



DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 51

[267D0102DM DS61900000 DMSN00000.000000 DX61901; Docket# DOI-2025-0170]

Program Review---Subsistence Management for Public Lands in Alaska

AGENCIES: Forest Service, Agriculture; Office of the Secretary, Interior.

ACTION: Notification of program review.

SUMMARY: Title VIII of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) requires a subsistence priority for rural Alaska residents on federal public lands in Alaska, currently administered jointly by Secretary of the Interior and the Secretary of Agriculture (the Secretaries). The Office of the Senior Advisor to the Secretary of the Interior for Alaska Affairs and the Office of the Secretary of Agriculture are conducting a targeted review of the Federal Subsistence Management Program (Program) with joint recommendations for action to ensure the Program effectively and efficiently meets the needs of Alaska residents and the Secretaries' obligations under ANILCA. The focus of this review is on recent regulatory and organizational changes to the Program, along with discrete areas of interest. The scope of this review is intentionally targeted to build upon and evaluate the most recent Program review and changes with the benefit of the experience gained through implementation of those changes to date. A subsequent process is anticipated for any regulatory changes to the Program based on this review.

DATES: *Public meeting:* The Office of the Senior Advisor to the Secretary of the Interior for Alaska Affairs anticipates holding an open house in Anchorage, AK, during the public comment period to share information about the Program and answer questions. See **SUPPLEMENTARY INFORMATION** for specific information on this opportunity.

Scoping comments: Public comments must be received or postmarked by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Specific information about the open house will be available in advance on the Interior Department's website at https://www.doi.gov/subsistence/FSMP_Scoping_Process. See **SUPPLEMENTARY INFORMATION** for **Public Scoping Process** regarding the open house and opportunity to submit comments.

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 DOI-2025-0170, which is the docket number for this rulemaking action. 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 Notice box to locate this document. You may submit a comment by clicking on "Comment."
- *Email:* subsistence@ios.doi.gov
- *By hard copy:* Submit by U.S. mail or hand delivery to Office of the Secretary, U.S. Department of the Interior, 4230 University Drive, Suite 300, Anchorage, Alaska 99508.

We can accept oral comments by telephone through an appointment request submitted by one of the above methods or during the open house. We intend to make all scoping comments publicly available.

FOR FURTHER INFORMATION CONTACT: Kara Moriarty, Senior Advisor to the Secretary of the Interior for Alaska Affairs, by email at kara_moriarty@ios.doi.gov or by phone at 907-786-3888 (toll free 800-478-1456).

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of ANILCA, codified at 16 U.S.C. 3111–3126, the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. The Program administers a preference for the harvest of fish and wildlife resources for subsistence uses on federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the *Federal Register* on June 29, 1990 (55 FR 27114) and published final regulations in the *Federal Register* on May 29, 1992 (57 FR 22940). Program regulations have subsequently been amended a number of 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,” at 36 CFR 242.1–242.28, and Title 43, “Public Lands: Interior”, at 43 CFR 51.1-51.28, 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.

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

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, U.S. Forest Service;
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; and
- Three public members nominated or recommended by federally recognized Tribal governments in Alaska and appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, the members participate in the development of regulations for subparts C and D, which, among other things, set forth Program eligibility and specific harvest seasons and limits.

To administer the Program over an area as large and diverse as Alaska, the Secretaries divided the state into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council (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 and waters in Alaska, as envisioned in ANILCA. Council members represent varied geographical, cultural, and user interests within each subsistence resource region.

Under ANILCA, 16 U.S.C. 3115, each Council has the authority to, among other things, review and evaluate proposals for regulations, policies, management plans, and

other matters relating to subsistence uses of fish and wildlife in the region, and to make recommendations to the Secretaries for management actions that accommodate subsistence uses and needs. A Secretary may choose not to adopt a Council recommendation if it is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of rural subsistence needs, and the factual basis and reasons for refusal are documented.

Following extensive public engagement and analysis, the Secretary of the Interior established an Office of Subsistence Management (OSM) to administratively support the Board and the Councils. The Board receives analytical and administrative assistance from the Interagency Staff Committee, which consists of senior technical experts from the Office of Subsistence Management, U.S. Fish and Wildlife Service, National Park Service, Bureau of Land Management, Bureau of Indian Affairs, and U.S. Forest Service. Staff provide support and information needed for the regulatory process and community-focused Partners for Fisheries Monitoring and the Fisheries Resource Monitoring Program, which funds projects addressing priorities identified by managing agencies and the public through the Councils.

Procedural History

In October 2009, the Secretary of the Interior initiated a comprehensive review of the Federal Subsistence Management Program, including most of the components described above, to evaluate how well the Program was fulfilling the purposes of ANILCA Title VIII. The Special Assistant to the Secretary and Director for Alaska Affairs conducted the review, in consultation with the Office of the Secretary of Agriculture, gathering public comments from November 2009 through January 2010. Following delays due to the Deepwater Horizon oil spill, a final report on the Program review issued October 5, 2010, calling for changes to regulations, policies, and

procedures for the Secretaries to consider implementing through direct action or through the Board. Report recommendations included:

- Adding two public members to the Board;
- Staffing a liaison to the State, in addition to the State's non-voting Board seat;
- Deference to Council recommendations on more than the harvest of fish and wildlife;
- In coordination with the Councils, review the—
 - federal procedural and structural regulations adopted from state regulations,
 - customary and traditional use determination process,
 - rural/non-rural determination process following the 2010 census, and
 - 2008 Memorandum of Understanding between the State and Board;
- Board review and recommendations on—
 - policies and practices to minimize the use of executive sessions, and
 - items for consideration as part of the Secretaries' annual budget proposals;
- Secretarial review of external actions that may require extraterritorial jurisdiction;
- Board participation in hiring and evaluating the performance of the OSM Director;
- Task force evaluation of OSM and related agency budgets and organizations; and
- Greater use of Cooperative Agreement authority in ANILCA 809.

The Board met on May 3, 2011, to receive comments and discuss recommendations to the Secretaries regarding proposed changes. In September 2011, the Secretaries issued a final rule adopting changes to Board composition based on recommendations from the Councils, Board, and the 2009-10 review. 76 FR 56,109 (Sept. 12, 2011). Regulatory changes added two public members to the Board and certain experiential requirements. All but two of the 28 comments received on the rule

supported this change; one was neutral and the other generally opposed, both recommending a Board without any federal agency members.

In November 2021, the Secretaries announced joint consultations on the Program and federal policies to develop recommendations on better serving Alaska Native subsistence needs. The Office of the Senior Advisor to the Secretary of the Interior for Alaska Affairs and Strategic Priorities conducted the review, in consultation with the Office of the Secretary of Agriculture, gathering comments in writing and through virtual listening sessions and consultations from December 2021 through January 2022. A final report issued June 14, 2022, summarizing the consultation process and comments received in response to seven requests for information on:

- Impacts to subsistence from shifting ecosystems and other environmental changes;
- Changes to subsistence laws, regulations, or policies that can mitigate those impacts;
- How agencies can better cooperate with Alaska Native Tribes, Consortia, Organizations, and corporations to promote subsistence harvest opportunities and protect habitat;
- Impacts to the federal subsistence priority from state management;
- Changes to the Program to better accommodate Alaska Native subsistence needs;
- Difficulties accessing subsistence resources; and
- How the Board should define eligibility for the rural subsistence preference.

In June 2024, in response to Congressional authorization to move OSM out of the U.S. Fish and Wildlife Service and into the Office of the Secretary of the Interior, Secretary's Order 3413 directed the transfer of OSM to the Office of the Assistant Secretary for Policy, Management and Budget. According to the Order, relocation "also responded to the concerns and input of Alaska Native communities and people . . . and to

the need to enhance program operations for all federally qualified subsistence users”.

The transfer went into effect July 15, 2024; corresponding regulatory transfers went into effect one year later. See 90 FR 34142 (July 18, 2025) (transferring the Federal Subsistence Management Program regulations from 50 CFR part 100 to 43 CFR part 51).

In October 2024, the Secretaries issued a final rule adopting further changes to the Program based on recommendations from the 2022 consultations, listening sessions, and other outreach. See 89 FR 83,622 (Oct. 17, 2024) and correction at 89 FR 89,493 (Nov. 13, 2024). These regulatory changes added three additional public members to the Board nominated or recommended by federally recognized Tribal governments in Alaska, required appointees meet certain experiential requirements, and affirmed the Secretaries’ oversight of Board actions.

On January 20, 2025, President Trump issued Executive Order 14153 titled Unleashing Alaska’s Extraordinary Resource Potential, 90 FR 8347 (January 29, 2025), Section 3(b)(xxii) of which states:

... the Secretary of the Interior shall exercise all lawful authority and discretion available to him and take all necessary steps to ...direct all bureaus of the Department of the Interior to consider the Alaskan cultural significance of hunting and fishing and the statutory priority of subsistence management required by the ANILCA, to conduct meaningful consultation with the State fish and wildlife management agencies prior to enacting land management plans or other regulations that affect the ability of Alaskans to hunt and fish on public lands, and to ensure to the greatest extent possible that hunting and fishing opportunities on Federal lands are consistent with similar opportunities on State lands

In May 2025, the Secretaries received a petition to amend the Federal Subsistence Management Program regulations at 50 C.F.R. part 100 (which regulations were subsequently transferred to 43 C.F.R. part 51 to align with the transfer of the Office of

Subsistence Management) and 36 C.F.R. part 242. The Secretaries subsequently received correspondence concerning this rulemaking petition.

The focus of this review is on the regulatory and organizational changes to the Program, along with discrete areas of interest. The scope of this review is intentionally targeted to build upon and evaluate the most recent Program review and changes with the benefit of the experience gained through implementation of those changes to date.

The Secretaries intend to target this review on the following topics:

- Interior Department move of the Office of Subsistence Management to the Office of the Assistant Secretary for Policy, Management and Budget;
- Criteria for regional advisory council membership;
- Membership of the Federal Subsistence Board;
- Federal regulations and State regulations for duplication and inconsistency;
- Regulations governing special actions;
- Role of the State and the Alaska Department of Fish and Game in the Federal Subsistence Management Program; and
- Board's process for rural determinations.

A subsequent process is anticipated for any regulatory changes based on this Program review.

Public Scoping Process—Comments and Open House

The Office of the Senior Advisor to the Secretary of the Interior for Alaska Affairs and the Department of Agriculture anticipate making information about the Program and review available at a joint open house hosted in Anchorage, Alaska, during the public scoping period. Written comments may be submitted at the open house and appointments will be available on request for submission of oral comments. The date, time, and location for the open house will be publicly posted in advance at

https://www.doi.gov/subsistence/FSMP_Scoping_Process.

The Office of the Senior Advisor to the Secretary of the Interior for Alaska Affairs anticipates briefing the Subsistence Regional Advisory Councils and meeting attendees on this review and methods for submitting input and recommendations during the fall 2025 meeting cycle. For more information on these meetings visit the Councils' website at <https://www.doi.gov/subsistence/regions>. Any comments and recommendations received in correspondence or at meetings scheduled during the scoping period will be reviewed and considered by the Office of the Senior Advisor to the Secretary of the Interior for Alaska Affairs.

You may submit written comments and materials concerning this review by one of the methods listed in **ADDRESSES**. If you submit a comment via email, hard copy, or electronically, your entire comment, including any personal identifying information, may be posted online and will be accepted if transmitted or postmarked before or on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. If your comment includes personal identifying information, you may request at the top of your document that we withhold this information; however, we cannot guarantee that we will be able to do so.

Reasonable Accommodations

The Secretaries are committed to providing access to these meetings and opportunities to comment for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to the Office of Subsistence Management at subsistence@ios.doi.gov, 907-786-3888 or 800-877-8339 (TTY), at least seven business days prior to the open house.

All submitted comments and materials will be available for public inspection online at https://www.doi.gov/subsistence/FSMP_Scoping_Process or by appointment between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, at: Office of Subsistence Management, 1011 East Tudor Road, Anchorage, AK 99503.

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 U.S. Government and federally recognized Indian Tribes (Tribes) as listed in 89 FR 99899 (Dec. 11, 2024). Consultation with Alaska Native corporations is based on Pub. L. 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Pub. L. 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 Alaska Native Tribes for subsistence taking of wildlife, fish, shellfish, and other natural resources. However, because Tribal members are affected by subsistence hunting, fishing, and trapping regulations, the Secretaries will provide Tribes and Alaska Native corporations an opportunity to consult on this Program review on request submitted to the offices listed under **FOR FURTHER INFORMATION CONTACT**.

The Departments will engage in outreach efforts, including a notification letter, to ensure Tribes and Alaska Native corporations are advised of the mechanisms for participation. The Secretaries commit to efficiently and adequately providing an opportunity to Tribes and Alaska Native corporations for consultation in regard to subsistence uses; to consider information, input, and recommendations provided; and to address concerns as much as practicable.

Paperwork Reduction Act of 1995 (PRA)

This review does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 et

seq.). OMB has reviewed and approved the collections of information associated with the subsistence regulations and assigned OMB Control Number 1018–0075, with an expiration date of November 30, 2027. 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.

This action is taken pursuant to delegated authority.

Michael K. Boren,

Assistant Secretary,

Policy, Management and Budget,

Department of the Interior.

Kristin Sleeper,

Deputy Under Secretary

Natural Resources and Environment

Department of Agriculture.

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