



**4312-52**

**DEPARTMENT OF THE INTERIOR**

**National Park Service**

**36 CFR Part 13**

**[NPS-AKRO- NPS0040343; PPAKAKROD0, PPMPSPD1Y.YM0000]**

**RIN 1024-AE96**

**Alaska; Hunting and Trapping in National Preserves**

**AGENCY:** National Park Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The National Park Service proposes to amend its regulations for hunting, fishing, trapping, and other natural resource harvest in national preserves in Alaska and for the procedures used to restrict public use and access in Alaska park lands. These changes restore National Park Service interpretations of law, policies, and regulations adopted to implement the Alaska National Interest Lands Conservation Act of 1980 that were in effect for over three decades. Rulemaking in 2015, 2017, and 2024 preempted methods of State-authorized fish and wildlife harvests, revised codified and established procedures for restricting public access and activities in Alaska park lands, and added severability provision, among other changes. The revisions in this proposed rule are consistent with Executive Order (E.O.) 14153, E.O. 14192, and Secretary of the Interior’s Order (S.O.) 3422 titled “Unleashing Alaska’s Extraordinary Resource Potential.”

**DATES:** Comments on the proposed rule must be received by 11:59 PM ET on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** You may submit comments, identified by Regulation Identifier Number (RIN)

1024-AE96, by either of the following methods:

*(1) Electronically:*

- Go to the *Federal Register* website: <https://www.federalregister.gov>. In the search box, enter “1024-AE96”, the regulation identifier number (RIN) for this rulemaking. Click on the green “Submit a Public Comment” button at the top of the document and follow the instructions for submitting comments; or
- Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter “1024-AE96”, the RIN for this rulemaking. On the resulting page, select the Dockets tab and then click on the title of the rule. Next, click the “Open for Comments” box, then click the blue “Comment” box and follow the instructions for submitting comments.

*(2) By hard copy:* Mail to: National Park Service, Regional Director, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501. Comments delivered on external storage devices (flash drives, compact discs, etc.) will not be accepted.

*Instructions:* Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words “National Park Service” or “NPS” and must include the docket number or RIN (1024-AE96) for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket to read comments received, go to <https://www.regulations.gov>, search for “1024-AE96” and then click on the “Dockets” tab. In compliance with the Providing Accountability Through Transparency Act of 2023, the plain language summary of the proposal is available on Regulations.gov in the docket for this

rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Don Striker, Regional Director (Acting), Alaska Regional Office, 240 West 5<sup>th</sup> Ave., Anchorage, AK 99501; phone (907) 227-6163; email: AKR\_Regulations@nps.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.**

*Legal Authority*

Section 1313 of the Alaska National Interest Lands Conservation Act (ANILCA) provides that “[a] National Preserve in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park except as otherwise provided in this Act and except that the taking of fish and wildlife for sport purposes and subsistence uses, and trapping shall be allowed in a national preserve under applicable State and Federal law and regulation.” 16 U.S.C. 3201.

Section 1314(a) of ANILCA reaffirms that “Nothing in this Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands except as may be provided in title VIII of this Act, or to amend the Alaska constitution.” 16 U.S.C. 3202(a). Section 1314(c) provides further instructions on provisions for harvests and areas closed to all harvests in park units. 16 U.S.C. 3202(c).

Title VIII of ANILCA established a priority opportunity for customary and traditional

subsistence uses of fish and wildlife by rural residents over other consumptive uses of fish and wildlife on Federal public lands, including Alaska's National Preserves. As part of its management for sustainability under the Alaska Constitution, the State authorizes regulated take on Federal lands, while the Federal Subsistence Board acts as the Federal regulating agency to assure a subsistence priority is provided to rural residents. The Federal Subsistence Board is authorized to "close public lands to hunting, trapping, or fishing, or take actions to restrict the taking of fish and wildlife necessary to conserve healthy populations" and "continue subsistence uses of such populations", while the National Park Service (NPS) retains authority "to issue regulations necessary for the proper management of public lands under [its] jurisdiction in accordance with ANILCA and other existing laws" (e.g., to restrict activities where statutory criteria are met). 43 CFR 51.13.

Beginning with Statehood in 1959, fish and wildlife harvest activities were regulated by the State of Alaska on all Federal and non-Federal lands and waters, subject to certain Federal laws. The three pre-statehood national parks were closed to all harvests except sport fishing. In 1978, Alaska adopted a statutory preference for subsistence uses among consumptive uses, which was regulated by the Boards of Fisheries and Game along with other uses. Upon passage of ANILCA, NPS adopted regulations in 1981 and 1983, which continued to recognize state-authorized harvests and methods for recreational, subsistence, commercial, and other uses apply to park units except where closed under ANILCA. In ANILCA, Congress established statutory criteria and a public engagement process that would protect traditional activities and methods of access on and across Federal lands for hunting, trapping, and other activities to occur. From NPS adoption of regulations implementing ANILCA in 1981 through the NPS regulations and policies in effect in 2014, the application of state-authorized harvests remained relatively

unchanged.

### 2015 Rule

On October 23, 2015, NPS reinterpreted its legal authorities and policies in publishing a final rule (2015 Rule; 80 FR 64,325) implementing major changes to its regulations for harvest and access on park lands in Alaska, as follows:

1. NPS added a new 36 CFR 13.42 that, among other things, prohibited: 1) trapping in a preserve as the employee of another; 2) transporting wildlife through parks without identification; 3) any state law identified by NPS as related to “predator reduction” efforts; 4) fourteen specific activities (including bear baiting); and 5) obstructing others engaged in lawful hunting. A previously existing prohibition on taking certain species after having been airborne the day before was moved into this new section. NPS also amended its interpretation of national policies and revised its Alaska-specific regulations for hunting and trapping in national preserves, including prohibiting certain harvest practices otherwise regulated by the State of Alaska. Information surrounding the rule focused public attention on certain harvest methods and values despite finding no impacts to wildlife populations and confirming that finding through an environmental analysis.
2. NPS revised the closure procedures in 36 CFR 13.50 and 36 CFR 13.490(a) to remove the well-established public participation process and criteria for restricting public use and access that, for over three decades, were prescribed in regulations for all park units in Alaska at 36 CFR parts 1 and 13 (beginning in 1981) and for all conservation system units in Alaska at 43 CFR part 36 (since 1986). Information surrounding the rule characterized these changes to public use, access, notice, and

- opportunity to be heard on park management actions as “updating” the definitions and processes.
3. NPS removed paragraph (e) from 36 CFR 13.400 and revised 36 CFR 13.470 and 36 CFR 13.480 to remove references to state law and the State of Alaska. Paragraph (e) in 36 CFR 13.400 had made clear that the State of Alaska’s regulation of the taking of fish and wildlife in park areas was authorized. The 2015 Rule’s removal of this express provision created confusion regarding the State’s management authority in parks. NPS stated the revisions to 36 CFR 13.470 and 36 CFR 13.480 were done to update the regulations to reflect Federal management of subsistence, but the 2015 Rule failed to explain that this provision had operated for years in the context of Federal management without issue. The 2015 Rule’s deletion of references to the State of Alaska created ambiguity as to the extent of the State’s authority to manage hunting and fishing in parks. These revisions reflected a reinterpretation of ANILCA as limiting “subsistence” to those harvests and users regulated by the Federal Subsistence Board under Title VIII, inadvertently closing park lands to state-authorized harvests for subsistence uses.
  4. NPS revised 36 CFR 13.40 to “allow” use of native fish for non-subsistence fishing. NPS authorized this use of native species as bait for fishing and certain traditional harvest methods as an exception to nationwide NPS prohibitions that preempted those methods in other states. This “allowance” codified NPS’s reinterpreted claim of authority to apply nationwide prohibitions to preempt state law in Alaska without meeting the criteria and process Congress required in Section 1313 of ANILCA, which limits NPS authority to restrict state-authorized harvests to specific criteria

“consistent with the provisions of section 816” and “for reasons of public safety, administration, floral and faunal protection, or public use and enjoyment” after consultation with the State.

The 2015 Rule was supported by organizations supporting preservation and opposing certain harvest methods, and was opposed by Alaska Native Tribes, Alaska Federation of Natives, Tanana Chiefs Conference, the State of Alaska, hunting and fishing advisory groups, gateway communities, and others affected by the harvest limits and disenfranchised by the process changes affecting access and traditional activities. The environmental analysis found no substantial difference in impact on NPS resources between the no action and preferred alternative adopted in the 2015 Rule. Numerous commenters objected to the omission in the analysis of significant impacts to the human environment and to the State’s mandate for sustainable wildlife management.

### 2017 Rule

On January 12, 2017, the NPS published a final rule (2017 Rule; 82 FR 3626) that used regulations modified in the 2015 Rule to make unilateral changes affecting subsistence uses and other traditional activities, as follows:

1. NPS added a new 36 CFR 13.482 to require a permit for subsistence collection of animal parts and revised 36 CFR 13.485 to institute limitations on the ability of subsistence users to gather plant materials for handicrafts for customary trade. These revisions limited public participation and consultation with the State and subsistence users on management decisions and obscured requirements for managers limiting public access and traditional activities, such as removing the process required for park units in Alaska in 43 CFR part 36. In addition to removing these requirements for restricting protected access and

authorized activities, NPS expanded its claim of discretionary authority by redefining the nature of a “closure” to allow more intense management of the public and park resources without needing to consult with the public or State and Federal managers.

For example, in its response to comment 11 (82 FR 3630), NPS claimed that “requiring a permit or otherwise putting conditions on an activity is not a closure,” which ignores the fact a park is “closed” to any individual who fails to, cannot, or should not have to adhere to a given restriction. ANILCA and its implementing regulations recognize public entry, access, and use as “open until closed” to enable continuation of traditional activities, as prescribed by those regulations. The 2017 Rule claimed these activities, along with heritage activities like falconry and the customary and traditional uses of natural items in the park, were in conflict with nationwide regulations and revised policy interpretations, requiring more intense management and a discretionary permitting system.

When NPS removed its long-standing regulatory criteria, durations, and categories for emergency, temporary, and permanent restrictions and closures in the 2015 Rule, it expanded the discretion park superintendents exercise to implement these restrictions and closures without acknowledging the laws, policies, and well-established procedures in nationwide and Alaska-specific regulations at 36 CFR parts 1 and 13 that guided ANILCA implementation for over three decades before the 2015 and 2017 expansions.

2. NPS revised 36 CFR 13.420 Definitions to, among other things, insert a reference to ANILCA in “subsistence uses” that had the effect of displacing state authorized subsistence harvest from parks. NPS again changed the definition of “subsistence” in

reinterpreting its authorities and policies to support discretion for more intense management actions, including permanent closures without rulemaking (e.g., state-authorized subsistence uses) and requiring user permits instead of using park-specific or statewide regulations to govern the collection of natural objects and animal parts used to barter, make handicrafts, or for other customary and traditional uses.

For example, based on the environmental impact analysis supporting the 2017 Rule, the NPS Regional Director determined written authorization from NPS is required to collect animal parts and plant materials to make handicrafts for barter and customary trade. Collecting living or dead fish and wildlife “or the parts or products thereof, such as antlers or nests” is prohibited in nationwide NPS regulations, 36 CFR 2.1, along with most unpermitted commercial uses, e.g., 36 CFR 5.3. Because plant collection was authorized in Alaska-specific regulations, e.g., 36 CFR 13.485(b), and park-specific regulations, 36 CFR 13.1006 and 13.1504, a subsequent determination gave superintendents discretion to require written authorization for “collecting plants for making handicrafts for customary trade.” 82 FR 3629 (response to comment 9).

Subsistence users expressed concerns about losing access to these irreplaceable materials and adding more permits to already permitted uses. In opposing the rule’s basis and approach, users explained that gathering occurs simultaneously and opportunistically in search of all natural resources supporting a subsistence way of life, and the effect of the rule undermines congressional intent in ANILCA. See, e.g., 82 FR 3628 (comment 2), 3629 (comments 5, 8-10), and 3630 (comments 11 and 18). Tribal organizations and remote communities requested additional allowances and certainties, including for

migratory bird eggs, steam bath rocks, and trade in unworked materials for apprentices, Elders, and culture camps. See, e.g., 82 FR 3630 (comments 12 and 18).

3. NPS revised 36 CFR 13.42 to add a paragraph (j) prohibiting the collection of living wildlife without an NPS permit and specifically disallowing use of State of Alaska and U.S. Fish and Wildlife Service permits and regulations for falconry. NPS also revised 36 CFR 13.480 to add a paragraph (b) only allowing certain types of bait to be used for subsistence bear baiting and adding paragraph (d) to 36 CFR 13.1902 to require a permit for use of other types of bait. NPS provided notifications of regulatory intent to the public and State of Alaska but limited consultations to specific closures. The title of the 2017 Rule characterized it as a “subsistence” rule, and the summary only referred to subsistence harvests, whereas the final rule included two new harvest closures unrelated to subsistence harvests (for falconry and bear baiting). The environmental assessment did not address the closures or acknowledge comments provided by subsistence users, the State of Alaska, gateway communities, Alaska Native corporations, tribal councils, advisory councils, and others concerned about the impacts and confusion resulting from new, undefined discretionary limits on public heritage activities and adaptive wildlife management, which may be available to view on a list of restrictions maintained by NPS without a public process.

The combined effect of these changes effectively expanded NPS’s authorities to limit harvests administered through State of Alaska, U.S. Fish and Wildlife Service, and Federal Subsistence Board regulations.

Secretarial Order 3347, issued March 2, 2017, directed the Department of the Interior (DOI) bureaus to advance conservation, increase recreation opportunities, and improve

consultation with State of Alaska wildlife managers. On June 22, 2017, the DOI published a *Federal Register* notice (82 FR 28429) calling for identification of unnecessary regulations and, on July 14, 2017, ordered reconsideration of the entire 2015 Rule. S.O. 3356, issued on September 15, 2017, directed improved collaboration for public access and wildlife conservation. The NPS published a *Federal Register* notice on November 15, 2017 (82 FR 52868), of its intent to conduct a review of the 2015 Rule. S.O. 3366, issued on April 18, 2018, directed the DOI bureaus to ensure Federal regulations complement State regulations on surrounding lands and enhance recreational uses of public lands. Although S.O. 3347 and S.O. 3356 were cited in a proposed rule issued May 22, 2018 (83 FR 23621), NPS emphasized the reauthorization of specific hunting practices prohibited by the 2015 Rule and ignored significant impacts and issues in the 2015 and 2017 rules reiterated by the State of Alaska, subsistence users, and many others in oral and written comments.

The State of Alaska submitted extensive information and comments on the May 22, 2018, proposed rule to show the rulemaking effort, like the 2015 Rule, was focusing public attention on certain hunting and trapping methods and downplaying substantial changes to the decision-making process that public land users, the State, and the NPS's conservation partners rely on. Despite recognition that the 2015 Rule relied on inaccurate claims only "sport" hunting would be affected, and acknowledgement of the effects on displaced users, the May 22, 2018, proposed rule retained the 2015 and 2017 rules' limited opportunities for residents who harvest for subsistence purposes under State and Federal regulations.

In 2019, the U.S. Supreme Court issued its second unanimous ruling in *Sturgeon v. Frost*, 587 U.S. 28 (2019), finding "Alaska is different" and the application of general NPS prohibitions to park units in Alaska must recognize the unique context and lifestyle that Congress sought to

protect in ANILCA. Since general NPS regulations were the basis for determinations that became the 2017 Rule, and since strict application of those general regulations to Alaska creates barriers for priority public uses, cultural preservation, and traditional activities, the NPS is seeking public comment on returning to the Alaska-specific approach to managing these uses in effect before the 2017 Rule, as proposed, or on using a different approach consistent with NPS management responsibilities outlined in ANILCA and other authorities.

### 2020 Rule

On June 9, 2020, NPS published a final rule (2020 Rule; 85 FR 35,181), that removed paragraphs (f) and (g) from 36 CFR 13.42. These deletions removed the prohibition on State of Alaska actions related to predator reduction and the prohibition on the fourteen specific practices, including bear baiting. Most of the hunting methods restored by the 2020 Rule were already prohibited by the State and the other hunting methods had no impact on NPS resources.

The 2020 Rule did not address the other provisions of 36 CFR 13.42 added by the 2015 Rule, nor did it address the 2015 Rule's removal of references to State law in 36 CFR 13.400, 36 CFR 13.470, and 36 CFR 13.480, changes to the closure procedures in 36 CFR 13.50 and 36 CFR 13.490, or the closure effected by 2015 Rule's revisions to 36 CFR 13.40.

Similarly, the 2020 Rule did not address the closure effected by the 2017 Rule's prohibition on collection of living wildlife in 36 CFR 13.42(j), including through a falconry permit, nor did it address the 2017 Rule's limitation on subsistence uses by adding ANILCA to the definition of subsistence in 36 CFR 13.420, the subsistence bear baiting limitations imposed by the revisions to 36 CFR 13.480 and 36 CFR 13.1902, or the limitations imposed on subsistence plants and animal plant gathering effected by the 2017 Rule's revisions to 36 CFR 13.482 and 36 CFR 13.485.

In August 2020, several groups challenged the 2020 Rule and, in a September 2022 decision, a district court concluded the 2020 Rule violated the Administrative Procedure Act and remanded it to the NPS without vacatur. *See Alaska Wildlife Alliance v. Haaland*, 632 F. Supp. 3d 974, 1004-1005 (D. Alaska 2022). The district court’s ruling was appealed.

### 2024 Rule

On July 3, 2024, the NPS again published a final rule (2024 Rule; 89 FR 55,059) that examined and reinstated one of the harvest restrictions—the prohibition on bear baiting—in revisions to 36 CFR 13.42(f) and modified trapping regulations in Alaska preserves to preempt laws the State may enact in the future through revisions to the definition of “trapping” in 36 CFR 13.1. NPS also added a severability provision in 36 CFR 13.42(k). Nothing in the 2024 Rule addressed or modified the significant changes in policy interpretations adopted in the 2015 and 2017 rules regarding expanded NPS authorities based on values and removal of public participation in decisions involving access and traditional activities. In developing the 2024 Rule, the NPS narrowly sought input from Tribal entities, subsistence user groups, and the State of Alaska on the small set of proposed changes to harvest methods and trapping regulations. Likewise, there was no analysis of impacts of the 2015, 2017, and 2020 rules related to the 2024 Rule in the environmental assessment. After publication of the 2024 Rule, the appeal of the 2020 Rule was dismissed as moot and the district court’s decision was vacated.

On January 20, 2025, the President issued E.O. 14153, “Unleashing Alaska’s Extraordinary Resource Potential,” directing the Secretary of the Interior to, among other things, rescind the 2024 Rule and reinstate the 2020 Rule. E.O. 14153 also directed all bureaus in the DOI to ensure to the greatest extent possible that harvest opportunities on Federal lands are consistent with similar opportunities on State lands. Soon after, on January 31, 2025, the

President issued E.O. 14192, “Unleashing Prosperity Through Deregulation,” directing all Federal agencies to alleviate unnecessary regulatory burdens. On February 3, 2025, S.O. 3422, “Unleashing Alaska's Extraordinary Resource Potential,” directed the Assistant Secretary for Fish and Wildlife and Parks to develop an action plan describing the necessary and appropriate steps to execute direction in E.O. 14153. On January 7, 2026, S.O. 3447, “Expanding Hunting and Fishing Access,” directed DOI bureaus to, among other things, remove unnecessary regulatory barriers to hunting and fishing on DOI-managed lands and to improve regulatory alignment with State wildlife agencies. The NPS developed this proposed rule consistent with that plan and these orders, with guidance from multiple stakeholder requests for specific actions addressing the full suite of regulatory and policy changes that began in 2015.

*Requests for Action.*

Disputes and uncertainties persisted after the final rules issued in 2015 and 2017, as stakeholders continued to comment on, litigate, and demand closer review of the modifications and supporting information. Multiple stakeholder groups were involved in challenging and defending the 2015 and 2020 rules in court on matters that were not fully addressed by the regulatory actions that resolved those cases, meaning disputes and uncertainties are likely to continue. For example, no rulemaking effort since 2015 has attempted to address or reconsider modifications to the closure process or the disproportionate impact on Alaskans, Tribes, local businesses, and public land users less affected by the harvest provisions, including subsistence users.

A “Petition for New Rulemaking Regarding Hunting on National Preserves in Alaska” (Petition) was filed on August 9, 2017, by the Sportsmen’s Alliance Foundation and Alaska Professional Hunters Association seeking repeal of the 2015 Rule to restore the pre-2015 status

quo of harvests and access administered through the well-understood, decades-old procedures. The Petition noted the environmental assessment and finding of no significant impact for the 2015 Rule suggested that no significant adverse impact on NPS resources was likely to occur under the State management regime preempted by the rule. Preemption of those authorities changed again in the 2020 and 2024 rules. Through this rulemaking, NPS can examine, compare, and learn more from the public about the five-year period with the 2015 Rule restrictions and the five-year period that followed to assess the environmental impacts and build on prior determinations.

The Alaska-based chapters of Safari Club International filed a similar request with the DOI on September 15, 2017, to rescind the entire 2015 Rule and parts of the 2017 Rule, noting strenuous objections and new information provided by the affected public and State managers were ignored in both the 2015 and 2017 rules. This request questioned the sufficiency of evidence supporting the precautionary protection of NPS resource values that supersedes procedures adopted by the DOI in 43 CFR part 36 to safeguard public access and activities protected in ANILCA.

The NPS received another request from Safari Club International on May 19, 2025, again asking the DOI Secretary to rescind the 2015 Rule and parts of the 2017 Rule in addition to rescinding the 2024 Rule, providing comments previously submitted by the State of Alaska and a coalition of Alaska conservation organizations amplifying similar concerns raised in a prior rulemaking (Docket # NPS RIN 1024-AE38).

The Alaska Outdoor Council, an organization of outdoor clubs and individuals who participate in harvests, access, and other activities on Alaska's public lands, submitted a Petition for Rulemaking to the Interior Department on October 10, 2025, to restore the pre-2015 policies

and regulations by repealing the 2015 Rule, parts of the 2017 Rule, and the 2024 Rule. The Petition described impacts on Alaskans from changes since 2014, deficiencies in public information and consultation in the sequential rulemaking processes, and failure to meet the standard set in *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502 (2009), that would justify the significant changes NPS made in 2015 and 2017 to the well-established regulations and policies in use for over three decades. The Petition proposed a preamble identifying agency considerations and specific changes to restore the pre-2015 regulations and policies that implemented ANILCA protections for access, public participation, and State consultation in management decisions, and for State-authorized harvests in Alaska's parks and preserves.

*Proposed Changes.*

By rescinding these new and modified regulations, the NPS proposes to restore the procedures for restricting and closing public entry and access on national park lands to the language and procedures in 43 CFR 36 and 36 CFR 13 in effect before the 2015 Rule. The proposed changes would remove changes made through the 2015, 2017, and 2024 rules that insulated managers from public involvement, removed required consultation with the State, and allowed for discretionary closures without unique criteria established in the regulations to comply with ANILCA. The proposed rule restores and maintains the NPS's authority to restrict public access, entry, and uses for reasons provided under the closure procedures in effect since the preserves were established in Alaska.

Consistent with *FCC v. Fox Television Stations, Inc.*, 556 U.S. at 515-16, NPS acknowledges its awareness this proposed rule represents a change in position from that taken in the 2015, 2017, and 2024 rules. For the reasons that will be discussed below, the NPS preliminarily concludes the proposed rule: 1) is permissible under ANILCA and the NPS

Organic Act; 2) is better than the 2015, 2017, and 2024 rules; and 3) is supported by good reasons. NPS cannot finalize these conclusions at this time because it needs to receive and consider public comments and develop a final rule.

With specified exceptions for unrelated changes, the NPS proposes to restore its longstanding Alaska-specific regulations at 36 CFR part 13 by rescinding changes made in the 2015 Rule, 2017 Rule, and 2024 Rule, that:

- unnecessarily preempt State law;
- frustrate effective management of fish and wildlife resources in Alaska park units, including for subsistence;
- interfere with management of wildlife resources by other bureaus and offices in the DOI with delegated authorities from the DOI Secretary, including the Federal Subsistence Board and the U.S. Fish and Wildlife Service;
- eliminate public notice and engagement on NPS management decisions, including for subsistence users guaranteed a “meaningful role in the management of fish and wildlife and of subsistence uses” (16 U.S.C. 3111);
- are substantially similar to regulations for Alaska national wildlife refuges nullified by Congress in 2017 through the Congressional Review Act; and
- cannot demonstrate a verifiable basis for limiting public access and land uses.

The NPS has determined the 2015 Rule and 2017 Rule fundamentally altered the management framework Alaskans relied on following ANILCA for a sustainable harvest of fish and wildlife, to preserve culture, to conserve and protect lands and resources, and to pass on traditions. These rules unnecessarily interfere with the decision-making process outlined in ANILCA and the DOI regulations at 43 CFR part 36 protecting access and public use on NPS-

administered lands in Alaska.

Evaluating the full scope of revisions at 36 CFR part 13 that originated in the 2015 Rule, and recommendations and information provided in the requests for action described above, aligns with the President's and the DOI Secretary's directions to remove unnecessary regulatory burdens on public lands users, meaningfully consult with the State, and ensure harvest opportunities on Federal lands are consistent with similar opportunities on State lands.

Based on a review of the full record, the NPS has preliminarily determined this proposed rule is a substantial improvement and that changes to NPS regulations in 2015, 2017, and 2024 were not necessary to protect wildlife or visitor safety, making their continued application inconsistent with ANILCA and NPS management policies. The NPS requests public input on this preliminary conclusion, particularly regarding any desirable modifications that resulted in positive outcomes for park users, affected communities, and regional management partners.

The NPS is also reconsidering conclusions that supported these prior rulemakings, taking into account deficiencies and concerns identified by requests for action, in public comments, and during litigation. For example, the importance of creating space for Alaska's system of dual management in the State's and NPS's respective decision frameworks has been a common concern shared by Tribes, the State, and regional stakeholders since the 2015 Rule. In the preamble to that rule, NPS concluded the word "subsistence" in ANILCA and its implementing regulations means subsistence activities by rural residents under Federal laws, rather than the customary and traditional uses of Alaska's fish and wildlife that is regulated and prioritized under both State and Federal laws. See 80 FR 64,329. Corresponding edits to 36 CFR 13.470 and 13.480 removed the incorporation of State laws by reference and had the unintended effect of displacing State laws governing those uses. Allowances in 36 CFR 13.400 for subsistence uses to

occur consistent with applicable State and Federal law have not proven effective at maintaining the balance struck in the pre-2015 regulations that park users and resource managers relied on for 35 years, which this rulemaking proposes to restore.

This proposed rule would effect these changes by, among other things, restoring the appropriately balanced references to State law in 36 CFR 13.40, 36 CFR 13.400, 36 CFR 13.420, 36 CFR 13.470, and 36 CFR 13.480 from the pre-2015 rules. As part of the restoration of 36 CFR 13.40, certain measures moved out of that provision by the 2015 Rule and put into 36 CFR 13.42, will be restored through edits to 36 CFR 13.40 and deletion of 36 CFR 13.42.

This proposed rule repeals the significant changes to legal and policy interpretations of State authority to regulate harvests and NPS authorities to preempt such harvests, including the assertion of discretionary authority to regulate subsistence uses adopted in the 2015 and 2017 rules. This proposed rule more closely aligns harvest regulations in national preserves in Alaska with State of Alaska regulations, ensuring that hunting opportunities on preserve lands are consistent with similar opportunities on State, private, and other Federal lands, as they were before the 2015 Rule. This alignment reduces unnecessary regulatory burdens inherent in conflicting and redundant harvest regulations in Alaska, where evolving land ownership is checker-boarded with Federal designations, State lands, Native Corporation lands, and various allotments, upon which wildlife populations move freely throughout.

This proposed rule would eliminate the potential for conflict in the 2015 changes to 36 CFR parts 1 and 13 with the DOI regulations implementing ANILCA at 43 CFR part 36 that specify public involvement and criteria prior to closing park lands to public access and protected uses. The 2015 Rule and 2017 Rule changes to 36 CFR part 13 reduced public involvement in the closure process. These rule changes also expanded the authority the NPS historically

exercised: 1) to regulate subsistence harvests, including unintentionally preventing federally qualified users from participating in subsistence harvests on over 20 million acres of national preserves; and 2) to regulate fish and wildlife populations traditionally, and appropriately, managed by the State under the Alaska Constitution. Reinstatement of the pre-2015 closure process includes restoring the closure timelines Alaskans requested and relied on, notifications that were replaced by an overreliance on electronic communications, and long-standing requirements for meaningful consultation with the affected public and the State, using defensible criteria for discretionary closures consistent with ANILCA.

Further, this proposed repeal of the remainder of the 2015 Rule is consistent with, although not required by, Public Law 115-20 (April 3, 2017), whereby Congress disapproved a parallel final 2016 rule enacted for national wildlife refuges in Alaska. Regardless of whether the 2015 Rule for national preserves was “substantially the same” or not, both the national wildlife refuge and NPS rules prohibited similar hunting practices with similar amendments to regulations enacted to implement ANILCA, were developed simultaneously within the DOI, and applied to millions of acres of land across all regions of Alaska, with similar impacts to the same wildlife populations and public uses. Comments made in passing Public Law 115-20 noted the NPS 2015 Rule “also deserves repeal” as it similarly portended to address certain harvest methods while making other significant procedural changes. If adopted, this proposed rule would satisfy multiple requests to restore fish and wildlife management in Alaska to a regulatory framework consistent with ANILCA that existed for decades with no impacts on NPS resources, as acknowledged throughout this process.

For the most part, this proposed rule does not directly address subsistence harvest by rural residents regulated under Title VIII of ANILCA, but it helps alleviate the incidental

burdens on subsistence imposed by the 2015 and 2017 rules, among other things.

The other two bases upon which the district court found the 2020 Rule violated the Administrative Procedure Act were addressed by certain statements in the preamble to the 2024 Rule. Those statements are not disturbed by this proposed rule.

*Bear Baiting.*

This proposed rule would remove a prohibition established by the 2015 Rule on using bait to attract or take bears on national preserves in Alaska, preempting long-standing, recent, and future State regulations governing the use, where authorized. The prohibition was removed by the 2020 Rule, then reestablished by the 2024 Rule. Removing this prohibition would restore application of State of Alaska hunting regulations in effect for decades before the 2015 Rule and between the 2020 Rule and the 2024 Rule. *See* 5 AAC 92.085(4), 92.044. In the 2024 Rule, the NPS stated prohibiting bear baiting was supported by public safety concerns and informed by NPS policy that directs the NPS to promote the safety of those who visit National Park System units (see 2006 NPS Management Policies, section 8.2.5). The NPS also stated that prohibiting bear baiting was supported by NPS policy that directs the NPS to protect natural wildlife populations (see 2006 NPS Management Policies, section 4.4.2). This proposed rule responds to the opportunity afforded in current direction to invite public input on the result of these changes and examine any lessons learned from this practice being allowed and prohibited.

As shown by the above summary of the 2015 and 2024 rules' treatment of this practice, the NPS is aware this proposed rule would be a change in policy from the 2015 and 2024 rules. *Fox*, 556 U.S. at 515-16. So far as the other *Fox* factors are concerned, the NPS's discussion below will show how: 1) allowing the practice is permissible under ANILCA and the NPS Organic Act; 2) NPS believes this proposed rule is better than the previous rules; and 3) the

proposed rule is supported by good reasons. These conclusions are preliminary because this is a proposed rule. The NPS will update these conclusions as appropriate for whatever final rule the NPS develops.

The NPS notes the 2015 Rule was not based on “factual findings” that would implicate the need for a “reasoned explanation” for disregarding those findings. See 80 FR 64,334 (response to comment 19). To the extent the 2024 Rule purported to have been based on “more recent factual findings,” the NPS’s discussion below will provide the “reasoned explanation” for disregarding them.

Before addressing the *Fox* factors, the NPS acknowledges that one of the district court’s bases for concluding the 2020 Rule violated the Administrative Procedure Act was the NPS’s disregard without explanation of its conclusion in the 2015 Rule that State regulations fail to address public safety concerns associated with bear baiting. *Alaska Wildlife Alliance*, 632 F. Supp. 3d at 1005. In this proposed rule, the NPS explains why State regulations partially mitigate public safety concerns from bear baiting, even though there may be some non-compliance. To the extent it appears in the future that the 2015 or 2024 rules’ concerns regarding non-compliance with State regulations might pose unacceptable risks to public safety, the NPS is confident the proposed rule allows any such risks to be addressed with closures, enforcement actions, or other measures, as appropriate and consistent with ANILCA.

In regard to public safety concerns informed by NPS policy, the NPS estimates very few individuals used bait to attract or take bears when this practice was governed by State of Alaska regulations from 1982 until the 2015 Rule prohibition and between the 2020 Rule and the 2024 Rule. The NPS has no reason to believe this practice will occur more frequently than it did during those periods if once again governed by State of Alaska regulations. The NPS expects

there would be few baiting stations established and the number of bears taken at stations would be low. It is difficult to predict how many more bears might be taken due to the proposed rule, and thus how much more bear baiting might occur, because neither the NPS nor the State of Alaska maintain data on the total number of bears taken over bait in national preserves in Alaska when this practice was allowed in previous years.

The NPS evaluated several data sources to estimate the total number of bears that could be expected to be taken over bait as a result of this proposed rule. Miller et al. (2017) found that more liberalized hunting regulations for brown bears, including bear baiting, resulted in an increased harvest of brown bears on Alaska's Kenai Peninsula. However, compared to the Kenai Peninsula, most national preserves in Alaska are more difficult to access for the purpose of bear baiting. Hilderbrand et al. (2013) estimated that less than 2 black bears per year were harvested over bait in national preserves in Alaska when this practice was allowed during the period from 1992 to 2010. Most bears were harvested along the McCarthy Road corridor in Wrangell-St. Elias National Park and Preserve, due to this being one of the few areas with an extensive road network. Other national preserves in Alaska are rural and roadless, making it difficult to establish bait stations. Although there are no data specific to the harvest of brown bears over bait in national preserves, data from the State of Alaska reveals that between 2012 and 2016, 40 brown bears were taken over bait in certain areas where baiting is allowed and that are adjacent to, within, or overlap with, national preserves (NPS, 2019a; SOA, 2018). This indicates a total of approximately 8 brown bears per year. These harvest numbers are not specific to national preserves, however, and it is possible that the harvest of brown bears would be similar to that of black bears (i.e., 2 per year). The NPS estimates that very few hunters used bait to attract or take bears in national preserves when this practice was governed by State of Alaska regulations

between the 2020 Rule and the 2024 Rule.

Based on the available data, compared to baseline conditions, NPS anticipates that the proposed rule would result in the harvest of no more than 10 bears per year (2 black bears and up to 8 brown bears, where authorized). Thus, because any increase in bear baiting is expected to be minimal, NPS also expects that whatever additional public safety risk may be created, if any, would be minimal as well.

Statements made by Tribes, Alaska Native Claims Settlement Act (ANCSA) corporations, and the State of Alaska during pre-consultation on this rule support these estimates. These entities largely opposed the prohibition in the 2015 Rule and 2024 Rule, and the limitations on subsistence users in the 2017 Rule, as unnecessary due to limited participation and no instances of public safety issues, and confusing due to long-standing, data-informed, user-led regulation through the State and Federal boards.

The NPS identified two primary risk factors in the 2024 Rule related to bear baiting. The first factor was risk to public safety from bears defending a food source. The NPS finds several considerations diminish risks to public safety from bears defending a food source at a bait station. State of Alaska regulations require a permit and bait station areas be signed and located more than ¼ mile from publicly maintained roads (including logging roads, if they are publicly maintained), trails, and the Alaska Railroad, and more than one mile from a house or other permanent dwelling (except for cabins on the opposite side of a major river system), a business, a school, a developed campground, or developed recreational facility. See 5 AAC 92.044. In addition, the State requires all bait stations be registered with the Alaska Department of Fish and Game (ADF&G) and all persons wishing to register a bait station be at least 18 years of age (increased from age 16 in 2017), and to have successfully completed an ADF&G-approved bear

baiting clinic either in person or online. ADF&G continually updates and improves access to online materials concerning bear baiting requirements, guidance, safety and ethics; and may prohibit bear baiting in local areas for a variety of reasons including public safety. NPS records indicate the majority of bait stations in Wrangell-St. Elias National Preserve did not comply with the State's minimum distance requirements, but no public safety issues were reported. The NPS reaffirms its conclusion in the 2024 Rule that State regulations may reduce public safety risks associated with bait stations and there is minimal risk of visitors approaching a bear defending bait.

The NPS expects this rule would result in very few bait stations established across all national preserves. Even if some stations are established in unauthorized locations, measured against the total population of visitors to national preserves in Alaska, the risk to public safety from bears defending a food source at unauthorized locations would be extremely low.

Regarding theoretical risks to public safety from bears that might become habituated and conditioned to human food at bait stations, the State of Alaska Board of Game commented on the 2024 Rule that it had no information on bear baiting causing safety concerns by habituating bears to human-provided food and had found no fact-based support for this concern in any state that allows bear baiting. See letter dated March 9, 2023, from the Alaska Board of Game to the NPS Regional Director.<sup>1</sup> This is consistent with the Board of Game Chair's comments on the 2014 proposed rule, and similarly repeated by the State and many others during each of the rulemakings, that there is no evidence bears visiting bait stations become conditioned to human-provided foods; the bears are likely to be harvested and those not harvested may become site-conditioned to revisit that site. (Comment ID NPS-2014-0004-1223). The 2024 Rule cited one

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<sup>1</sup> Available at <https://www.regulations.gov/comment/NPS-2023-0001-13341> (last accessed Feb. 18, 2026).

study (Herrero, S. 2018) in support of determining the risk factors of bear baiting which, upon further review, the NPS determined is not relevant to bear bait stations in remote areas; it is only relevant to human-bear conflicts created by associating people with campgrounds and other human congregation points with regular food sources.

The 2024 Rule noted as “another consideration” that bear baiting would increase the number of food conditioned bears and that those bears would be more likely to be killed in defense of life or property. As NPS’s discussion above demonstrates, there is no reason to expect bear baiting will result in more food conditioned bears and more bears taken in defense of life and property because the practice has not had that effect when authorized in the past.

The 2024 Rule also identified the prohibition on bear baiting in Denali State Park as a supporting basis for prohibiting bear baiting in national preserves. 89 FR 55,063. While there may be situations in which consistency between management of State parks and national preserves is preferable, the NPS now concludes that this is not the situation with bear baiting. Among other possible reasons why the inconsistency is appropriate here, Denali State Park is approximately 300,000 acres while national preserves make up approximately twenty-two million acres. Accordingly, prohibiting bear baiting in national preserves has a much more restrictive effect than prohibiting bear baiting in one State park.

The 2024 Rule placed substantial weight on a query of 28 bear management and research biologists from across North America to support a ban on bear baiting on national preserves in Alaska. Respondents provided their opinions of public safety risks from bears defending a food source and expressed views of baiting as the functional equivalent of feeding bears that may alter their natural behavior. The query did not specifically request their opinions about risks to public safety if bears become habituated to human food at bait stations, which the NPS expects would

exist in very low numbers as a result of this rule. Although the query of biologists is perhaps useful for understanding potential risks, the NPS now finds the lack of data on any particular public safety risks from bear baiting in Alaska is more persuasive. The NPS finds the State of Alaska's experience particularly relevant here given that the State has allowed bear baiting since before the 2015 Rule without experiencing any notable public safety concerns. The NPS expects that if bear baiting caused public safety issues, the State would be aware of them through its active monitoring and research activities and its bear baiting management. Thus, the NPS now considers the speculative risks identified in the survey less persuasive than the State's experience in not encountering public safety concerns from bear baiting.

Section 8.2.5 of NPS Management Policies acknowledges it is not possible to eliminate all hazards in NPS System units, in particular in areas managed as natural environments. To the extent they exist, this policy does not require the NPS to eliminate all potential risks to public safety from infrequent bear baiting in national preserves in Alaska. The NPS manages national preserves as natural environments that present numerous risks to public safety that cannot be completely eliminated. No documentation exists of public safety issues under State management of bear baiting on other Federal, State, and private lands or on preserve lands prior to the 2015 Rule or when allowed between the 2020 Rule and 2024 Rule. For these reasons, the NPS has determined that a complete prohibition on using bait to attract or take bears on national preserves in Alaska and limitations on the use in the 2017 Rule are not supported by public safety concerns. This conclusion is further supported by comments from Tribal governments on the 2017 Rule, noting subsistence users have been harvesting bears over bait for decades without incident, and that food-conditioned bears are most likely to be attracted to bait stations with human food items and harvested to reduce the potential for a public safety issue. (Comment ID

NPS-2016-0001-0011).

Although the NPS primarily relied upon public safety concerns to support closures in 2015, 2017, and 2024, the NPS also indicated closure was consistent with NPS policy to protect natural wildlife populations (see 2006 NPS Management Policies, section 4.4.2). The NPS has further considered the application of this policy to bear baiting and concludes that 2006 NPS Management Policies, section 4.4.2 is not an appropriate justification for banning or preempting the management of this activity in Alaska. This conclusion is based upon the estimated low number of bears taken over bait between the 2020 Rule and the 2024 Rule, which indicate that allowing bear baiting to occur again under State of Alaska and Federal Subsistence Board regulations would not create population-level concerns. This conclusion is further supported by statements from the State of Alaska Board of Game made in comments on the 2024 Rule, that it has information that hunting bears over bait focuses the harvest on mature bears while avoiding female and immature bears and, therefore, is part of an effective game management strategy. See letter dated March 9, 2023, from the Alaska Board of Game to the NPS Regional Director. Furthermore, we note the district court's September 2022 decision affirmed NPS's conclusions that the practices authorized in the 2020 Rule, which included bear baiting, would not adversely impact wildlife populations or contravene NPS's statutory duties. *Alaska Wildlife Alliance*, 632 F. Supp. 3d at 1002. There is no new or additional data that has become available since the 2020 Rule or the district court's 2022 decision to suggest that reinstating bear baiting now will have population-level effects on bears.

Experience managing public uses by the NPS and the State of Alaska since bear baiting was authorized in 1982, with and without restrictions in place, has identified no areas where harvest authorized by the Alaska Board of Game or Federal Subsistence Board presents a public

safety concern. If any are identified, the NPS maintains the authority to close that area to harvest, as outlined in 36 CFR 13.50 and 13.490.

This change would be effected by the proposed rule's deletion of 36 CFR 13.42, which currently includes a prohibition on bear baiting in 36 CFR 13.42(f). As with the entirety of the proposed rule, the NPS is aware this proposed rule would represent a change in position from the 2015 and 2024 rules and finds the new policy represented by this proposed rule is better than the policies implemented in the 2015 and 2024 rules, that the proposed rule is supported by good reasons, and that, to the extent the 2015 and 2024 rules relied on factual findings, the above discussion provides a reasoned explanation for disregarding those previous findings. And again, all these conclusions are preliminary and will be revisited and updated as the NPS hears from the public and finalizes a rule on this and the other topics addressed by this proposed rule.

#### *Definition of Trapping.*

The 2024 Rule attempted to clarify the definition of "Trapping" in 36 CFR 13.1 to limit circumstances under which individuals can use firearms to take furbearers under a State of Alaska trapping license, notwithstanding what that license may allow. The NPS has determined this clarification did not contribute to clarity and is unnecessary and, therefore, is inconsistent with E.O 14192 to reduce unnecessary regulations. The NPS also determined that the 2024 Rule is inconsistent with the direction in E.O. 14153 to ensure to the greatest extent possible harvest opportunities on Federal lands are consistent with similar opportunities on State lands. State of Alaska regulations address the circumstances in which furbearers may be taken by firearm (5 AAC 92.075(d), 92.095(a)(8)) and the NPS requests public input on the need to establish different rules. The 2024 Rule stated that clarifying the definition would more closely align the definition of "trapping" for NPS System units in Alaska with the definition that applies to other

NPS System units outside of Alaska. This reasoning does not independently support the preemption of State law. Accordingly, the proposed rule would revise the definition of “Trapping” and remove the definition of “Furbearer” in 36 CFR 13.1 for being unnecessary.

#### *Live Wildlife Collection.*

In the 2017 Rule, the NPS addressed public inquiries about the collection of raptor chicks in national preserves for training and use in hunting, clarifying that the activity itself is not considered hunting and is therefore prohibited in national preserves. This closure was based on general System-wide prohibitions at 36 CFR 2.2(a)(2) and was adopted through a categorical exclusion for modifications to existing regulations that do not increase use. Falconry activities in Alaska are managed through State regulations (5 AAC 93.037) and U.S. Fish and Wildlife Service regulations (50 CFR 21.82 and 21.85), including the collection of live chicks for training. The NPS proposes to restore that management through full deletion of 36 CFR 14.42, including (j), and requests input on the necessity for and impacts realized under full prohibition in the 2017 Rule.

#### *Subsistence Collection*

ANILCA authorizes subsistence collection as the priority public use of most Alaska park units, including “for barter, or sharing for personal or family consumption; and for customary trade,” and requires management actions “cause the least adverse impact possible on rural residents who depend upon subsistence.” 16 U.S.C. 3112-13. At the request of subsistence resource commissions organized under ANILCA section 808, the NPS and subsistence users collaborated for nearly a decade to resolve a regulatory gap for collecting nonedible natural items for the creation of handicrafts, including a 2012 environmental assessment. While two individual Alaska NPS park units closed the gap with a simple allowance in regulation, see 36 CFR 13.1006

and 13.1504, the NPS identified a potential conflict with unregulated use and NPS System-wide regulations at 36 CFR 2.1, 2.2, and 5.3, prohibiting similar activities by the general public. The 2017 Rule purported to resolve this conflict and minimize the potential for adverse impacts to NPS resources and values through the creation of a mandatory permit system and other restrictions.

The NPS proposes to rescind the 2017 Rule in its entirety, including limitations on subsistence bear baiting (by deleting 36 CFR 13.1902(d)) and the collection of wildlife for falconry (by deleting 36 CFR 13.42, including (j)), as discussed above, as well as the attempt to resolve this perceived conflict in NPS authorities with closures and additional procedures that are no longer justified by any management needs. Removal of language is not intended to affect any authorized uses. The proposed rule would effect these changes through deleting the definition of “animal parts” and “handicraft” in 36 CFR 13.420 and by removing 36 CFR 13.482, and revising 36 CFR 13.485. These changes will reduce the regulatory burden on users, not institute prohibitions. For example, deleting 36 CFR 13.482 that was added as part of the 2017 Rule, does not mean the uses it describes are no longer authorized; it means they will not be conditioned by the regulations added in 2017. The NPS would like input on any uses that may be affected by full rescission. The two park-specific regulations regarding the definition of “customary trade” are retained and other parks may enact the same or a similar provision if the conditions require it. The NPS would also like input on whether a similar provision should be adopted as a State-wide clarification in 36 CFR 13.420.

#### *Public Closure Procedures.*

The NPS proposes to restore its long-standing procedures for engaging the public in management decisions to respond to identified challenges with the revised approach, align with

administrative direction to reduce the regulatory burden on the public, and eliminate the potential for conflict between DOI regulations at 43 CFR part 36 and NPS regulations at 36 CFR part 13 by ensuring limitations on public access and use are consistent with ANILCA. The proposed rule would accomplish this by revising 36 CFR 13.50 and 36 CFR 13.490 as necessary to restore the pre-2015 language. For example, the 2015 Rule removed the provision formerly at 36 CFR 13.50(h) and its specific criteria, duration, and notice requirements for “Facility closures and restrictions”, as well as the unique procedures for “Openings” in 36 CFR 13.50(g). Other than re-lettering, no changes to these provisions had been included in the proposed rule. Among other things, this change eliminated the opportunity to request hearings “in the affected vicinity and other locations as appropriate” before a final opening determination is made. Facility closures and openings become effective on posting to the NPS website. 36 CFR 13.50(f). This is not always a reliable means of notifying people accessing facilities in Alaska’s remote parklands, especially since the 2015 Rule also removed the requirement for local radio station and newspaper announcements of proposed closures.

The 2015 Rule also replaced statutory “criteria” in the Alaska-specific closure process with “factors” drawn from emergency closure criteria, and including any “other management considerations.” 36 CFR 13.50(b). The 2015 Rule replaced three well-established closure durations with six new closure categories: non-emergency, emergency, emergency and related to the take of fish or wildlife, non-emergency and related to the take of fish or wildlife, related to the take of wildlife and prohibited under other new provisions in the 2015 Rule, and rulemaking-eligible closures. The proposed rule doubled the only remaining durational requirement (for emergency closures and restrictions), 36 CFR 13.50(e)(2), which became a less finite “duration of the emergency” in the final rule (except for harvest restrictions). See 80 FR 64,327 and 64,340

(response to comment 56). In this proposed rule, NPS seeks public comment on the impact of these changes and whether the increased complexity is beneficial for users.

*Severability.*

The 2024 Rule added a severability provision to 36 CFR 13.42(k) that the NPS has determined is unnecessary and that would be deleted by the proposed rule.

**Proposed Rule.**

For the reasons stated above, the NPS proposes to rescind the remainder of the 2015 Rule and to rescind the 2017 and 2024 rules in their entirety. The proposed changes would restore the management of park lands in Alaska to the regulatory framework in effect since passage of ANILCA in 1980 and restore State regulatory authority for management of hunting, fishing, and trapping as practiced in Alaska since statehood.

Ministerial edits have been made to the regulatory text that is being restored to conform to current *Federal Register* drafting standards.

**Compliance with Other Laws, Executive Orders and Department Policy.**

*Regulatory Planning and Review E.O.s —12866 and 14192*

This rule has been determined to be significant for purposes of E.O. 12866 and has been submitted for review by the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB). This proposed rule is expected to be an E.O. 14192 deregulatory action.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.).*

The NPS has certified that the 2015 Rule, the 2017 Rule, the 2020 Rule, and the 2024 Rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 et seq.). These certifications were

based upon cost-benefit and regulatory flexibility analyses found in reports for each of those rules.<sup>2</sup> This rule would restore regulations for hunting, fishing, trapping, and other natural resource harvest in national preserves that existed before the 2015 Rule. This rule would rescind changes to such regulations made by the 2015 Rule, the 2017 Rule, and the 2024 Rule, without making any other changes to the regulations. As a result, the NPS expects that this rule also would not have a significant economic effect on a substantial number of small entities under the RFA.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

This proposed rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The proposed rule does not have a significant or unique effect on State, local or Tribal governments or the private sector. It addresses public use of lands and waters administered by the NPS and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.) is not required.

*Takings—E.O. 12630*

This proposed rule would not effect a taking of private property or otherwise have takings implications under E.O. 12630. A takings implication assessment is not required.

*Federalism—E.O. 13132*

Under the criteria in section 1 of E.O. 13132, the proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

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<sup>2</sup> The cost-benefit and regulatory flexibility analyses can be found as follows: 2015 is available at <https://parkplanning.nps.gov/document.cfm?parkID=1&projectID=49062&documentID=61262> (last accessed Feb. 18, 2026); 2017 is available at <https://parkplanning.nps.gov/document.cfm?parkID=1&projectID=35955&documentID=70264> (last accessed Feb. 18, 2026); 2020 is available at <https://parkplanning.nps.gov/document.cfm?documentID=105761> (last accessed Feb. 18, 2026); 2024 is available at <https://www.regulations.gov/document/NPS-2023-0001-18040> (last accessed Feb. 18, 2026).

This proposed rule only affects use of federally administered lands and waters. It has no direct effects on other areas. A federalism summary impact statement is not required.

*Civil Justice Reform—E.O. 12988*

This proposed rule complies with the requirements of E.O. 12988. This proposed rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

*Consultation with Indian Tribes and ANCSA Corporations—E.O. 13175 and Department Policy*

The DOI strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. This proposed rule was informed by feedback from Tribal entities. In April 2025, the NPS invited Tribes and ANCSA Corporations to participate in pre-consultation regarding NPS's wildlife management practices in Alaska. The NPS continues to incorporate feedback received, and to meet with all Tribal entities that requested a meeting. The NPS has evaluated this rule under the criteria in E.O. 13175 and under the Department's Tribal consultation and ANCSA Corporation policies. Because the rule does not restrict Title VIII subsistence harvest and feedback from Tribes and ANCSA Corporations indicates using bait to attract or take bears on national preserves is uncommon, the rule will not have a substantial direct effect on federally recognized Tribes or ANCSA Corporation lands, water areas, or resources. Consultation and communication with Tribes and ANCSA Corporations is ongoing and feedback will continue to be considered by the NPS throughout the rulemaking process.

The NPS reviewed the input by local Alaska Native Tribes and Corporations, Federal

Subsistence Regional Advisory Councils, NPS Subsistence Resource Commissions, and others during the comment period for the 2015 Rule and determined there was significant opposition to the 2015 Rule largely overlooked. For example, the Alaska Federation of Natives at their 2014 Annual Convention adopted Resolution 14-42, which found the rule “is overreaching, vague, and indiscriminate and would further criminalize Alaska Native traditional resources management practices” and “that the National Park Service should not adopt” it. Tanana Chiefs Conference similarly found “the proposed rule does impact subsistence use, Tribes, and ANCSA corporation’s land” and, for a number of reasons, “opposed the proposed rule.” Ahtna, Incorporated objected to the proposed rule as it “contains misleading information, difficult to understand and read, and creates mistrust between the public and National Park System.” Ahtna, like many others, pointed out how prior rulemakings claimed to not affect Federal subsistence users but “the fact of the matter is that this action will have an effect on rural users of the National Park System.” Many of the above organizations complained there was no consultation prior to publication of the proposed rule finalized in 2015 and the limited consultation focused on justifying prohibitions of methods of harvests without discussing the changes to public involvement and closure criteria for access to park lands and public uses. Consistent with many similar comments by these affected Tribes and other groups, the NPS finds no substantive basis for the changes made by the 2015 Rule to the status quo in effect since passage of ANILCA.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This proposed rule does not contain information collection requirements, and a submission to the OMB under the Paperwork Reduction Act is not required. The NPS 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.

*National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 et seq.)*

The NPS will prepare an environmental assessment to determine whether this proposed rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act. The environmental assessment will include appropriate new information and an analysis of impacts evaluated in the environmental assessments prepared for the 2015 Rule, the 2017 Rule, the 2020 Rule, and the 2024 Rule, all of which resulted in a finding of no significant impact. The environmental assessment will incorporate feedback received during pre-consultation, consultation with Tribes and ANCSA Corporations, and during public comment periods.

*Energy Supply, Distribution or Use—E.O. 13211*

This proposed rule is not a significant energy action under the definition in E.O. 13211; the proposed rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the rule has not otherwise been designated by the Administrator of OIRA as a significant energy action. A statement of energy effects is not required.

*Clarity of this proposed rule*

The NPS is required by E.O.s 12866 (section 1(b)(12)) and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential memorandum of June 1, 1998, to write all rules in plain language. This means that each rule the NPS publishes must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that the NPS has not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help the NPS revise the rule, your comments should be as specific as possible. For example, you should identify the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

### *Public Participation*

It is the policy of the DOI, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section of this document.

### *Public availability of comments*

Before including your address, phone number, e-mail 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.

## **List of Subjects**

### **36 CFR Part 13**

Alaska, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 13 as set forth below:

## **PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA**

1. The authority citation for part 13 continues to read as follows:

**Authority:** 16 U.S.C. 3101 et seq.; 54 U.S.C. 100101, 100751, 320102; Sec. 13.1204 also issued under Pub. L. 104–333, Sec. 1035, 110 Stat. 4240, November 12, 1996.

2. In § 13.1:

a. Remove the definition of “Furbearer”; and

b. Revise the definition of “Trapping”.

The revision to read as follows:

**§ 13.1 Definitions.**

\* \* \* \* \*

*Trapping* means taking furbearers under a trapping license.

\* \* \* \* \*

3. In § 13.40 revise the section heading and paragraphs (d) and (e) to read as follows:

**§13.40 Taking of fish and wildlife.**

\* \* \* \* \*

(d) *Hunting and trapping.* (1) Hunting and trapping are allowed in national preserves in accordance with applicable Federal and non-conflicting State law and regulations.

(2) Violating a provision of either Federal or non-conflicting State law or regulation is prohibited.

(3) Engaging in trapping activities as the employee of another person is prohibited.

(4) It shall be unlawful for a person having been airborne to use a firearm or any other weapon to take or assist in taking any species of bear, caribou, Sitka black-tailed deer, elk, coyote, arctic and red fox, mountain goat, moose, Dall sheep, lynx, bison, musk ox, wolf and wolverine until after 3 a.m. on the day following the day in which the flying occurred. This prohibition does not apply to flights on regularly scheduled commercial airlines between regularly maintained public airports.

(5) Persons transporting wildlife through park areas must identify themselves and the

location where the wildlife was taken when requested by an NPS employee or other authorized person.

(e) *Closures and restrictions.* The Superintendent may prohibit or restrict the non-subsistence taking of fish or wildlife in accordance with the provisions of § 13.50. Except in emergency conditions, such restrictions shall take effect only after the Superintendent has consulted with the appropriate State agency having responsibility over fishing, hunting, or trapping and representatives of affected users.

**§ 13.42 [Removed]**

4. Remove § 13.42.

5. Revise § 13.50 to read as follows:

**§13.50 Closure and restriction procedures.**

(a) *Authority.* The Superintendent may close an area or restrict an activity on an emergency, temporary, or permanent basis.

(b) *Criteria.* In determining whether to close an area or restrict an activity on an emergency basis, the Superintendent shall be guided by factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner compatible with the purposes for which the park area was established.

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

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

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

(d) *Temporary closures or restrictions.* (1) Temporary closures or restrictions relating to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures or restrictions, and other locations as appropriate;

(2) Temporary closures shall be effective upon notice as prescribed in paragraph (f) of this section; and

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

(e) *Permanent closures or restrictions.* Permanent closures or restrictions shall be published as rulemaking in the FEDERAL REGISTER with a minimum public comment period of 60 days and shall be accompanied by public hearings in the area affected and other locations as appropriate.

(f) *Notice.* Emergency, temporary, and permanent closures or restrictions shall be:

(1) Published in at least one newspaper of general circulation in the state and in at least one local newspaper if available, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity, and designated on a map which shall be available for public inspection at the office of the Superintendent and other places convenient to the public;

(2) Designated by the posting of appropriate signs; or

(3) Both.

(g) *Openings.* In determining whether to open an area to public use or activity otherwise prohibited, the Superintendent shall provide notice in the FEDERAL REGISTER and shall, upon

request, hold a hearing in the affected vicinity and other locations as appropriate prior to making a final determination.

(h) *Facility closures and restrictions.* The Superintendent may close or restrict specific facilities for reasons of public health, safety, and protection of public property for the duration of the circumstance requiring the closure or restriction. Notice of facility closures and restrictions will be available for inspection at the park visitor center. Notice will also be posted near or within the facility, published in a newspaper of general circulation in the affected vicinity, or made available to the public by such other means as deemed appropriate by the Superintendent. Violating facilities closures or restrictions is prohibited.

(i) *Prohibitions.* Except as otherwise specifically permitted under the provisions of this part, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

6. In § 13.400, redesignate paragraph (e) as paragraph (f) and add a new paragraph (e) to read as follows:

\* \* \* \* \*

(e) The State of Alaska is authorized to regulate the taking of fish and wildlife for subsistence uses within park areas to the extent such regulation is consistent with applicable Federal law, including but not limited to ANILCA.

\* \* \* \* \*

7. In § 13.420:

- a. Remove definitions for “Animal parts” and “Handicraft”; and
- b. Revise the definition for “Subsistence uses”.

The revision reads as follows:

**§ 13.420 Definitions.**

\* \* \* \* \*

*Subsistence uses.* As used in this part, the term “subsistence uses” shall mean the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and for customary trade. For the purposes of this paragraph, the term—

(1) “Family” shall mean all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) “Barter” shall mean the exchange of handicrafts or fish or wildlife or their parts taken for subsistence uses—

(i) For other fish or game or their parts; or

(ii) For other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(3) “Customary trade” shall be limited to the exchange of furs for cash.

8. Revise § 13.470 to read as follows:

**§13.470 Subsistence fishing.**

Fish may be taken by local rural residents for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law, including the provisions of §§ 2.3 of this chapter and 13.40. Provided, however, that local rural residents in park areas where subsistence uses are allowed may fish with a net, seine, trap, or spear where permitted by State law.

9. Revise § 13.480 to read as follows:

**§13.480 Subsistence hunting and trapping.**

Local rural residents may hunt and trap wildlife for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law.

**§ 13.482 [Removed]**

10. Remove § 13.482.

11. In § 13.485:

- a. Revise paragraph (b);
- b. Remove paragraphs (c) through (e); and
- c. Redesignate paragraph (f) as paragraph (c).

The revision reads as follows:

**§ 13.485 Subsistence use of timber and plant material.**

\* \* \* \* \*

(b) The noncommercial gathering by local rural residents of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the noncommercial gathering of dead or downed timber for firewood, shall be allowed without a permit in park areas where subsistence uses are allowed.

\* \* \* \* \*

12. In § 13.490, revise paragraph (a) to read as follows:

**§ 13.490 Closure to subsistence uses of fish and wildlife.**

(a) Notwithstanding any other provision of this part, the Superintendent, after consultation with the State and adequate notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of a park area to

subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For purposes of this section, the term “temporarily” shall mean only so long as reasonably necessary to achieve the purposes of the closure.

\* \* \* \* \*

**§ 13.1902 [Amended]**

14. In § 13.1902, remove paragraph (d).

Jessica Bowron,

*Comptroller*

*Exercising the Delegated Authority of the Director*

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