

**DEPARTMENT OF AGRICULTURE****Forest Service****36 CFR Part 242****DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 100**

[Docket No. FWS-R7-SM-2024-0017;  
245D0102DM DS61900000  
DMSN00000.000000 DX61901; 70101-1261-  
0000L6]

RIN 1018-BH67

**Subsistence Management Regulations  
for Public Lands in Alaska—Subpart B,  
Federal Subsistence Board  
Membership**

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

**ACTION:** Final rule.

**SUMMARY:** Based on requests during joint consultations with Alaska Native Tribes and others, the Departments of the Interior and Agriculture (Departments) revise the regulations concerning the composition of the Federal Subsistence Board (Board), which has authority to administer the subsistence taking and uses of fish and wildlife on public lands in Alaska, subject to the Department's oversight. The Departments add three public members nominated or recommended by federally recognized Tribal governments, require that those nominees have certain knowledge and experience, define requirements used to select the Board Chair, and affirm the Secretaries' authority to replace Board members and the Secretaries' responsibility and oversight regarding Board decisions. These regulatory revisions are responsive to the primary requests made to the Departments during the consultations.

**DATES:** This rule is effective November 18, 2024.

**ADDRESSES:** Submitted comments and supporting documents are available for review by going to the *Regulations.gov* website at <https://www.regulations.gov> and typing the docket number, FWS-R7-SM-2024-0017, into the search block at the top of the page.

**FOR FURTHER INFORMATION CONTACT:** Crystal Leonetti, Acting Director, Office of Subsistence Management; 907-786-3888; or [subsistence@ios.doi.gov](mailto:subsistence@ios.doi.gov). For questions specific to National Forest System lands, contact Gregory Risdahl, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; 907-302-7354 or [gregory.risdahl@](mailto:gregory.risdahl@)

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**SUPPLEMENTARY INFORMATION:****History of the Program**

Under title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111-3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program (Program). The Program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out the Program in the **Federal Register** on June 29, 1990 (55 FR 27114), and final regulations were published in the **Federal Register** on May 29, 1992 (57 FR 22940). The Program regulations have subsequently been amended many times. Because the Program is a joint effort between the Department of the Interior (DOI) and the Department of Agriculture (collectively, "the Departments"), these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, "Parks, Forests, and Public Property," and Title 50, "Wildlife and Fisheries," at 36 CFR 242.1-28 and 50 CFR 100.1-28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

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

- 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; and
- Two public members appointed by the Secretary of the Interior with

concurrence of the Secretary of Agriculture.

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

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

**Background of This Rule**

In January 2022, the Departments held joint consultations with approximately 445 individual subsistence users and representatives from federally recognized Tribes of Alaska, Tribal Consortia, Alaska Native Organizations, and Alaska Native Corporations. In October–November 2022, DOI leadership and officials of the Department of Commerce, National Oceanic and Atmospheric Administration, held joint consultations with various Alaska Tribes regarding fisheries. During all of these consultations, a primary request from commenters was to make changes to the Federal Subsistence Board, including increasing the number of public members to five and adding more voting members who represent Alaska Native villages and have local knowledge and direct subsistence experience.

As a result of this consultation process, the Departments proposed to revise CFR titles 36 (in part 242) and 50 (in part 100) at § \_\_.10 to be responsive to the requests to define the requirements used for the selection of the Board Chair, increase the number of public members of the Board, and include a voice for federally recognized Tribal governments to nominate or recommend a certain number of the public members of the Board (89 FR 14008, February 26, 2024). The proposed rule also included a provision that the Board Chair, like the two current public members, must possess personal knowledge of and direct experience with subsistence uses in rural Alaska. The proposed rule further required the three new public members to possess personal knowledge of and direct experience with subsistence uses in rural Alaska, including Alaska Native

subsistence uses, and to be nominated or recommended by federally recognized Tribal governments.

As is currently required in the Program regulations, the Board Chair and all public members were proposed to be appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture. The Secretaries were to retain the authority to remove public members from the Board and also would retain their existing authorities to replace agency personnel on the Board. The proposed rule also explained, as is currently the case, that the public members will become special governmental employees for the purpose of serving on the Board.

Lastly, consistent with title VIII of ANILCA, the proposed rule confirmed that the Secretaries retain the authority to modify, disapprove, or stay any action taken by the Board. For temporary special actions, the proposed rule provided that such actions would not become effective until at least 10 calendar days after the date of the action to allow the Secretaries an opportunity to act, if needed. For emergency special actions, the proposed rule provided that the Board action would likewise not become effective for 10 calendar days unless the Board determines that the emergency situation calls for responsive action within 24 hours to protect subsistence resources or public safety.

The February 26, 2024, proposed rule (89 FR 14008) opened a public comment period that closed April 26, 2024. During the public comment period, the Departments received 65 comments from a variety of individuals and entities, including Federally Recognized Tribes of Alaska and Alaska Native Corporations. The public comments and a report detailing the information received during the 2022 joint consultations, "Federal Subsistence Policy Consultation Summary Report," can be found in Docket No. FWS-R7-SM-2024-0017 at <https://www.regulations.gov>.

### Regulatory Revisions

The February 26, 2024, proposed rule (89 FR 14008) described the regulatory revisions proposed by the Secretaries. The following paragraphs summarize by subject matter the regulatory changes being made in this final rule.

#### *I. Increase in Number of Public Board Members*

The current Board includes a Chair, two public Board members, and five Federal agency personnel. The Secretaries will add three public members nominated or recommended by federally recognized Tribes in

Alaska, while also requiring that they possess personal knowledge of and direct experience with subsistence uses in rural Alaska, including Alaska Native subsistence uses, for the purpose of ensuring adequate representation by members with rural subsistence experience on the Board at any particular meeting.

#### *II. Qualifications of Chair*

In addition, the Secretaries will require that the Board Chair possess personal knowledge of and direct experience with subsistence uses in rural Alaska.

#### *III. Term Limits*

The Secretaries may establish term limits for service of Board members in such circumstances as the Secretaries deem appropriate.

#### *IV. Oversight Responsibility and Ratification Requirement*

For Board actions (e.g., cyclic regulation revisions, customary and traditional use determinations, subsistence resource regions, rural determinations, and requests for reconsideration), the Secretaries retain, and will exercise when appropriate, their authority to modify or disapprove actions prior to publication in the **Federal Register**, as has been the practice.

In regard to special actions, we acknowledge that the Board's decisions are often time-sensitive regarding harvest opportunities for rural Alaskans or critical population issues of a species. Therefore, special actions, both emergency and temporary, are valid upon decision by the Board. However, the final rule makes explicit that Secretaries may at any time rescind, modify, disapprove, or stay a special action.

#### **Summary of Comments and Response to Comments**

In response to the proposed rule, the Departments received general comments and comments specific to four questions asked in the proposed rule. Of the 65 public comments received, 56 supported the proposed rule, 7 opposed the proposed regulatory revisions or opposed them unless modified, and 2 were outside the scope of the proposed rule.

Many of the comments were specific to how to implement additional public Board membership. These comments were responsive to the questions posed in the proposed rule, and they will be useful as the Departments navigate the nomination and appointment process. Other comments were specific to

regulation promulgation and the legality of the proposed rule, and we respond to those comments below.

Questions 1 and 2 are closely tied in the comments received. While they ask two specific questions, the comments received tended to address both questions, and we address both together in this document.

*Question 1:* Are federally recognized Tribal governments the only groups that should nominate/recommend public board members that possesses the qualifications identified in this proposed rule? Should Alaska Native Corporations and other entities also be included as entities to nominate/recommend public board members, so long as the nominees possess personal knowledge of and direct experience with subsistence uses in rural Alaska (including Alaska Native subsistence uses)?

*Question 2:* Would it be preferable for federally recognized Tribes to nominate/recommend only two of the three new public board members?

*Comments:* Eight comments received in response to questions 1 and 2 indicated a preference for nominations by federally recognized Tribal governments only. Other comments were in support of full or at least some Alaska Native Corporation participation or expressed desire to open the nominations to all rural residents of Alaska. An additional comment suggested that all Tribes, including those who are not federally recognized, should be able to provide the nominations.

*Response:* The final rule regulatory language maintains that the additional public members be nominated by federally recognized Tribal governments in Alaska. The Secretaries' limitation of nominations from federally recognized Tribes tracks the Secretaries' political relationship with Tribal Nations and responsibility for maintaining a government-to-government relationship. This language does not limit the nominations to Alaska Natives or a member of a federally recognized Tribe, nor does it preclude Alaska Native Corporations or other Alaska Native entities that are not federally recognized Tribes from providing input to Tribes during nominee selection. Further, the language does not affect the nomination or recommendation process for the other public member positions who do not have this nomination requirement. No changes were made to the final regulations as a result of these comments.

*Comments:* Additional comments suggested requirements that should be put in place if Alaska Native

Corporations are allowed to nominate, suggesting that they should be required to consult with Tribes or should get approval of their nominees from Tribes first.

*Response:* The Departments note that neither the proposed rule nor the final rule provides for nominations from Alaska Native Corporations.

*Comments:* Four commenters expressed concern that requiring the additional public members to be nominated or recommended by a Tribal government constitutes a racial classification. One of these commenters further expressed concern that the new public members would “represent Native villages.”

*Response:* Both of these concerns reflect a misreading of the proposed rule, which does not include a requirement that a nominee be Alaska Native or a member of a federally recognized Tribe. A federally recognized Tribal government may recommend a person of any race or ethnicity and may also recommend a person who is not a Tribal member. Tribal membership, in any case, is a political identity based on membership in a sovereign government, not a racial classification warranting heightened scrutiny. *See, e.g., Morton v. Mancari*, 417 U.S. 535 (1974); *United States v. Cooley*, 593 U.S. 345, 349 (2021) (“Long ago we described Indian tribes as “distinct, independent political communities” exercising sovereign authority.” *Worcester v. Georgia*, 31 U.S. 515, 6 Pet. 515, 559, 8 L. Ed. 483 (1832)).

The addition of three public members to be nominated or recommended by federally recognized Tribes reflects the following goals: To add public members so that the Federal Subsistence Board is more balanced between public and Federal agency members; to increase community input into Board recommendations; and to improve Board decisions by adding persons with personal knowledge of and direct experience with subsistence uses in rural Alaska, including Alaska Native subsistence uses. The Secretaries’ inclusion of nominations from federally recognized Tribes is consistent with the Secretaries’ political relationship with Tribal Nations. The Secretaries’ consideration of these nominations/recommendations recognizes Tribes’ qualifications to identify individuals who possess personal knowledge of and direct experience with subsistence uses in rural Alaska, both Native and non-Native, and to identify individuals who are best able to present Indigenous Knowledge that can be included in the Board’s decision making. Tribal governments are well-situated to make

these recommendations in part because of the high proportion of Alaska Natives in the rural areas of the State and particularly in the most remote and roadless regions.

*Comments:* Two commenters highlighted the existing high levels of Alaska Native participation in the Federal Subsistence Management Program, through the Subsistence Resource Commissions (SRCs), Regional Advisory Councils (RACs), and the current public Board members and questioned the need for three additional public members nominated by Tribes.

*Response:* The Departments gave careful consideration to the level of current participation and experience on the SRCs, RACs, and Board, by both Native and non-Native rural subsistence users. As stated above, the addition of three public members to be nominated or recommended by federally recognized Tribes is consistent with the Secretaries’ political relationship with Tribal Nations and reflects an effort to add more balance between public and Federal agency members, to increase community input into Board recommendations, and to improve Board decisions by ensuring balance of rural representation by having persons with personal knowledge of and direct experience with subsistence uses in rural Alaska, including Alaska Native subsistence uses.

Additionally, most of rural Alaska consists of the Unorganized Borough, which in turn comprises 11 census areas; these areas are for statistical analysis but have no regional governments of their own. Tribal governments are a primary form of local government in much of rural Alaska. The requirement that a nomination or recommendation come from a Tribal government thus functions as a community recommendation that the candidate has the necessary knowledge and expertise. Further, the rule still provides that the Chair and two other public seats are available, outside of this nomination process, to others with the preexisting qualifications.

*Comments:* Four commenters expressed concern, without providing any details, that allowing Tribal governments to nominate or recommend public members violated the Constitution, Civil Rights Act of 1964, and/or ANILCA.

*Response:* The Departments believe that allowing federally recognized Tribal governments to nominate or recommend persons with relevant qualifications to be considered for appointment to the Federal Subsistence Board is consistent with the Constitution, the Civil Rights Act of

1964, and ANILCA. It is consistent with the federal government’s political relationship with federally recognized Tribes and there is no requirement that a nominee be Alaska Native or a member of a federally recognized Tribe. Moreover, the Secretaries retain ultimate authority to decide whether to appoint to the Board the particular individuals nominated or recommended by Tribes; the Secretaries are not delegating their authority to appoint.

*Comment:* Another commenter noted that the additional seats should be available to all rural Alaskans, not just those nominated by Tribes.

*Response:* As noted above, under the rule, the Chair and two other public members are not subject to this new nomination process. Additionally, as noted above, there is no requirement that a nominee be Alaska Native or a member of a federally recognized Tribe, nor must a nominee “represent Native villages” as alleged by one commenter. A federally recognized Tribal government may recommend a person of any race or ethnicity and may also recommend a person who is not a Tribal member. Accordingly, the final rule has not been changed from the proposed rule as a result of these comments.

*Question 3:* How should the Secretaries solicit and receive nominations/recommendations? Should the Secretaries broadly solicit nominations or recommendations from federally recognized Tribal governments, or should the Secretaries identify as a matter of their sole discretion one or more specific federally recognized Tribal governments?

*Comments:* Eight comments received in response to question 3 indicated a preference for regional representation of appointees and offered many routes to achieve a cadre of public members that would ensure the representation on the Board is not biased to just one part of the State.

*Response:* These suggestions were not included in the final regulations because the Departments will take these comments into consideration during the implementation phase. However, the commenters did not indicate that limited numbers of Tribal governments should be selected to submit nominations. The final rule regulatory language regarding who can nominate three new public Board members will remain inclusive of all Alaska federally recognized Tribal governments.

*Question 4:* Is the proposed quorum of six appropriate with the addition of the three new public board members, or should it be increased?

*Comments:* On the question of quorum size, two commenters wanted to

ensure there was always public member representation within the quorum.

*Response:* The Departments considered this concern but ultimately declined to increase the quorum size or base the quorum on the Board member status because the Board Chair, who is a public member, essentially ensures that at least one public member is represented in the quorum. Recognizing the timeline involved in nominating, appointing, and onboarding new Board members, the Departments decided to create a sliding scale for its quorum, starting at the current regulatory quorum of five and building to six. This approach keeps the quorum at greater than 50 percent but also avoids unintentionally creating a situation where a quorum may be difficult to achieve before all new Board positions are filled. The Departments made a change from the proposed rule to the final rule and elected to set the quorum at five when there are nine or fewer Board members and six when there are 10 or more Board members.

*Comments:* A related comment noted that the additional three members would create a public member majority, thus outnumbering the agency members who manage the land. A further comment noted that this situation makes it more likely that Board regulations will conflict with bureau regulations, recommending a way to avoid such conflicts.

*Response:* When finalizing the rule, the Departments considered the potential implications of having a public member majority, including the increased likelihood of conflicting regulations, and determined that the benefits from the additional public members outweigh concerns about a public member majority on the Board. Existing Board regulations at 50 CFR 100.3 and 36 CFR 242.3 already provide clarity on how to handle conflicting regulations. Accordingly, the final rule remains unchanged from the proposed rule regarding the number of public members as a result of these comments.

#### *Term Limits*

*Comments:* The Departments received comments regarding implementing term limits, including recommendations for 3-year staggered terms without term limits, 3-year to 5-year staggered terms, and 5-year term limits, each with varying recommendations for the requirements for re-nomination, re-application, and re-appointment.

*Response:* After considering the range of opinions on terms and term limits without any one approach garnering more support than any other, the Departments found no compelling

reasons to change course and elected to retain the proposed regulatory text in the final rule regulation, which provides the Secretaries flexibility to apply term limits to Board members as the Secretaries deem appropriate.

#### *Qualifications of Appointed Public Board Members*

*Comments:* Seven commenters primarily requested that appointed Board members possess firsthand knowledge of subsistence practices, with some commenters suggesting that knowledge should include Alaska Native subsistence uses.

*Response:* The rule already incorporates these concerns as it requires that all five public members “possess personal knowledge of and direct experience with subsistence uses in rural Alaska” and the three new public members “shall possess personal knowledge of and direct experience with subsistence uses in rural Alaska (including Alaska Native subsistence uses).” The remainder of the four qualifications mentioned by commenters were specific to implementation of additional Board members and may be considered during the nomination and evaluation process. Thus, no change to the final rule was needed because those concerns and suggestions will be addressed during that process.

*Comment:* One commenter stated that non-Tribal members should be able to be nominated.

*Response:* The rule allows for federally recognized Tribal governments to nominate anyone meeting the basic qualifications, including non-Tribal persons. Accordingly, the final rule remains unchanged from the proposed rule as a result of this comment.

#### *Public Member Resources*

*Comments:* Four commenters remarked that public members should have alternates to serve in their place if they are absent and suggested that the alternates attend all of the Board meetings so that the alternates are more effective when filling in for appointed members. Three commenters said that the public members should be assigned staff assistants like agency Board members.

*Response:* These suggestions were not included in the final rule regulations because the required quorum number accounts for any absences or vacancies, and because these provisions would significantly affect the budget for the new rule, but the Departments will take the comments concerning additional administrative support and related

funding into consideration during the implementation phase.

#### *Secretarial Ratification Period for Board Special Actions*

*Comments:* Two commenters expressed concern about the ratification period, specifically related to the conservation of fish and wildlife populations.

*Response:* Based on this feedback, the Departments further considered the practical impact of delaying the effective date of Board actions for 10 calendar days and whether the emergency situation exception would resolve any concerns. In reviewing the special actions approved by the Board in the last 2 years, not including delegations of authority to agency field officials for in-season management, more than half (7 of 13) of the special action requests required implementation in less than 10 days following Board action. Of those, two of the seven involved action that was required within 24 hours of the Board action.

The Departments gave careful thought to the difficulty in timely assembling the Board to thoughtfully consider and deliberate about emergent situations. Seasonal and regional conservation issues regarding fish and wildlife arise across approximately 230 million acres of Federal public lands and waters under Federal subsistence management and include multiple species of fish and wildlife that are subject to a dynamic and complicated range of partially or fully overlapping Federal and State hunting and fishing regulations. The Departments also considered the short duration of special actions, including that emergency special actions are limited to a maximum of 60 days, and temporary special actions extend no longer than determined by the Board to be necessary and are limited to the end of the current regulatory cycle (maximum of 2 years and a number of which are effective for only a few months). Additionally, the Departments considered the negative impacts of imposing a delay on effective dates of Board special actions and concluded they should be avoided in light of the provision in the proposed rule, carried forward to the final rule, acknowledging that the Secretaries retain authority to (at any time) stay, modify, or disapprove any action taken by the Board. The Departments also considered the exemption in the proposed rule for situations where responsive action is necessary within 24 hours to protect subsistence resources, but the information described above indicates that that proposed exemption may

sometimes be insufficient to address the negative impacts of a delay.

Ultimately, in light of the comments and concerns noted above, the Departments decided to modify the ratification period to provide the Board with additional flexibility and eliminate the costs that would have been associated with the practical limitations of the proposed rule. As modified, a ratification period of 10 days would apply to emergency and temporary special actions as a general matter, but the Board would have the flexibility to establish a shorter period of time for any given action (including making the action immediately effective). The Departments conclude that this revised approach to the ratification period will provide the benefits of maximizing the opportunity for Secretarial oversight without unduly constraining the Board from taking prompt action when necessary. While Board actions will be deemed automatically ratified if the Secretaries do not modify, disapprove, stay, or expressly ratify the action within the time period specified by the Board in the action, the Secretaries may revisit a prior ratification (express or automatic) at any time.

#### *Tribal Consultation and Comment*

As expressed in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and Federally Recognized Indian Tribes (Tribes) as listed in 75 FR 60810 (October 1, 2010) and the relationship required by statute for consultation and coordination with Alaska Native Corporations. Consultation with Alaska Native Corporations is based on Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175."

The Departments are committed to efficiently and adequately providing opportunities to Tribes and Alaska Native Corporations for consultation with regard to subsistence rulemaking. In January 2022, officials from DOI and the U.S. Department of Agriculture held joint consultations with federally recognized Tribes of Alaska and various Tribal Consortia. Later during October-

November 2022, DOI leadership and the Department of Commerce, National Oceanic and Atmospheric Administration, held joint consultations with various Alaska Tribes regarding fisheries. Approximately 445 individual subsistence users and representatives from Alaska Native Tribes, Tribal Consortia, Alaska Native Organizations, and Alaska Native Corporations participated in the consultations, and a majority of the commenters specifically requested increasing the number of public members to five and adding more voting members who represent Alaska Native Villages and have local knowledge and direct subsistence experience.

The Departments considered Tribes' and Alaska Native Corporations' information, input, and recommendations, and addressed their concerns as much as practicable in this rulemaking action.

#### **Changes From the Proposed Rule**

Based on the public and Tribal comment received, the final rule diverges from the proposed rule in regard to proposed paragraph § \_\_\_\_.10(d)(12). While the proposed regulations at that paragraph provided for a 10-day delay in Board actions taking effect to allow the Secretaries the opportunity to modify, disapprove, stay, or expressly ratify actions taken by the Board, in this final rule we have modified the waiting period provision to provide more flexibility to the Board while maximizing the opportunity for Secretarial oversight. This change is based on public and Council input that the waiting period provision in the proposed rule might interfere with the purposes of the order and subsistence management goals. For example, in some circumstances, a waiting period could allow for a fish run to be completed before subsistence users had an opportunity to harvest any fish as described in the preceding section.

The Department also made a change to the quorum at paragraph § \_\_\_\_.10(d)(2). Recognizing the timeline involved in nominating, appointing, and onboarding new Board members, the Departments decided to create a sliding scale for its quorum, starting at the current regulatory quorum of five and building to six. This approach keeps the quorum at greater than 50 percent but also avoids unintentionally creating a situation where a quorum may be difficult to achieve before all new Board positions are filled. The Departments made a change in this final rule by electing to set the quorum at five when there are nine or fewer Board members

and six when there are 10 or more Board members.

Other than the changes just described, we have made no other revisions to the proposed regulatory text in this final rule.

#### **Conformance With Statutory and Regulatory Authorities**

##### *National Environmental Policy Act Compliance*

A draft environmental impact statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The final environmental impact statement (FEIS) was published on February 28, 1992. The record of decision on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

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

Similarly, this rule does not constitute a major Federal action significantly affecting the quality of the human environment. Further, a detailed statement under the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) is not required because the rule is covered by a categorical exclusion under 43 CFR 46.210(i): "Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case by case." We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

##### *Section 810 of ANILCA*

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management

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

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of the subsistence program regulations was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the regulations will not reach the "may significantly restrict" threshold that would require notice and hearings under ANILCA section 810(a).

#### *Paperwork Reduction Act*

This rule contains existing information collections. All information collections require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has reviewed and approved the information collection requirements associated with this rulemaking and assigned OMB Control Number 1018-0075 (expires March 31, 2027). This rule makes no substantive changes to the currently approved information collections. We anticipate a minor increase in the estimated number of annual responses and annual burden hours associated with the currently approved FWS Form 3-2321, Membership Application. We estimate the total burden associated with this information collection to be 15,429 annual responses, 6,953 annual burden hours, and no non-hour cost burden.

#### *Regulatory Planning and Review (Executive Orders 12866, 13563, and 14094)*

Executive Order 14094 reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866 and E.O. 13563. Regulatory

analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The Secretaries conducted this rulemaking in a manner consistent with these requirements.

E.O. 12866, as reaffirmed by E.O. 13563 and E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in OMB will review all significant rules. OIRA has determined that this final rule is not significant.

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, this final rule will not result in effects to the economy. The Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

#### *Congressional Review Act*

Under the Congressional Review Act (5 U.S.C. 804(2)), this rule is not a major rule. It will not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

#### *Executive Order 12630*

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

#### *Unfunded Mandates Reform Act*

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

imposed on any State or local entities or Tribal governments.

#### *Executive Order 12988*

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

#### *Executive Order 13132*

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

#### *Executive Order 13175*

Title VIII of ANILCA does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Departments provided federally recognized Tribes and Alaska Native Corporations opportunities to consult on this rule. Consultation with Alaska Native Corporations are based on Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native Corporations on the same basis as Indian tribes under Executive Order No. 13175."

As stated previously under *Tribal Consultation and Comment*, regarding this rulemaking, the Departments held joint consultations, starting in January 2022, with federally recognized Tribes of Alaska and various Tribal Consortia. Later during October–November 2022, DOI leadership and the Department of Commerce, National Oceanic and Atmospheric Administration, held joint consultations with various federally recognized Tribes in Alaska regarding fisheries.

#### *Executive Order 13211*

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

List of Subjects

36 CFR Part 242

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

50 CFR Part 100

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

Regulation Promulgation

For the reasons set out in the preamble, the Secretaries amend title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART \_\_\_\_—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart B—Program Structure

■ 2. In subpart B of 36 CFR part 242 and 50 CFR part 100, amend § \_\_\_\_ .10 by:

- a. Revising paragraphs (a), (b), and (d)(2); and
■ b. Adding paragraphs (d)(11) through (13).

The revisions and additions read as follows:

§ \_\_\_\_ .10 Federal Subsistence Board.

(a) Authority. The Secretary of the Interior and the Secretary of Agriculture hereby establish a Federal Subsistence Board (Board) and delegate to it the authority for administering the subsistence taking and uses of fish and wildlife on public lands and the related promulgation and signature authority for regulations of subparts C and D of this part. The Secretaries retain their existing authority to restrict or eliminate hunting, fishing, or trapping activities that occur on lands or waters in Alaska other than public lands when such activities interfere with subsistence hunting, fishing, or trapping on the public lands to such an extent as to result in a failure to provide the subsistence priority. The Secretaries also retain the ultimate responsibility for compliance with title VIII of ANILCA and other applicable laws and maintain oversight of the Board.

(b) Membership. (1) The voting members of the Board are: A Chair who possesses personal knowledge of and direct experience with subsistence uses in rural Alaska to be appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture; five public members who possess personal knowledge of and direct experience with subsistence uses in rural Alaska, three of whom shall be nominated or recommended by federally recognized Tribal governments in Alaska and shall possess personal knowledge of and direct experience with subsistence uses in rural Alaska (including Alaska Native subsistence uses), to be appointed by the Secretary of the Interior with the 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 Regional Forester, U.S. Forest Service; the Alaska State Director, Bureau of Land Management; and the Alaska Regional Director, Bureau of Indian Affairs. Each Federal agency member of the Board may appoint a designee.

(2) Public Board members serve at the will of the Secretaries. The Secretaries maintain their authorities for replacement of Federal agency members, public Board members, or any designees.

\* \* \* \* \*

(d) \* \* \*

(2) A quorum consists of five members when the total number of Board members is nine or fewer and six members when the total number of Board members is 10 or higher.

\* \* \* \* \*

(11) The Secretary of the Interior, or the Secretary of Agriculture with respect to a unit of the National Forest System, retains authority to (at any time) stay, modify, or disapprove any action taken by the Board.

(12) Special actions of the Board are not effective unless ratified by the Secretary of the Interior or the Secretary of Agriculture with respect to a unit of the National Forest System. To allow an opportunity for the Secretaries to modify, disapprove, stay, or expressly ratify any emergency or temporary special action taken by the Board, such Board actions generally will not become effective until 10 calendar days after the date of the action (or any longer period specified by the Board when taking the action), unless the Board determines that the situation calls for responsive action within a shorter period of time. If no action is taken by the Secretary to modify, disapprove, stay, or expressly

ratify within 10 days (or the longer or shorter period specified by the Board), the emergency or temporary special action will be deemed automatically ratified for purposes of this subpart. The Secretaries may revisit a prior ratification (express or automatic) of a Board action at any time. For other Board actions (i.e., actions that follow the regular adoption process in § \_\_\_\_ .18), the Secretaries retain, and will exercise when appropriate, their authority to modify or disapprove actions prior to publication in the Federal Register, as is the current practice.

(13) For Board actions such as cyclic regulation revisions, customary and traditional use determinations, subsistence resource regions, rural determinations, and requests for reconsideration, when the Secretaries deem appropriate, they will exercise their authority to modify or disapprove the actions prior to publication of the actions in the Federal Register. The Board's special actions, both emergency and temporary, are often based on time-sensitive harvest opportunities for rural Alaskans or critical conservation concerns for a species and are valid upon decision by the Board. However, the Secretaries may at any time rescind, modify, disapprove, or stay a special action by the Board.

(14) The Secretaries may establish term limits for service of Board members in such circumstances as the Secretaries deem appropriate.

\* \* \* \* \*

Joan Mooney,

Principal Deputy Assistant Secretary, Exercising the Delegated Authority of the Assistant Secretary—Policy, Management and Budget, Department of the Interior.

Dr. Homer Wilkes,

Undersecretary, Natural Resources and Environment, Department of Agriculture.

[FR Doc. 2024–24088 Filed 10–15–24; 4:15 pm]

BILLING CODE 4334–13–P; 3410–11–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 9

[PS Docket Nos. 21–479, 18–64; FCC 24–78; FR ID 250243]

Facilitating Implementation of Next Generation 911 Services (NG911); Location-Based Routing for Wireless 911 Calls; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.