

technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. The final rule only involves the operation of an existing drawbridge and will not have any impact on the environment. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. In §117.829, redesignate paragraph (b) as paragraph (c), revise newly redesignated paragraph (c), and add a new paragraph (b) to read as follows:

§ 117.829 Northeast Cape Fear River.

(a) * * *

(b) The CSX Hilton Railroad Bridge, mile 1.5 in Wilmington, NC shall operate as follows:

(1) The draw of the bridge to be remotely operated by the controller at the Navassa Railroad Bridge mile 34.0 across the Cape Fear River.

(2) The draw shall be left in the open position to vessels and will only be closed for the passage of trains and to perform periodic maintenance authorized in accordance with Subpart A of this part.

(3) Trains shall be controlled so that any delay in opening of the draw shall not exceed ten minutes except as provided in 117.31(b).

(4) The CSX Hilton Railroad Bridge shall not be operated by the controller at the CSX Navassa Railroad in the event of failure or obstruction of the motion sensors, laser scanners, video cameras or marine-radio communications. In these situations, a bridge tender must be called to operate the bridge on-site.

(5) When rail traffic has cleared, the horn will automatically sound one prolonged blast followed by one short blast to indicate that the CSX Hilton Railroad Bridge is moving to the full open position to vessels. During open span movement, the channel traffic lights will flash red, until the bridge is in the full open position to vessels. In the full open position to vessels, the bridge channel traffic lights will flash green, allowing vessels to pass safely.

(6) During closing span movement, the channel traffic lights will flash red, the horn will sound five short blasts, and an audio voice-warning device will announce bridge movement. Five short blasts of the horn will continue until the bridge is seated and locked down. When the bridge is seated and in the locked down position to vessels, the channel traffic lights will continue to flash red.

(c) The draw of the Seaboard System Railroad Bridge across the Northeast Cape Fear River, mile 27.0, at Castle Hayne, North Carolina shall open on signal if at least four hours notice is given.

Dated: November 22, 2004.

Ben R. Thomason, III,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 04-26521 Filed 12-1-04; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

RIN 1024-AD13

National Park System Units in Alaska

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule revises the special regulations for the NPS-administered areas in Alaska. These regulations were first adopted in 1981 as "interim guidance" and the minimum necessary to administer the new park areas established by the Alaska National Interest Lands Conservation Act. While we have made some changes to the rule since 1981, there has been no comprehensive review. This revision is

the start of an ongoing review process for the purpose of maintaining up-to-date regulations that are responsive to changing public and resource needs.

DATES: This rule is effective on January 3, 2005.

ADDRESSES: Mail inquiries to the National Park Service, Regional Director, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501 or by e-mail to akro_regulations@nps.gov.

FOR FURTHER INFORMATION CONTACT: National Park Service, Victor Knox, Deputy Regional Director, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501. Telephone: (907) 644-3501. E-mail: akro_regulations@nps.gov. Fax: (907) 644-3816.

SUPPLEMENTARY INFORMATION:

Background

Each park area in Alaska has a compendium consisting of the compiled designations, closures, openings, permit requirements, and other provisions established by the Superintendent under the discretionary authority granted in 36 CFR 1.5 and elsewhere in regulations. As a result of our review of part 13 and the associated park compendiums the following changes are being made. These changes, discussed below under Summary of Comments, and as noted above, represent the first phase of an ongoing rulemaking process to be conducted in conjunction with an annual review of individual park compendiums. Most of the revised rules replace existing provisions in park compendiums. Also included are four rules that had been under separate consideration apart from the compendium review process and are included with this rulemaking for administrative convenience and efficiency. Each of these rules is identified in the Summary of Comments paragraphs that follow. As used within this document, the terms "we," "our," and "us" refer to the National Park Service.

Summary of Comments

The proposed rule was published for public comment on April 2, 2004 (69 FR 17355), with the initial comment period lasting until June 1, 2004. The comment period was extended to June 16, 2004 (69 FR 31778). The National Park Service received 17 timely written responses regarding various sections of the proposed rule. All of the responses were either separate letters or email messages. Of the 17 responses two were from governmental agencies (one state and one local), eight were from non-governmental organizations (including

one consolidated response from six signatory groups), two were from small businesses, and five were submitted by individuals. Many proposed changes either received supporting comments or no comments. These sections are being adopted as proposed unless noted otherwise below. The proposed sections that did receive comments of opposition or revision are discussed below.

General Comments

The newly initiated part 13/park compendia review process: One governmental agency and five non-governmental organizations provided positive feed-back regarding the new review process, mentioning improved clarity and simplicity, consistency among park units, with state rules, and with ANILCA. One individual opposed annual reviews as too costly and unnecessary and recommended no less than a five-year review period. Another individual expressed opposition to the results of the new process for Denali National Park and Preserve, commenting that the change from park compendium rules to part 13 rules would result in reduced resource protection.

NPS Response: The new review process is intended to provide more up-to-date rules with greater public participation in the process. We believe the new rulemaking system can achieve this goal in a flexible manner that can be responsive to changing resource needs and public interest. The review process is expected to be less costly and more efficient because of its tie-in with the annual compendium process.

Extend comment period: Two organizations recommended extending the comment period to the fall to allow more time for commercial fishermen to research the changes, primarily the proposals affecting Glacier Bay National Park.

NPS Response: The issues of concern for commercial fishermen have been covered in detail by the two government agencies, three organizations, one business (a commercial fisherman and crewmember), and two individuals. We do not believe that extending the comment period would be likely to result in significantly different comments to those received and we recognize that these comments represent a broader base of interest. The NPS response to the specific issues of concern is provided below in the affected section for Glacier Bay National Park.

Specific Comments

Section 13.1 Definitions: The State of Alaska (State) requested that the word

“water” be removed from the definition of *airstrip* asserting the state’s jurisdiction to regulate activities in state waterways. One individual opposed the development of new airstrips.

NPS Response: The specific purpose of providing the definition at this time is to prohibit obstruction of airstrips as provided by newly adopted § 13.10. The intent of the definition is to include all landing areas used by aircraft. After review, the NPS believes that the more inclusive term “park areas,” defined in § 13.1, is a better choice for this section. The definition as proposed or as adopted did not alter the applicability and scope of the regulations as set forth in § 1.2 and 13.2. This rule will have no effect on the development of new airstrips.

Section 13.4 Information Collection: One organization commented that this change is unclear with specific concern expressed about the collection of additional information for commercial fishing.

NPS Response: The revision to § 13.4 will result in no change in the information collection approvals for the NPS. The revision corrects references to outdated information approval numbers that have been revised by OMB and the NPS since the section was originally adopted. With regard to commercial fishing at Glacier Bay National Park, the NPS is not considering the collection beyond that currently approved for the determinations of life-time access permit applications.

Section 13.18 Camping and Picnicking: The State recommended revising the proposed regulatory language in § 13.18(a)(2) to clarify that the reference to relocating camps that interfere with public access applies to the relocation of specific camps and not to a general closure to camping. Also, the State suggested moving this part of subsection (a)(2) to subsection (a)(1) because it is a type of restriction that better fits under that subsection.

NPS Response: The NPS agrees that the rule should refer to relocating specific camps rather than all camps to improve clarity and this recommendation has been adopted. The NPS believes that the location of the proposed language is adequate.

Section 13.19 Weapons, Traps, Bows and Nets: The State and one organization commented that this section should apply equally to all Alaska park areas. The State also commented that the cross reference to § 2.4 is confusing and should be removed. One other organization questioned whether this section would apply to commercial fishing, especially whether the NPS considers crab pots to

be traps for purposes of this section. One individual recommended that all guns and trapping be banned.

NPS Response: The distinctions for the pre-ANILCA areas are based on public comments during previous rulemaking. The NPS intends to continue to examine this section by issue and by park. The reference to § 2.4 is intended as a reader aid to understand which regulations apply to weapons, traps and nets in the Alaska park areas identified in subsection (a). Removing the reference would not change how the general and special regulations apply in Alaska areas. For these reasons we have retained the reference to § 2.4 in the final rule. Regarding the applicability to commercial fishing, subsection (e) clearly provides an exception for the taking of fish and wildlife when these activities are authorized by applicable law or regulation. Because of the complexity of the changes to this section, we have printed the entire revised section in the **Federal Register**, including redesignated subsections that have not been revised. Sport and subsistence hunting and trapping in preserves and subsistence hunting in certain parks and monuments is authorized by statute. Consequently a statewide regulatory ban is not appropriate.

Section 13.20 Preservation of Natural Features: The State requested treating all parks uniformly. One organization inquired whether this rule applies to commercial fishing, especially the authority to limit size and quantity. Another organization commented that the collection of plants and mushrooms should be allowed for personal use and for ceremonial use. One individual opposed gathering of all plants because of the likelihood of profiteering.

NPS Response: The distinctions for the pre-ANILCA areas are based on public comments during previous rulemaking. The NPS intends to continue to examine this section by issue and by park. This section does not apply to commercial fishing which is prohibited by 2.3(d)(4) except where specifically authorized by Federal statutory law. Certain types of commercial fishing activities are authorized by statute in portions of Glacier Bay National Park and Preserve. That statutory authorization is implemented in 13.65. Regarding the organization’s comment on collection of plants and mushrooms, it is apparent that the formatting of the proposed rule made it difficult to see that the existing allowances for gathering and collecting for personal use and ceremonial use

have been carried over to the final rule. Because of the complexity of the changes to this section, we have printed the entire revised section in the **Federal Register**. Profiteering in natural resources from park areas is prohibited and has not been a significant problem to date for plant resources in the Alaska park areas.

Section 13.21 Taking of Fish and Wildlife: The State commented that the explanatory reference to § 2.2 in the proposed rule preamble should be removed. The State also requested that reference be made in the final rule regarding a commitment by the NPS to consultation with the State fish and game agency before implementing any restrictions involving the take and transport of fish and wildlife. One organization commented that procedures for transporting lawfully taken wildlife through park areas should only be done after public notice and participation. One individual repeated the request for a ban on hunting and trapping noted above.

NPS Response: The reference to § 2.2 was used to modify the phrase "lawfully taken wildlife" in the context of establishing transport procedures through NPS areas where hunting is not authorized. We agree that the reference is somewhat misleading because lawfully taken wildlife would include wildlife taken outside NPS areas in areas not subject to § 2.2. For that reason we acknowledge that the reference should have been simply to "lawfully taken wildlife" regardless of whether it was taken in an area subject to NPS regulations or outside an NPS area in accordance with other legal authorization. We note that the reference does not appear in the regulatory language of the final rule. Regarding the NPS commitment to fish and wildlife consultation with the State, while this is beyond the scope of the proposed rule presented for public review in this rulemaking process, we do acknowledge our commitment to the departmental policy on state-federal relationships for fish and wildlife. This policy is published at 43 CFR Part 24, and currently provides for state consultation in conjunction with NPS restrictions on hunting, trapping, and fishing. There are also references to consultation in § 2.2 and § 13.21. Concerning the organization request for public notice and participation before adopting wildlife transport rules, the process represented by this rulemaking has included public notice and an opportunity to participate through the submission of comments. We believe this rulemaking process has provided the requested opportunity for public

participation. Public participation in this rulemaking has included a broad cross-section of agencies, groups, businesses, and individuals that would be expected to be interested in the subject matter of the proposed rules. For that reason we believe this rule has benefited from substantial and focused public participation. Finally, we again note that a ban on hunting and trapping is not realistic because of the statutory authorization of hunting and trapping in many NPS areas. Also, in those NPS areas closed to hunting and trapping, it is often necessary for wildlife taken lawfully on State or private land within or effectively surrounded by the park to be transported through the closed NPS area.

Section 13.22 Unattended or Abandoned Property: The State submitted several comments for this section. First of all, the State supports the four-month rule for leaving personal property provided NPS includes a simple procedure, such as by phone, for authorizing longer periods. Second, the State requests a private registration option for labeling personal property. Third, the State opposes the 30 gallon fuel limit as unrealistic for common activities such as long hunts and fish camps. Preferred is the current 55 gallon fuel drum because size is not as important as safe and leak-free. The State recommends increasing the size limit or deleting the restriction. Finally, the State is opposed to the specific distance requirement from water for fuel storage preferring instead a flexible restriction based on specific problem situations and resource concerns. One organization requested a privacy option for registering personal property, an increase in fuel storage to 55 gallons with the addition of a requirement for water-tight containers, a less restrictive distance requirement for fuel storage near water to accommodate boat fueling, and opposition to the 24-hour restriction for leaving property unattended on facilities. One individual requested a ban on fuel storage in park areas.

NPS Response: The NPS intends to use the 4 month time period for paragraph (b), noting that the Superintendent may change this time period in paragraph (c), which has not been revised. The NPS agrees that some parties may not want to leave their name and other personal information on unattended property. The regulation has been revised so that the property can be marked and the pertinent information be left with the Superintendent so that the responsible party can be identified if necessary. The NPS intends to retain the 30 gallon restriction, noting that the

Superintendent has the discretion to relax this condition if needed. The rule does not explicitly prohibit the use of 55 gallon drums, but does regulate the amount of fuel contained in the drum. There have been concerted efforts in many parks to remove abandoned 55 gallon drums and there is a general reluctance to continue to allow this quantity when there has been little public input opposing the 30 gallon limit. Some areas, however, like Yukon-Charley Rivers National Preserve, intend to allow more than 30 gallons and also allow fuel to be left closer to water sources. It is hoped that individuals will use smaller containers since they could be more easily transported to and from the backcountry. The NPS has modified the distance provision for storing fuel away from water. The section has been revised so that the fuel may be stored closer to water sources if it is contained in a spill proof overpack container, which is a type of secondary containment system designed to prevent spills. The Superintendent has discretion to relax the distance from water condition if needed. The NPS believes that the prohibition on leaving property on facilities is appropriate given the definition of "facilities." The Superintendent may authorize leaving property longer on facilities for special circumstances. A ban on temporary fuel storage caches in NPS areas is not warranted at this time and would unduly burden park visitors.

Section 13.30 Closure Procedures: One organization commented that the closure provisions in this section must comply with the closure requirements established by ANILCA.

NPS Response: The facility closures and restrictions are based on public health, safety, and protection of public property. It is noted that reference to closures, which are now subject to the provisions of 43 CFR 36.11, have been deleted from this section.

Section 13.46 Use of Snowmobiles, Motorboats, Dog Teams, and Other Means of Surface Transportation Traditionally Employed by Local Rural Residents Engaged in Subsistence Uses: Four organizations, including one consortium of six separate organizations, expressed concern that the unrevised heading of subsection (e) should also be changed to eliminate confusion regarding the difference between ANILCA title VIII and title XI access provisions.

NPS Response: The intent in revising subsection (e) was to correct the obsolete reference to another section without making any other changes to the regulatory text. To date we are not aware of instances in which confusion

on the meaning of this section has caused use of unauthorized methods of transportation. The intent is simply to say that the methods of transportation covered by the section are subject to a different regulation when not being used for subsistence purposes. We acknowledge that the intent could be expressed a little more clearly and will consider presenting the suggested clarification for public comment as part of the next phase of review for part 13.

Section 13.60 Aniakchak National Monument and Preserve: One organization requested that the adoption of regulatory language for wildlife viewing standards be done only after adequate public notice and participation. One individual objected to hunting in the monument and requested that it be banned.

NPS Response: The NPS values public notice and participation in rulemaking. We are also committed to a policy of civic engagement through the public planning process, in interpretive and educational programming and directly in preserving significant resources. This particular section, including the referenced viewing protocol provision, was developed in consultation with the State of Alaska and commercial operators active in the Monument and the public provided input in the annual compendium review. Subsistence hunting in the Monument and subsistence and sport hunting in the preserve are authorized by statute.

Section 13.62 Cape Krusenstern National Monument: Four organizations submitted comments for this section. Three expressed concern for the precedent this rule might set for other subsistence parks. Three also commented that this rule could result in additional impacts from increased all-terrain vehicle use. Two commented that use of "areas" rather than "communities" is inconsistent with ANILCA. One stated that public notice for the environmental review associated with this rule was inadequate, while another suggested that the proposal appeared to be hidden among unrelated proposals. And finally, one organization stated that a likely increase in the number of eligible subsistence users would create a need for greater public educational efforts by the NPS.

NPS Response: While we acknowledge the change from community based resident zones to a region-wide resident zone is a significant departure from current practice, we note that northwest Alaska subsistence users have pursued this approach for their region from the early days of the subsistence program for reasons specific to their area. The rule

reflects subsistence patterns and distinctive social, economic, demographic, and cultural characteristics of northwest Alaska. We are not aware of interest in or justifications for this approach elsewhere and do not consider it to be precedent setting.

We acknowledge that the term "area" was not used in either ANILCA or the legislative history for the law. Even so, we believe the existing NPS resident zone regulations, which include the term, are not inconsistent with the law and provide the necessary flexibility to achieve congressional intent in special circumstances such as this. As noted above, the use of a large region-wide area to designate a resident zone is unique to northwest Alaska and does not represent a programmatic trend or a divergence from congressional intent.

Public notice for the environmental assessment (EA) for this rule was published in the Arctic Sounder newspaper and posted on local bulletin boards. Also, copies of the EA were mailed to 85 agencies, organizations, and individuals. Our goal is to provide general public notice as well as direct notice to interested parties resulting in as much public involvement as possible. We regret that some interested parties did not become aware of the EA for this rule when it was first published but we are committed to improving the coverage of our mailing lists. We note that the public notice for this rule also referenced the EA and provided additional opportunity for review as reflected in the various comments received.

This rulemaking project has resulted in a number of unrelated part 13 rule changes being incorporated in a single proposed rule document for the first time since part 13 was adopted in 1981. Since then changes have generally been made for single sections or subparts. However, as noted in the background section above, we have begun with this rulemaking a periodic review process for part 13. While it is recognized that this will often bring together multiple subject areas, they will all be Alaska related. This approach is expected to increase administrative efficiency and reduce instances of needed changes being delayed due to the fixed workload that goes with every rule change regardless of size. Interestingly, the resident zone proposal in this rule that prompted this comment received substantially more public response than a similar stand-alone resident zone rulemaking that was recently completed for another park area. Consequently, our experience initially does not indicate a

problem with this approach for public involvement.

The various compliance reviews for this rule indicate that there will not be a significant change in the level of subsistence use. This rule merely removes the need for some eligible users to apply for a permit. Very few local residents who would not otherwise be eligible will become eligible because of this rule. Regardless, we note that one aspect of the subsistence culture of northwest Alaska is the inherent self-regulating nature of the activity because of the homogeneity of the primary user group. Variance from accepted practices and established rules are quickly observed and considered. For these reasons we do not believe there will be a sudden change in subsistence behavior requiring increased public educational efforts for new subsistence users. ATV use will not increase because ATV use is not authorized except for two easements.

Section 13.63 Denali National Park and Preserve: Three organizations and two individuals recommended that the name "Frontcountry Developed Area" (FDA) be revised by deleting the word "Developed" because it tends to misrepresent and confuse the actual and planned use of the described area. These individuals and organizations also commented that the use of the FDA as a designated area for prohibiting certain uses is overly restrictive for some activities and generally will cause enforcement problems by creating a gap or "no-mans land" where the prohibitions do not apply. Also this approach to regulating in the FDA will result in an unnecessarily complex administrative process for making changes as circumstances change such as new trail construction. Finally, one individual recommended that ATV's, snowmobiles, and jet-skis be banned in addition to roller skates, because of the pollution these types of vehicles produce.

NPS Response: The NPS has retained the use of the name "Frontcountry Developed Area" for use in these regulations. The NPS does not agree the use of the term "Developed" is problematic in this regulation. The NPS agrees with commenters that many parts of this section were overly complicated. Accordingly, sections dealing with pets, bicycles, and skating devices have been revised. The section on fires was revised for clarity. The park website was added as an additional information source. Personal watercraft (jet-skis) are prohibited in the park and ATV's and snowmobiles are the subject of other rules which regulate their use in NPS areas in Alaska.

Section 13.65 Glacier Bay National Park and Preserve: One organization repeated its opposition above to the word "developed" when used as part of the name for a heavy use area subject to further restriction. One organization requested that the bicycle restriction be changed to a closed unless open approach, while another suggested prevention of user conflicts through education and speed limits rather than closure. The State and a local municipality, three organizations, a business owner, and two individuals opposed the restrictions on commercial fishing activities at the Bartlett Cove public use dock. One individual recommended a 15 minute time-limit at the fuel dock. The State suggested revising the camping orientation requirement to accommodate repeat campers, while three organizations favor backcountry camping permits in conjunction with an orientation requirement. One organization commented that it is unclear whether the Bartlett Cove passenger transport authorization applies to vessels as well as land transportation. One individual objected to lifetime access permits for commercial fishing in the park, recommended restricting hunting, trapping, ATV's, and snowmobiles in the Bartlett Cove Developed Area, and opposed the collection of naturally shed goat hair.

NPS Response: The NPS has retained the use of the name "Bartlett Cove Developed Area" for use in these regulations. The NPS does not agree the use of the term "Developed" is problematic in this regulation. The NPS believes that the restriction on the three specified trails is appropriate, given the location and nature of the trails.

Commercial fishing in Glacier Bay proper is limited to those fishermen who qualified for a lifetime access permit by meeting the criteria established by statute. The eligibility criteria for these permits have been judicially interpreted as reflected in this rule. We have reprinted all of subsection (5) on crewmember documentation guidelines in the **Federal Register** final rule for further clarity.

The NPS agrees that the proposed language regarding commercial sale of fish at the Bartlett Cove public use dock is confusing. The paragraph has been revised to reflect the allowance of the current, small scale selling of fish at the dock. Formalizing the rules for these activities in the park special regulations will provide more certainty rather than less. The general NPS regulations at 36 CFR part 5 prohibit business activity in park areas without a permit, contract, or other written agreement unless

specifically authorized under special regulations for a particular park area. For this reason, the continued authorization in the current manner of selling fish at the dock without a park special regulation could be questioned. Consequently, adoption of the rule will more clearly bring park practice into conformity with the general NPS regulations, thus providing increased assurance for continuation of existing use. A time-limit for the fuel dock is not considered necessary at this time because of the requirement that boats not be left unattended while at the fuel dock.

The NPS agrees that a camping permit that incorporates an orientation and information on backcountry conditions at the time of issuance, would be useful in accommodating campers need for up-to-date information as well as management of an area of concentrated visitor use. The NPS further concurs that camping permits are widely used, accepted and understood by the public, and that the use of the terminology "required orientation" could lead to confusion among the visiting public. To minimize the burden on the public, however, the permit requirement will be limited to the area in Glacier Bay National Park with the majority of the visitor safety and resource protection issues related to visitor camping. Camping permits will only be required in the area within 1/4 nautical mile above the mean high tide of Glacier Bay, as this is an area of concentrated visitor camping and is also a bear feeding and migration area. This permit requirement does not authorize limits on the number of campers.

Regarding hunting, trapping, ATV's and snowmobiles in the Bartlett Cove Developed Area, this area is already closed to hunting and trapping, while ATV's and snowmobiles are the subject of other rules which regulate their use in park areas in Alaska. Finally, because the collection of naturally shed goat hair will be a permitted activity only, we believe it can be carefully managed to avoid overuse.

Section 13.66 Katmai National Park and Preserve: The State urged NPS coordination with the state Board of Fishery and state fishery managers before attaching additional conditions to the traditional redbfish fishery. As noted above, one organization repeated its concern for use of the word "developed" as a naming reference for heavy use areas, in the case of this section, the "Brooks Camp Developed Area." One business opposed the Brooks River closure provision in the area of the falls absent a convenient and safe transit route around the closed area.

The business also commented that the wildlife viewing rule is unclear about when a concentrated food source is being used, is not required for resource protection or for human safety and may increase risk through sudden human retreat from surprise encounters. Also requested was a statement of intent not to displace anglers. One organization requested additional public notice and participation prior to the adoption of a wildlife viewing protocol as indicated. Finally, one individual objected to excepting hunters from the wildlife viewing distance conditions and recommended that hunting and trapping be banned.

NPS Response: The NPS agrees with the request for cooperation and is committed to the departmental policy on intergovernmental cooperation in the management of fish and wildlife. However, because the traditional redbfish fishery at the park is a federal statutory authorization, it is somewhat independent of the regular State fishery management system. Even so, our intent is to work closely with the State in the management of the fishery. The closure provision for the Brooks River Falls area is intended to route anglers around the falls and the visitor platforms. The paragraph has been revised to more accurately reflect the desire to allow transit through the area. The paragraph provides flexibility, as one option would be a trail around the closure instead of through it. The wildlife viewing condition rule does not require visitors to retreat suddenly from an approaching bear nor is the rule intended to close entire waterways. Approaching a bear or continuing to occupy a position within 50 yards of a bear that is attempting to feed on salmon, for example, is prohibited, while maintaining your position while a bear transits the area, is not. The intent is not to displace bears from an important food source. Anglers and others may be displaced by bears attempting to use this food source. Any viewing protocols would be established by Superintendent's authority in the compendium, which is subject to public review. Additionally, the NPS is correcting two editing errors, increasing the amount of time property can be left at Lake Camp to 72 hours in paragraph (e), and correcting a property rule by adding an "as posted" wording so subparagraph (c)(10) reads "equipment caches as posted at the Brooks Camp Visitor Center." Finally, the exception for hunters under the wildlife distance rule has a fairly limited application, applying only in the preserve where hunting is allowed. The park, which

comprises most of the total area of the combined park and preserve, is closed to hunting and trapping.

Section 13.67 Kenai Fjords National Park: One organization requested a change in the proposed rule for public use cabins to allow the cabin permit holder to waive the restriction on others camping near the cabin.

NPS Response: The rule limiting use of public use cabins and nearby areas to the permit holder is intended to include members of the permit holder's party. In effect the restriction allows the permit holder to use the cabin and a nearby designated tent site for camping purposes. The primary use of the area remains the public use cabin, although the designation of a tent site allows the cabin permit holder the option of tent camping. The intent of the rule is to prevent resource damage (such as soil compaction, erosion, vegetative damage and multiple fire rings) but also provides flexibility to the cabin permit holder. The NPS also has the authority to provide otherwise as a permit condition or in emergency situations, as necessary.

Section 13.68 Klondike Gold Rush National Historical Park: One individual objected to the allowance for gathering mushrooms in the park.

NPS Response: The collection of mushrooms has not been prohibited in most of the other Alaska park areas for some time without overuse or other incidental resource abuse. Mushrooms are fairly abundant in the area of the park and have been collected near the park non-commercially by local residents for many years without harm to the resource. Consequently, there does not appear to be a resource protection need for continuing the restriction of this activity at this time.

Section 13.69 Kobuk Valley National Park: Four organizations submitted comments for this section. Three expressed concern for the precedent this rule might set for other subsistence parks. Three also commented that this rule could result in additional impacts from increased all-terrain vehicle use. Two commented that use of "areas" rather than "communities" is inconsistent with ANILCA. One stated that public notice for the environmental review associated with this rule was inadequate, while another suggested that the proposal appeared to be hidden among unrelated proposals. And finally, one organization stated that a likely increase in the number of eligible subsistence users would create a need for greater public educational efforts by the NPS.

NPS Response: While we acknowledge the change from

community based resident zones to a region-wide resident zone is a significant departure from current practice, we note that subsistence users have pursued this approach for their region from the early days of the subsistence program for reasons specific to their area. The rule reflects subsistence patterns and distinctive social, economic, demographic, and cultural characteristics of northwest Alaska. We are not aware of interest or justifications for this approach elsewhere and do not consider it to be precedent setting.

We acknowledge that the term "area" was not used in either ANILCA or the legislative history for the law. Even so, we believe the existing NPS resident zone regulations, which include the term, are not inconsistent with the law and provide the necessary flexibility to achieve congressional intent in special circumstances such as this. As noted above, the use of a large region-wide area to designate a resident zone is unique to northwest Alaska and does not represent a programmatic trend or a divergence from congressional intent.

Public notice for the environmental assessment (EA) for this rule was published in the Arctic Sounder newspaper and posted on local bulletin boards. Also, copies of the EA were mailed to 85 agencies, organizations, and individuals. Our goal is to provide general public notice as well as direct notice to interested parties resulting in as much public involvement as possible. We regret that some interested parties did not become aware of the EA for this rule when it was first published but we are committed to improving the coverage of our mailing lists. We note that the public notice for this rule also referenced the EA and provided additional opportunity for review as reflected in the various comments received.

This rulemaking project has resulted in a number of unrelated part 13 rule changes being incorporated in a single proposed rule document for the first time since part 13 was adopted in 1981. Since then changes have generally been made for single sections or subparts. However, as noted in the background section above, we have begun with this rulemaking a periodic review process for part 13. While it is recognized that this will often bring together multiple subject areas, they will all be Alaska related. This approach is expected to increase administrative efficiency and reduce instances of needed changes being delayed due to the fixed workload that goes with every rule change regardless of size. Interestingly, the resident zone proposal in this rule that

prompted this comment received substantially more public response than a similar stand-alone resident zone rulemaking that was recently completed for another park area. Consequently, our experience initially does not indicate a problem with this approach for public involvement.

The various compliance reviews for this rule indicate that there will not be a significant change in the level of subsistence use. This rule merely removes the need for some eligible users to apply for a permit. Very few local residents who would not otherwise be eligible will become eligible because of this rule. Regardless, we note that one aspect of the subsistence culture of northwest Alaska is the inherent self-regulating nature of the activity because of the homogeneity of the primary user group. Variance from accepted practices and established rules are quickly observed and considered. For these reasons we do not believe there will be a sudden change in subsistence behavior requiring increased public educational efforts for new subsistence users. ATV use will not increase because ATV use is not authorized.

Section 13.72 Sitka National Historical Park: The state recommended cooperative planning with the City of Sitka for bicycle use. One organization repeated a concern for use restrictions expressed above under section 13.63, specifically for bicycles and skating devices, preferring prevention of user conflicts through speed limits and education rather than prohibition. One individual recommended extending the bicycle prohibition to ATV's, jet-skis, snowmobiles, and other polluting devices.

NPS Response: The NPS agrees that cooperative planning with the City of Sitka is desirable. Given the nature of the park, its size and visitation patterns, the NPS believes that restricting bicycles and skating devices is necessary, but allows for Superintendent discretion to open areas if future conditions warrant. The NPS also dropped the word "overnight" as a description of camping. This is consistent with other park areas. The phrase "other skating devices" was also changed to "similar devices" for consistency. Jet skies (personal watercraft) are currently prohibited in the park, and ATV's and snowmobiles are the subject of other rules which regulate their use in the Alaska park areas.

Section 13.73 Wrangell-St. Elias National Park and Preserve: One organization repeated its concern for use of the term "developed" when designating concentrated use areas.

Another organization requested prior notice to interested user groups and descriptive clarity of affected activities when NPS exercises the general closure authority of subsection (e).

NPS Response: As discussed earlier, the NPS believes the word "Developed" is appropriate in this rule. The NPS agrees with the comment concerning notice to interested user groups. If this subsection (e) is utilized, items will be addressed in the Superintendent's compendium, which annually seeks public input and provides public notice.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

A qualitative cost/benefit analysis was conducted to examine specific costs and benefits associated with this proposed regulation. That analysis concludes that positive net benefits would be generated by each component of the proposed regulatory action, and hence by the regulatory action overall. Further, governmental processes in NPS-administered areas in Alaska would be improved, and market failures would be more effectively addressed. Therefore, it is anticipated that economic efficiency would be improved by this proposed regulatory action.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Actions taken under this rule will not interfere with other agencies or local government plans, policies, or controls. This is an agency specific rule. The proposals included with this rulemaking apply on areas managed by the National Park Service and are not known to be inconsistent with other Federal regulations. Several proposals are specifically intended to improve consistency between State and Federal areas. The review process used to develop the rulemaking proposals included consultation with the State of Alaska Department of Natural Resources to seek views of appropriate officials and to provide maximum conformity with State rules on adjacent lands as well as active participation where the NPS is proposing variation from similar State regulations.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effects on entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved. While this proposed rule would implement a statutory use authorization for traditional fishing at Katmai National Park and Preserve and broaden slightly commercial fishing access at Glacier Bay National Park, neither entitlement has budgetary impact.

(4) This rule does not raise novel legal or policy issues. This rule simply implements miscellaneous existing legislative enactments, judicial interpretations, and regulatory provisions. The proposed rule is not a completely new proposal, but rather a continuation of the rulemaking process begun in 1980 to administer the park areas established and expanded by the Alaska National Interest Lands Conservation Act (ANILCA). The NPS has sought to promulgate only those regulations necessary to implement the law and to provide for the health and safety of the public and the environment. While the legal and policy issues associated with the established and expansion of ANILCA park areas may have been considered novel when adopted, they have long since lost their novelty. Management of park areas in Alaska has become routine and the process begun by this rulemaking is intended to increase participation and cooperation in the evolution of NPS regulations for Alaska.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rule are local in nature and negligible in scope. The proposals in this rulemaking will either implement rules unrelated to business activity or make permanent various temporary and emergency rules under which area businesses have been operating. The rules included in this proposed rulemaking will have either no effect or in some cases a salutary effect by eliminating year to year uncertainty for businesses and park visitors. The regulatory flexibility analysis prepared for the original Glacier Bay commercial fishing regulations (see Record of Compliance, RIN 1024-AB99, dated July

27, 1999) remains applicable and is not changed by this proposed rule.

A qualitative Regulatory Flexibility threshold analysis was conducted to examine potential impacts to small entities. Based on the cost/benefit analysis referred to above, that threshold analysis concludes that, since no significant costs are anticipated for any component of the proposed action, significant economic impacts would not be imposed on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), SBREFA. This rule:

a. Does not have an annual effect on the economy of \$100 million or more. Expenses related to compliance with various provisions of this proposed rule are slight. No new user fees or charges are proposed. Any incidental costs of registering, checking-in, or participating in orientation programs would be small and often would not be additional to those already associated with visiting park areas.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The proposed provisions of this rulemaking will generally continue existing rules and use patterns for the park areas in Alaska. As noted above, new registration and orientation requirements for some activities can be accomplished generally at no additional cost to that currently incurred in visiting park areas. Application costs associated with subsistence permits at Cape Krusenstern National Monument and Kobuk Valley National Park will be substantially reduced by the proposed changes in the subsistence resident zones for those units.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The various provisions of this proposed rule do not apply differently to U.S.-based enterprises and foreign-based enterprises. The proposed changes to the Glacier Bay commercial fishing regulations will have a beneficial effect on local small businesses by making eligibility criteria for commercial fishing lifetime access permits less restrictive. It is expected that a small number of limited entry permit holders may be able to qualify for commercial fishing in the park.

Unfunded Mandates Reform Act

This rule addresses only actions that will be taken by the NPS. It will not require any State, local or tribal government to take any action that is not funded. In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

a. This rule will not “significantly or uniquely” affect small governments. A Small Government Agency Plan is not required. This rule is an agency specific rule and imposes no other requirements on small governments. Several of the proposed regulations are based on State of Alaska statutes. For example, the proposed regulations involving airstrip obstruction, backcountry camping and protection of dead, standing wood are based on current State of Alaska law. This consistency between the State of Alaska and the National Park Service is a benefit to visitors.

b. This rule will not produce a federal mandate of \$100 million or greater in any year, *i.e.*, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implications assessment is not required because no taking of personal property will occur as a result of this proposed rule. The proposed change in the Glacier Bay commercial fishing regulations will slightly broaden commercial fishing access and the regulatory flexibility analysis previously prepared for those regulations remains applicable (*see* section 2 above).

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The proposed rule is limited in effect to Federal lands and waters managed by the NPS and will not have a substantial direct effect on State and local government in Alaska. This proposed rule was initiated in part at the request of the State and has been drafted in close consultation with the State of Alaska and, as such, promotes the principles of federalism.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the order. This rule does

not impose a new burden on the judicial system.

Paperwork Reduction Act

This regulation requires an information collection from 10 or more parties, which must be submitted for OMB approval under the Paperwork Reduction Act. However, these are not new collection requirements and, therefore, no additional request to OMB has been prepared. The information collection activities are necessary for the public to obtain benefits in the form of concession contracts and special use permits. Information collection associated with the award of concession contracts is covered under OMB control number 1024-0125; the information collection associated with the issuance of special use permits is covered under OMB control number 1024-0026.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental assessment and finding of no significant impact for the Cape Krusenstern National Monument and Kobuk Valley National Park resident zone proposals has been completed. The remainder of the rule has been determined to be categorically excluded from further NEPA analysis in accordance with Departmental Guidelines in 516 DM 6 (49 FR 21438), and NPS procedures in Reference Manual-12.3.4.A(8), and there are no applicable exceptions to categorical exclusions (516 DM 2, Appendix 2; RM-12.3.5). Both are available at the Alaska Regional Office, 240 5th Avenue, Anchorage, Alaska, 99501, 907-644-3533.

Government-to-Government Relationship With Tribes

In accordance with Executive Order 13175 “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249); the President’s memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 22951); the Department of the Interior—Alaska Policy on Government-to-Government Relations with Alaska Native Tribes dated January 18, 2001; Part 512 of the Departmental Manual, Chapter 2 “Departmental Responsibilities for Indian Trust Resources”; and various park consultation agreements with tribal governments, the potential effects on federally-recognized Indian tribes have

been evaluated, and it has been determined at this time that there are no potential effects.

While the consultation agreements noted above have not resulted in findings of potential effects, a number of the proposed rules have been included as a direct consequence of consultation. Among these are the Glacier Bay National Park and Preserve proposals for the gathering of shed goat hair for weaving and the collection of certain renewable plant resources for traditional uses. Also influenced by consultation are the Katmai National Park and Preserve redfish proposal and the Cape Krusenstern National Monument and Kobuk Valley National Park subsistence resident zone proposals. These various proposals are of interest to local residents using these NPS areas and have been facilitated by the relationships established through government-to-government consultation. Finally, the initial determination of effect noted here is dynamic and subject to change throughout this rulemaking process due to the ongoing nature of government-to-government consultation for the NPS areas in Alaska.

Drafting Information: The principal contributors to this final rule are: Vic Knox, Deputy Regional Director; Chuck Young, Chief Ranger, Glacier Bay National Park and Preserve; Hunter Sharp, Chief Ranger, Wrangell-St. Elias National Park and Preserve; Jim Ireland, Chief Ranger, Kenai Fjords National Park; Lou Waller, Jay Liggett, Jane Hendrick, Andee Hansen, Terry Humphrey, Joan Darnell, Heather Rice, Thetus Smith, and Paul Hunter, Alaska Regional Office.

List of Subjects in 36 CFR Part 13

Alaska, National Parks, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, the National Park Service amends 36 CFR part 13 as follows:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

■ 1. Revise the authority citation for part 13 as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; Sec. 13.65 also issued under 16 U.S.C. 1a-2(h), 20, 1361, 1531, 3197; Pub. L. 105-277, 112 Stat. 2681-259, October 21, 1998; Pub. L. 106-31, 113 Stat. 72, May 21, 1999; Sec. 13.66(c) also issued under Sec. 1035, Pub. L. 104-333, 110 Stat. 4240, November 12, 1996.

■ 2. Amend § 13.1 by:

■ A. Removing the words “The term” from the first sentence of each paragraph;

- B. Removing all alphabetical paragraph designations; and
- C. Adding the following terms in alphabetical order.

§ 13.1 Definitions.

* * * * *

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

* * * * *

Facility means buildings, structures, park roads as defined by § 1.4, parking lots, campgrounds, picnic areas, paved trails, and maintenance support yards.

* * * * *

- 3. Revise § 13.4 to read as follows:

§ 13.4 Information collection.

The information collection requirements contained in §§ 13.17, 13.31, 13.44, 13.45, 13.49, 13.51, and 13.65 are necessary for park Superintendents to issue concession contracts and special use permits, and have been approved by the Office of Management and Budget under 44 U.S.C. 3507. Information collections associated with the award of concession contracts are covered under OMB control number 1024-0125; the information collections associated with the issuance of special use permits are covered under OMB control number 1024-0026.

- 4. Add § 13.10 to read as follows:

§ 13.10 Obstruction of airstrips.

(a) A person may not place an object on the surface of an airstrip that, because of its nature or location, might cause injury or damage to an aircraft or person riding in the aircraft.

(b) A person may not dig a hole or make any kind of excavation, or drive a sled, tractor, truck, or any kind of vehicle upon an airstrip that might make ruts, or tracks, or add to an accumulation of tracks so as to endanger aircraft using the airstrip or persons riding in the aircraft.

- 5. Revise §§ 13.18 through 13.20 to read as follows:

§ 13.18 Camping and picnicking.

(a) *Camping.* (1) Camping is authorized in park areas except where such use is prohibited or otherwise restricted by the Superintendent in accordance with this section, the provisions of § 13.30, or as set forth for specific park areas in subpart C of this part.

(2) *Site time-limits.* Camping is authorized for 14 consecutive days in

one location. Camping is prohibited after 14 consecutive days in one location unless the camp is moved at least 2 miles or unless authorized by the Superintendent. A camp and associated equipment must be relocated immediately if determined by the Superintendent to be interfering with public access or other public interests or adversely impacting park resources.

(3) *Designated campgrounds.* Except at designated campgrounds, camping is prohibited on NPS facilities. The Superintendent may establish restrictions, terms, and conditions for camping in designated campgrounds. Violating restrictions, terms, and conditions is prohibited.

(b) *Picnicking.* Picnicking is authorized in park areas except where such activity is prohibited or otherwise restricted by the Superintendent. The public will be notified by one or more of the following methods—

(1) Signs posted at conspicuous locations, such as normal points of entry or reasonable intervals along the boundary of the affected park locale;

(2) Maps available in the office of the Superintendent and other places convenient to the public;

(3) Publication in a newspaper of general circulation in the affected area; or

(4) Other appropriate methods, including park websites, brochures, maps, and handouts.

§ 13.19 Weapons, traps, and nets.

(a) Irritant chemical devices, including bear spray, may be carried, possessed, and used in accordance with applicable Federal and non-conflicting State laws, except when prohibited or restricted under § 13.30.

(b) Paragraphs (d) through (g) of this section apply to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park and the former Mt. McKinley National Park, Glacier Bay National Monument and Katmai National Monument.

(c) Except as provided in this section and § 2.4 of this chapter, the following are prohibited—

(1) Possessing a weapon, trap, or net;

(2) Carrying a weapon, trap, or net;

(3) Using a weapon, trap, or net.

(4) Firearms may be carried, possessed, and used within park areas in accordance with applicable State and Federal laws, except where such carrying, possession, or use is prohibited or otherwise restricted under § 13.30.

(e) Traps, bows and other implements (other than firearms) authorized by applicable State and Federal law for the

taking of fish and wildlife may be carried, possessed, and used within park areas only during those times when the taking of fish and wildlife is authorized by applicable law or regulation.

(f) In addition to the authorities provided in paragraphs (d) and (e) of this section, weapons (other than firearms), traps, and nets may be possessed within park areas provided such weapons, traps, or nets are within or upon a device or animal used for transportation and are unloaded and cased or otherwise packed in such a manner as to prevent their ready use while in a park area.

(g) Notwithstanding the provisions of this section, local rural residents who are authorized to engage in subsistence uses, including the taking of wildlife under § 13.48, may use, possess, or carry traps, nets and other weapons in accordance with applicable State and Federal laws.

§ 13.20 Preservation of natural features.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park, the former Mt. McKinley National Park, and the former Katmai National Monument.

(b) Gathering or collecting natural products is prohibited except as allowed by this section, § 2.1 of this chapter, or part 13, subpart C. For purposes of this paragraph, "natural products" includes living or dead fish and wildlife or parts or products thereof, plants or parts or products thereof, live or dead wood, fungi, seashells, rocks, and minerals.

(c) Gathering or collecting, by hand and for personal use only, of the following renewable resources is permitted—

(1) Natural plant food items, including fruits, berries and mushrooms, but not including threatened or endangered species;

(2) Driftwood and uninhabited seashells;

(3) Such plant materials and minerals as are essential to the conduct of traditional ceremonies by Native Americans; and

(4) Dead wood on the ground for use as fuel for campfires within the park area.

(d) The Superintendent may authorize, with or without conditions, the collection of dead standing wood in all or a portion of a park area. Collecting dead or downed wood in violation of terms and conditions is prohibited.

(e) Surface collection, by hand (including hand-held gold pans) and for personal recreational use only, of rocks

and minerals is permitted, with the following exceptions:

- (1) Collection of silver, platinum, gemstones and fossils is prohibited; and
- (2) Collection methods that may result in disturbance of the ground surface, such as the use of shovels, pickaxes, sluice boxes, and dredges, are prohibited.

(f) The Superintendent may limit the size and quantity of the natural products that may be gathered or possessed.

(1) Under conditions where it is found that significant adverse impact on park resources, wildlife populations, subsistence uses, or visitor enjoyment of resources will result, the Superintendent will prohibit the gathering or otherwise restrict the collecting of natural products.

(2) The Superintendent will notify the public of portions of a park area in which closures or restrictions apply by:

(i) Publishing a notice in at least one newspaper of general circulation in the State and providing a map available for public inspection in the office of the Superintendent; or

(ii) Posting appropriate signs.

(g) *Subsistence*. Nothing in this section shall apply to local rural residents authorized to take renewable resources.

■ 6. In § 13.21, add new paragraph (d)(5) to read as follows:

§ 13.21 Taking of fish and wildlife.

* * * * *

(d) * * *

(5) Persons transporting wildlife through park areas must identify themselves and the location where the wildlife was taken when requested by an NPS employee or other authorized person.

* * * * *

■ 7. In § 13.22, revise paragraph (b) to read as follows:

§ 13.22 Unattended or abandoned property.

* * * * *

(b) *Personal property*. (1) Leaving personal property longer than 4 months is prohibited. The Superintendent may authorize property to be left in place for more than 4 months.

(2) Identification information is required for all personal property left in park areas. Identification information consists of the owner's name, home address, telephone number, date that the property was left, and the type of fuel if the property contains fuel. This information must be—

- (i) Labeled on the property; or
- (ii) Provided to the Superintendent.

(3) All property must be stored in such a manner that wildlife is unable to

access the contents. Storing property in a manner that wildlife can access contents is prohibited.

(4) Leaving fuel in more than one location in a park area or leaving more than 30 gallons of fuel is prohibited unless authorized by the Superintendent.

(5) Storing fuel within 100 feet of a water source, high water mark of a body of water, or mean high tide is prohibited unless stored in a spill proof overpack container or authorized by the Superintendent. Fuel must be contained in an undamaged and closed fuel container designed for fuel storage. Fueling from containers must occur in such a manner that any spillage would be prevented from coming into contact with water, soil, or vegetation. Failure to properly contain or prevent spillage is prohibited.

(6) Leaving property unattended for longer than 24 hours on facilities is prohibited unless authorized by the Superintendent.

(7) Property left in violation of this section is prohibited and subject to impoundment and, if abandoned, disposal or forfeiture.

* * * * *

■ 8. Amend § 13.30 as follows:

- A. Revise paragraphs (c) and (d);
- B. Redesignate paragraph (h) as (i); and
- C. Add a new paragraph (h).

The revisions and additions read as follows:

§ 13.30 Closure procedures.

* * * * *

(c) *Emergency Closures*. (1) Emergency closures or restrictions relating to the taking of fish and wildlife shall be accomplished by notice and hearing.

(2) Other emergency closures shall become effective upon notice as prescribed in paragraph (f) of this section; and

(3) No emergency closure or restriction shall extend for a period exceeding 30 days, nor may it be extended.

(d) *Temporary closures or restrictions*. (1) Temporary closures shall be effective upon notice as prescribed in paragraph (f) of this section.

(2) Temporary closures or restrictions shall not extend for a period exceeding 12 months and may not be extended.

* * * * *

(h) *Facility closures and restrictions*. The Superintendent may close or restrict specific facilities for reasons of public health, safety, and protection of public property for the duration of the circumstance requiring the closure or restriction. Notice of facility closures

and restrictions will be available for inspection at the park visitor center. Notice will also be posted near or within the facility, published in a newspaper of general circulation in the affected vicinity, or made available to the public by such other means as deemed appropriate by the Superintendent. Violating facilities closures or restrictions is prohibited.

* * * * *

■ 9. Revise § 13.46(e) to read as follows:

§ 13.46 Use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.

* * * * *

(e) At all times when not engaged in subsistence uses, local rural residents may use snowmobiles, motorboats, dog teams, and other means of surface transportation in accordance with 43 CFR 36.11(c), (d), (e), and (g).

■ 10. In § 13.60, add a new paragraph (b) to read as follows:

§ 13.60 Aniakchak National Monument and Preserve.

* * * * *

(b) *Wildlife distance conditions*. (1) Approaching a bear or any large mammal within 50 yards is prohibited.

(2) Continuing to occupy a position within 50 yards of a bear that is using a concentrated food source, including, but not limited to, animal carcasses, spawning salmon, and other feeding areas is prohibited.

(3) The prohibitions do not apply to persons—

- (i) Engaged in a legal hunt;
- (ii) On a designated bear viewing structure;
- (iii) In compliance with a written protocol approved by the Superintendent; or
- (iv) Who are otherwise directed by a park employee.

■ 11. Revise § 13.62(a) to read as follows:

§ 13.62 Cape Krusenstern National Monument.

(a) *Subsistence Resident Zone*. The following area is included within the resident zone for Cape Krusenstern National Monument: The NANA Region.

■ 12. Amend § 13.63 by revising paragraph (b) and adding paragraphs (i), (j), and (k) to read as follows:

§ 13.63 Denali National Park and Preserve.

* * * * *

(b) *Camping*. Camping is allowed in accordance with the backcountry management plan.

* * * * *

(i) *Frontcountry Developed Area.* For purposes of this section, the Frontcountry Developed Area (FDA) means all park areas within the portion of the park formerly known as Mt. McKinley National Park (Old Park) not designated as Wilderness by Congress. A map showing the FDA is available at the park visitor center.

(1) *Camping from April 15 through September 30.* (i) Camping is prohibited except in designated campgrounds in accordance with the terms and conditions of a permit. Violation of permit terms and conditions is prohibited.

(ii) Camping in designated campgrounds for more than a total of 14 days, either in a single period or combined periods, is prohibited.

(2) *Camping from October 1 through April 14.* (i) Camping is prohibited except in designated campgrounds and the designated area where the park road is closed to motor vehicle use. A map showing the designated area is available at the park visitor center and on the park website.

(ii) Camping without a permit is prohibited. Violation of permit terms and conditions is prohibited.

(iii) Camping for more than a total of 30 days, either in a single period or combined periods, is prohibited.

(3) *Fires.* Lighting or maintaining a fire is prohibited except—

(i) In established receptacles within designated campgrounds;

(ii) From October 1 through April 14 in that portion of the FDA where the park road is closed to motor vehicle use; and

(iii) Under conditions that may be established by the Superintendent.

(4) *Pets.* Possessing a pet is prohibited—

(i) In the FDA, except in public parking areas, on or immediately adjacent to park roads, or in designated campgrounds;

(ii) Within 150 feet of the park sled dog kennels; and

(iii) Within 150 feet of the park water system intake facilities.

(5) *FDA closures and restrictions.* The Superintendent may prohibit or otherwise restrict activities in the FDA to protect public health, safety, or park resources. Information on FDA closures and restrictions will be available for inspection at the park visitor center and on the park website. Violating FDA closures or restrictions is prohibited.

(j) The use of a bicycle is prohibited—

(1) On the Savage River Loop Trail; the Savage Cabin Trail; the Triple Lakes Trail; the McKinley Bar Trail; and the Eielson Area Trails;

(2) Within the FDA except on park roads, road shoulders, and in public

parking areas, or on trails and areas designated for bicycle use by the Superintendent. A map of the designated trails and areas open to bicycle use is available for inspection at the park visitor center and on the park website.

(k) The use of roller skates, skateboards, roller skis, in-line skates, and similar devices is prohibited—

(1) On the Savage River Loop Trail; the Savage Cabin Trail; the Triple Lakes Trail; the McKinley Bar Trail; and the Eielson Area Trails;

(2) Within the FDA except on trails and areas designated by the Superintendent. A map of the designated trails and areas is available for inspection at the park visitor center and on the park website.

■ 13. Amend § 13.65 as follows:

■ A. Revise paragraphs (a)(4)(ii) and (a)(5)(i) through (a)(5)(v);

■ B. Amend paragraph (b)(1) by adding a new definition for “Bartlett Cove Developed Area” in alphabetical order immediately before the definition for “Charter vessel”;

■ C. Add new paragraphs (b)(3)(ix)(C)(1) and (2);

■ D. Remove paragraph (b)(7); and

■ E. Add new paragraphs (b) (5) through (9).

The revisions and additions read as follows:

§ 13.65 Glacier Bay National Park and Preserve.

(a) * * *

(4) * * *

(ii) They have participated as a limited entry permit holder or crewmember in the district or statistical area encompassing Glacier Bay for each fishery for which a lifetime access permit is being sought.

(A) For the Glacier Bay commercial halibut fishery, the applicant must have participated as a permit holder or crewmember for at least 2 years during the period 1992–1998.

(B) For the Glacier Bay salmon or Tanner crab commercial fisheries, the applicant must have participated as a permit holder or crewmember for at least 3 years during the period 1989–1998.

(5) *How can an individual apply for a commercial fishing lifetime access permit?* An applicant for a lifetime access permit must provide information sufficient to establish eligibility as follows:

(i) The applicant’s full name, date of birth, mailing address and phone number;

(ii) A notarized affidavit (required), sworn by the applicant, attesting to his or her history of participation as a

limited entry permit holder or crewmember in Glacier Bay during the qualifying period for each fishery for which a lifetime access permit is being sought;

(iii) A copy of the applicant’s current State of Alaska limited entry permit or, in the case of halibut, an international Pacific Halibut Commission quota share (required), that is valid for the area that includes Glacier Bay, for each fishery for which a lifetime access permit is sought;

(iv) For qualifying years as a limited entry permit holder, available corroborating documentation of the applicant’s permit and quota share history for the Glacier Bay fishery during the qualifying period, and/or for qualifying years as a crewmember, other available corroborating documentation of crewmember status. This may include a copy of the applicant’s commercial crewmember license for each qualifying year, a notarized affidavit from their employer (generally a limited entry permit holder, or boat owner hired or contracted by a limited entry permit holder) stating the years worked by the applicant in a qualifying fishery in Glacier Bay, copies of tax forms W–2 or 1099, pay stubs, or other documentation; and,

(v) For applicants qualifying as a limited entry permit holder, available corroborating documentation of commercial landings for the Glacier Bay fishery during the qualifying periods—*i.e.*, within the statistical unit or area that includes Glacier Bay. For halibut, this includes regulatory sub-area 184. For Tanner crab, this includes statistical areas 114–70 through 114–77. For salmon, the Superintendent may need additional documentation that supports the applicant’s declaration of Glacier Bay salmon landings. For halibut and Tanner crab, the Superintendent may consider documented commercial landings from the unit or area immediately adjacent to Glacier Bay (in Icy Strait) if additional documentation supports the applicant’s declaration that landings occurred in Glacier Bay.

* * * * *

(b) * * *

(1) * * *

Bartlett Cove Developed Area means all NPS-administered lands and waters within 1 mile of any Bartlett Cove facility. A map showing the Bartlett Cove Developed Area is available at the park visitor center.

* * * * *

(3) * * *

(ix) * * *

(C) * * *

(1) *Bartlett Cove Developed Area.* (i) Camping is prohibited in the Bartlett

Cove Developed Area except in the Bartlett Cove Campground. From May 1 through September 30, all overnight campers must register to camp in the Bartlett Cove Campground. Failure to register is prohibited.

(ii) Cooking, consuming, or preparing food in the Bartlett Cove Campground is prohibited except in designated areas.

(iii) *Food storage.* In the Bartlett Cove Developed Area, storing food in any manner except in a sealed motor vehicle, a vessel (excluding kayaks), a building, an approved bear-resistant food container, a bear-resistant trash receptacle, or a designated food cache is prohibited.

(iv) *Bicycles.* Use of a bicycle is prohibited on the Forest Loop, Bartlett River and Bartlett Lake trails.

(v) *Bartlett Cove Developed Area closures and restrictions.* The Superintendent may prohibit or otherwise restrict activities in the Bartlett Cove Developed Area to protect public health, safety, or park resources, or to provide for the equitable and orderly use of park facilities. Information on closures and restrictions will be available at the park visitor information center. Violating Bartlett Cove Developed Area closures or restrictions is prohibited.

(2) *Bartlett Cove Public Use Dock.* (i) Docking, tying down, or securing aircraft is prohibited except at the designated aircraft float at the Bartlett Cove Public Use Dock. Docking, tying down, or securing aircraft to the Bartlett Cove Public Use Dock for longer than 3 hours in a 24-hour period is prohibited. Pilots must remain with aircraft or provide notice of their location to a park ranger. Failure to remain with the aircraft or provide notice to a park ranger is prohibited.

(ii) Vehicles exceeding 30,000 pounds gross vehicle weight are prohibited on the dock, unless authorized by the Superintendent.

(iii) Leaving personal property (other than vessels) unattended on, or attached to, the floats or pier without prior permission from the Superintendent is prohibited.

(iv) Processing commercially caught fish on the Public Use Dock is prohibited.

(v) The Superintendent may authorize the buying or selling of fish or fish products on or at the Public Use Dock. Buying or selling of fish or fish products is prohibited on or at the Public Use Dock without written permission from the Superintendent.

(vi) Utilizing the fuel dock for activities other than fueling and waste pump-out is prohibited.

(vii) Leaving a vessel unattended on the fuel dock for any length of time is prohibited.

(viii) Using electrical shore power for vessels is prohibited unless otherwise authorized by the Superintendent.

* * * * *

(5) *Collection of interstadial wood.* Collecting or burning interstadial wood (aged wood preserved in glacial deposits) is prohibited.

(6) *Collection of rocks and minerals.* Collecting rocks and minerals in the former Glacier Bay National Monument is prohibited.

(7) *Collection of goat hair.* The collection of naturally shed goat hair is authorized in accordance with terms and conditions established by the Superintendent. Violating terms and conditions for collecting goat hair is prohibited.

(8) *Camping.* From May 1 through September 30, camping within Glacier Bay as defined by this section up to 1/4 nautical mile (1519 feet) above the line of mean high tide without a camping permit is prohibited. The Superintendent may establish permit terms and conditions. Failure to comply with permit terms and conditions is prohibited.

(9) *Commercial transport of passengers by motor vehicles in Bartlett Cove.* Commercial transport of passengers between Bartlett Cove and Gustavus by motor vehicles legally licensed to carry 15 or fewer passengers is allowed without a permit. However, if required to protect public health and safety or park resources, or to provide for the equitable use of park facilities, the Superintendent may establish a permit requirement with appropriate terms and conditions for the transport of passengers. Failure to comply with permit terms and conditions is prohibited.

■ 14. In § 13.66 redesignate paragraph (b) as paragraph (a) and add new paragraphs (b) through (e), to read as follows:

§ 13.66 Katmai National Park and Preserve.

* * * * *

(b) *Traditional red fish fishery.* Local residents who are descendants of Katmai residents who lived in the Naknek Lake and River Drainage will be authorized, in accordance with State fishing regulations or conditions established by the Superintendent, to continue their traditional fishery for red fish (spawned-out sockeye salmon that have no significant commercial value).

(c) *Brooks Camp Developed Area.* For purposes of this section, the Brooks Camp Developed Area (BCDA) means all park areas within a 1.5 mile radius

from the Brooks Falls Platform and is depicted on a map available at the park visitor center. Paragraphs (c)(1) through (10) of this section apply from May 1 through October 31 unless stated otherwise.

(1) *Camping.* (i) Camping is prohibited in all areas of the BCDA except within the Brooks Camp Campground and other designated areas.

(ii) Camping in Brooks Camp Campground for more than a total of 7 nights during the month of July is prohibited.

(iii) Exceeding a group size limit of 6 persons per site in the Brooks Camp Campground while in operation as a designated fee area is prohibited.

(2) *Visiting hours.* The Falls and Riffles bear viewing platforms and boardwalks are closed from 10 pm to 7 am from June 15 through August 15. Entering or going upon these platforms and boardwalks during these hours is prohibited.

(3) *Brooks Falls area.* The area within 50 yards of the ordinary high water marks of the Brooks River from the Riffles Bear Viewing Platform to a point 100 yards above Brooks Falls is closed to entry from June 15 through August 15, unless authorized by the Superintendent. The Superintendent may designate a route to transit through the closed area.

(4) *Food storage.* In the BCDA, all fish must be stored in designated facilities and in accordance with conditions established by the Superintendent. Storing fish in any other manner is prohibited. Employees may store fish in employee residences.

(5) *Campfires.* Lighting or maintaining a fire is prohibited except in established receptacles in the BCDA.

(6) *Sanitation.* Within the BCDA, washing dishes or cooking utensils at locations other than the water spigot near the food cache in the Brooks Campground or other designated areas is prohibited.

(7) *Pets.* Possessing a pet in the BCDA is prohibited.

(8) *Bear Orientation.* All persons visiting the BCDA must receive an NPS-approved Bear Orientation. Failure to receive an NPS-approved Bear Orientation is prohibited.

(9) *Picnicking.* Within the BCDA, picnicking in locations other than the Brooks Camp Visitor Center picnic area, Brooks Campground, Brooks Lake Picnic Area, and a site designated in the employee housing area is prohibited. Food consumption or possession while at the Brooks River is prohibited.

(10) *Unattended property.* Leaving property, other than motorboats and

planes, unattended for any length of time within the BCDA is prohibited, except at the Brooks Lodge Porch, Brooks Campground, or designated equipment caches as posted at the Brooks Camp Visitor Center.

(11) *BCDA closures and restrictions.* The Superintendent may prohibit or otherwise restrict activities in the BCDA to protect public health and safety or park resources. Information on BCDA closures and restrictions will be available for inspection at the park visitor center. Violating BCDA closures or restrictions is prohibited.

(d) *Wildlife distance conditions.* (1) Approaching a bear or any large mammal within 50 yards is prohibited.

(2) Continuing to occupy a position within 50 yards of a bear that is using a concentrated food source, including, but not limited to, animal carcasses, spawning salmon, and other feeding areas is prohibited.

(3) The prohibitions in this paragraph (d) do not apply to persons—

(i) Engaged in a legal hunt;

(ii) On a designated bear viewing structure;

(iii) In compliance with a written protocol approved by the Superintendent; or

(iv) Who are otherwise directed by a park employee.

(e) *Lake Camp.* Leaving a boat, trailer, or vehicle unattended for more than 72 hours at the facilities associated with the Lake Camp launching ramp is prohibited without authorization from the Superintendent. Leaving a boat unattended at the Lake Camp dock is prohibited.

■ 15. In § 13.67 add new paragraphs (b) and (c), to read as follows:

§ 13.67 Kenai Fjords National Park.

* * * * *

(b) *Exit Glacier.* (1) Except for areas designated by the Superintendent, climbing or walking on, in, or under Exit Glacier is prohibited within 1/2 mile of the glacial terminus from May 1 through October 31, and during other periods as determined by the Superintendent. Restrictions and exceptions will be available for inspection at the park visitor center, on bulletin boards or signs, or by other appropriate means.

(2) Entering an ice fall hazard zone is prohibited. These zones will be designated with signs, fences, rope barriers, or similar devices.

(c) *Public Use Cabins.* (1) Camping within 500 feet of the North Arm or Holgate public use cabin is prohibited except by the cabin permit holder on a designated tent site, or as otherwise authorized by the Superintendent.

(2) Camping within the 5-acre NPS-leased parcel surrounding the Aialik public use cabin is prohibited except by the cabin permit holder on a designated tent site, or as otherwise authorized by the Superintendent.

(3) Lighting or maintaining a fire within 500 feet of the North Arm or Holgate public use cabins is prohibited except by the cabin permit holder in NPS established receptacles, or as otherwise authorized by the Superintendent.

(4) Lighting or maintaining a fire within the 5-acre NPS-leased parcel surrounding the Aialik public use cabin is prohibited except by the cabin permit holder in NPS-established receptacles, or as otherwise authorized by the Superintendent.

■ 16. Revise § 13.68 to read as follows:

§ 13.68 Klondike Gold Rush National Historical Park.

(a) *Camping.* (1) Camping is permitted only in designated areas.

(2) Camping without a permit is prohibited. The Superintendent may establish permit terms and conditions. Failure to comply with permit terms and conditions is prohibited.

(3) Camping at Dyea campground more than 14 days in a calendar year is prohibited.

(b) *Preservation of natural, cultural, and archaeological resources.* The Superintendent may allow the gathering of mushrooms in accordance with § 2.1(c) of this chapter.

(c) The National Park Service administers certain state-owned lands and waters within the boundary of Klondike Gold Rush National Historical Park under a memorandum of understanding with the State of Alaska. The prohibition on carrying, possession, and use of weapons, traps, and nets in this chapter does not apply to the lawful taking of wildlife on these State-owned lands and waters.

■ 17. In § 13.69 revise paragraph (a)(1) to read as follows:

§ 13.69 Kobuk Valley National Park.

(a) *Subsistence—(1) Resident Zone.* The following area is included within the resident zone for Kobuk Valley National Park: The NANA Region.

* * * * *

■ 18. Revise § 13.72 to read as follows:

§ 13.72 Sitka National Historical Park.

The following activities are prohibited in Sitka National Historical Park—

(a) Camping.

(b) Riding a bicycle, except in the public parking areas and on routes designated by the Superintendent. Routes may only be designated for

bicycle use based on a written determination that such use is consistent with the purposes for which the park was established.

(c) The use of roller skates, skateboards, roller skis, in-line skates, and other similar devices.

■ 19. In § 13.73, add paragraphs (b) through (e), to read as follows:

§ 13.73 Wrangell-St. Elias National Park and Preserve.

* * * * *

(b) *Kennecott Mines National Historic Landmark (KNHL).* A map showing the boundaries of the KNHL is available at the park visitor center. The following activities are prohibited within the KNHL—

(1) Entering closed structures or passing beyond barricades;

(2) Entering mine tunnels and other mine openings;

(3) Camping in or on any historic structure;

(4) Camping within the mill site of the KNHL. The mill site consists of the collection of buildings clustered around the mill building on both sides of National Creek. For purposes of this section, the mill site is the area bounded by Bonanza Creek to the north, the Kennecott Glacier to the west, the 2,200 foot contour line to the east, and Sweet Creek to the south. The mill site is depicted on a map available at the park visitor center; and

(5) Lighting or maintaining a fire within the mill site as defined in paragraph (b)(4) of this section.

(c) *Headquarters/Visitor Center Developed Area (HVCDA).* For purposes of this paragraph, the HVCDA consists of all park areas within a 1/2 mile radius of the Wrangell-St. Elias National Park and Preserve Headquarters building, other than the Valdez Trail. The following activities are prohibited within the HVCDA:

(1) Lighting or maintaining a fire.

(2) Camping.

(3) Entering the area after visiting hours. Visiting hours will be posted at the entrance gate.

(d) *Slana Developed Area (SDA).* For purposes of this section, the Slana Developed Area consists of all park areas within a 1/4 mile radius of the Slana Ranger Station.

(e) *KNHL and developed area closures and restrictions.* The Superintendent may prohibit or otherwise restrict activities in the KNHL, Headquarters/Visitor Center Developed Area, and Slana Developed Area to protect public health and safety or park resources. Information on closures and restrictions will be available at the park visitor center. Violating these closures or

restrictions is prohibited. Notwithstanding the provisions of this section, the Superintendent may issue a Special Use Permit to authorize uses in the KNHL and either developed area.

Dated: November 18, 2004.

Paul Hoffman,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska, Subpart D; Seasonal Adjustments—Units 22 and 24

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

ACTION: Seasonal adjustments.

SUMMARY: This provides notice of the Federal Subsistence Board's management actions to provide for subsistence harvest opportunity and to protect a declining moose population in Units 22 and 24. These actions provide an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on July 1, 2004. Those regulations established seasons, harvest limits, methods, and means relating to the taking of wildlife for subsistence uses during the 2004 regulatory year.

DATES: The Unit 22B (west of the Darby Mountains) bull moose action is effective January 1, 2005 to January 31, 2005. The Unit 24 (John River, Upper John River, and Alatna River) antlerless moose action is effective September 8, 2004, through October 26, 2004. The Unit 24 (Kanuti Controlled Use Area) moose hunt extension is effective September 26 to October 2, 2004.

FOR FURTHER INFORMATION CONTACT: Thomas H. Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, telephone (907) 786-3888. For questions specific to National Forest System lands, contact Steve Kessler, Subsistence Program Leader, USDA—Forest Service, Alaska Region, telephone (907) 786-3592.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111-3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. In December 1989, the Alaska Supreme Court ruled that the Alaska preference in the State subsistence statute violated the Alaska Constitution and, therefore, negated State compliance with ANILCA.

The Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. The Departments administer Title VIII through regulations at title 50, part 100, and title 36, part 242, of the Code of Federal Regulations (CFR). Consistent with subparts A, B, and C of these regulations, as revised January 8, 1999 (64 FR 1276), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, National Park Service; the Alaska State Director, Bureau of Land Management; the Alaska Regional Director, Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for subparts A, B, and C, which establish the program structure and determine which Alaska residents are eligible to take specific species for subsistence uses, and the annual subpart D regulations, which establish seasons, harvest limits, and methods and means for subsistence take of species in specific areas. Subpart D regulations for the 2004 hunting seasons, harvest limits, and methods and means were published on July 1, 2004 (69 FR 40174). Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical closures and adjustments would apply to 36 CFR part 242 and 50 CFR part 100.

The Alaska Department of Fish and Game (ADF&G), under the direction of the Alaska Board of Game (BOG) and the Board of Fisheries (BOF), manages sport, commercial, personal use, and State subsistence harvest on all lands and waters throughout Alaska. However, on Federal lands and waters, the Federal Subsistence Board implements a subsistence priority for rural residents as provided by Title VIII of ANILCA. In providing this priority, the Federal Board may, when necessary, preempt State harvest regulations for fish or wildlife on Federal lands and waters.

These adjustments are necessary because of the need to enhance productivity of a declining moose population in portions of Units 22B and 24. These actions are authorized and in accordance with 50 CFR 100.19(d-e) and 36 CFR 242.19(d-e).

Unit 22B—Moose (West of the Darby Mountains)

Currently the moose population in Unit 22B is substantially depressed and well below management objectives. This represents a conservation concern. A reduction in harvest is necessary and reducing the quota for the combined fall and winter hunts, from 48 to 30, would significantly reduce the overall harvest of moose, for conservation purposes, while preserving the winter hunt for the smaller communities of White Mountain and Golovin, which have a high reliance on the resource.

The Unit 22B moose population of 586 is well below the objective of 1,500 to 2,500. Limiting the number of moose that may be harvested should aid in the recovery of the moose population, allowing the population to recover more quickly, ultimately conserving the resource for future potential harvest opportunities. This action also aligns State and Federal regulations, eliminating differing regulations that could be problematic.

Federal lands in Unit 22B affected by the special action are Bering Land Bridge National Preserve and Bureau of Land Management lands west of the Darby Mountains, and Norton Sound drainages from, but excluding, the Ungalik River drainage to, and including the Topkok Creek drainage.

Unit 24—Moose (John River, Upper John River, and Alatna River)

Moose surveys in Unit 24 from 1998 through 2003 have indicated poor recruitment of calves and yearlings. More specifically, aerial trend count area surveys were most recently conducted in the fall of 2003 and the data indicates that none of the five trend