

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 242

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 100

[FWS-R7-SM-2009-0001; 70101-1261-0000L6]

RIN 1018-AW30

#### Subsistence Management Regulations for Public Lands in Alaska—2010–11 and 2011–12 Subsistence Taking of Wildlife Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish regulations for hunting and trapping seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses during the 2010–11 and 2011–12 regulatory years. The Federal Subsistence Board completes the biennial process of revising subsistence hunting and trapping regulations in even-numbered years and subsistence fishing and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable biennial cycle. When final, the resulting rulemaking will replace the existing subsistence wildlife taking regulations, which expire on June 30, 2010. This rule would also amend the customary and traditional use determinations of the Federal Subsistence Board and the general regulations on subsistence taking of fish and wildlife.

**DATES:** *Public meetings:* The Federal Subsistence Regional Advisory Councils will hold public meetings to receive comments and make proposals to

change this proposed rule on several dates between February 10 and April 1, 2009, and then hold another round of public meetings to discuss and receive comments on the proposals, and make recommendations on the proposals to the Federal Subsistence Board, on several dates between August 25 and October 28, 2009. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, on January 12, 2010. See **SUPPLEMENTARY INFORMATION** for additional information on the public meetings.

*Public Comments:* Comments and proposals to change this proposed rule must be received or postmarked by April 30, 2009.

**ADDRESSES:** *Public Meetings:* The Federal Subsistence Board and the Regional Advisory Councils' public meetings will be held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

*Public Comments:* You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *U.S. mail or hand-delivery to:* USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503-6199.

- Hand delivery to the Designated Federal Official attending any of the Federal Subsistence Regional Advisory Council public meetings. See **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Review Process section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Peter J. Probasco, Office of Subsistence Management; (907) 786-3888 or [subsistence@fws.gov](mailto:subsistence@fws.gov). For questions specific to National Forest System lands, contact Steve Kessler, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743-9461.

**SUPPLEMENTARY INFORMATION:**

## Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program grants a preference for subsistence uses of fish and wildlife resources on Federal public lands and waters in Alaska. The Secretaries first published regulations to carry out this program in the **Federal Register** on May 29, 1992 (57 FR 22940). The Program has subsequently amended these regulations several times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, "Parks, Forests, and Public Property," and Title 50, "Wildlife and Fisheries," at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

## Federal Subsistence Board

Consistent with subpart B of these regulations, the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board is made up of:

- Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- Alaska Regional Director, U.S. Fish and Wildlife Service;
- Alaska Regional Director, U.S. National Park Service;
- Alaska State Director, U.S. Bureau of Land Management;
- Alaska Regional Director, U.S. Bureau of Indian Affairs; and
- Alaska Regional Forester, U.S. Forest Service.

Through the Board, these agencies participate in the development of regulations for subparts A, B, and C, which set forth the basic program, and they continue to work together on regularly revising the subpart D regulations, which, among other things, set forth specific harvest seasons and limits.

**Federal Subsistence Regional Advisory Councils**

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Council. The Regional Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a

meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

**Public Review Process—Comments, Proposals, and Public Meetings**

The Regional Councils have a substantial role in reviewing this

proposed rule and making recommendations for the final rule. The Federal Subsistence Board (Board), through the Regional Councils, will hold meetings on this proposed rule at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council .....	Petersburg .....	February 24, 2009.
Region 2—Southcentral Regional Council .....	Anchorage .....	March 10, 2009.
Region 3—Kodiak/Aleutians Regional Council .....	Kodiak .....	March 31, 2009.
Region 4—Bristol Bay Regional Council .....	Naknek .....	March 24, 2009.
Region 5—Yukon-Kuskokwim Delta Regional Council .....	St. Marys .....	February 24, 2009.
Region 6—Western Interior Regional Council .....	Galena .....	February 18, 2009.
Region 7—Seward Peninsula Regional Council .....	Nome .....	February 10, 2009.
Region 8—Northwest Arctic Regional Council .....	Kotzebue .....	March 5, 2009.
Region 9—Eastern Interior Regional Council .....	Central .....	March 10, 2009.
Region 10—North Slope Regional Council .....	Barrow .....	February 17, 2009.

During May 2009, the written proposals to change subpart D hunting and trapping regulations and subpart C customary and traditional use determinations will be compiled and distributed for public review. During the

30-day public comment period, which is presently scheduled to end on June 18, 2009, written public comments will be accepted on the distributed proposals.

The Board, through the Regional Councils, will hold a second series of

meetings in August through October 2009, to receive comments on specific proposals and to develop recommendations to the Board at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council .....	Yakutat .....	October 6, 2009.
Region 2—Southcentral Regional Council .....	Cooper Landing .....	October 13, 2009.
Region 3—Kodiak/Aleutians Regional Council .....	Kodiak .....	September 10, 2009.
Region 4—Bristol Bay Regional Council .....	Dillingham .....	October 27, 2009.
Region 5—Yukon-Kuskokwim Delta Regional Council .....	Bethel .....	October 1, 2009.
Region 6—Western Interior Regional Council .....	Aniak .....	October 6, 2009.
Region 7—Seward Peninsula Regional Council .....	Nome .....	October 1, 2009.
Region 8—Northwest Arctic Regional Council .....	Kotzebue .....	October 27, 2009.
Region 9—Eastern Interior Regional Council .....	TBA .....	October 13, 2009.
Region 10—North Slope Regional Council .....	Barrow .....	August 25, 2009.

A notice will be published of specific dates, times, and meeting locations in local and statewide newspapers prior to both series of meetings. Locations and dates may change based on weather or local circumstances. The amount of work on each Regional Council's agenda determines the length of each Regional Council meeting.

The Board will discuss and evaluate proposed changes to the subsistence management regulations during a public meeting scheduled to be held in Anchorage, AK, on January 12, 2010. The Council Chairs, or their designated representatives, will present their respective Councils' recommendations at the Board meeting. Additional oral testimony may be provided on specific proposals before the Board at that time. At that public meeting, the Board will deliberate and take final action on proposals received that request changes to this proposed rule.

Proposals to the Board to modify wildlife harvest regulations and customary and traditional use determinations must include the following information:

- (a) Name, address, and telephone number of the requestor;
- (b) Each section and/or paragraph designation in this proposed rule for which changes are suggested;
- (c) A statement explaining why each change is necessary;
- (d) Proposed wording changes; and
- (e) Any additional information that you believe will help the Board in evaluating the proposed change.

The Board rejects proposals that fail to include the above information, or proposals that are beyond the scope of authorities in § .24, subpart C (the regulations governing customary and traditional use determinations), and §§ .25, and .26, subpart D (the general and specific regulations governing the subsistence take of wildlife). During the January 12, 2010, meeting, the Board may defer review and action on some proposals to allow time for local cooperative planning efforts, or to acquire additional needed information. The Board may elect to defer taking action on any given proposal if the workload of staff, Regional Councils, or the Board

becomes excessive. These deferrals may be based on recommendations by the affected Regional Council(s) or staff members, or on the basis of the Board's intention to do least harm to the subsistence user and the resource involved. The Board may consider and act on alternatives that address the intent of a proposal while differing in approach.

**Proposed Changes From the 2008–10 Wildlife Seasons and Harvest Limit Regulations**

Subpart D regulations are subject to periodic review and revision. The Federal Subsistence Board completes the biennial process of revising subsistence hunting and trapping regulations in even-numbered years and subsistence fishing and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable biennial cycle.

The text of the 2008–10 subparts C and D final rule published June 24, 2008

(73 FR 35726), serves as the foundation for this 2010–12 subparts C and D proposed rule. The regulations relating to wildlife contained in this proposed rule will take effect on July 1, 2010, unless elements are changed by subsequent Board action following the public review process outlined above in this document.

### Compliance With Statutory and Regulatory Authorities

#### *National Environmental Policy Act*

A Draft Environmental Impact Statement (DEIS) that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

#### *Section 810 of ANILCA*

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

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in

accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the "may significantly restrict" threshold that would require notice and hearings under ANILCA section 810(a).

#### *Paperwork Reduction Act*

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and assigned OMB control number 1018–0075, which expires October 31, 2009. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a current valid OMB control number.

#### *Regulatory Planning and Review (Executive Order 12866)*

The Office of Management and Budget (OMB) has determined that this rule is not significant and has not reviewed this rule under Executive Order 12866. OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that 2 million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of \$3.00 per pound, this amount would equate to about \$6 million in food value statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a

substantial number of small entities within the meaning of the Regulatory Flexibility Act.

#### *Small Business Regulatory Enforcement Fairness Act*

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

#### *Executive Order 12630*

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

#### *Unfunded Mandates Reform Act*

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

#### *Executive Order 12988*

The Secretaries have determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

#### *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. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

#### *Executive Order 13175*

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have

determined that there are no substantial direct effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

#### *Executive Order 13211*

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

#### **Drafting Information**

Theo Matuskowitz drafted these regulations under the guidance of Peter J. Probasco of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Sandy Rabinowitch and Nancy Swanton, Alaska Regional Office, National Park Service;
- Drs. Warren Eastland and Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Jerry Berg and Carl Jack, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Steve Kessler, Alaska Regional Office, U.S. Forest Service.

#### **List of Subjects**

##### *36 CFR Part 242*

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

##### *50 CFR Part 100*

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, the Federal Subsistence Board proposes to amend 36 CFR part 242 and 50 CFR part 100 for the 2010–11 and 2011–12 regulatory years. The text of the proposed rule is the same as the final rule for the 2008–09 and 2009–10 wildlife regulatory years published in the **Federal Register** June 24, 2008 (73 FR 35726).

Dated: January 6, 2009.

**Peter J. Probasco,**

*Acting Chair, Federal Subsistence Board.*

Dated: January 6, 2009.

**Steve Kessler,**

*Subsistence Program Leader, USDA—Forest Service.*

[FR Doc. E9–1593 Filed 1–28–09; 8:45 am]

**BILLING CODE 3410–11–P; 4310–55–P**

## **POSTAL SERVICE**

### **39 CFR Part 111**

#### **New Standards for Domestic Mailing Services**

**AGENCY:** Postal Service™.

**ACTION:** Proposed rule.

**SUMMARY:** In February 2009, the Postal Service will file a notice of mailing services price adjustments with the Postal Regulatory Commission, effective in May 2009. This proposed rule provides the mailing standards that would accompany new prices in 2009 and 2010.

**DATES:** We must receive your comments on or before March 2, 2009.

**ADDRESSES:** Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L'Enfant Plaza, SW., Room 3436, Washington, DC 20260–3436. You may inspect and photocopy all written comments at USPS Headquarters Library, 475 L'Enfant Plaza, SW., 11th Floor N, Washington, DC between 9 a.m. and 4 p.m., Monday through Friday. E-mail comments, containing the name and address of the commenter, may be sent to: [MailingStandards@usps.gov](mailto:MailingStandards@usps.gov), with a subject line of “Price-related Proposal Comments.” Faxed comments are not accepted.

**FOR FURTHER INFORMATION CONTACT:** Bill Chatfield, 202–268–7278.

**SUPPLEMENTARY INFORMATION:** The Postal Service's proposed rule includes: Several mail classification changes, modifications to mailpiece characteristics, and changes in classification terminology. This proposed rule contains the revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) that we would adopt to implement the new prices. Additional changes will be included in a separate final rule to support prices established by the Governors.

We think it is vital to share proposed modifications to mailing standards as far in advance as possible; therefore, included are additional proposed revisions scheduled for implementation

in May 2010. We summarize the revisions by shape for 2009 and 2010, and provide proposed changes to the mailing standards in the DMM. We invite your comments on the proposed standards.

#### **Proposed Changes for Letters and Flats for May 2009**

##### *Letters*

In May 2009, we propose alignment of standards for commercial machinable and automation letters so all machinable letters have the physical characteristics required of automation letters, with the exception of a qualifying barcode. Commercial letters that are not machinable are mailed as nonmachinable letters.

We propose a new minimum 0.009-inch thickness standard for automation and machinable letters.

We propose new static charge and the coefficient of friction standards for automation and machinable letters to ensure they do not produce excessive static charge and can be handled efficiently when inducted and removed from processing equipment.

Our proposal revises the list of nonmachinable characteristics. We clarify that letters with nonpaper surfaces, and letters with keys, coins or similar objects that are either loose or thick enough to make a letter nonuniform in thickness, render letters nonmachinable. Letters that do not meet the “automation-compatible” physical standards in DMM 201.3.0 would be considered nonmachinable letters.

We propose to allow optional sortation of First-Class Mail and Standard Mail automation letters and Standard Mail machinable letters to all applicable sort levels, with prices matching the level of sortation chosen.

We propose to revise standards for window envelopes on letter-size mailpieces, restricting the size of an address block window to extend no closer to the bottom edge than ¾ inch when the window is within 4¾ inches of the envelope's leading edge and no closer than 1 inch to any other edge. For best compatibility with processing, we recommend a window size no greater than 2 inches by 4½ inches.

##### *Flats*

Effective in May 2009, we plan to extend the eligibility for automation prices to certain flat-size mailpieces that are not able to meet the flexibility standards in DMM 301.1.3, but that are able to demonstrate flats machine compatibility through a Pricing and Classification Service Center (PCSC)-administered testing process. Some flat-