. Because of that reluctance, we were able to work with Senators Hatfield, Jackson and McClure to develop an alternative to the House bill which avoided the takeover by the Federal Government.

When passed, the alternative approach in D-2 was based on the Alaska law already on the books -- the law the subsistence initiative seeks to repeal. In fact, it is important to remember that the D-2 bill as passed did not require Alaska to make substantial changes in its laws, it simply required us to maintain the allocation system already in Alaska law at the time the D-2 bill passed. There was then, and is now, an Alaskan subsistence priority for all Alaskans -- Native and non-Native -- who are rural residents relying on fish and game for subsistence. When we say rural residents we're talking about places like Tok, Delta, Haines, Skagway, as well as Anaktuvuk Pass, Kotzebue and Bethel. This State priority does not mean that subsistence users have an exclusive right to hunt or fish -- it means that they have a right to a preference. The Alaska law does not create a class system, rather it protects specific uses. It is an allocation of the resource to those who traditionally had priority when species protection requires limitations on taking.

The D-2 bill as passed, required Alaska to maintain the preference I just explained. But, it was also clear as to the question of what would happen if Alaska did not maintain such a preference -- the Federal Government would then be required to take control of the management on Federal lands and would have impact on management over all lands to protect the subsistence preference.

I have talked with Secretary Watt on this point, and despite his personal reluctance and my strong opposition, he has no choice but to obey the law. This would be disaster for Alaska -- not necessarily under Secretary Watt (although he might be forced to close Federal lands to all hunting because of the lack of funding and personnel to manage them) but could be a catastrophe under another Administration that simply opposed hunting altogether. Everyone would lose -- except those in the House of Representatives and the last Administration who wanted Federal control from the very beginning.

That is the crux of the matter -- if Alaska repeals its subsistence laws, the Federal Government will take over.

Some people believe that the passage of the initiative to repeal the Alaska law on subsistence will change the Federal law. This is simply not true. If the initiative passes, it will repeal the Alaska law which was the basis of the compromise enabling us to retain state management of fish and game.

I, for one, cannot believe that Alaskans want to see our fish and game regulations fashioned in Washington, D.C. Nor can I believe that we want Federal management concepts used in Alaska -- that was one of the main reasons we fought for Statehood.

The language worked out in the Senate was not everything we wanted -- but it was a thousand times better than the immediate Federal takeover that would have occurred under the Udall/Andrus bill. They sought Federal control -- but lost. We must not let them win now.

For these reasons, I oppose the initiative.

Report on subsistence hunting

UNITED STATES SENATE

WASHINGTON, D.C. 20510

Zed Stevens

U.S.S.

BLK. RT.

Wanda Good

APHA LEGISLATIVE REPORT

This session of the 14th legislature is shaping up to be one of the most important in the past few years. Several issues of great concern to the guiding industry are being looked at. Among the most important are the subsistence issue, the guide bill and a new bill for sportfish guides. One other bill which may or may not have a large impact on the guiding industry is HB 133 and its companion SB 103. This bill substantially increases the required amount of insurance on a per seat basis for those flying for hire. Although this is basically aimed at air taxi operators, there could be some effect on the air support provided by those in the outfitting business.

The subsistence bill (HB 288) introduced by Governor Bill Sheffield was in direct reaction to the recent Madison Case. In *Madison vs the State of Alaska*, the Alaska Supreme Court found that subsistence could not be regulated upon a rural basis as

defined by the 1978 State Statute. In its opinion, the court stated subsistence under state law must be extended to all Alaskans. Just what effect this is going to have is not quite clear. The Attorney General's Office is claiming commercial fishing and non-resident hunting and fishing will have to be eliminated this summer. In a resolution recently submitted to the legislature, the joint boards of Fish and Game stated legislative action was needed to insure the continuation of commercial and sport uses in certain parts of the state.

There are many complex problems created by the subsistence issue. The most difficult is to decide which method should be used to determine who qualifies and who doesn't. Under the Alaska Constitution, wildlife resources are to be managed by the state for the common use of Alaskans. Right now, the legislature is trying to deal with this issue and it is becoming

clear that a thorough investigation is needed before an acceptable solution can be found. From the testimony presented by various groups so far, it would seem a more equitable solution than the governor is providing should be looked for.

Senator Arliss Sturgulewski is currently working on legislation to extend the tenure of the guide board, as well as rework the current statutes relating to guiding. It appears that a bill will be forthcoming this session which will basically follow the proposed legislation offered by APHA. One change will have to do with the way areas get exchanged. This bill should be introduced soon and referred to senate resources which Senator Sturgulewski chairs.

Last year, a provision to allow guides to lease state land to build facilities for a headquarters was incorporated into Senator Bettye Fahrenkamp's Bill, SB 375. It seems there is some confusion over the status of this legislation. This bill did pass and the Department of Natural Resources has started processing applications. After talking with DNR special assistant Dee Frankfourth, I obtained information which could clarify the issue. The following was prepared and sent by Dee:

PROFESSIONAL CAMERA FOR SALE

BOLEX H-16 (16mm) with Pan-Cinor 4 to 1 reflex zoom lens, leather case & accessories. Excellent condition. Wayne Preston—Dallas 214-358-4477.

FOR TRADE

A reliable, knowledgeable carpenter would like to exchange carpentry work for big game hunting. Contact: Mark Bonneville, 10101 Hwy 55, #207, Plymouth, MN.

APHA Belt Buckle

The official APHA Pewter Belt Buckle is available by mail at \$25.00 each. Send your order and check to the APHA office.

HUNT KODIAK ISLAND



Sitka Blacktail Deer taken by W. T. (Yoshi) Yoshimoto, 1984

Dick Rohrer
P.O. Box 2219-A, Kodiak, Alaska 99615
1-907-486-5835

Life Member of FNAWS & NRA

that the bull was just over the hill. I wasn't disappointed. Quick! I grabbed my spotting scope and tripod and crawled back up to the crest. There was no doubt that it was the same fellow I had seen the day before. I set the tripod up just to admire the bull, and told Ken to have a look. This almost proved to be a mistake, Ken's eye wasn't at the scope more than a couple of seconds before he had grabbed his rifle and jacked a round into the chamber. "Ken" I whispered, "I think we can get a little closer by slipping back down the hill, and then move in under and over that small rise." "No, I think we are close enough," he responded. "You say it's about 300 yards?" I confirmed the range, and helped him get in a position to shoot. I had seen Ken and his .270 perform in the past, and had no doubts that he would do just fine.

Pulling the rifle into his shoulder, Ken took a deep breath and squeezed the trigger. The .270 cracked with the first shot hitting low in the brisket. The bull staggered, then started to run just as the second round went off in the chamber. This time the bull went down hard. He tried to regain his feet but a third round put the bull down for good. Ken muttered something about needing to go back to the shooting range, but I feel the blame could be more directly placed on my shoulders as I probably shouldn't have told Ken to look through the spotting scope. The excitement is a major part of the hunt, and that big rack would excite anybody. In addition, I had underestimated the range. In that wide open country it can be extreme-

ly difficult to judge distance and when we paced it off we found it close to four hundred yards.

It took longer than usual to cape and dress out the animal as we took frequent breaks to admire the big rack and to relive the day's experiences. A snow squall hit us while we were skinning, chilling our hands but doing little to dampen our spirits.

We both returned to camp with the cape, rack and as much meat as we could carry. I promptly left for a second load of meat and returned an hour or two later, just as Keith had arrived.

When he saw the rack he was just as excited as Ken and I. Once again we relived the hunt, and only after much backslapping and congratulations did we get around to tying the rack on the wing struts and breaking camp.

Later Mike Simpson of Conroe Taxidermy in Texas, green scored the trophy at 484 Boone and Crockett points. After drying, it officially scored 454 points and placed #6 in the Boone and Crockett record book. Safari Club International scored the rack at 635 $\frac{7}{8}$, making it a "new" SCI record. 🐾



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WANTED: YOUR HUNTING STORY...

Do you have an exciting, unusual, or just downright interesting hunting story? We would like to print it in the Alaska Professional Hunter Newsletter, along with any photographs or illustrations you may be able to include. The deadline for each issue of this newsletter falls on the 10th of the month preceding the month of publication. So if you want your story to appear in a certain month's issue, get it in the mail so we will receive it by the 1st of the month preceding the month of publication.

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by Dee Frankfourth,
DNR Special Assistant

Department of Natural Resources Report: STATE LAND LEASE FOR HUNTING CAMPS

Guides with an exclusive or joint use guiding area should now find it easier to get a land lease from the state for erecting hunting camps. Last year the legislature changed the law on land leases by expanding the terms under which a lease could be negotiated with the state. Now more guides and other commercial operators will be able to lease land through negotiation rather than acquiring a lease at a competitive public auction.

Under the new provisions most leases can be negotiated directly with the Department of Natural Resources if 1) the appraised value of the transaction is \$5,000 a year or less, and 2) the term of the lease does not exceed ten years. In some cases, however, where the interest is high in a given tract of land, the state may choose to offer a lease competitively even if the terms are within the usual negotiable limits.

Applications are being accepted at all of the Department's Land and Water area and regional offices. An application must include:

- a complete and legible map outlining the land a guide wishes to lease
- a sketch of the existing and planned improvements within the requested parcel
- a \$50.00 filing fee
- identification of access to the parcel

Applications are advised to keep their parcel size to the minimum needed to conduct their activities. This will keep the annual rental cost down and will also reduce the conflicts with other land uses, making the likelihood of issuance much greater.

DNR will then verify with the Division of Occupational Licensing that the applicant is a registered guide with an assigned guiding area. Once the application is received, DNR will conduct a standard interagency review, including a coastal zone consistency review if appropriate. Notice of the pending application will be provided to the other guides sharing a

joint use area so that all affected parties will be informed about land uses in the area. Notice will also be given to the general public through local newspapers. The public will generally have a 30-day comment period.

The decision on whether or not a survey is required will be made on a case by case basis, and will depend on the sufficiency of existing monumentation as well as the congestion of neighboring land uses. For example, if there are considerable leases or private tracts of land in the vicinity of the proposed lease, it is quite likely a survey will be necessary so property lines are clearly defined.

After the interagency review and public notice period, the regional office of DNR's Land and Water Division will determine if issuing the lease is in the best interests of the state. The average length of time for processing all types of leases last year was five months, so guides should expect a similar processing time.

Leases may be transferred to another party only with the approval of DNR's Contract Administration Unit and only if the individual receiving the lease is a registered guide with an exclusive or joint use area.

Applications for negotiated leases are available at the following offices:

**SOUTHCENTRAL
REGIONAL OFFICE:**
Frontier Building, 10th Floor
3601 C Street Pouch 7-005

Anchorage, AK 99510
907-276-2653

MAT-SU AREA OFFICE:
Century Plaza, Suite 202
Mile .5, Knik Road
Pouch 4008
Wasilla, AK 99687
907-376-3594

NORTHERN REGIONAL OFFICE:
4420 Airport Way
Fairbanks, AK 99701
907-479-2243

**SOUTHEASTERN
REGIONAL OFFICE:**
400 Willoughby Street
Juneau, AK 99801
907-465-3400



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SOUTHERN TANZANIA

Hunt July through December. Best elephant area available, two elephants allowed on some hunts.

Game available: Cape Buffalo, Baboon, Bushbuck; Bushpig; Crocodile, Oribi; Duiker; Elephant; Cape Eland; Hartbeest; Hippopotamus; Impala; Kudu, greater; Lion; Leopard; Reedbuck, bohor; Sable; Antelope; Warthog; Waterbuck; Wildebeest; Zebra \$16,380 each—two hunters, one guide. This is adequate for the area.

License costs: If all the above game is killed, \$6267 per person, plus \$10-\$12 per pound for ivory. Tusks average 60-80 pounds per side, but up to 100 pounds per side is possible.

Charter: \$1,000 per person.
Observer fee: About \$100 per day.
Price includes all costs while on the hunt, including license, permits, guides, food, lodging.

Achesons book all hunts directly with the Mongolians. We do not operate through another company—and we never have.

Season in Mongolia: June through November.

ZIMBABWE

Rosslyn Safaris offers cat, buffalo, and elephant, along with sable, kudu, and a wide variety of other plains game animals. From the comfort of a lodge. Its location next to Wankie Park insures ample game population.

11 Days

One hunter, one guide—\$6,850
Two hunters, one guide—\$6,250 each
Observer: \$1,300
Game hunted: Buffalo, Kudu, Waterbuck, Sable, Impala, Warthog, Duiker, Grysbok, Steenbok.

15 Days

One hunter, one guide: \$9,950
Two hunters, one guide: \$9,050 each.
Observer: \$1,800.
Game hunted: Lion, Buffalo, Sable, Kudu, Kudu cow (2), Waterbuck, Duiker, Steenbok; or Leopard or Elephant, Walrusbuck cow (2), Zebra, Impala, Impala doe (3), Warthog, Bait Warthog (4), Grysbok.

28 Days

One hunter, one guide: \$18,250.
Observer: \$3,300.
Game hunted: Elephant, Lion, Leopard, and all other game.

TROPHY FEES: Available on request.

SOUTH AFRICA

Limpopo Safaris

South Africa offers a sportsman the widest variety of game and terrain found on any safari in Africa.

14 Days, Western Transvaal and Zululand

One hunter, one guide—\$7,600.
Two hunters, one guide—\$6,800 each.
Observer—\$1,880.

TROPHY FEES: Available on request.

Twenty-two different varieties of game may be hunted on this classic safari, including leopard!! Hunt the thornbush plains of the South African "veld" Seven to ten days. Then move to the more tropical "low veld" of Zululand!

The above charges cover all guiding fees, government taxes, confirmation fees, transportation and lodging on the safari, visas, and preparation of game in the field.

Not included are trophy fees payable only if animals are killed or wounded, dipping, packing, and freight of trophies, cost of air charter, international flights, or hotel charges.

Season: year-round.

LETABA

This is the biggest and best big game concession in South Africa, and is the only open area where all local species of big game can be legally hunted. Success on cats and buffalo is superb. Elephant with tusks to 90 pounds per side have been taken.

The camp consists of thatched, insect-proof chalets on the banks of the Letaba River. The Letaba concession adjoins Kruger Park, one of the largest game preserves in Africa.

14 Days

One hunter, one guide—\$8,900
Two hunters, one guide—\$6,200 each
Observer—\$1,860

21 Days

One hunter, one guide—\$13,300
Two hunters, one guide—\$12,250 each
Observer—\$2,820

TROPHY FEES: Available on request.

Additional Expenses:

Air charter (usually none)
Trophy documentation, packing, dipping, etc.—\$250-\$350

Not included are trophy fees payable only if animals are killed or wounded, dipping, packing, and freight of trophies, cost of air charter, international flights, or hotel charges.
Season: year-round.

BOTSWANA

A traditional tent safari in the famous game rich Okavango and Kalahari Concessions.

10 Days

One hunter, one guide—\$7,050
Two hunters, one guide—\$5,550 each
Observer—\$1,000

14 Days

One hunter, one guide—\$9,630
Two hunters, one guide—\$7,530 each
Observer—\$1,420

21 Days

One hunter, one guide—\$14,070
Two hunters, one guide—\$10,920 each
Observer—\$2,080

The above charges cover all guiding fees, government concession fees, confirmation fee, dipping, packing, and transportation of trophies, lodging in camp, transportation while on the safari, and preparation of game in the field.

The above charges do not cover trophy or license fees, export duty, air charter from Maun, Botswana to camp and return, transportation from your home to Maun, or lodging while not on safari.

Species	License Fee	Trophy Fee	Export Duty
Buffalo	\$100	\$200	\$10
Duiker	5	-	2.50
Eland	150	200	25
Gemsbok	75	150	25
Hartebeest	30	50	10
Impala	15	15	5
Kudu	150	200	25
Ostrich	35	50	40
Lechwa	75	100	25
Lion	800	900	42.50
Leopard	400	600	52.50
Reedbuck	75	100	25
Sable	150	200	25
Sitagunga	100	200	25
Springbok	15	15	5
Steenbok	5	5	2.50
Tsessebe	50	100	10
Warthog	5	5	2.50
Wildebeest	30	50	5
Zebra	100	200	40

Season: April-November

RANCH HUNT

This is the Cadillac of Kalahari safari camps. All game indigenous to the Kalahari, plus numerous other game animals introduced to the region!

10 Days

One hunter, one guide—\$4,350
Two hunters, one guide—\$3,350
Observer—\$1,200

TROPHY FEES: Black Wildebeest, \$500; Nyala, \$600; Eland, \$500; Burchell Zebra, \$400; Hartmann Zebra, \$400; Blue Wildebeest, \$400; Kudu, \$400; Gemsbok, \$300; Hartebeest, \$300; Impala, \$200; Blesbok, \$200; Ostrich, \$200; Springbok, \$150; Steenbok, \$80; Duiker, \$80; Warthog, \$80; Waterbuck, \$1,000.

The above listed charges cover all accommodations on safari, guide fees, transportation during the safari, visas, trophy preparation in the field, packing and dipping of trophies, transportation of trophies to Windhoek for shipping, and confirmation fees.

Trophy fees are payable only after the animal is killed or wounded.

Not included are transportation from your home to camp, trophy shipment from Windhoek to you home, or trophy fees.

Transportation from Windhoek to camp around \$300 round trip.

Season: year-round.

SOUTHWEST AFRICA (NAMIBIA)

The Kalahari of Namibia is the heart of prime kudu, gemsbok, and other varieties of desert game hunting. The same kudu which required 14 days of hard hunting in Kenya or Zambia can usually be taken here in only seven to ten days. Relaxed hunting. Highest quality, lowest cost safaris in Africa at this time.

7 Days (Ranch Hunt)

Offering all game indigenous to the Kalahari region.

One hunter, one guide—\$2,750
Two hunters, one guide—\$2,300 each
Observer—\$600

The above charges cover all transportation from Windhoek to camp and return, concession fees, lodging, confirmation fees, guiding fees, field preparation, packing and dipping of trophies.

Trophy fees are payable only after the animal is killed or wounded.

Not included are trophy fees, transportation from your home to safari headquarters, hotels, shipping of trophies your home.

Season: year-round.

MONGOLIA

Hunting was opened in Mongolia in approximately 1967. Each year, over 100 sportsmen from around the world hunt different areas of Mongolia for a variety of animals, from the largest sheep in the world to the Ammon Ammon sheep to the plateau timberland where Maral Stag, similar to our American elk, are hunted.

The Mongolian government has an extremely efficient and well-organized hunting operation, which I highly recommend. Sheep may be hunted from as early as June through to the end of November. A number of different areas are hunted. The High Altai Mountains are not particularly hard to hunt and elevation is not that high. Rams of up to 72 inches, which is the world record, have been taken. Average rams run 55 inches with 19- to 20-inch bases. Ibex are included in the cost of the hunt, \$16,500.

Mid Altai Range, where rams average around 50 inches, 16- to 19-inch bases. Again, ibex is included \$10,000.

Low Altai Range, where you hunt the Ammon Dairi sheep, about the size of our bighorns, 36 to 42 inches, with 16- to 17-inch bases. Again, ibex is included \$7,500.

The Low Altai is a relatively easy area to hunt, similar to hunting mule deer in the West.

Camps are quite comfortable.

Ask for more detailed information on Mongolia.

The Maral Stag can be included on hunts after August 15 for an additional \$2,000.

Success is 100% on sheep, ibex and stag.
Air fare under \$2,000 round trip.



The following letter was sent to the Alaska Department of Fish and Game in response to its call for public comment on the return of marine mammal management to the state. It points out why management by the state would be beneficial to the Natives now hunting these species, all other Alaskans and the marine mammal populations themselves.



Editor

MMPA: A Conservation Failure

Dear Sirs:

You have requested public comment on the possible return of marine mammal management to the state of Alaska. Here are my views on this important issue:

In 1972, when, under the Marine Mammal Protection Act the federal government seized control of marine mammals from the states, Alaska had within its waters and under state management about 2 million individual marine mammals of 10 species — polar bear, sea otter, sea lion, harbor seal, ringed seal, ribbon seal, bearded seal, spotted or largha seal, walrus and beluga whale.

Not one of these species was threatened, endangered or overhunted. All were protected by sound conservation regulations.

Alaska immediately requested return of management of its marine mammals, and since 1973 hundreds of thousands of tax dollars have been spent in that effort.

The federal government's stewardship of Alaska's marine mammals has been a failure: "benign neglect" is the best that can be said for it.

Since 1973, two federal agencies have been responsible for these animals: the U.S. Fish and Wildlife Service for polar bear, sea otter and walrus, and the National Marine Fisheries Service for the other seven species. Each agency has its own management philosophy and neither has had money to do more than token research. Terms of the MMPA largely preclude reasonable management by these agencies.

The federal government did not replace the excellent marine mammal research and management program of the state.

The polar bear population is stable. Last year (1984) Alaska Eskimos killed at least 135 female polar bears — the highest known figure for an annual kill of that sex. This is bad management, and potentially harmful for the species. From 1961-72, under state management, when female polar bears with cubs, and cubs, were protected, the annual Alaska female polar bear kill averaged only 65.

The sea otter has reached peak

numbers in some island areas, and die-offs have occurred — a waste. In other areas it has continued to prosper, especially where it had been transplanted by the state of Alaska before the MMPA. Some populations are damaging valuable fisheries, including a Dungeness crab fishery in Prince William Sound.

Harbor seals are in serious conflict with commercial fishermen in some areas. They are decreasing in the Gulf of Alaska.

Sea lions are also in serious conflict with commercial fishermen in some areas. This species is decreasing in the Aleutians.

Bering and Chukchi Sea ice seal numbers — ringed, ribbon, bearded, largha — are stable.

Walrus numbers peaked at 280,000 in 1980, which exceeded the carrying capacity of the Bering Sea. The species is now declining: basically, they're starving.

Wasteful and essentially commercial hunting of walrus for ivory alone is common in the Bering Sea, contrary to terms of the MMPA: the act prohibits waste. In 1980 a Fish and Wildlife Protection trooper told me he had seen headless walrus piled up to three deep along a 100-mile stretch of the Bering Sea coast — animals that had been shot and the heads removed by Eskimo hunters for the ivory.

This valuable resource deserves better treatment.

Beluga whale numbers are probably unchanged.

In summary, Alaska's marine mammal populations were generally healthier and better balanced under state management.

Neglect of our marine mammals since the MMPA has cost Alaska millions of dollars, and the balance of some stocks (walrus, sea lion, sea otter) has deteriorated so that years of careful management will be needed to return them to pre-MMPA health.

Marine mammals are a renewable resource of great value that require management: they cannot be ignored.

Management includes harvest of surplus stocks, control of animals where conflicts exist with valuable fisheries, and protection where stocks are low. None of these techniques has been used with our marine mammals for 12 years.

The MMPA allows only Alaska's Eskimos, Indians and Aleuts to hunt marine mammals. For these people there is no bag limit, no closed season and no protection of females with young.

Sale of raw skins and raw ivory is prohibited.

Prior to the MMPA 10 percent to 14 percent of the gross income of some Eskimo villages was from sale of raw seal skins. Howard Ness, a National Marine Fisheries Service economist, calculated in 1975 that the Alaska Native economy lost more than \$500,000 in 1973-74 alone because of loss of these sales.

Nonresident hunters paid Alaskan guides \$3,000 to \$5,000 for a polar bear hunt prior to the MMPA, for an annual average (1961-72) kill of 259 mostly male polar bears. This means that Alaskans received more than \$1 million annually from guiding fees for polar bear hunts prior to the MMPA. In addition, these hunters spent money in Alaska for travel, food, lodging and other items. There was no

detrimental impact on the polar bear population.

Guided hunts for walrus were starting to become an important income producer for Alaska prior to the MMPA. These hunts gave a substantial boost to the economy of northwest Alaska, with no detrimental impacts to the resource.

Prior to the MMPA the European market bought annually from Alaskans between 8,000 and 10,000 sealskins, and 4,000 to 6,000 sea lion (pup) hides. These were surplus animals, and their loss did not affect the stocks as a whole. Annual value to Alaskans was about \$300,000.

Much damage is occurring to commercial fishermen's gear by uncontrolled populations of seals and sea lions. Pete Islieb, a Cordova fisherman, and former member of the Alaska Board of Fisheries, testified that loss to fishermen from sea mammals in Prince William Sound alone exceeded \$100,000 (in 1974). The animals destroy nets, damage fish caught in nets so they are unmarketable, and destroy crab

pot buoys, which results in loss of valuable crab pots.

In 1975, Islieb estimated that such losses exceeded \$1 million annually, statewide.

These losses could be considerably reduced by harvest of surplus marine mammals.

Since 1973, by my crude calculations, Alaska has lost at least \$45 million because of loss of control of its marine mammals.

In November 1984, the USFWS in Alaska said in a position statement, "... that management of the polar bear, walrus, and sea otter should be returned to the state of Alaska."

Reasons given were:

1. The MMPA places restrictions upon the federal government that impedes sound management [of Alaska's marine mammals].
2. Under the MMPA, harvest of a marine mammal cannot be restricted by federal action until stocks have been found to be depleted, and then only after lengthy hearings before an administrative law judge.
3. Under state control, Alaska would be able to regulate harvest *before* a stock becomes depleted — which would not require hearings.
4. The state of Alaska has an established history of high quality research and management of marine mammals.
5. Legislative history of the MMPA and amendments consistently has shown the intent of Congress to be for return of marine mammal management to the states.

The fight for statehood revolved around two primary issues: Alaskans wanted to be able to vote for the president, and we wanted to be able to manage our own fish and game. Despite the reality of statehood, the federal government has been responsible for our huge and valuable sea mammal populations for the last 12 years, and the results have been similar to those that helped to create the thirst for statehood — mismanagement of Alaska's valuable wildlife.

We should immediately make every effort to return marine mammal management to Alaska. Our marine mammals, and all Alaskans, will benefit.

Jim Rearden
Outdoors Editor
ALASKA® magazine



This photograph was hand-delivered to Outdoors Editor Jim Rearden by a state Fish and Wildlife Protection trooper who said the photographer was a "private, but private, citizen who is not an employee of any state agency. He wishes to remain anonymous."

The message with the photograph indicated the picture was taken in June 1981, near Nome. "At the time," said the message, "six boats were 'subsistence hunting' out of Nome. There were 19 walrus on this ice floe and they had been killed with automatic weapons. Only the ivory and the ossiks [sold in souvenir shops] had been removed. Then each carcass had a wedge-shaped 'vent' cut in the back to insure that the carcass would sink with no evidence of the killing left behind."

A walrus pup, orphaned and left to starve after its mother was destroyed, raised its head in the midst of this grisly scene just as the photographer snapped the picture.

Adult walrus can weigh 2,000 pounds or more, and the meat is edible.

RIC DAVIDGE

FEB 28 1986

Arlis,

Here is the latest information on the marine mammal program in Alaska. You will notice some questions being raised regarding the impacts of subsistence on walrus, polar bears. Hope this answers the questions you have raised.

Ric

ADMINISTRATION OF THE
MARIAN MANDEL
PROTECTION ACT OF 1972

JANUARY 1, 1984 TO DECEMBER 31, 1984



U.S. DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240



021510

Administration of the
MARINE MAMMAL PROTECTION ACT OF 1972
Annual Report
January 1, 1984 - December 31, 1984

Prepared by
Department of the Interior
U.S. Fish and Wildlife Service
Washington, D.C. 20240

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

MARINE MAMMAL PROTECTION ACT

Report of the Department of the Interior

The Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361-1407, 86 Stat. 1027, (1972), 95 Stat. 979 (1981)) states in section 103(f) that "Within six months after the effective date of this Act (December 21, 1972) and every twelve months thereafter, the Secretary shall report to the public through publication in the Federal Register and to the Congress on the current status of all marine mammal species and population stocks subject to the provisions of this Act. His report shall describe those actions taken and those measures believed necessary including, where appropriate, the issuance of permits pursuant to this title to assure the well-being of such marine mammals."

The responsibility of the Department of the Interior is limited by section 3(11)(B) of the Act to those mammals that are members of the orders Carnivora (polar bear, sea otter and marine otter), Pinnipedia (walrus), and Sirenia (manatee and dugong). Accordingly, published herewith is the report of the Department of the Interior for the period January 1, 1984, to December 31, 1984, on the administration of the Act with regard to those mammals.

Issued at Washington, D.C., dated MAY 28 1985


Acting Associate Director

ADMINISTRATION OF THE MARINE MAMMAL PROTECTION ACT OF 1972

January 1, 1984 - December 31, 1984

Report of the Department of the Interior

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INTRODUCTION

AUTHORITY

The passage of the Marine Mammal Protection Act of 1972, hereafter referred to as the Act or MMPA, gave the Department of the Interior responsibility for manatees, polar bears, walruses, sea and marine otters, and dugongs. The Fish and Wildlife Service (FWS or Service) is responsible for managing the marine mammals in the Department of the Interior and for enforcing the moratorium on taking and importing marine mammals and marine mammal parts.

The FWS administers requests for waiving the moratorium and for the return of management authority to States, issues permits, conducts research programs, enforces provisions of the Act, publishes rules and regulations to manage marine mammals, cooperates with the States, and participates in international activities and agreements. In addition, the Service lists and delists species as endangered or threatened and undertakes other Endangered Species Act (ESA) related responsibilities and maintains a close working relationship with the Marine Mammal Commission (MMC) and its Committee of Scientific Advisors.

General information on distribution and migration, abundance and trends, general biology, ecological problems, allocation problems, regulations and research can be found in the 1979 annual report. Thus, it is not repeated here. There were no significant changes during this report period in the status of any of the species of marine mammals whose management is the Service's responsibility.

SPECIES LIST

Species List and Status of Marine Mammals With FWS Jurisdiction Under the Marine Mammal Protection Act and the Endangered Species Act

<u>Species</u>		<u>Marine Mammal</u>	<u>Endangered</u>
<u>Scientific Name</u>	<u>Common Name</u>	<u>Protection Act</u>	<u>Species Act</u>
<u>Ursus maritimus</u>	Polar bear	Yes	No
<u>Enhydra lutris</u>			
<u>lutris</u>	Sea otter-Alaska	Yes	No
<u>Enhydra lutris</u>			
<u>neréis</u>	Sea otter-Southern	Yes	Threatened
<u>Lutra felina</u>	Marine otter	Yes	Endangered
<u>Odobenus rosmarus</u>	Walrus	Yes	No
<u>Dugong dugon</u>	Dugong	Yes	Endangered
<u>Trichechus</u>			
<u>manatus</u>	West Indian manatee	Yes	Endangered
<u>Trichechus</u>			
<u>inunguis</u>	Amazonian manatee	Yes	Endangered
<u>Trichechus</u>			
<u>senegalensis</u>	West African manatee	Yes	Threatened

The funding breakdown is as follows (in \$000):

	<u>Actual FY 84</u>	<u>Projected FY 85</u>
<u>Marine Mammal Protection Act</u>		
Research and Development		
Alaskan sea otter	\$ 73	\$ 50
Walrus	18	15
Polar bear	303	252
Total Research	<u>\$ 394</u>	<u>\$ 317</u>
Management		
Permit activities	\$ 25	\$ 25
Law enforcement activities	465	456
Other management activities	365	494
Total Management	<u>\$ 855</u>	<u>\$ 975</u>
MMPA Grand Total	<u>\$1,249</u>	<u>\$1,292</u>
<u>Endangered Species Act</u>		
Section 6 (Grants-to-States)		
California - Sea otter	\$ 93	\$ 53
Florida - Manatee	15	120
Total Section 6	<u>\$ 108</u>	<u>\$ 173</u>
Section 15		
Research and Development		
Endangered/threatened otters	\$ 244	\$ 271
Manatee	262	379
Monk seal	0	2
Total Section 15 Research	<u>\$ 506</u>	<u>\$ 652</u>
Management		
Endangered/threatened otters	\$ 171	\$ 269
Manatee	117	114
Monk seal <u>1/</u>	25	25
Total Section 15 Management	<u>\$ 313</u>	<u>\$ 408</u>
ESA Grand Total	<u>\$ 927</u>	<u>\$1,233</u>

1/ Although the National Marine Fisheries Service (NMFS) has primary responsibility for the monk seal, the species utilizes a National Wildlife Refuge, thereby becoming a management responsibility of the FWS pursuant to the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

Research conducted by the Service or under contract during FY 84 is summarized below.

Service Conducted Research

1. Polar bear
 - a. Determine distribution, timing and importance of polar bear maternity denning in Alaska.
 - b. Determine distribution and movement patterns of Alaskan polar bears.
 - c. Determine biological parameters of polar bears of the western and northern populations.
2. Sea otter and marine otter
 - a. Determine annual and seasonal distribution, abundance and composition of populations of sea otters and other marine mammals of Prince William Sound, Alaska.
 - b. Provide the biological basis for determining Optimum Sustainable Population (OSP), estimating sustainable yield, delineating stocks, and for identifying factors important to effective zonal management of sea otters in southeastern Alaska.
 - c. Determine the abundance, size and status of southern sea otter populations.
 - d. Determine the physiology, behavior and life history of sea otters in California.
 - e. Determine the interactions between southern sea otters and nearshore communities.
 - f. Determine the status of the marine otter.
3. Walrus
 - a. Evaluate areas for potential use for population assessment, investigate hauling out patterns, and determine basic biology of walruses on hauling grounds.
4. Hawaiian monk seal
 - a. Determine the status of the Hawaiian monk seal.
5. Manatee and dugong
 - a. Determine the status, distribution, movements and population biology of all taxa of sirenians.
 - b. Determine basic reproductive and behavioral characteristics of the West Indian manatee.
 - c. Determine ecosystem relationships of the West Indian manatee.
 - d. Determine causes of mortality and conduct biological studies on materials salvaged from carcasses of the West Indian manatee in the U.S. and Puerto Rico.

Contracted Research'

1. San Nicolas Island ecological study. Principal investigator: W. Doyle, University of California (\$53,000 ESA Section 15 funds).

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

INTRODUCTION

AUTHORITY

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<u>senegalensis</u>	West African manatee	Yes	Threatened



Polar bear. U.S. Fish and Wildlife Service photo by Jim Brooks.

APPROPRIATIONS

The most recent funding authorization by Congress for the Service was under Section 114 of the amended MMPA (16 U.S.C. 1361-1407, 86 Stat. 1027 (1972); 95 Stat. 979 (1981) for fiscal year (FY) 1984; and 98 Stat. 440 (1984) for FY 1985 through 1988). The calendar year (January 1, 1984 - December 31, 1984) covered by this report, however, overlaps FY 1984 and FY 1985, and funds authorized (Auth.) and appropriated (Appr.) for both fiscal years are shown below (in \$000).

Reporting Year Funding (January 1 to December 31, 1984)

	<u>MMPA Section 114</u>	
	<u>Auth.</u>	<u>Appr.</u>
FY 84	\$2,000	\$1,249
FY 85	\$2,500	\$1,292

The funding breakdown is as follows (in \$000):

	<u>Actual</u> <u>FY 84</u>	<u>Projected</u> <u>FY 85</u>
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^{1/} Although the National Marine Fisheries Service (NMFS) has primary responsibility for the monk seal, the species utilizes a National Wildlife Refuge, thereby becoming a management responsibility of the FWS pursuant to the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

SUMMARY OF 1984 PROGRAM

OUTER CONTINENTAL SHELF (OCS) OPERATIONS AND ENVIRONMENTAL STUDIES

The Service participates in the Department's OCS Minerals Leasing and Development Program primarily by providing advice, input and review at various decision stages. The Service provides technical expertise on the management of fish and wildlife resources and the habitats on which they depend. During the report period, the Service participated in several lease sales and suggested protective measures for the appropriate marine mammal species.

During 1984, the Department held six oil and gas lease sales in the following locations: Eastern Gulf of Mexico (Sale 79, 1/5/84); Navarin Basin (Sale 83, 4/17/84); Central Gulf of Mexico (Sale 81, 4/24/84); Western Gulf of Mexico (Sale 84, 7/18/84); Diapir Field (Sale 87, 8/22/84) and Southern California (Sale 80, 10/17/84). Deletions and prohibitions in various lease areas continue to offer protection to marine mammals under the jurisdiction of the Service.

RESEARCH AND DEVELOPMENT

The Division of Biological Services managed a group of studies for the Minerals Management Service (MMS) in support of OCS leasing known as "ecological characterizations." This ecological information base assists in comprehensive coastal resource planning and management. Each characterization contains a narrative section on important marine mammal species in the region, their distribution, migration routes, and habitat preferences and requirements.

The Ecological Characterizations for the Caloosahatchee River/Big Cypress Watershed, on the southwest coast of Florida, was published. In addition, characterizations of the Tampa Bay Watershed, in southwest Florida, and the Big Bend and Panhandle areas in northwest Florida, are in preparation. The Florida Ecological Atlas, a companion document to the Ecological Characterizations, contains maps showing the critical habitat of endangered marine mammals and information on species abundance and habitat preferences in a narrative accompanying the maps. These documents map the critical habitat of endangered marine mammals and discuss species abundance and habitat preferences in a narrative accompanying the maps. Southwestern Florida was mapped in 1984, and similar atlases for northwestern Florida and Tampa Bay are nearing completion.

The Marine Mammal Section of the Denver Wildlife Research Center (DWRC) and the Alaska Fish and Wildlife Office of Research are responsible for carrying out research under the MMPA. Emphasis has been given to determining the ecological effects of human activities related to development and exploitation of the marine environment on marine wildlife and ecosystems.

Research conducted by the Service or under contract during FY 84 is summarized below.

Service Conducted Research

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 - a. Determine distribution, timing and importance of polar bear maternity denning in Alaska.
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 - c. Determine ecosystem relationships of the West Indian manatee.
 - d. Determine causes of mortality and conduct biological studies on materials salvaged from carcasses of the West Indian manatee in the U.S. and Puerto Rico.

Contracted Research'

1. San Nicolas Island ecological study. Principal investigator: W. Doyle, University of California (\$53,000 ESA Section 15 funds).

2. Initial studies of radiotelemetry implants in California sea otters. Principal investigator: D.B. Siniff, University of Minnesota (\$11,300 ESA Section 15 funds).
3. Marine ecosystems and habitats with specific reference to manatee salvage and mortality. Principal investigator: D. O'Dell, University of Florida (\$20,000 ESA Section 15 funds).
4. Public awareness of the status of the manatee and problems associated with boating and diving activities in the vicinity of manatees. Florida Department of Natural Resources (\$15,000 ESA Section 6 funds).
5. Preparation of the draft Environmental Impact Statement (EIS) on the translocation of southern sea otters. Cooperative Agreement. Principal investigator: W. Doyle, University of California-Santa Cruz (\$170,000 ESA Section 15 funds).
6. Sea otter studies: mortality causes; salvage and necropsy; and observation of incidental take. Cooperative Agreement. Principal investigator: R. Hardy, California Department of Fish and Game (\$53,000 ESA Section 6 funds).
7. Determine feasibility of regulating movement of sea otters; improve capture techniques. Cooperative Agreement. Principal investigator: R. Hardy, California Department of Fish and Game (\$40,000 ESA Section 6 funds).

ENFORCEMENT

The Service's Division of Law Enforcement investigates known, alleged or potential violations of the Act involving illegal take or importation of marine mammals or their products for which the FWS is responsible. In addition, it assists the National Marine Fisheries Service (NMFS) by making apprehensions and conducting investigations in cases involving species under that agency's jurisdiction. Results of these efforts are referred to NMFS for its consideration and appropriate action. However, under a NMFS/Service memorandum of understanding, the Service retains authority over those investigations that involve endangered marine mammal species. Violations are referred to the Department's Office of the Solicitor for civil action or to the Department of Justice for criminal action.

Seventy-five marine mammal investigations were pending as of January 1, 1984, and Service agents initiated three hundred and twenty-one new investigations during 1984. A total of one hundred and eighty-three marine mammal investigations were closed during the year, leaving two hundred and thirteen investigations remaining in a pending status as of December 31, 1984.

Records to date indicate that in 1984 forty-six cases were filed in criminal court and ninety cases were filed civilly.

Alaska Law Enforcement Actions

Undercover investigations continued to be the primary method of detecting violations of the MMPA, particularly in the illegal commercialization of raw parts. However, surveillance of haul-out areas and overt law enforcement operations on the hunting grounds also proved important.

During the spring of 1984, near Cape Seniaven on the Alaska Peninsula, six fishing boats were observed harassing and shooting walrus. No attempts were made to retrieve any of the walrus. Several days later, search warrants were served on all of the boats, resulting in the seizures of firearms used in the shootings. Civil penalty proceedings have been initiated against all of the captains.

A search warrant was served on the fishing vessel Invader after reports that crew members had purchased raw walrus ivory from the Natives at Mekoryuk, Alaska. A quantity of raw ivory was seized. Criminal charges were filed in U.S. District Court, Anchorage, Alaska, on three of the crew members. All pled guilty and received fines and probated sentences.

In a joint investigation with the NMFS, an Alaskan Native resident of Anchorage purchased a raw polar bear hide in Barrow, Alaska, and agreed to sell it to an undercover agent for \$3,000. He also sold raw seal skins to the undercover agent. Prosecution is pending.

An informant notified FWS Special Agents that an Alaskan Native had offered to sell him eight sea otter hides for \$1,500 each. The informant and a Special Agent met the Native at an Anchorage tannery and made a down payment on the hides. The tannery, which was not registered to handle sea otters, was later searched and seventeen sea otter hides were seized. Criminal charges have been filed against the Native and civil penalty proceedings filed against the tannery.

A non-Native Anchorage resident and a resident of Wales, Alaska, were arrested in Anchorage when they agreed to sell three polar bear hides and raw walrus ivory to undercover agents. The hides and ivory were seized. Both subjects pled guilty and served jail sentences; no fines were imposed because of their inability to pay.

Alaska Enforcement Summary

1. Active investigations:
 - a. Walrus 27
 - b. Polar bear 11
 - c. Sea otter 3

2. Closed investigations:
 - a. Walrus 2
 - b. Polar bear 1
 - c. Sea otter 1

3. Cases submitted for civil penalty:
 - a. Walrus 11
 - b. Polar bear 1
 - c. Sea otter 1

4. Civil penalties:
 - a. Eleven people involved in \$27,100 of penalties, and forfeiture value of \$2,450; 350 hours of community service.

5. Criminal penalties:
 - a. Three people involved in six months jail time.
 - b. Fines assessed total \$2,475.

PERMITS AND REGISTRATIONS

Other than providing an exemption for the nonwasteful take of nondepleted marine mammals by Alaskan Natives for subsistence or handicraft purposes, the MMPA generally prohibits the take or import of marine mammals and marine mammal products although exceptions may be made under permit for scientific research or public display. These permits may be issued only if it is determined by the Service that there will be no adverse effects on the health and well-being of the marine mammal species, populations and their marine ecosystems. Registered agent permits are issued to authorize the buying or selling of raw marine mammal parts or products by non-Alaskan Natives (i.e., persons other than Alaskan Indians, Eskimos or Aleuts) or to enable marine mammal hides to be tanned to facilitate trade of these products among Alaskan Natives.

During 1984, nine permits for scientific research were issued; one was subsequently cancelled by the FWS. Seven permits were issued for the import and public display of a total of nine captive born polar bears, two for the capture and export of eight Alaskan sea otters, and one permit was issued for the import and display of 14 Inuit crafted walrus artifacts. One application for the import and public display of a wild polar bear cub was denied. Ten registered agent permits were issued. The following is a brief description of permit actions taken in 1984.

Scientific Research Permits

PRT-684532, U.S. Fish and Wildlife Service, San Simeon, California, issued for the period 10/15/84 through 10/31/87 to conduct research on West Indian manatees within the U.S. and Puerto Rico including: (1) radio tag and/or tetracycline mark; (2) attach peduncle tags or free-floating tether tags; (3) tail

notch free ranging, human-accustomed animals; (4) freeze brand injured and rescued animals; (5) carry out non-harmful studies on rehabilitation; (6) collect dead and injured animals; and (7) export parts from salvaged dead animals for further research.

PRT-672624, U.S. Fish and Wildlife Service, Denver, Colorado, issued for the period 2/16/84 through 12/31/84 to conduct research by capturing 27 southern sea otters on the California coast from Rugged Point to Cambria including: (1) tag and release animals over 15 pounds for future monitoring; (2) immobilize animals using Fentanyl, or Fentanyl and Azaperone in order to take 20cc blood samples; and (3) salvage animals that die or are found dead and collect biological samples, or aid and care for sick or injured animals.

PRT-672629, Kerry Foresman, University of Montana, Missoula, Montana, issued for the period 2/9/84 through 6/30/86 authorizing the import of 300 polar bear blood samples per year from Canada for research.

PRT 2-9931, Richard N. Silverstein, M.D., Staten Island, New York, issued for the period 3/2/84 through 12/31/84 to kill one adult polar bear in northwestern Alaska in order to collect various samples for biomedical research concerning vitamin A adaptations in bears and possible relevance to humans. A bear was not collected and the permit was cancelled on 5/10/84 at the permittee's request.

PRT-681784, Dr. John Fletemeyer, Nova University, Dania, Florida, issued for the period 8/31/84 through 8/31/86 to conduct research on West Indian manatees in southeastern Florida including the use of side-scan sonar to detect manatee movements and close range photography.

PRT 2-10022, Sea World Inc., San Diego, California, issued for the period 5/23/84 through 5/31/86 to take one southern sea otter from the California coast between Santa Cruz and Pismo Beach for research purposes.

PRT-678319, Dr. Donald Siniff, University of Minnesota, Minneapolis, Minnesota, issued for the period 6/1/84 through 11/30/87 to conduct research on up to 150 Alaskan sea otters in Prince William Sound, Alaska. Activities include capture, anesthetization, flipper tagging, blood sampling, tooth extraction and implanting radio transmitters on up to 100 animals (no more than 50 in one year), of which 50 will be tagged with temple tag transmitters.

PRT-688234, Dr. Donald Siniff, University of Minnesota, Minneapolis, Minnesota, issued for the period 12/20/84 through 12/31/87 to capture up to 100 southern sea otters from the California coast in the vicinity of the Santa Maria River and Ano Nuevo Island for the purpose of implanting radio transmitters.

PRT-681844, All-Union Scientific Institute of Fisheries and Oceanography, Moscow, USSR, issued for the period 11/7/84 through 12/31/85 to take by killing: 200 Pacific walrus, 200 ribbon seals, 200 largha seals, 100 ringed seals, 300 bearded seals and 100 Steller sea lions in the southeastern Bering Sea during a joint USA-USSR expedition. Research is for the purpose of studying the abundance, distribution and dynamics of rookeries under ice conditions, as well as the age/sex composition and reproductive capacity of walrus, ice seals and sea lions.

Public Display Permits

PRT 2-11389, Tulsa Zoological Park, Tulsa, Oklahoma, issued for the period 6/18/84 through 6/30/85 for the import and public display of two captive-born polar bears for the Moscow Zoo, Moscow, USSR.

PRT-679263, Morris Museum of Arts and Science, Convent, New Jersey, issued for the period 6/29/84 through 6/29/85 for the import and public display of 14 Inuit crafted artifacts made in whole or in part from walrus material.

PRT-682196, Sunshine International Aquarium, Tokyo, Japan, issued for the period 9/4/84 through 12/31/84 for the capture and export of one male and three female Alaskan sea otters from Alaska for public display.

PRT-682207, Matsushima Aquarium, Miyagi, Japan, issued for the period 9/4/84 through 12/31/84 for the capture and export of one male and three female Alaskan sea otters from Alaska for public display.

PRT-683050, Detroit Zoo, Royal Oak, Michigan, issued for the period 9/17/84 through 9/30/85 for the import of one captive-born female polar bear from the Ruhr Zoo, West Germany, for public display.

PRT-683054, Detroit Zoo, Royal Oak, Michigan, issued for the period 9/17/84 through 9/30/85 for the import of one female captive-born polar bear from the Kolmarden Zoo, Sweden, for public display.

PRT-684744, Milwaukee Zoo, Milwaukee, Wisconsin, issued for the period 10/17/84 through 10/17/85 for the import of one female captive-born polar bear from the Ruhr Zoo, West Germany, for public display.

PRT-679058, Detroit Zoo, Royal Oak, Michigan, issued for the period 6/25/84 through 6/30/85 for the import of one captive-born female polar bear from the Skansen Zoo, Stockholm, Sweden, for public display.

PRT-684998, Cincinnati Zoo, Cincinnati, Ohio, issued for the period 10/23/84 through 10/31/85 for the import of one male and one female captive-born polar bear from the Baby Zoo, Wengst, West Germany, for public display.

PRT-684019, Milwaukee Zoo, Milwaukee, Wisconsin. This application to import one wild, orphaned polar bear cub for public display was denied on the basis of pertinent regulations prohibiting the import of any marine mammal that was nursing at the time it was removed from the wild except for research purposes.

PRT-683815, San Francisco Zoo, San Francisco, California, issued for the period 12/21/84 through 12/21/85 for the import of one polar bear from the Manitoba, Canada, Department of Natural Resources, for public display.

Registered Agent Permits

PRT-671391, Frontier Tanning Company, Anchorage, Alaska, for the period 1/6/84 through 10/31/85.

PRT-671182, Jack Coughlan, Anchorage, Alaska, for the period 1/1/84 through 12/3/85.

PRT-672258, Jerry Austin, St. Michael, Alaska, for the period 2/1/84 through 1/31/86.

PRT-673154, Wilderness Taxidermy, Tok, Alaska, for the period 2/23/84 through 2/28/86.

PRT-680927, Kodiak Taxidermy, Kodiak, Alaska, for the period 8/8/84 through 7/31/86.

PRT-681597, George Kritchen, Cordova, Alaska, for the period 8/24/84 through 8/31/86.

PRT-683423, New Method Fur Dressing Company, San Francisco, California, for the period 9/21/84 through 2/28/85.

PRT-683754, Northland Furs, Kasilof, Alaska, for the period 9/27/84 through 9/30/86.

PRT-683953, Arctic Harvest Exports, Point Hope, Alaska, for the period 10/4/84 through 9/30/86.

PRT-675131, Fickes Taxidermy, Anchorage, Alaska, for the period 4/6/84 through 3/31/86.

INTERNATIONAL ACTIVITIES

The Service's international efforts to conserve marine mammals and their habitats are an important component of its overall efforts to achieve the objectives of the MMPA. The following describes the principal international activities carried out by the Service during the report period.

Excess Foreign Currency Program

During this report period, the Service received no new congressional authorizations for use of excess foreign currencies. However, the Service continued work in Egypt, Pakistan, and India using carryover funds authorized in previous years. These authorizations were requested under Section 8 of the Endangered Species Act, which allows such funds to be expended on projects deemed by the Secretary of the Interior to be necessary for the conservation of endangered or threatened species.

The Service has continued to collect information on the effects of oil pollution on marine organisms in the Persian Gulf as a result of the Iraq-Iran war. Monitoring is difficult because of the war situation, allowing no direct on-the-spot research.

The establishment of a park area at Ras Mohamed in the Red Sea has allowed the Egyptian Wildlife Service to station two personnel at the town of Sharm El-Sheikh. Part of their activities include monitoring of the dugong population in that area.

US-USSR Environmental Agreement: Marine Mammal Project

In partnership with the NMFS, the Service cooperates with the USSR Ministry of Fisheries and USSR Academy of Sciences in an extensive program of laboratory research and joint survey expeditions to foster the conservation and management of marine mammals of importance to both countries. During 1984 American and Soviet scientists took part in five exchanges totaling 11 man-months, all under the auspices of the bilateral US-USSR Environmental Agreement.

In March and April, two Soviet delegations visited the United States to take craniological measurements in the pinniped collections of several natural history museums, and to analyze cetacean odontocete data and color morphometrics of harbor seals. At the same time, an American biologist travelled to the Soviet Union to continue studies of parturition marks in sperm whale teeth.

Activities during the second half of the year included a September sea otter workshop in Nakhodka, USSR, at which five Americans presented papers, and a joint walrus survey cruise in the Bering Sea (November-December) aboard the USSR vessel, "Zakharovo," in which four Soviet and three American specialists participated. Data were gathered on physical condition, reproduction, feeding

habits, diseases and contaminant levels. Copies of the final report are available from the Service's Office of International Affairs, 18th and C Streets, N.W., Room 2441, Washington, D.C. 20240.

STATUS REPORTS

Reporting and Sealing Regulations

As previously authorized by Congress, the Service began to develop mandatory marking, tagging and reporting (formally referred to as reporting and sealing) regulations for polar bear, walrus and sea otter harvested by Alaskan Natives for subsistence or handicraft purposes. The intended effect of this action is to assist the Service in monitoring the harvest of polar bear, walrus and sea otter, and in obtaining essential biological data needed to manage properly these marine mammal species or stocks. The action is also intended to help in controlling the illegal take, trade and transport of specified raw marine mammal parts. The planned implementation will be in FY 86.



Polar bear with kill on the Arctic National Wildlife Refuge. U.S. Fish and Wildlife Service photo by Dave Olson.

Polar Bear

The current status of the polar bear in Alaska has not been definitively determined but is believed to be stable, and possibly at a level lower than earlier predicted. Polar bears are well distributed throughout their historical range. Recent estimates by various researchers on the numbers of polar bears in Alaska range from a low of 3,000-5,000 to a high of 9,500. Although the comparison of these various population estimates is not possible because they were derived by using different methods, it is generally agreed that the population currently appears to be stable and probably has not declined in recent years. Information needed to establish accurate population levels and trends, however, is not currently available. Future work on polar bear movements, productivity and survivability is required before more definitive population estimates or indices can be established.

Under the Act, only Alaskan Natives are, at present, allowed to harvest polar bears legally for subsistence or handicraft purposes. The Act further provides that such taking can be done without regard to the number, age, sex, reproductive condition or time of year unless the species is declared depleted. Polar bears are generally taken when available throughout the fall, winter and spring seasons. Very few Alaskan Natives hunt specifically for polar bears. Most animals are taken close to villages during the course of seal hunting or other activities, but the 1984 season may have been an exception to this general rule.

Recent estimates on the number of polar bears taken are based on harvest surveys conducted by the Alaska Department of Fish and Game (ADF&G) through the 1979 harvest season and, most recently, by the FWS. However, because compliance to harvest surveys has been on a voluntary basis, data collected should be considered as the minimum take.

During the 1983/84 harvest period, a minimum of 283 bears were taken by hunters from 15 villages (Table 1). This represents a record number of bears taken for subsistence purposes. It coincides with the extremely heavy ice conditions which persisted throughout the Chukchi and Bering Seas during the fall and winter periods. Preliminary estimates indicate the harvest was composed of 55.7 percent males, 33.6 percent females and 10.7 percent of the animals with sex not reported. As in previous years, about 79 percent of the bears were taken in the western sector and 25 percent in the northern sector. Snow machines were used as the predominant mode of transportation for hunting. Hunting was concentrated near villages and along coastal areas.

Ice extended to the south as far as the Pribilof Islands and persisted at southern latitudes for longer periods of time than normal. Persistent northerly winds and unusually cold temperatures contributed to these ice conditions. This combination of events contributed to the prolonged presence of bears in coastal areas. Polar bears were taken by hunters in villages which previously had little or no history of harvesting bears. For example, a hunter

 Table 1. Alaskan Polar Bear Harvest by Village, 1980-1984.*

<u>Village</u>	<u>7/80 to</u> <u>7/81</u>	<u>7/81 to</u> <u>7/82</u>	<u>7/82 to</u> <u>7/83</u>	<u>7/83 to</u> <u>7/84</u>
Kaktovik	23	1	1	1
Barrow	7	6	11	21
Wainwright	8	15	17	29
Pt. Lay	1	4	2	8
Pt. Hope	9	7	21	29
Kivalina		1		3
Kotzebue				2
Wales	6	11	8	20
Shishmaref	29	22	13	78
Brevig Mission				5
Diomede	1	3		10
Nome				1
Gambell	6	1	6	26
Savoonga	16	21	9	49
Hazen Bay				1
All Others		1	3	
Totals	<u>106</u>	<u>93</u>	<u>91</u>	<u>283</u>

* U.S. Fish and Wildlife Service data. Numbers are subject to change depending upon voluntary reports that are completed.

took a large male polar bear near Nome on Labor Day after Norton Sound was ice free. Traditionally, polar bears do not occur near Nome, but are found to the west in the Bering Sea. Other villages with little history of polar bear take, but where bears were taken in 1984, include the villages of Kotzebue, Kivalina, and Brevig Mission. St. Lawrence Island residents reported that approximately ten polar bears summered on the island. These animals were believed to have left the area sometime before fall as hunters were unable to locate tracks after the first snowfall. Westerly spring winds apparently contributed to the July presence of polar bears in the Etolin Straits near the Yukon River Delta. The fate of bears summering on St. Lawrence Island and the Yukon River Delta is unknown, although polar bears have been known to swim long distances.

Harvest levels vary naturally and are related to availability of bears along coastal areas. Harvests through the 1940's were primarily carried out by Natives hunting with dog teams for subsistence and for hides to sell. Estimated annual harvests based on fur export records for 1925-53 averaged 117 bears killed per year. Hunting from aircraft began in the late 1940's, and gradually increased through the 1950's and 1960's. It was discontinued in 1972 with implementation of the MMPA. During the aerial hunting era, polar bear harvests averaged approximately 160 bears annually between 1954-1960, and increased to 260 bears taken annually between 1960-72. About 13 percent of the harvest (34 bears per year) were taken by Alaskan Natives.



Pacific walrus. U.S. Fish and Wildlife Service photo.

There is a growing concern that the Native take of polar bears without regard to the number, age, sex, and time of year may have a significant adverse effect on the polar bear population in Alaska, and, even further, on the population in the Yukon Territory and the Northwest Territories of Canada since polar bear migration routes are known to cross the United States/Canada border. Concerns have been expressed by the Canadian, Norwegian, and Danish governments, all of which are parties to the International Agreement for the Conservation of Polar Bears. With their low reproductive rate (more than 3.5 years between litters, with the average litter size being less than two), polar bears are extremely sensitive to overharvesting if excessive killing of females is allowed to occur; current evidence suggests that this may indeed be the case. The State of Alaska has the opportunity to effect an active management program should they request, and ultimately regain, management authority. If they do not elect to assume management for the species for which FWS has management responsibility, the FWS intends to expand its management capabilities.

Walrus

The 1984 walrus harvest monitoring program was the fifth consecutive year that spring harvests were measured by the Service in five Bering Sea villages. The five villages -- Gambell, Savoonga, Little Diomedes, Nome/King Island, and Wales -- were chosen based upon past surveys that showed 70-80 percent of the spring harvest occurs in them. An estimated 70-80 percent of the statewide harvest occurs in the springtime. The number of walrus retrieved in 1984 set four individual village records. The combined total was greater than any recorded for subsistence hunting in the five villages. The 3,981 animals were comprised of 1,316 (33.1 percent) adult males, 1,562 (39.2 percent) adult females, 442 (11.1 percent) adults for which the sex was unknown, and 661 (16.6 percent) calves (Table 2). The total American harvest (the USSR also allows the harvest of walrus) is higher than these numbers indicate for a number of reasons: (1) the Service's harvest survey currently covers an estimated 50-60 percent of the harvest; (2) harvest reporting is on a voluntary basis; (3) public demand for ivory continues to increase; and (4) a high number -- estimates of 40-50 percent are not uncommon -- of walrus taken sink before retrieval is possible.

Biological indicators suggest that the current walrus population, recently estimated at 270,000 to 290,000 animals, is no longer increasing and probably in decline. Reproductive success is down as shown by analysis of reproductive tracts collected from females. Sex and age class surveys indicate that fewer calves are being brought into the population either from poor survivability, a decrease in the numbers of females impregnated or a decline in the number conceived and born. Poor survival may have led to low recruitment to the breeding population, possibly since the mid-1970's. The population is now comprised of predominantly old-age animals of lower

 Table 2. Retrieved Walrus Harvest in Selected Bering Sea Villages, 1984

<u>Village</u>	<u>Male</u>	<u>Female</u>	<u>Unknown</u>	<u>Calves</u>	<u>Total</u>
Gambell	373	528	193	405	1,499
% of Total	25	35	13	27	
% Adults	34	48	18	--	
Savoonga	557	219	32	203	1,011
% of Total	55	22	3	20	
% Adults	69	27	4	--	
Nome/King Island	27	26	103	1	157
% of Total	17	17	66	1	
% Adults	17	17	66	--	
Little Diomede	269	657	77	40	1,043
% of Total	26	63	7	4	
% Adults	27	66	8	--	
Wales	90	132	37	12	271
% of Total	33	49	14	4	
% of adults	35	51	14	--	
Totals	1,316	1,562	442	661	3,981
% of Totals	33	39	11	17	
% Adults	40	47	13	--	

 reproductive potential. These indicators combined with increasing harvest trends (Figure 1) are reason for concern.

During September, FWS and ADF&G personnel conducted aerial walrus surveys between solid pack ice and more southerly open water. Objectives of the survey were to prepare for the joint US-USSR survey to be conducted in September of 1985 by testing various survey designs, defining a zone with low and high density concentrations of walrus and to survey open water areas for the presence of, and sightability of, walrus. High densities of walrus were not encountered, and the preliminary test raised more questions than it answered.

The FWS continued an active role on the Pacific Walrus Technical Committee (PWTC). Primary objectives of the PWTC are to discuss current research and management topics and to provide advice and guidance to the Eskimo Walrus Commission.

Sea Otter-Alaska

The past decade has seen apparent population increases in Alaska. The population now approaches 150,000 to 200,000 animals, depending upon the estimate used. In some areas, the population may be at or exceeding historic levels.

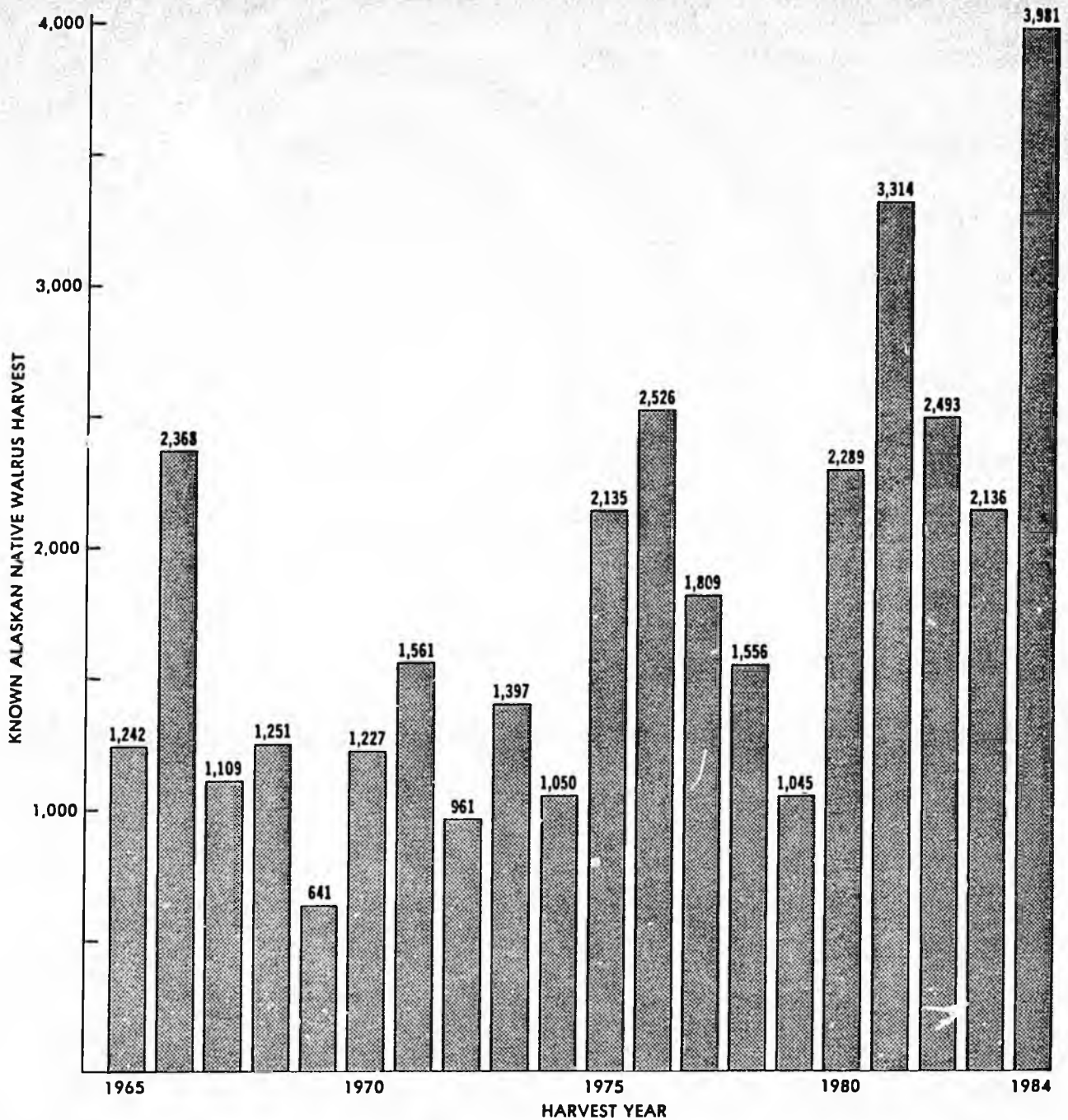


Figure 1. Annual retrieved spring harvest of Pacific walrus from Gambell, Savoonga, Little Diomedede, Wales and Nome/King Island, Alaska. Data provided courtesy of the Alaska Department of Fish and Game for 1965-1979. U.S. Fish and Wildlife Service data from 1980-1984.

Population surveys were conducted in western Prince William Sound and Kodiak Archipelago. The overall population in western Prince William Sound has not increased substantially from 1974 to 1984, but the population may have shifted from the southeastern to the northwestern part of the Sound. In the Kodiak Archipelago, the overall numbers of sea otters appear to be about the same over a

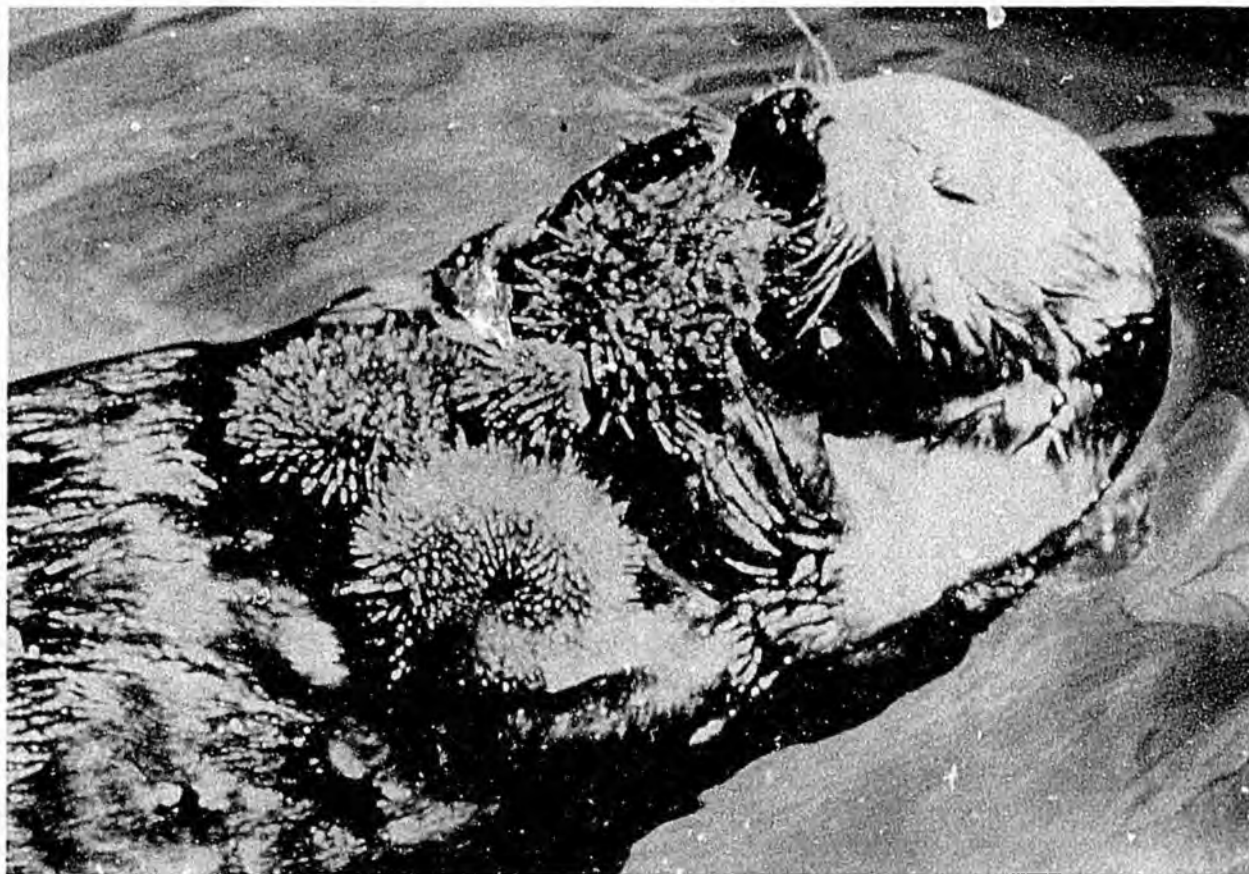
nine year period between surveys (1975-1984) for the same area. Major distributional shifts were observed with apparent changes in population centers.

An increasing number of complaints of sea otter damage to shellfish fisheries is being received. The actual cause of shellfish declines is unknown, but complaints have been received from Cordova, Kodiak and their environs. Total sea otter mortality is unknown, but it is suspected to be increasing from human activities such as setnet fishing (dead sea otter pups have been observed in setnets), and from Native take. One to two telephone calls per week have been received from Natives seeking information on legalities of their taking sea otters.

A Marine Mammal Commission Workshop on sea otter containment was attended.

Sea Otter-Southern

In 1977 the southern sea otter, already afforded protection under the MMPA, was listed as a "threatened" species under the ESA. That Act required that a recovery plan be prepared by the Service for each listed species. The Southern Sea Otter Recovery Plan, developed and approved by the Service's Director in February 1982 and currently under revision identified and set priorities on



Sea otter with three sea urchins. U.S. Fish and Wildlife Service photo.