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**Alaska Department of Fish and Game**  
**Staff Comment for Proposals 5, 6, & 7**  
**Arctic/Western Region Alaska Board of Game Meeting**  
**Bethel, Alaska**  
**January 6-9, 2017**



**The following staff comments were prepared by the Alaska Department of Fish and Game for use at the Alaska Board of Game meeting, January 6-9, 2017 in Bethel, Alaska, and are prepared to assist the public and board. The stated staff comments should be considered preliminary and subject to change, if or when new information becomes available. Final department positions will be formulated after review of written and oral testimony presented to the board.**

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**PROPOSAL 5 – 5 AAC 85.015. Hunting seasons and bag limits for black bear. Change “general season” to “subsistence” for Arctic/Western Region black bear hunts having positive customary and traditional use findings.**

**PROPOSED BY:** Al Barrette

**WHAT WOULD THE PROPOSAL DO?** The proposal would change the label and classification of “General hunt only” in the Alaska Administrative Code to “Subsistence hunt only” in the Arctic/Western region for black bear populations with positive customary and traditional use findings. The result would be that the majority of resident hunting for black bears in the Arctic/Western region would be classified as subsistence hunting.

*Note: Unit 26A appears to have been inadvertently omitted from the printed proposal. It is likely the intent of the proposal was to include Unit 26A.*

**WHAT ARE THE CURRENT REGULATIONS?**

<b>Units and Bag Limits</b>	<b>Resident Open Season (Subsistence and General Hunts)</b>	<b>Nonresident Open Season</b>
Units 9, 11-13, Remainder of Unit 16, Units 18, 19(B), 19(C), 20 – 24, 25(A), 25(B), and 26	No closed season. (General hunt only)	No closed season.
3 bears		

*Note: The current “General hunt only” label is incorrect and will be updated following the Arctic/Western Regional meeting.*

**WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED?** If this proposal is adopted, the majority of hunting for black bears in the Arctic/Western region would be classified as subsistence hunting.

The current hunts allow for both subsistence and nonsubsistence uses but the board has not made findings on customary and traditional (C&T) patterns of use for these game populations. To address the proposal as written, the board would need to first address customary and traditional uses for black bear populations in Units 18, 22, 23, and 26. The board would also need to address amounts reasonably necessary for subsistence for black bears in order to determine appropriate hunt type (Tier I, Tier II, or hunts that are open to all users). The board would need to revisit hunting patterns for all black bear populations in the Arctic/Western Region to ensure the patterns are customary and traditional – i.e., “subsistence” – hunting patterns. The department does not intend to change hunt administration. The effect on hunters in the field is unknown, pending board action on C&T and ANS findings.

Findings such as 2016-214-BOG *Board of Game Bear Conservation, Harvest, and Management Policy* may need to be revised to incorporate the new classification of all hunts on Arctic/Western Region black bear populations with positive customary and traditional use findings as subsistence hunts, rather than for nonsubsistence uses.

**BACKGROUND:** This proposal is scheduled for the Arctic/Western Region meeting as Proposal 5, and the Interior/Northeast Arctic Region meeting as Proposal 54.

Under AS 16.05.258(a), except in nonsubsistence areas, the board is directed to identify game populations, or portions of populations, that are customarily and traditionally taken or used for subsistence. The board applies the *Joint Boards of Fisheries and Game Subsistence Procedures* (5 AAC 99.010), in place since the early 1980s, to identify game populations with customary and traditional uses (C&T) by Alaska residents. Harvest and use patterns for game populations are

described and evaluated based on eight criteria to determine which, if any, are customary and traditional subsistence use patterns. For populations that support C&T uses, the board must identify the “amount reasonably necessary” for subsistence uses, called an “ANS finding.” The board has made no C&T findings for black bear populations in Units 18, 22, 23, and 26.

When there is a single set of regulations for residents for a game population with a harvestable surplus above the ANS, these regulations generally indicate that the open season is for “general and subsistence hunts” when a positive C&T finding has been made or when no C&T finding has been made. This practice provides for subsistence uses (as required by AS 16.05.258(b)) and other, nonsubsistence uses. If there is a negative C&T finding for a game population, or when hunting for that population takes place in a nonsubsistence area, or resident opportunity is limited through drawing permits, the resident open season is labeled “General hunt only.”

When making C&T findings, the board has recognized that Alaska residents harvest and use wildlife resources in a range of patterns, not all of which conform to the eight criteria that characterize subsistence use patterns. Participation in a hunt on a game population with a positive C&T finding by Alaskan residents does not by itself mean that the only use is a subsistence use. Subsistence use patterns by Alaskans may exist side-by-side with nonsubsistence use patterns by Alaskans. For example, a use pattern that involves considerable travel and expense is likely not consistent with Criterion 3, and harvest of game in an area with little to no use of other resources from that area (that is, not part of a broader range of uses) may not be consistent with Criterion 8.

Resident seasons listed in the Alaska Administrative Code currently have one of three labels: “General hunt only”, “Subsistence hunt only”, or they lack a label (i.e., the space for a label is left blank). The lack of a label for resident seasons means the season is the same for general hunting and subsistence hunting. Nonresident hunts also lack a label because the labels only apply to resident hunts.

The following guidelines have generally been applied when labeling hunts in the Alaska Administrative Code, but the regulations do not always conform to these guidelines:

- “General hunt only” is applied to resident hunts in areas designated as nonsubsistence areas by the Joint Board of Fisheries and Game and to hunts outside of nonsubsistence areas that have a negative customary and traditional use (C&T) finding for the game population.
- “Subsistence hunt only” is applied to resident hunts if the hunt occurs outside nonsubsistence areas on a game population with a positive C&T finding and the harvestable portion of the population is not great enough to allow for nonsubsistence harvests and uses.

- No label. These hunts generally include all types of resource use, subsistence and nonsubsistence, and do not differentiate between the various types of use.

The board discussed this topic extensively at the statewide meeting in March 2016. The board elected to maintain the status quo and directed the department and the Department of Law to make appropriate updates to 5 AAC 85 to ensure hunts are labeled accurately according to the above guidelines. This proposal has brought to light the fact that a labeling error exists in 5 AAC 85 for black bears in the Arctic/Western Region. Following the Arctic/Western Regional meeting the department will update 5 AAC 85 to remove the label for all resident black bear hunts within the Arctic/Western Region, because all resident hunts in these units provide for both subsistence and nonsubsistence use.

**DEPARTMENT COMMENTS:** The department recommends the board **TAKE NO ACTION** on this proposal because the Department of Law has been working with the department, following guidance by the board, to make appropriate updates to 5 AAC 85 to ensure the hunts are labeled accurately. Following the board’s direction from the 2016 statewide meeting, the department will update 5 AAC 85 to remove the label for all resident black bear hunts within the Arctic/Western region because absent a negative C&T finding the hunts provide for both general and subsistence uses. Additionally, adopting the proposal would be inconsistent with prior Board of Game actions that recognize that not all uses of game populations by Alaska residents are customary and traditional subsistence uses. Game populations may have multiple Alaska resident use patterns, some consistent with a C&T pattern as identified by the Board and some consistent with a nonsubsistence use pattern. Although all Alaskans are eligible to participate in hunts classified as subsistence hunts (unless restrictions on participation are necessary for conservation reasons), participation in a hunt on a game population with a positive C&T finding by Alaskan residents does not by itself mean that the only use is a subsistence use.

**COST ANALYSIS:** Adoption of this proposal may result in additional costs to the department to prepare C&T and ANS analyses for all Arctic/Western Region black bear populations and to staff and schedule the additional board meetings necessary to implement AS 16.05.258.

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**PROPOSAL 6 – 5 AAC 85.025. Hunting seasons and bag limits for caribou. Clarify the resident general and subsistence hunting seasons and the nonresident general hunting season for caribou in the Arctic/Western Region.**

**PROPOSED BY:** Al Barrette

**WHAT WOULD THE PROPOSAL DO?** The proposal would add labels and classifications of all caribou hunts open to residents in the Arctic/Western Region as “Subsistence” and all caribou hunts open to nonresidents as “General season.”

**WHAT ARE THE CURRENT REGULATIONS?** There are no labels on any of the caribou hunts in the Arctic/Western Region. Alaska residents take caribou for a variety of uses.

**WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED?** If this proposal is adopted all resident hunting for caribou in the Arctic/Western Region would be classified as subsistence hunting.

**BACKGROUND:** This proposal is scheduled for the Arctic/Western Region meeting as Proposal 6 and for the Interior/Northeast Arctic Region meeting as Proposal 53.

Under AS 16.05.258(a), except in nonsubsistence areas, the board is directed to identify game populations, or portions of populations, that are customarily and traditionally taken or used for subsistence. The board applies the *Joint Boards of Fisheries and Game Subsistence Procedures* (5 AAC 99.010), in place since the early 1980s, to identify game populations with customary and traditional uses (C&T) by Alaska residents. Harvest and use patterns for game populations are described and evaluated based on eight criteria to determine which, if any, are customary and traditional subsistence use patterns. For populations that support C&T uses, the board must identify the “amount reasonably necessary” for subsistence uses, called an “ANS finding.”

The board has made positive customary and traditional use findings (C&T findings) for caribou in Units 18, 22, 23, and 26A. There are no caribou populations in the Arctic/Western region with negative C&T findings.

When there is a single set of regulations for residents for a game population with a harvestable surplus above the ANS, these regulations generally indicate that the open season is for “general and subsistence hunts” when a positive C&T finding has been made or when no C&T finding has been made. This practice provides for subsistence uses (as required by AS 16.05.258(b)) and other, nonsubsistence uses. If there is a negative C&T finding for a game population, or when hunting for that population takes place in a nonsubsistence area, or resident opportunity is limited through drawing permits, the resident open season is labeled “General hunt only.”

When making C&T findings, the board has recognized that Alaska residents harvest and use wildlife resources in a range of patterns, not all of which conform to the eight criteria that characterize subsistence use patterns. Participation in a hunt on a game population with a positive C&T finding by Alaskan residents does not by itself mean that the only use is a subsistence use. Subsistence use patterns by Alaskans may exist side by side with nonsubsistence use patterns by Alaskans. For example, a use pattern that involves considerable travel and expense is likely not consistent with Criterion 3, and harvest of game in an area with little to no use of other resources from that area (that is, not part of a broader range of uses) may not be consistent with Criterion 8.

Resident seasons listed in the Alaska Administrative Code currently have one of three labels: “General hunt only”, “Subsistence hunt only”, or they lack a label (i.e., the space for a label is left blank). The lack of a label for resident seasons means the season is the same for general

hunting and subsistence hunting. Nonresident hunts also lack a label because the labels only apply to resident hunts.

The following guidelines have generally been applied when labeling hunts in the Alaska Administrative Code, but the regulations do not always conform to these guidelines:

- “General hunt only” is applied to resident hunts in areas designated as nonsubsistence areas by the Joint Board of Fisheries and Game and to hunts outside of nonsubsistence areas that have a negative customary and traditional use (C&T) finding for the game population.
- “Subsistence hunt only” is applied to resident hunts if the hunt occurs outside nonsubsistence areas on a game population with a positive C&T finding and the harvestable portion of the population is not great enough to allow for nonsubsistence harvests and uses.
- No label. These hunts generally include all types of resource use, subsistence and nonsubsistence, and do not differentiate between the various types of use.

The board discussed this topic extensively at the statewide meeting in March 2016. The board elected to maintain the status quo and directed the department and the Department of Law to make appropriate updates to 5 AAC 85 to ensure hunts are labeled accurately according to the above guidelines.

**DEPARTMENT COMMENTS:** The department recommends the board **TAKE NO ACTION** on this proposal because caribou in the Arctic/Western region have a positive C&T finding and the hunts provide for both subsistence and nonsubsistence uses. Therefore no label is the correct designation. Additionally, adopting the proposal would be inconsistent with prior Board of Game actions that recognize that not all uses of game populations by Alaska residents are customary and traditional subsistence uses. Game populations may have multiple Alaska resident use patterns, some consistent with a C&T pattern as identified by the Board and some consistent with a nonsubsistence use pattern. Although all Alaskans are eligible to participate in hunts classified as subsistence hunts (unless restrictions on participation are necessary for conservation reasons), participation in a hunt on a game population with a positive C&T finding by Alaskan residents does not by itself mean that the only use is a subsistence use.

**COST ANALYSIS:** Adoption of this proposal may result in additional costs to the department to prepare C&T and ANS analyses for all Arctic/Western Region caribou populations, and to staff and schedule the additional board meetings necessary to implement AS 16.05.258

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**PROPOSAL 7 – 5 AAC 85.055. Hunting seasons and bag limits for Dall sheep. Clarify the resident general and subsistence hunting seasons and the nonresident general hunting seasons for Dall sheep.**

**PROPOSED BY:** Al Barrette

**WHAT WOULD THE PROPOSAL DO?** The proposal would label some sheep hunts open to residents in the Arctic/Western region as “Subsistence”, keep the existing “Subsistence hunt only” label in others, and label all nonresident sheep hunts as “General season.” The proposal would also leave some Arctic/Western resident sheep drawing hunts not listed in the proposal without labels or classifications when they should be labeled “General hunt only.”

**WHAT ARE THE CURRENT REGULATIONS?** The board has made positive customary and traditional use findings (C&T findings) for Dall sheep populations in the Arctic/Western Region, including for the DeLong Mountains (Units 23 and 26A, that portion west of the Etivluk River), Baird Mountains (Unit 23), Schwatka Mountains (Units 23 and 26A, that portion east of the Etivluk River), and the Brooks Range (Units 23, 24, 25A, and 26) Dall sheep populations. There are no sheep populations in the Arctic/Western Region with negative C&T findings and no populations for which no C&T determination has been made by the board.

The “Subsistence hunt only” label is used in a few sheep hunts that are open to residents only where the harvestable portion of the population is not great enough to allow for nonsubsistence harvest. None of the nonresident hunts are currently labeled, because nonresidents do not have a subsistence priority.

**WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED?** If this proposal is adopted, the majority of hunting for Dall sheep in the Arctic/Western region would be classified as subsistence hunting.

Findings such as 97-116-BOG *Findings of the Alaska Board of Game on Dall Sheep Management in the Western Brooks Range* may need to be revised to incorporate the new classification of all hunts on Arctic/Western Region Dall sheep populations with positive customary and traditional use findings as subsistence hunts, rather than for nonsubsistence uses.

**BACKGROUND:** This proposal is scheduled for the Arctic/Western Region meeting as Proposal 7 and the Interior/Northeast Arctic Region meeting as Proposal 56.

Under AS 16.05.258(a), except in nonsubsistence areas, the board is directed to identify game populations, or portions of populations, that are customarily and traditionally taken or used for subsistence. The board applies the *Joint Boards of Fisheries and Game Subsistence Procedures* (5 AAC 99.010), in place since the early 1980s, to identify game populations with customary and traditional uses (C&T) by Alaska residents. Harvest and use patterns for game populations are described and evaluated based on eight criteria to determine which, if any, are customary and traditional subsistence use patterns. For populations that support C&T uses, the board must identify the “amount reasonably necessary” for subsistence uses, called an “ANS finding.”

When there is a single set of regulations for residents for a game population with a harvestable surplus above the ANS, these regulations generally indicate that the open season is for “general and subsistence hunts” when a positive C&T finding has been made or when no C&T finding has been made. This practice provides for subsistence uses (as required by AS 16.05.258(b)) and other, nonsubsistence uses. If there is a negative C&T finding for a game population, or when hunting for that population takes place in a nonsubsistence area, or resident opportunity is limited through drawing permits, the resident open season is labeled “General hunt only.”

When making C&T findings, the board has recognized that Alaska residents harvest and use wildlife resources in a range of patterns, not all of which conform to the eight criteria that characterize subsistence use patterns. Participation in a hunt on a game population with a positive C&T finding by Alaskan residents does not by itself mean that the only use is a subsistence use. Subsistence use patterns by Alaskans may exist side by side with nonsubsistence use patterns. For example, a use pattern that involves considerable travel and expense is likely not consistent with Criterion 3, and harvest of game in an area with little to no use of other resources from that area (that is, not part of a broader range of uses) may not be consistent with Criterion 8.

Resident seasons listed in the Alaska Administrative Code currently have one of three labels: “General hunt only”, “Subsistence hunt only”, or they lack a label (i.e. the space for a label is left blank). The lack of a label for resident seasons means the season is the same for general hunting and subsistence hunting. Nonresident hunts also lack a label because the labels only apply to resident hunts.

The following guidelines have generally been applied when labeling hunts in the Alaska Administrative Code, but the regulations do not always conform to these guidelines:

- “General hunt only” is applied to resident hunts in areas designated as nonsubsistence areas by the Joint Board of Fisheries and Game and to hunts outside of nonsubsistence areas that have a negative customary and traditional use (C&T) finding for the game population.
- “Subsistence hunt only” is applied to resident hunts if the hunt occurs outside nonsubsistence areas on a game population with a positive C&T finding and the harvestable portion of the population is not great enough to allow for nonsubsistence harvests and uses.
- No label. These hunts generally include all types of resource use, subsistence and nonsubsistence, and do not differentiate between the various types of use.

The board discussed this topic extensively at the statewide meeting in March 2016. The board elected to maintain the status quo and directed the department and the Department of Law to



make appropriate updates to 5 AAC 85 to ensure hunts are labeled accurately according to the above guidelines.

**DEPARTMENT COMMENTS:** The department recommends the board **TAKE NO ACTION** on this proposal because, in the case of some hunts, no label is the correct designation. Additionally, adopting the proposal would be inconsistent with prior Board of Game actions that recognize that not all uses of game populations by Alaska residents are customary and traditional subsistence uses. Game populations may have multiple Alaska resident use patterns, some consistent with a C&T pattern as identified by the Board and some consistent with a nonsubsistence use pattern. Although all Alaskans are eligible to participate in hunts classified as subsistence hunts (unless restrictions on participation are necessary for conservation reasons), participation in a hunt on a game population with a positive C&T finding by Alaskan residents does not by itself mean that the only use is a subsistence use.

**COST ANALYSIS:** Adoption of this proposal may result in additional costs to the department to prepare C&T and ANS analyses for all Arctic/Western Region Dall sheep populations, and to staff and schedule the additional board meetings necessary to implement AS 16.05.258.

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