

Alaska Refuges

Possible Statewide Regulatory Changes



Lisa Hupp/USFWS

Kodiak brown bear sow with cub.

National Wildlife Refuges (refuges) in Alaska are mandated to conserve species and habitats in their natural diversity and ensure that the biological integrity, diversity, and environmental health of the National Wildlife Refuge System are maintained for the continuing benefit of present and future generations of Americans. The U.S. Fish and Wildlife Service (USFWS) is considering amending regulations governing administration of Alaska refuges (under 50 CFR 36) to ensure that we are managing Alaska refuges in accordance with our mandates; to increase consistency with other Federal laws, regulations, and policies; and to more effectively engage the public.

Over the last decade, the State of Alaska has allowed particular practices for the harvest of predators that are inconsistent with our Federal mandates for the administration of refuges in Alaska. Predator reduction activities with the intent or potential to alter or manipulate natural diversity, biological integrity, or environmental health on refuges in Alaska conflict with laws and policies that the USFWS is required to follow. The proposed regulatory changes we are considering would clarify allowable practices for the take of wildlife on refuges in Alaska, as well as update existing Alaska refuge regulations for closures and restrictions.

We recognize the importance of the fish, wildlife and other natural resources in the lives and cultures of Alaska Native peoples and in the lives of all rural Alaskans. These proposed regulatory changes would not change Federal subsistence regulations (36 CFR 242 and 50 CFR § 100) or restrict taking of fish or wildlife under Federal subsistence regulations. The Alaska National Interest Lands Conservation Act (ANILCA) provides a priority to rural Alaskans for the nonwasteful taking of fish and wildlife for subsistence uses on refuges in Alaska. Under ANILCA all refuges in Alaska (except the Kenai Refuge) also have a purpose to provide the opportunity for continued

subsistence use by rural residents, as long as this use is not in conflict with refuge purposes to conserve fish and wildlife populations and habitats in their natural diversity or fulfill international treaty obligations of the United States.

The changes we are considering would:

- Clarify existing Federal mandates for conserving the natural diversity, biological integrity, and environmental health on refuges in Alaska in relation to predator harvest. Predator reduction activities with the intent or potential to alter or manipulate the natural diversity of species populations or habitats (e.g., artificially increasing or decreasing wildlife populations to provide for more harvest opportunity) would be prohibited on refuges in Alaska.
- Prohibit the following methods and means for predator harvest on refuges in Alaska (would not apply to the taking of fish or wildlife under Federal subsistence regulations):
 - take of bear cubs or sows with cubs (exception allowed for resident hunters to take black bear cubs or sows with cubs under customary and traditional use activities at a den site October 15 – April 30 in specific game management units in accordance with State law)
 - take of brown bears over bait;
 - take of bears using traps or snares;
 - take of wolves and coyotes during the spring and summer denning season; and
 - take of bears from an aircraft or on the same day as air travel has occurred. Note: take of wolves or wolverines from an aircraft or on the same day as air travel has occurred is already prohibited under current refuge regulations.

- Update the Public Participation and Closure Procedures to make them more consistent with other Federal regulations and more effectively engage the public. The following table summarizes portions of the current regulations and potential updates we are considering.

Public Participation and Closure Procedures

Current	Potential Updates
Authority	
Refuge Manager may close an area or restrict an activity on an emergency, temporary, or permanent basis.	No updates being considered
Criteria (50 CFR 36.42(b))	
Criteria includes: 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 refuge purposes.	Add conserving the natural diversity, biological integrity, and environmental health of the refuge to the current list of criteria.
Emergency closures or restrictions (50 CFR 36.42(c))	
Emergency closure may not exceed 30 days. Closure effective upon notice as prescribed in 50 CFR 36.42 (f) (see below for details). Closures related to the taking of fish and wildlife shall be accompanied by notice with a subsequent hearing.	Increase the period from 30 to 60 days, with extensions beyond 60 days being subject to nonemergency closure procedures (i.e. temporary or permanent). Closure effective upon notice as prescribed in 50 CFR 36.42 (f) (see below for details).
Temporary closures or restrictions (50 CFR 36.42(d))	
May extend only for as long as necessary to achieve the purpose of the closure or restriction, not to exceed or be extended beyond 12 months. Closure effective upon notice as prescribed in 50 CFR 36.42 (f) (see below for details). Closures related to the taking of fish and wildlife effective upon notice and hearing in the vicinity of the area(s) affected by such closures or restriction, and other locations as appropriate	May extend only for as long as necessary to achieve the purpose of the closure or restriction, May not exceed or be extended beyond 5 years; In most cases, extensions beyond 5 years would be subject to revised permanent closure requirements, including publication in the Federal Register and Code of Federal Regulations at 50 CFR 36. Closure subject to notice procedures as prescribed in 50 CFR 36.42 (f) (see below for details). Closures related to the taking of fish and wildlife would require consultation with the State and affected Tribes and Native Corporations, as well as the opportunity for public comment or a public meeting in the affected area.
Permanent closures or restrictions (50 CFR 36.42(e))	
No time limit. Closure effective after notice and public hearings in the affected vicinity and other locations as appropriate, and after publication in the Federal Register.	No time limit. Closures related to the taking of fish and wildlife would require consultation with the State and affected Tribes and Native Corporations, as well as the opportunity for public comment or a public meeting in the affected area. Closures would continue to be published in the Federal Register. Permanent closures that will result in a significant alteration in the public use pattern; adversely affect the natural, aesthetic, scenic, or cultural values; or require a long-term modification in the resource management objectives of the area would be published in the Code of Federal Regulations under 50 CFR 36.
Notice (50 CFR 36.42(f))	
Notice is to be provided through newspapers, signs, and radio.	Add the use of the Internet or other available methods, in addition to continuing to use the more traditional methods of newspapers, signs, and radio.

For more information, please visit:
http://www.fws.gov/alaska/nwr/ak_nwr_pr.htm



Questions and Answers on Regulatory Changes Being Considered by the U.S. Fish & Wildlife Service for National Wildlife Refuges in Alaska

1. What are the regulatory changes being considered?

National Wildlife Refuges (refuges) in Alaska are mandated to conserve species and habitats in their natural diversity and ensure that the biological integrity, diversity, and environmental health of the National Wildlife Refuge System (Refuge System) are maintained for the continuing benefit of present and future generations of Americans. The U.S. Fish and Wildlife Service (USFWS) is considering amending regulations governing Alaska refuges (under 50 CFR 36) to ensure that we are managing those refuges in accordance with our mandates; to increase consistency with other Federal laws, regulations, and policies; and to more effectively engage the public.

The changes we are considering would:

- Clarify existing Federal mandates for conserving the natural diversity, biological integrity, and environmental health on refuges in Alaska in relation to predator harvest. Predator reduction activities with the intent or potential to alter or manipulate the natural diversity of species populations or habitats (e.g., artificially increasing or decreasing wildlife populations to provide for more harvest opportunity) would be prohibited on refuges in Alaska.
- Prohibit the following methods and means for predator harvest on refuges in Alaska (would not apply to the taking of fish or wildlife under Federal subsistence regulations):
 - take of bear cubs or sows with cubs (*exception allowed for resident hunters to take black bear cubs or sows with cubs under customary and traditional use activities at a den site October 15 – April 30 in specific game management units in accordance with State law*);
 - take of brown bears over bait;
 - take of bears using traps or snares;
 - take of wolves and coyotes during the spring and summer denning season; and
 - take of bears from an aircraft or on the same day as air travel has occurred. *Note: take of wolves or wolverines from an aircraft or on the same day as air travel has occurred is already prohibited under current refuge regulations.*
- Update the Public Participation and Closure Procedures to make them more consistent with other Federal regulations and more effectively engage the public

Important notes:

- These proposed changes would not apply to the take of fish or wildlife under Federal subsistence regulations.
- Hunting and trapping of predators would still be allowed on refuges and most State of Alaska hunting and trapping regulations, including harvest limits, would still apply.

2. Why is the U.S. Fish & Wildlife Service considering making these changes?

We are considering these regulatory changes to ensure that the taking of fish and wildlife on National Wildlife Refuges in Alaska is managed consistent with federal laws and USFWS policies. Over the last decade, the State of Alaska (State) has allowed particular practices for the harvest of predators that are inconsistent with our Federal mandates for the administration of refuges in Alaska. Predator reduction activities with the intent or potential to alter or manipulate natural diversity, biological integrity, or environmental health (e.g., artificially increasing or decreasing wildlife populations to provide for more harvest opportunity) on refuges in Alaska conflict with laws and policies that the USFWS is required to follow. The proposed regulatory changes we are considering would clarify allowable practices for the take of wildlife on refuges in Alaska, as well as update existing Alaska refuge regulations for closures and restrictions.

The mission of the Refuge System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans. As such, refuges are required to work to conserve species and habitats for the long-term, benefiting not only the present, but also future generations of Americans and in Alaska, this includes the continuation of the subsistence way of life.

The USFWS is required by law to manage refuges "to ensure that . . . biological integrity, biological diversity, and environmental health are maintained" (National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997). The Alaska National Interest Lands Conservation Act (ANILCA) sec. 101(a) states that the primary purpose of the Act is "to preserve for the benefit, use, education, and inspiration of present and future generations certain lands and waters in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values..." Further, sections 302, 1-9 and 303, 1-7 of ANILCA establish or redefine all refuges in Alaska with the primary purpose to "conserve fish and wildlife populations and habitats in their natural diversity." These proposed regulatory changes are aimed at ensuring that natural ecological processes and functions are maintained and wildlife populations and habitats are conserved and managed to function in their natural diversity on Alaska refuges. The latter may be interpreted as not only the natural diversity of species but also the natural variations and fluctuations in both predator and prey populations over time.

The overarching goal of the USFWS's wildlife-dependent recreation policy is to enhance opportunities and access to quality visitor experiences on refuges and to manage the refuge to conserve fish, wildlife, plants, and their habitats (605 FW 1.6). We consider hunting to be an important wildlife management tool and one of many priority uses of the Refuge System (when and where compatible with refuge purposes) that is a healthy, traditional outdoor pastime, deeply rooted in the American heritage (605 FW 2).

3. Will the proposed regulatory changes apply to subsistence hunting and trapping on National Wildlife Refuges?

We recognize the importance of fish and wildlife and other natural resources in the lives of rural Alaskans and in the lives and cultures of Alaska Native peoples. We take seriously our responsibility to provide the opportunity for continued subsistence use by rural Alaskans on refuges under ANILCA. These proposed regulatory changes will not change Federal subsistence regulations (36 CFR 242 and 50 CFR 100) or restrict taking of fish or wildlife under Federal subsistence regulations.

We recognize there may be some impacts to local communities that result from these changes. We have worked to address several concerns that were raised during Tribal consultations, and are open to discussing others that arise through the public comment process.

4. What authority does the U.S. Fish & Wildlife Service have to establish hunting and trapping regulations? Isn't it the State's job to manage wildlife in Alaska?

We recognize that the State has obligations to manage wildlife in Alaska according to the directives in the State constitution. The USFWS similarly must ensure that activities on refuges are consistent with Federal laws and USFWS policy and has final authority for managing plants, fish, and wildlife on refuges in Alaska.

We prefer to defer to the State on regulation of hunting and trapping on refuges in Alaska; unless, in doing so, we are out of compliance with Federal laws and USFWS policy. In the absence of State action to exercise their authority to exclude refuges from Intensive Management designation and associated actions, as well as general hunting and trapping regulations that are inconsistent with our legal mandates, we believe these regulatory changes are necessary to resolve conflicting activities.

5. What is the process and timeline for making these regulatory changes? Can I participate?

We have been consulting with Alaska Tribes and Alaska Native Claims Settlement Act (ANCSA) Corporations, as well as having discussions with the State and the Federal Subsistence Regional Advisory Councils on the changes we are considering. We anticipate publishing a proposed rule (draft regulations) in the Federal Register around March of 2015, at which time a 60 day public comment period will begin. We will prepare an Environmental Assessment (EA) in accordance with the requirements of the National Environmental Policy Act (NEPA) for these proposed regulatory changes, which will be made available for comment at the same time. During the public comment period, we plan to hold meetings and hearings around the state. Comments and input we receive will be used to update the proposed rule as needed. Our goal is to have a final rule published sometime in the beginning of 2016.

Local engagement is very important to us and we are committed to providing meaningful opportunities for consultation with the Tribal Governments and ANCSA Corporations in Alaska. We greatly value local knowledge in our work and are committed to strengthening our Tribal-Federal government relations by working closely with the Tribes on conservation issues in Alaska.

We would like to hear from you, whether at a community meeting or via written comment. We welcome public comment during the comment period, and will continue to offer Tribal Consultation to Federally recognized Tribes and ANCSA Corporations through the end of the comment period.

For the most current information, visit http://www.fws.gov/alaska/nwr/ak_nwr_pr.htm.

USFWS Staff Report
Southcentral Board of Game Meeting, Anchorage
March 13, 2015

Mr. Chair, members of the Board,

My name is Mitch Ellis. I am the Chief of Refuges for the U.S. Fish and Wildlife Service (USFWS) here in Alaska. I also have Heather Tonneson, who is the Regional Refuge Ecologist for the USFWS in Anchorage and Andy Loranger, who is the Refuge Manager at Kenai National Wildlife Refuge, here with me today to provide you with some agency updates.

The USFWS is considering updating the regulations governing National Wildlife Refuges (refuges) in Alaska to clarify and ensure consistency with our existing federal mandates for managing these refuges. Currently, and for the last 6 months, we have been involved in scoping, Tribal and State consultation, and initial outreach. We have been talking with folks in local communities across the State through Tribal consultation, conferences, and various other meetings and we have made a number of changes based on feedback we have heard so far, including removing several of the original proposed regulatory changes and modification of some the language we were initially considering.

Here is a brief summary of our timeline and next steps. We are hoping to publish a draft proposed rule and start a 60-day public comment period, which will include continued opportunity for Tribal and State consultation and meetings/hearings in various locations around the State. Later this fall, we will be reviewing public comments and updating the proposed rule as needed based on those comments. We hope to publish a final rule in the Federal Register early next year.

I am going to turn it over to Heather first to tell you about some of the details of the regulatory changes we are considering.

The proposed regulations we are considering can be broken into two main components. The first component pertains to clarification of our existing mandates for the conservation of the natural diversity of species and habitats under ANILCA and maintaining biological integrity, diversity, and environmental health under the National Wildlife Refuge System Improvement Act in relation to predator management on refuges in Alaska. The second component pertains to updating our closure procedures, which I'll get into a little later. The first part would amend current federal regulations governing the non-subsistence take of fish and wildlife on Alaska National Wildlife Refuges, found in 50 CFR 36.32.

Predator reduction activities with the intent or potential to alter or manipulate natural or biological diversity, biological integrity, or environmental health (e.g., artificially increasing or decreasing wildlife populations for the sole or primary purpose of providing for more harvest opportunity) are inconsistent with our federal mandates and as such, would be prohibited on refuges in Alaska.

Specifically, we are considering prohibiting the following 5 methods and means for predator harvest on refuges in Alaska:

1. take of bear cubs or sows with cubs (*exception allowed for take of black bears under customary and traditional use at a den site October 15 – April 30 in specific GMUs in accordance with State law*);
2. take of brown bears over bait;
3. take of bears using traps or snares;
4. take of wolves and coyotes during the spring and summer denning season (May 1 to Aug 9);
and
5. take of bears from an aircraft or on the same day as air travel has occurred (same day airborne take of wolves and wolverines is already prohibited under existing refuge regulations).

We are required to conserve species and habitats on refuges for the long-term, benefiting not only the present, but also future generations of Americans. In Alaska, this includes ensuring the opportunity for continued subsistence uses of fish, wildlife, and plants. Hunting is a priority public use on National Wildlife Refuges under existing law and agency policy. We have, and will continue to, strongly support hunting and the sustainable harvest of fish and wildlife, including predators on refuges in Alaska. Additionally, the majority of State of Alaska hunting and trapping regulations, including harvest limits, would continue to be adopted and apply on refuges in Alaska.

The second component of the regulatory changes we are considering is to update our public participation and closure procedures for non-subsistence public use activities on Alaska refuges under 50 CFR 36.42. We are proposing these changes to be consistent with other federal regulations and to more effectively engage the public. Some of the updates we are considering under this part are to:

- Include conservation of natural and biological diversity, biological integrity, and environmental health to the list of closure criteria.
- Increase the possible duration of an emergency closure from 30 to 60 days. This is consistent with the timeframe for emergency special actions under federal subsistence regulations.
- Update the temporary closure duration to be “only for as long as necessary to achieve the purpose of the closure or restriction, not to exceed 5 years.” This would include a requirement for periodic review and outreach to the public (most likely similar to the Federal Subsistence Board’s 3-year closure review process).
- Require consultation with the State and affected Tribes and Native Corporations, as well as opportunity for public comment/public meeting in the affected area for temporary and permanent closures.
- Expand the methods for public notice by adding the use of the Internet or other available methods, in addition to continuing to use the more traditional methods of newspapers, signs, and radio.

These proposed regulations would NOT apply to Federally qualified subsistence users hunting or trapping under federal subsistence regulations. These proposed regulations would only apply on National Wildlife Refuges in Alaska (not to other Federal, State, private, or Native lands or waters).

Thanks again for the opportunity to talk with you today. We welcome any feedback or questions you have at this time.