

which has provided four hours advance notice of its intended transit, the bridge owners shall provide sufficient drawtenders so that the commercial

vessel will not have to slow its transit or wait between bridges for openings.  
3. Appendix A to part 117 is amended to revise the Oakland Inner Harbor Tidal

Canal entries under the State of California to read as follows:

APPENDIX A TO PART 117.—DRAWBRIDGE EQUIPPED WITH RADIOTELEPHONES

Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
*	*	*	*	*	*	*
California						
*	*	*	*	*	*	*
Oakland Inner Harbor Tidal Canal .....	5.2	Oakland ...	Park Street, Alameda County .....	WHV 996	16	9
	5.6	Oakland ...	Fruitvale Avenue, Alameda County ....	WQB 330	16	9
	6.0	Oakland ...	High Street, Alameda County .....	WHX 488	16	9
*	*	*	*	*	*	*

Dated: April 27, 1995.  
**R.A. Appelbaum,**  
*Rear Admiral, U.S. Coast Guard Commander,  
Eleventh Coast Guard District.*  
[FR Doc. 95-11297 Filed 5-8-95; 8:45 am]  
BILLING CODE 4910-14-M

**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**36 CFR Part 242**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 100**

**RIN 1018-AC82**

**Subsistence Management Regulations for Public Lands in Alaska, Subparts C and D—1995-1996 Subsistence Taking of Fish and Wildlife Regulations for the Kenai Peninsula**

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes customary and traditional use determinations for several species and regulations for seasons and harvest limits related to taking of moose for subsistence uses on Federal lands on the Kenai Peninsula during the 1995-1996 regulatory year.

**DATES:** Written public comments will be accepted through July 10. Public meetings on this proposed rule making will be held during the comment period in the following locations in Alaska: Anchorage, Soldotna, Seldovia, Hope, Cooper Landing, Homer, and other communities as necessary.

**ADDRESSES:** Written comments and proposals for changes to these proposed

regulations may be sent to the Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503. Specific locations and addresses for the public meetings will be published locally.

**FOR FURTHER INFORMATION CONTACT:**

Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Richard S. Pospahala, Office of Subsistence Management, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3447. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802-1628, telephone (907) 586-7921.

**SUPPLEMENTARY INFORMATION:**

**Customary and Traditional Use Determinations**

The Board implemented a systematic program for review of customary and traditional use eligibility determinations as provided for in 36 CFR 242 and 50 CFR 100. As a priority consideration, the Board focused its determinations on community or area uses of large mammals (ungulates and bears), examining uses of species of large mammals by communities or areas rather than focusing on individual herds. The Board recognized that subsistence resource use patterns of neighboring communities are often interrelated and should be analyzed concurrently.

Existing regulations at 36 CFR 242.16(b) and 50 CFR 100.16(b) identify eight factors that a community or area shall generally exhibit which exemplify customary and traditional subsistence uses. The eight factors are as follows:

1. A long-term consistent pattern of use, excluding interruptions beyond the control of the community or area;
  2. A pattern of use recurring in specific seasons for many years;
  3. A pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics;
  4. The consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or reasonably accessible from the community or area;
  5. A means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate;
  6. A pattern of use which includes the handing down of knowledge of fishing and hunting skills, values and lore from generation to generation;
  7. A pattern of use in which the harvest is shared or distributed within a definable community of persons; and
  8. A pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social and nutritional elements to the community or area.
- Each Federal Subsistence Regional Advisory Council (Regional Council) has a substantial role in reviewing and developing information on which to base a recommendation to the Board concerning customary and traditional use determinations. The Southcentral Regional Council had available for consideration an extensive compilation of existing information on historic and contemporary large mammal resource use patterns by rural Kenai Peninsula communities. A draft report, dated

December 8, 1993, incorporated information from historic ethnographic sources; census data; community surveys conducted by the Alaska Department of Fish and Game, Division of Subsistence; and harvest ticket and sealing records compiled by the Alaska Department of Fish and Game.

During their public meeting of February 28—March 2, 1995, the southcentral Regional Council reviewed and discussed written information and oral testimony on resource use patterns as related to the eight factors for the Kenai Peninsula rural communities of Whittier, Hope, Cooper Landing, Ninilchik, the Homer rural area, Nanwalek (formerly known as English Bay), Port Graham and Seldovia. Positive customary and traditional use determinations were recommended based on several empirical elements. The communities were established and active in use of local resources by the 1950's. Contemporary use patterns, including seasons and harvest areas, for moose, caribou, goat, sheep, black bear, and brown bear in the areas under consideration were documented in community surveys, harvest reports, or oral testimony by Southcentral Regional Council members. Ceremonial uses and the cultural significance of harvest of some species were discussed. Sharing patterns and patterns of transmitting knowledge and lore from one generation to the next were documented more generally for the communities, without details particular to each species. The Southcentral Regional Council employed an inclusive standard in interpreting the empirical patterns in relation to the eight factors.

The Board voted to endorse the recommendations of the Southcentral Regional Council concerning which communities had customary and traditional uses of six large mammal species in Unit 15 and Unit 7. Those determinations are found in the changes proposed for section \_\_\_\_\_.24.

#### **Proposed Changes for the 1995–1996 Seasons and Bag Limit Regulations**

The Regional Council also proposed adding Federal subsistence seasons for the taking of moose on public lands in Unit 15. The recommendation was for an any-bull harvest season beginning August 10, 1995 and ending September 20, 1995. The Board, however, was persuaded by the biological data concluding that adverse impacts would result from any significant harvest of bulls in the middle age categories. Since 1987, antler restrictions have been a key part of the management efforts to improve upon very low bull:cow ratios on the Kenai Peninsula. This effort has

had positive effects, but the gains could be reversed and the population jeopardized under an any-bull subsistence harvest opportunity. In addition, local wildlife biologists report that the high snow fall of the 1994–95 winter has resulted in high natural mortality, with virtually no recruitment into the spike-fork age class of bull moose anticipated this coming year. The Board therefore added an antler restriction as a part of the subsistence seasons in Unit 15 to avoid adverse biological consequences. The proposed seasons and harvest limits are found in the proposed changes to section \_\_\_\_\_.25.

Regulations contained in this proposed rule are proposed to take effect on August 10, 1995, unless they are changed by subsequent Board action following the public review process outlined herein. The Departments propose to waive the 30-day effective date time period for the final rule in order to provide the maximum opportunity for public participation during the comment period following publication of the proposed rule, while simultaneously complying with the seasons' starting date of August 10, 1995.

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

Subparts A, B, and C of the Subsistence Management Regulations for Public Lands in Alaska, 50 CFR 100.1 to 100.24 and 36 CFR 100.1 to 100.24, remain effective and apply to this proposed rule. Therefore, all definitions located at 50 CFR 100.4 and 36 CFR 100.4 apply to regulations found in these subparts. The identified sections include definitions for the following terms:

“*Federal lands* means lands and waters and interests therein title to which is in the United States”; and

“*Public land or public lands* means lands situated in Alaska which are Federal lands; except—

(1) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal Law;

(2) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) lands referred to in Section 19(b) of the Alaska Native Claims Settlement Act.”

#### **Public Review Process—Regulation Comments and Public Meetings**

Written comments may be submitted to the address identified at the beginning of this rulemaking. They must be received by the date indicated. Comments may also be presented at the public meetings to be held in Anchorage and various communities on the Kenai Peninsula.

The Board will discuss and evaluate comments and suggested changes to this rule during a public meeting scheduled to be held in Anchorage in early summer, 1995. The public may provide additional oral testimony to the Board at that time.

#### **Conformance With Statutory and Regulatory Authorities**

##### *National Environmental Policy Act Compliance*

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

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

implements the Federal Subsistence Management Program and includes a framework for an annual cycle for subsistence hunting and fishing regulations.

**Compliance With Section 810 of ANILCA**

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

**Paperwork Reduction Act**

These rules contain information collection requirements subject to Office of Management and Budget (OMB) approval under 44 U.S.C. 3501-3520. They apply to the use of public lands in Alaska. The information collection requirements described above are approved by the OMB under 44 U.S.C. 3501 and have been assigned clearance number 1018-0075.

Public reporting burden for this form is estimated to average .1382 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018-0075), Washington, DC 20503. Additional information

collection requirements may be imposed if Local Advisory Committees subject to the Federal Advisory Committee Act are established under Subpart B. Such requirements will be submitted to OMB for approval prior to their implementation.

This rule was not subject to OMB review under Executive Order 12866.

**Economic Effects**

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities. The number of small entities affected is unknown; but, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that they will not be significant.

These regulations do not meet the threshold criteria of "Federalism Effects" as set forth in Executive Order 12612. Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no significant takings implication relating to any property rights as outlined by Executive Order 12630.

*Drafting Information.* These regulations were drafted by William Knauer under the

guidance of Richard S. Pospahala, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional guidance was provided by Thomas H. Boyd, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park Service; John Borbridge, Alaska Area Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service.

**List of Subjects**

**36 CFR Part 242**

Administrative practice and procedure, Alaska, Fish, National Forests, Public Lands, Reporting and recordkeeping requirements, Wildlife.

**50 CFR Part 100**

Administrative practice and procedure, Alaska, Fish, Public Lands, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, Title 36, Part 242, and Title 50, Part 100, of the Code of Federal Regulations, are proposed to be amended as set forth below.

**PART \_\_\_\_\_—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA**

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

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

2. Section \_\_\_\_\_.24(a)(1) is proposed to be amended in the table under "Area," "Species," and "Determination" by removing the five entries for "GMU 7" and adding six new entries in their place to read as follows:

§ \_\_\_\_\_.24 Customary and traditional use determinations.

- (a) \* \* \*
- (1) \* \* \*

Area	Species	Determination
* * * * *		
GMU 7	Black Bear	Residents of Hope and Cooper Landing.
7	Brown Bear	No subsistence.
7	Caribou	Residents of Hope and Cooper Landing.
7	Goat	Residents of Hope, Cooper Landing, and Ninilchik.
7	Moose	Residents of Hope, Cooper Landing, and Whittier.
7	Sheep	Residents of Hope, Cooper Landing, and Ninilchik.
* * * * *		

\* \* \* \* \*

3. Section \_\_\_\_24(a)(1) is proposed to be amended in the table under "Area," "Species," and "Determination" by removing the seven entries for "GMU 15" for "Brown Bear," "Sheep," "Moose," and "Goat" and adding the following new entries in their place to read as follows:

\* \* \* \* \*

Area	Species	Determination
GMU 15 (A) and (B).	Black Bear .....	Residents of Hope, Cooper Landing, and Ninilchik.
15(C) .....	Black Bear .....	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.
15 (A) and (B).	Brown Bear .....	No subsistence.
15(C) .....	Brown Bear .....	Residents of Ninilchik, Nanwalek, and Port Graham.
15(A) .....	Caribou .....	Residents of Hope, Cooper Landing, and Ninilchik.
15(B) .....	Caribou .....	Residents of Ninilchik.
15(C) .....	Caribou .....	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.
15(A) .....	Goat .....	No subsistence.
15(B) .....	Goat .....	Residents of Cooper Landing and Ninilchik.
15(C) .....	Goat .....	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.
15(A) .....	Sheep .....	Residents of Cooper Landing.
15(B) .....	Sheep .....	Residents of Cooper Landing and Ninilchik.
15(C) .....	Sheep .....	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.
15(A) .....	Moose .....	Residents of Hope, Cooper Landing, Ninilchik, and Seldovia.
15(B) .....	Moose .....	Residents of Hope, Cooper Landing, Ninilchik, Seldovia, Nanwalek, and Port Graham.
15(C) .....	Moose .....	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.

\* \* \* \* \*

4. Section \_\_\_\_25(k)(15)(iii)(D) is proposed to be amended in the table under "Hunting" by adding an entry for "Moose" in alphabetical order to read as follows:

§ \_\_\_\_25 Subsistence taking of wildlife.

\* \* \* \* \*

	Harvest limits	Open season
Hunting:		
Moose:	Unit 15—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 10–Sept. 20.

\* \* \* \* \*

Dated: April 27, 1995.  
**Mitch Demientieff,**  
*Chair, Federal Subsistence Board.*  
 Dated: April 26, 1995.  
**Fred Norbury,**  
*Acting Regional Forester, USDA—Forest Service.*  
 [FR Doc. 95-11319 Filed 5-8-95; 8:45 am]  
 BILLING CODE 3410-11-M; 4310-55-M

**DEPARTMENT OF THE INTERIOR**  
**Office of the Secretary**  
**43 CFR Part 11**  
**RIN 1090-AA51**  
**Natural Resource Damage Assessments—Additional Type A Procedures**  
**AGENCY:** Department of the Interior.  
**ACTION:** Notice of meeting.  
**SUMMARY:** The Department of the Interior is holding a public meeting to discuss development of additional "type

A" procedures for assessing natural resource damages under the Comprehensive Environmental Response, Compensation, and Liability Act and the Clean Water Act. The Department is responsible for issuing regulations that Federal, State, and Indian tribe natural resource trustees may use to obtain compensation from parties responsible for natural resource injuries. Type A procedures are standard procedures for simplified assessments requiring minimal field observation.  
**DATES:** June 1, 1995, from 1:00 to 4:00 p.m.