

public hearing is scheduled, notice of the date, time, and place of the public hearing will be published in the **Federal Register**.

#### Drafting Information

The principal author of these proposed regulations is Brandon Ford, Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the Treasury Department and the IRS participated in the development of these regulations.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

#### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

*Authority:* 26 U.S.C. 7805 \* \* \*

#### § 1.401–1 [Amended]

■ **Par. 2.** Section 1.401–1 is amended by removing the fourth sentence of paragraph (b)(1)(i).

■ **Par. 3.** Section 1.401–7 is revised to read as follows:

#### § 1.401–7 Forfeitures under a qualified retirement plan.

(a) *Forfeitures under a qualified defined benefit plan.* In the case of a trust forming a part of a qualified defined benefit plan (as described in section 414(j)), the plan must expressly provide that forfeitures may not be applied to increase the benefits any employee would otherwise receive under the plan at any time prior to the termination of the plan or the complete discontinuance of employer contributions thereunder. However, the effect of forfeitures may be anticipated in determining the costs under the plan. See sections 430(h)(1), 431(c)(3), and 433(c)(3), as applicable, regarding the use of reasonable actuarial assumptions in determining the amount of contributions required to be made under a plan to which one of those sections applies.

(b) *Forfeitures under a qualified defined contribution plan.* In the case of a trust forming a part of a qualified defined contribution plan (as described in section 414(i)) that provides for forfeitures, the plan must provide that:

(1) Forfeitures will be used for one or more of the following purposes:

(i) To pay plan administrative expenses;

(ii) To reduce employer contributions under the plan; or

(iii) To increase benefits in other participants' accounts in accordance with plan terms; and

(2) Forfeitures will be used no later than 12 months following the close of the plan year in which the forfeitures were incurred under plan terms.

(c) *Transition rule for forfeitures incurred during plan years beginning before January 1, 2024.* For purposes of paragraph (b)(2) of this section, forfeitures incurred during any plan year that begins before January 1, 2024, will be treated as having been incurred in the first plan year that begins on or after January 1, 2024.

(d) *Applicability date.* This section applies for plan years beginning on or after January 1, 2024.

Melanie R. Krause,

*Acting Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2023–03778 Filed 2–24–23; 8:45 am]

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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

[Docket No. FWS–R7–SM–2022–0105; FXRS1261070000 FF07J00000 234]

RIN 1018–BG72

#### Subsistence Management Regulations for Public Lands in Alaska—2024–25 and 2025–26 Subsistence Taking of Wildlife Regulations

**AGENCY:** 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, and methods and means related to taking of wildlife for subsistence uses during the 2024–25 and 2025–26 regulatory years. The Federal Subsistence Board (Board) is on a schedule of completing the process of revising subsistence taking of wildlife regulations in even-numbered years and subsistence taking of fish 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 cycle. When final, the resulting rulemaking will replace the existing subsistence wildlife taking regulations. This proposed rule could also amend the general regulations on subsistence taking of fish and wildlife.

#### DATES:

*Public meetings:* The Federal Subsistence Regional Advisory Councils (Councils) will hold public meetings to receive comments and make proposals to change this proposed rule February 22 through April 4, 2023, and will 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 September 19 and November 1, 2023. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, in April 2024. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

*Public comments:* Comments and proposals to change this proposed rule must be received or postmarked by April 12, 2023.

*Information collection requirements:* If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this proposed rule in the **Federal Register**. Therefore, comments should be submitted to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, (see “Information Collection” section below under **ADDRESSES**) by April 28, 2023.

#### ADDRESSES:

*Public meetings:* The public meetings of the Federal Subsistence Board and the Federal Subsistence Regional Advisory Councils are held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

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

*Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter Docket number FWS–R7–SM–2022–0105. Then, click on the Search

button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on “Comment.”

*By hard copy:* Submit by U.S. mail or hand delivery: Public Comments Processing, Attn: FWS–R7–SM–2022–0105; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB (JAO/3W); Falls Church, VA 22041–3803.

If in-person Federal Subsistence Regional Advisory Council meetings are held, you may also deliver a hard copy to the Designated Federal Official attending any of the Council public meetings. See **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

We will post all comments on <https://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).

*Information collection requirements:* Send your comments on the information collection request by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, by email to [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov); or by mail to 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803. Please reference OMB Control Number 1018–0075 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Sue Detwiler, Assistant Regional Director, Office of Subsistence Management; (907) 786–3888 or [subsistence@fws.gov](mailto:subsistence@fws.gov). For questions specific to National Forest System lands, contact Gregory Risdahl, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 302–7354 or [gregory.risdahl@usda.gov](mailto:gregory.risdahl@usda.gov). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

#### **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 (hereafter referred to as “the Secretaries”) jointly

implement the Federal Subsistence Management Program (hereafter referred to as “the Program”). The Program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. Only Alaska residents of areas identified as rural are eligible to participate in the Program. The Secretaries published temporary regulations to carry out the Program in the **Federal Register** on June 29, 1990 (55 FR 27114), and final regulations on May 29, 1992 (57 FR 22940). Program officials have subsequently amended these regulations a number of times.

Because the Program is a joint effort between the Departments of the Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): The Agriculture regulations are at title 36, “Parks, Forests, and Public Property,” and the Interior regulations are at title 50, “Wildlife and Fisheries,” at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. Consequently, to indicate that identical changes are proposed for regulations in both titles 36 and 50, in this document we will present references to specific sections of the CFR as shown in the following example: § .24.

The Program 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. Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Program. The Board comprises:

- 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;
- The Alaska Regional Forester, USDA Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and public members participate in the development of regulations for subparts C and D. Subpart C sets forth important Board determinations regarding program eligibility, *i.e.*, which areas of Alaska are considered rural and which species are harvested in those areas as part of a “customary and traditional use” for

subsistence purposes. Subpart D sets forth specific harvest seasons and limits.

In administering the Program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council. The 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 Council members represent varied geographical, cultural, and user interests within each region.

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

The Federal Subsistence Regional Advisory Councils will have a substantial role in reviewing this proposed rule and making recommendations for the final rule. The Federal Subsistence Board, through the Councils, will hold public meetings, or teleconference meetings if public health and safety restrictions are in effect, on this proposed rule at the following locations in Alaska, on the following dates:

- Region 1—Southeast Regional Council Juneau February 28, 2023
- Region 2—Southcentral Regional Council Anchorage March 15, 2023
- Region 3—Kodiak/Aleutians Regional Council Kodiak March 29, 2023
- Region 4—Bristol Bay Regional Council Naknek March 8, 2023
- Region 5—Yukon–Kuskokwim Delta Regional Council St. Mary’s April 4, 2023
- Region 6—Western Interior Regional Council Aniak April 4, 2023
- Region 7—Seward Peninsula Regional Council Nome March 22, 2023
- Region 8—Northwest Arctic Regional Council Kotzebue March 6, 2023
- Region 9—Eastern Interior Regional Council Arctic Village March 1, 2023
- Region 10—North Slope Regional Council Kaktovik February 22, 2023

During April 2023, the written proposals to change the regulations at subpart D, take of wildlife, and subpart C, customary and traditional use determinations, will be compiled and distributed for public review. Written public comments will be accepted on the distributed proposals during a second 30-day public comment period, which will be announced in statewide newspaper and radio ads and posted to the program web page and social media. The Board, through the Councils, will hold a second series of public meetings

or teleconference meetings in September through November 2023, to receive comments on specific proposals and to develop recommendations to the Board on the following dates:

- Region 1—Southeast Regional Council  
Sitka October 24, 2023
- Region 2—Southcentral Regional  
Council Kenai October 2, 2023
- Region 3—Kodiak/Aleutians Regional  
Council King Cove September 19,  
2023
- Region 4—Bristol Bay Regional Council  
Dillingham October 24, 2023
- Region 5—Yukon—Kuskokwim Delta  
Regional Council Anchorage  
October 10, 2023
- Region 6—Western Interior Regional  
Council Fairbanks October 11,  
2023
- Region 7—Seward Peninsula Regional  
Council Nome November 1, 2023
- Region 8—Northwest Arctic Regional  
Council Kotzebue October 16, 2023
- Region 9—Eastern Interior Regional  
Council Tok October 4, 2023
- Region 10—North Slope Regional  
Council Utqiagvik November 1,  
2023

A notice will be published of specific dates, times, and meeting locations in local and statewide newspapers prior to both series of meetings; in addition, this information will be shared on local radio and television announcements and postings to social media and the program website at <https://www.doi.gov/subsistence/regions>. Locations and dates may change based on weather or local circumstances, and teleconferences will substitute for in-person meetings based on current public health and safety restrictions in effect. In the case of teleconferences, a public notice of specific dates, times, call-in number(s), and how to participate and provide public testimony will be published in local and statewide newspapers prior to each meeting.

The amount of work on each Council's agenda determines the length of each Council meeting, but typically the meetings are scheduled to last 2 days. Occasionally a Council will lack information necessary during a scheduled meeting to make a recommendation to the Board or to provide comments on other matters affecting subsistence in the region. If this situation occurs, the Council may announce on the record a later teleconference to address the specific issue when the requested information or data is available; please note that any followup teleconference would be an exception and must be approved, in advance, by the Assistant Regional Director for the Office of Subsistence

Management. These teleconferences would be open to the public, along with opportunities for public comment; the date and time would be announced during the scheduled meeting, and that same information would be announced through news releases and local radio, television, and social media ads.

The Board will discuss and evaluate proposed changes to the subsistence management regulations during a public meeting scheduled to be held in Anchorage, Alaska, in April 2024. The Federal Subsistence Regional Advisory 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 the general fish and wildlife regulations, wildlife harvest regulations, and customary and traditional use determinations must include the following information:

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

The Board immediately 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 of subpart D (the general and specific regulations governing the subsistence take of wildlife). If a proposal needs clarification, prior to being distributed for public review, the proponent may be contacted, and the proposal could be revised based on their input. Once a proposal is distributed for public review, no additional changes may be made as part of the original submission. During the April 2024 meeting, the Board may defer review and action on some proposals to allow time for 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, Councils, or the Board

becomes excessive. These deferrals may be based on recommendations by the affected 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. A proponent of a proposal may withdraw the proposal provided it has not been considered, and a recommendation has not been made, by a Council. The Board may consider and act on alternatives that address the intent of a proposal while differing in approach.

You may submit written comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. If you submit a comment via <https://www.regulations.gov>, your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <https://www.regulations.gov> at Docket No. FWS-R7-SM-2022-0105, or by appointment, provided no public health or safety restrictions are in effect, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, at: USFWS, Office of Subsistence Management, 1011 East Tudor Road, Anchorage, AK 99503.

#### *Reasonable Accommodations*

The Federal Subsistence Board is committed to providing access to these meetings for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Robbin LaVine, 907-786-3880, [subsistence@fws.gov](mailto:subsistence@fws.gov), or 800-877-8339 (TTY), 7 business days prior to the meeting you would like to attend.

#### *Tribal Consultation and Comment*

As expressed in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and federally recognized Indian Tribes (Tribes) as listed in 82 FR 4915 (January 17, 2017). Consultation with Alaska Native corporations is based on Public Law

108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: “The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.”

ANILCA does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, because Tribal members are affected by subsistence fishing, hunting, and trapping regulations, the Secretaries, through the Board, will provide federally recognized Tribes and Alaska Native corporations an opportunity to consult on this proposed rule.

The Board will engage in outreach efforts for this proposed rule, including a notification letter, to ensure that Tribes and Alaska Native corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for

consultation: proposing changes to the existing rule; commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board’s meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process. The Board will commit to efficiently and adequately providing an opportunity to Tribes and Alaska Native corporations for consultation in regard to subsistence rulemaking.

The Board will consider Tribes’ and Alaska Native corporations’ information, input, and recommendations, and address their concerns as much as practicable.

**Developing the 2024–25 and 2025–26 Wildlife Seasons and Harvest Limit Proposed Regulations**

In titles 36 and 50 of the CFR, the subparts C and D regulations are subject to periodic review and revision. The Board currently completes the process of revising subsistence take of wildlife regulations in even-numbered years and

fish 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 cycle.

Based on Board policy, the Board reviews closures to the take of fish/ shellfish and wildlife during each applicable cycle. The following table lists the current closures being reviewed for this cycle. In reviewing a closure, the Board may maintain, modify, or rescind the closure. If a closure is rescinded, the regulations will revert to the existing regulations in place prior to the closure, or if no regulations were in place, any changes or the establishment of seasons, methods and means, and harvest limits must go through the full public review process. The public is encouraged to comment on these closures, and anyone recommending that a closure be rescinded should submit a proposal to establish regulations for the area that was closed.

TABLE 1—WILDLIFE CLOSURES TO BE REVIEWED BY THE FEDERAL SUBSISTENCE BOARD FOR THE 2024–2025 AND 2025–2026 REGULATORY YEARS

Unit and area descriptor	Species	Closure
7, draining into King’s Bay	Moose	Closed except for residents of Chenega Bay and Tatitlek.
9C, remainder	Caribou	Closed except for residents of Unit 9C and Egegik.
9C, remainder	Caribou	Closed except for residents of Unit 9C and Egegik.
22B	Musk ox	Closed to non-federally qualified users.
22D, remainder	Moose	Closed to non-federally qualified users.
23, south of Kotzebue Sound and west of and including the Buckland River drainage.	Musk ox	Closed to non-federally qualified users.
24, Kanuti Controlled Use Area	Moose	Closed to non-federally qualified users.
25A, Arctic Village Sheep Management Area	Sheep	Closed to non-federally qualified users.
22D, west of the Tisuk River drainage and Canyon Creek.	Musk ox	Closed except for residents of Nome and Teller.
22D, remainder	Musk ox	Closed except for residents of Elim, White Mountain, Nome, Teller, and Brevig Mission.
22E	Musk ox	Closed to non-federally qualified users.
26B, remainder and 26C	Moose	Closed except for residents of Kaktovik.
12, east of the Nabesna River and the Nabesna Glacier and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border.	Caribou (Chisana caribou herd).	Closed to non-federally qualified users.
18, Kuskokwim River hunt area	Moose	Closed except for residents of Tuntutuliak, Eek, Napakiak, Napaskiak, Kasigluk, Nunapitchuk, Atmaultlauk, Oscarville, Bethel, Kwethluk, Akiachak, Akiak, Tuluksak, Lower Kalskag, and Kalskag.
6C	Moose	Closed to non-federally qualified users during the months of November and December.
12, within Wrangell-St. Elias National Park that lies west of the Nabesna River and the Nabesna Glacier.	Caribou (Mentasta caribou herd).	Closed to all users.
19A, remainder	Moose	Closed except for residents of Tuluksak, Lower Kalskag, Upper Kalskag, Aniak, Chuathbaluk, and Crooked Creek.
22D, Kuzitrin River drainage	Musk ox	Closed except for residents of Council, Golovin, White Mountain, Nome, Teller, and Brevig Mission.

The current subsistence program regulations form the starting point for consideration during each new rulemaking cycle. Consequently, in this

rulemaking action pertaining to wildlife, the Board will consider proposals to revise the regulations in any of the

following sections of titles 36 and 50 of the CFR:

- § .24: customary and traditional use determinations;

- § .25: general provisions governing the subsistence take of wildlife, fish, and shellfish; and
- § .26: specific provisions governing the subsistence take of wildlife.

As such, the text of the proposed 2024–26 subparts C and D subsistence regulations in titles 36 and 50 is the combined text of previously issued rules that revised these sections of the regulations. The following **Federal Register** citation shows when these CFR sections were last revised. Therefore, the regulations established by the cited final rule constitute the text of this proposed rule:

The text of the proposed amendments to 36 CFR 242.24, 242.25, and 242.26 and 50 CFR 100.24, 100.25, and 100.26 is the final rule for the 2022–2024 regulatory period for wildlife (87 FR 44846, July 26, 2022).

The regulations established by the July 26, 2022, final rule (87 FR 44846) will remain in effect until subsequent Board action changes elements of them as a result of the public review process outlined above in this document and a final rule is published.

### Compliance With Statutory and Regulatory Authorities

#### *National Environmental Policy Act*

A draft environmental impact statement 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 **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 the subsistence program regulations was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the regulations will not reach the "may significantly restrict" threshold that would require notice and hearings under ANILCA section 810(a).

#### *Paperwork Reduction Act of 1995 (PRA)*

This proposed rule contains existing and new information collections. All information collections require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB has reviewed and approved the information collection requirements associated with subsistence management regulations on public lands in Alaska and assigned the OMB Control Number 1018–0075.

In accordance with the PRA and its implementing regulations at 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on our proposal to renew, with revisions, OMB Control Number 1018–0075. This input will help us assess the impact of our information collection requirements and minimize the public's reporting burden, and it will help the public understand these requirements and provide the requested data in the desired format.

As part of our continuing effort to reduce paperwork and respondent burdens, and in accordance with 5 CFR 1320.8(d)(1), we invite the public and other Federal agencies to comment on any aspect of this proposed information collection, including:

- (1) Whether or not the collection of information is necessary for the proper

performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments that you submit in response to this proposed rulemaking are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

We also propose to renew the existing reporting and/or recordkeeping requirements identified below:

(1) *Form 3–2326, "Federal Subsistence Hunt Application, Permit, and Report"*—Completed by Federally qualified subsistence users who want to harvest wildlife.

- Applicants provide information on the permit to identify:

(1) They are a federally qualified subsistence user;

(2) Their community of primary residence for community harvest allocations; and

(3) The unit, season, hunt number, and permit number.

- Question 1 identifies whether the applicant hunted or used a designated hunter.

• Questions 2a through 2e identify success rates by time, location, and take of animal.

- Question 3 identifies date of take and biological data of animal.

(2) *Form 3–2327, "Designated Hunter Application, Permit, and Report"*—Completed by Federally qualified subsistence users who want to harvest wildlife for other federally qualified subsistence users.

- Applicants provide information on the permit to identify:

(1) They are a federally qualified subsistence user;

(2) Their community of primary residence for community harvest allocations; and

(3) The unit, season, hunt number, and permit number.

- Applicants provide a list of names of other persons they hunted for, their harvest ticket/registration permit and their community to ensure they are federally qualified subsistence users.

- Remaining information provides harvest data such as unit, drainage or specific location, and number, by sex, of animals taken.

(3) *Form 3-2328, "Federal Subsistence Fishing Application, Permit, and Report"*—Completed by federally qualified subsistence users who want to harvest fish.

- Applicants provide information on the permit to identify:

(1) They are a federally qualified subsistence user;

(2) Their community of primary residence for community harvest allocations; and

(3) The unit, season, hunt number, and permit number.

- Remaining information identifies dates, locations, types of gear, fish species, and number of fish harvested for biological and anthropological analysis.

- Depending on in-season management requirements, a condition may be included for certain fisheries that requires a time-specific reporting requirement. This management tool is used only when conservation concerns exist that may require the emergency closure of the fishery to prevent overharvest.

- Must be completed and returned by date designated on permit.

(4) *Form 3-2378, "Designated Fishing Application, Permit, and Report"*—Completed by federally qualified subsistence users who want to harvest fish for other federally qualified subsistence users. Federally qualified subsistence users may designate another federally qualified subsistence user to take fish on their behalf. The designated subsistence user must obtain a designated harvest permit prior to attempting to harvest fish and must return a completed harvest report. The designated subsistence user may fish for any number of beneficiaries but may have no more than two harvest limits in their possession at any one time. Subsistence users may not designate more than one person to take or attempt to take fish on their behalf at one time. Subsistence users may not personally take or attempt to take fish at the same time that their designated subsistence user is taking or attempting to take fish on their behalf.

- Applicants provide information on the permit to identify:

(1) They are a federally qualified subsistence user;

(2) Their community of primary residence for community harvest allocations; and

(3) The unit, season, hunt number, and permit number.

- Applicants identify both for whom they fished and their subsistence permit number. The permit number verifies they are federally qualified users and tracks usage by communities.

- Remaining information tracks species taken, number retained, and gear for biological and anthropological analysis.

(5) *Form 3-2379, "Federal Subsistence Customary Trade Recordkeeping Form"*—Completed by federally qualified subsistence users who want to take part in customary trade. Staff anthropologists use the information to make customary and traditional use determinations and to write an analysis based on the provisions in section 804 of ANILCA. These analyses further reduce the pool of eligible subsistence users and may allocate harvests by community, in part, based on documented uses of the resource.

- Applicants provide information on the permit to identify:

(1) They are a federally qualified subsistence user;

(2) Their community of primary residence for community harvest allocations; and

(3) The unit, season, hunt number, and permit number.

- Remaining information tracks date of sales, buyers, and buyers' addresses, total dollar amount, species taken, and fish parts.

(6) *Petition to Repeal Subsistence Rules and Regulations (Nonform Requirement)*—If the State of Alaska enacts and implements laws that are consistent with sections 803, 804, and 805 of ANILCA, the State may submit a petition to the Secretary of the Interior for repeal of Federal subsistence rules. The State's petition shall:

(1) Be submitted to the Secretary of the Interior and the Secretary of Agriculture;

(2) Include the entire text of applicable State legislation indicating compliance with sections 803, 804, and 805 of ANILCA; and

(3) Set forth all data and arguments available to the State in support of legislative compliance with sections 803, 804, and 805 of ANILCA.

If the Secretaries find that the State's petition contains adequate justification, a rulemaking proceeding for repeal of

the regulations in this part will be initiated. If the Secretaries find that the State's petition does not contain adequate justification, the petition will be denied by letter or other notice, with a statement of the ground for denial.

(7) *Propose Changes to Federal Subsistence Regulations*—The Board will accept proposals for changes to the Federal subsistence regulations in subparts C or D of 356 CFR part 242 or 50 CFR part 100 according to a published schedule, except for proposals for emergency and temporary special actions, which the Board will accept according to procedures set forth in § 19. Members of the public may propose changes to the subsistence regulations by providing:

- Contact information (name, organization, address, phone number, fax number, email address).

- Type of change (harvest season, harvest limit, method and means of harvest, customary and traditional use determination).

- Regulation to be changed.
- Language for proposed regulation.
- Why the change should be made.
- Impact on populations.
- How the change will affect subsistence uses.

- How the change will affect other uses.

- Communities that have used the resource.

- Where the resource has been harvested.

- Months in which the resource has been harvested.

(8) *Proposals for Emergency or Temporary Special Actions*—A special action is an out-of-cycle change in a season, harvest limit, or method of harvest. The Federal Subsistence Board may take a special action to restrict, close, open, or reopen the taking of fish and wildlife on Federal public lands: (1) to ensure the continued viability of a particular fish or wildlife population; (2) to ensure continued subsistence use; and (3) for reasons of public safety or administration. Members of the public may request a special action by providing:

- Contact information (name, organization, address, telephone number, fax number, email address).

- Description of the requested action.

- Any unusual or significant changes in resource abundance or unusual conditions affecting harvest opportunities that could not reasonably have been anticipated and that potentially could have significant adverse effects on the health of fish and wildlife populations or subsistence users.

- The necessity of the requested action if required for reasons of public safety or administration.

- Extenuating circumstances that necessitate a regulatory change before the next regulatory review.

(9) *Requests for Reconsideration*—Any person adversely affected by a new regulation may request that the Federal Subsistence Board reconsider its decision by filing a written request within 60 days after a regulation takes effect or is published in the **Federal Register**, whichever comes first. Requests for reconsideration must provide the Board with sufficient narrative evidence and argument to show why the action by the Board should be reconsidered. The Board will accept a request for reconsideration only if it is based upon information not previously considered by the Board, demonstrates that the existing information used by the Board is incorrect, or demonstrates that the Board's interpretation of information, applicable law, or regulation is in error or contrary to existing law. Requests for reconsideration must include:

- Contact information (name, organization, address, telephone number, fax number, email address).
- Regulation and the date of **Federal Register** publication.
- Statement of how the person is adversely affected by the action.
- Statement of the issues raised by the action, with specific reference to: (1) information not previously considered by the Board; (2) information used by the Board that is incorrect; and (3) how the Board's interpretation of information, applicable law, or regulation is in error or contrary to existing law.

(10) *Other Permits and Reports*

*a. Traditional/Cultural/Educational Permits*—Organizations desiring to harvest fish or wildlife for traditional, cultural, or educational reasons must provide a letter stating that the requesting program has instructors, enrolled students, minimum attendance requirements, and standards for successful completion. Harvest must be reported, and any animals harvested will count against any established Federal harvest quota for the area in which it is harvested.

*b. Fishwheel, Fyke Net, and Under Ice Permits*—Persons who want to set up and operate fishwheels and fyke nets, or use a net under the ice must provide:

- (1) Name and contact information and other household member who will use the equipment. Fishwheels must be marked with registration permit number; organization's name and address (if applicable), and primary

contact person name and telephone number; under ice nets must be marked with the permittee's name and address.

(2) Species of fish take, number of fish taken, and dates of use.

The new reporting and/or recordkeeping requirements identified below require approval by OMB:

(1) *Reports and Recommendations*—Subsistence Regional Advisory Councils are required to send an annual report to the Federal Subsistence Board informing them of regional concerns or problems pertaining to subsistence on Federal public lands. In turn, the Board is required to respond to each of the Councils' annual reports and address their concerns and possible courses of actions or solutions.

(2) *Customary Trade Sales*—The Board manages each region differently regarding customary trade, based primarily on cultural beliefs and traditional practices. As needed, decisions also include conservation concerns. This requirement is in place to monitor customary trade and ensure that subsistence resources are for subsistence users and not commercial trade.

(3) *Transfer of Subsistence-Caught Fish, Wildlife, or Shellfish*—This reporting requirement safeguards the harvester and individual who receives the harvested animal. It protects both parties to show that an illegal commercial enterprise is not ongoing or that the animal was not poached.

(4) *Meeting Request*—The Board shall meet at least twice per year and at such other times as deemed necessary. Meetings shall occur at the call of the Chair, but any member may request a meeting. There is no specified format to request a meeting. Usually, the Service recommends to the Board that they have a meeting on a special topic, such as pending litigation. This is not a common occurrence.

(5) *Cooperative Agreements*—The Board may enter into cooperative agreements or otherwise cooperate with Federal agencies, the State, Native organizations, local governmental entities, and other persons and organizations, including international entities to effectuate the purposes and policies of the Federal subsistence management program or to coordinate respective management responsibilities. Currently, cooperative agreements are not generally used, and we are reporting a placeholder burden of one response.

(6) *Alternative Permitting Processes*—Developing alternative permitting processes relating to the subsistence taking of fish and wildlife ensures continued opportunities for subsistence. Currently, this requirement is not

generally used and we are reporting a placeholder burden of one response in our burden estimate.

(7) *Request for Individual Customary and Traditional Use Determinations*—The Federal Subsistence Board has determined that rural Alaska residents of the listed communities, areas, and individuals have customary and traditional use of the specified species on Federal public land in the specified areas. Persons granted individual customary and traditional use determinations will be notified in writing by the Board. The Service and the local NPS Superintendent will maintain the list of individuals having customary and traditional use on National Parks and Monuments. A copy of the list is available upon request. Currently, this requirement is not generally used, and we are reporting a placeholder burden of one response in our burden estimate.

(8) *Management Plans*—Management plans are not routinely used. When created by the State or Alaska Native communities for overall management of a specific area, the plans are submitted to the appropriate Federal agencies for review/comment. Currently, this requirement is not generally used, and we are reporting a placeholder burden of one response in our burden estimate.

(9) *Labeling/Marking Requirements*

- *Bear Baiting*—The requirement to mark bear baiting stations and provide contact information is for public safety since attempting to draw bears into a certain area could cause a significant hazard for the public not involved in hunting activities. Requirements to register a bait station with the State is to provide a single location for the public to find information of possible hazards prior to using public lands.

- *Evidence of sex and identity*—In certain areas and with certain species of both wildlife and fish, evidence of sex and identity are required for biological purposes and the data is used for future management decisions. This information is critical to assist in assessing the health of a population, the male/female ratios, ages of harvested animals, identifying different genetic populations, and other important factors needed for sound management decisions.

- *Marking of fish gear*—The marking of various fishing gear types (fishwheels, crab pots, certain types of nets or their supporting buoys, stakes, etc.) with contact information is based on the fact that these gear types are generally unattended while catching fish. This information is used to differentiate between users harvesting under Federal or State regulations and

also to protect the owners of the gear should it be damaged or carried away. The contact information can be used to return the often expensive gear to the proper owner. Requirements as to the location of the contact information on the gear types is to ease the task of field managers so they can, if needed, identify gear from a boat and not have to land to search for the contact information. In marine waters, the information is used by the USCG for safety in navigation concerns. The above reasons also hold true regarding registering a fishwheel with the State or the Federal program.

- *Marking of subsistence-caught fish*—Requirements in certain areas to mark subsistence-caught fish by removal of the tips of the tail or dorsal fin is used to identify fish harvested under Federal regulations and not under State sport or commercial regulations. This is needed as Federal subsistence harvest limits are often larger than sport fishing bag limits and protects the user from possible citations from State law enforcement.

- *Sealing requirements*—Sealing requirements for animals, primarily bears and wolves, differ in parts of the State. This requirement not only allows biologists to gather important data to evaluate the health of the various populations but is also integral in preventing the illegal harvest and trafficking of animals and their parts reporting a placeholder burden of one response in our burden estimate.

(10) *3rd Party Notifications (Tags, Marks, or Collar Notification and Return)*—Users must present the tags, markings, or collars to ADF&G, or the agency conducting the research. Much of this equipment may be used again, and the information regarding the take of the animal is important to management decisions.

Copies of the forms used with this information collection are available to the public by submitting a request to the Service Information Collection Clearance Officer using one of the methods identified in **ADDRESSES**.

*Title of Collection:* Federal Subsistence Regulations and Associated Forms, 50 CFR part 100 and 36 CFR part 242.

*OMB Control Number:* 1018–0075.

*Form Numbers:* Forms 3–2300, 3–2321 through 3–2323, 3–2326 through 3–2328, 3–2378, and 3–2379.

*Type of Review:* Revision of a currently approved collection.

*Respondents/Affected Public:* Individuals and State, local, and Tribal governments. Most respondents are individuals who are federally defined rural residents in Alaska.

*Total Estimated Number of Annual Respondents:* 15,426.

*Total Estimated Number of Annual Responses:* 15,426.

*Estimated Completion Time per Response:* Varies from 5 minutes to 40 hours, depending on activity.

*Total Estimated Number of Annual Burden Hours:* 6,947.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion for applications; annually or on occasion for reports, recordkeeping, and labeling/marketing requirements.

*Total Estimated Annual Non-hour Burden Cost:* None.

Send your written comments and suggestions on this information collection by the date indicated in **DATES** to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB/PERMA (JAO), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info\_Coll@fws.gov*. Please reference OMB Control Number 1018–0075 in the subject line of your comments.

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

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this proposed rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

#### *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 economic impact on a substantial number of small entities, which include small businesses, organizations, or

governmental jurisdictions. In general, the resources to be harvested under this proposed 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 two 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 impact 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 proposed rule is not a major rule. It will 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 will 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 proposed 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 proposed 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 proposed rule would be by Federal agencies, with no cost imposed on any State or local entities or Tribal governments.

#### *Executive Order 12988*

The Secretaries have determined that these proposed 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, this proposed 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*

Title VIII of ANILCA does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, as described above under *Tribal Consultation and Comment*, the Secretaries, through the Board, will provide federally recognized Tribes and Alaska Native corporations a variety of opportunities for consultation: commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

#### *Executive Order 13211*

This Executive order requires agencies to prepare statements of energy effects when undertaking certain actions. However, this proposed rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no statement of energy effects is required.

#### **Drafting Information**

Theo Matuskowitz drafted this proposed rule under the guidance of Sue Detwiler of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Chris McKee, Alaska State Office, Bureau of Land Management;
- Eva Patton, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Jill Klein, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Gregory Risdahl, Alaska Regional Office, USDA–Forest Service.

#### **List of Subjects**

##### *36 CFR Part 242*

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

##### *50 CFR Part 100*

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

#### **Proposed Regulation Promulgation**

■ 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 2024–25 and 2025–26 regulatory years:

The text of the proposed amendments to 36 CFR 242.24, 242.25, and 242.26 and 50 CFR 100.24, 100.25, and 100.26 is the final rule for the 2022–2024 regulatory period for wildlife (87 FR 44846, July 26, 2022).

#### **Sue Detwiler,**

*Assistant Regional Director, U.S. Fish and Wildlife Service.*

#### **Gregory Risdahl,**

*Subsistence Program Leader, USDA–Forest Service.*

[FR Doc. 2023–03825 Filed 2–24–23; 8:45 am]

**BILLING CODE 4333–15–P, 3411–15–P**

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## **DEPARTMENT OF VETERANS AFFAIRS**

### **38 CFR Part 21**

#### **RIN 2900–AQ99**

#### **Bar to Approval**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is proposing to amend its regulations that govern VA's administration of educational assistance programs to implement a provision of the Veterans Benefits and Transition Act of 2018, which requires a State Approving Agency (SAA), or the Secretary of VA (when acting as the SAA), to disapprove programs of education provided by educational institutions that do not permit individuals using benefits under certain VA educational assistance programs to attend or participate in courses while awaiting payment from VA and that impose a penalty on an individual for failure to meet financial obligations due to a delayed VA payment. We would also implement a provision that would allow educational institutions to require a claimant using education benefits to submit certain documents. In addition, we would make clear that an educational institution may require a claimant to pay certain fees or charges if VA delays payment and ultimately pays less than what an educational institution anticipated receiving.

**DATES:** Comments must be received on or before April 28, 2023.

**ADDRESSES:** Comments must be submitted through [www.regulations.gov](http://www.regulations.gov). Except as provided below, comments

received before the close of the comment period will be available at [www.regulations.gov](http://www.regulations.gov) for public viewing, inspection, or copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on the following website as soon as possible after they have been received: <https://www.regulations.gov>. VA will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm the individual. VA encourages individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date is considered late and will not be considered in the final rulemaking.

#### **FOR FURTHER INFORMATION CONTACT:**

Cheryl A. Amitay, Chief, Policy and Regulation Development Staff (225C), Education Service, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9800 (This is not a toll-free telephone number).

**SUPPLEMENTARY INFORMATION:** Prior to August 1, 2019, an educational institution could prohibit an individual utilizing educational assistance under chapter 31 or chapter 33 of title 38, U.S.C., from attending classes if either part or all the claimant's tuition and fees had not been paid, even if the delinquent tuition and fee payment was due to a delay in VA paying the school. On December 31, 2018, sec. 103 of the Veterans Benefits and Transition Act of 2018, Public Law 115–407, added subsection (e) to 38 U.S.C. 3697. Section 3697(e) requires a State Approving Agency (SAA), or the Secretary of the Department of Veterans Affairs (VA) when acting as a SAA, to disapprove, programs of education that do not permit individuals using benefits under either chapter 31 or chapter 33 to attend or participate in courses while awaiting payment from VA. Specifically, beginning on August 1, 2019, an educational institution is prohibited from employing a policy which prevents an individual from attending classes or participating in a program of education while awaiting payment from VA if the individual provides the school with a "certificate of eligibility." In addition, an educational institution must not impose any penalty on an individual for failure to meet financial obligations due