

# **Proposal 53**

**5 AAC 99.025(a)(12) Customary and traditional uses of game population(s)**

**Department proposal**

## **Effect of Proposal :**

- ▣ **Re-evaluate the customary and traditional use finding for migratory game birds statewide**
  - **C&T uses of migratory game birds would be acknowledged in regulation**

## **Recommendation :**

**Support**

# Current Regulations

- ▣ **Federal and state**
- ▣ **Migratory game birds**
  - Includes migratory waterfowl (ducks, geese, swan), cranes, and snipe
- ▣ **SP No. BOG 2017-10**
- ▣ **Positive C&T findings**
  - Migratory game birds units 18, 22, 23, 26A
  - Emperor geese units 8, 9, 10, 17, 18, 22, 23
  - Canada geese Unit 6

# Background

- ▣ **January 2017 Arctic/Western meeting**
  - **Proposal 157 emperor geese**
  - **C&T worksheet for migratory birds**
  - **Wasn't "noticed" for statewide**
  
- **Can briefly review c&t worksheet**

# **Proposal 53**

**Department proposal**

**Effect of Proposal :**

**Re-evaluate the C&T use finding for migratory game birds statewide**

**Recommendation :**

**Support**

# **Proposal 54**

**5 AAC 92.070 Tier II subsistence hunting permit point system**

**Public proposal**

## **Effect of Proposal :**

- ▣ **Modify the Tier II subsistence hunting permit point system**
  - **May not be in compliance with current statute, that requires focus on Tier II population and individual applicant**

## **Recommendation :**

**Neutral on allocative aspects; recommend adopting regulations in compliance with current statute**

# Current Regulation

- ▣ **Each applicant measured on two criteria**
  1. **Customary and direct dependence on the Tier II population for human consumption as mainstay of livelihood (3 indicators)**
    - A. **No. yrs applicant hunted or eaten from Tier II population + no. yrs would have hunted/eaten but hunt was canceled or applicant did not receive a permit. One point for each year up to 50 points**
    - B. **No. yrs member of household hunted or eaten from Tier II population + no. yrs member of household would have hunted/eaten... 0.2 points for each year up to 10 points**
    - C. **Time during yr applicant spends in noncommercial harvesting in Tier II hunt area boundary. Varying points**

# Two criteria, continued

2. **Ability to obtain food if subsistence use is restricted or eliminated (2 indicators)**
  - A. **Availability of food for purchase in community where most of applicant's store-bought food was purchased in last year. Up to 25 points**
  - B. **Cost of gasoline in community where most of applicant's gas was purchased in last year. Up to 30 points**

# Background

- ▣ **Subsistence law AS 16.05.258(b)(4)**
  - **Not enough game to provide reasonable opportunity, must limit users to provide priority for subsistence uses**
- ▣ **Two factors**
  - **Factor A: up to 85 points**
    - **Customary and direct dependence on game population for human consumption as mainstay of livelihood**
  - **Factor B: up to 55 points**
    - **Ability of subsistence user to obtain food is subsistence use is restricted**
- ▣ **Addressed on multiple occasions, court challenges**



# **Proposal 54**

**Public proposal**

## **Effects of Proposal :**

**Modify the Tier II subsistence hunting permit point system**

## **Recommendation :**

**Neutral on allocative aspects; recommend adopting regulations in compliance with current statute**

# **Proposal 55**

## **5 AAC 92.019 Taking of big game for certain religious ceremonies Fairbanks Fish and Game Advisory Committee Proposal**

### **Effects of Proposal :**

- ▣ **Amend 5 AAC 92.019 to allow taking of big game for “potlatch ceremonies,” require permits for all similar ceremonies, remove notification requirement, specify hunting license required**
  - **Big game could be taken for unspecified potlatch ceremonies outside established seasons/bag limits**
  - **Permit required, including for Alaska Native funerary and mortuary ceremonies**

### **Recommendation :**

- ▣ **Neutral on allocative aspects.**
- ▣ **Current regulations respond to Alaska Supreme Court ruling**
- ▣ **Adding other unspecified ceremonies would expand taking of game out of season beyond religious funeral practices addressed in court ruling and traditional ceremonies specifically recognized by the board**

# Current regulations and their background

- ▣ **Funerary and mortuary:**
  - **92.019 Taking of big game for certain religious ceremonies**
    - ▣ Adopted in 1987 following 1979 Alaska Supreme Court decision
    - ▣ Constitutional protection of religious freedom
    - ▣ Recognizes governmental neutrality on religious freedom
    - ▣ Carefully-crafted regulations: no permit, but notification required
    - ▣ Publicized list of game populations excluded from ceremonial harvest
  - **92.017 Koyukon Potlatch Ceremony**
    - ▣ Traditional mortuary or funerary ceremony
    - ▣ Effective 2003
    - ▣ No permit, but only notification post-hunt required due to Koyukon cultural norms

# Current regulations and their background, cont.

- ▣ **Community-based social or secular purposes:**
  - **92.053 Permit to take moose for Nuchalawoyya Potlatch**
    - ▣ Up to 3 moose by permit
    - ▣ Historical annual celebration in Tanana predating Alaska's purchase by United States
    - ▣ Reporting required
  
  - **92.055 Stickdance permit**
    - ▣ Up to 3 moose by permit
    - ▣ Lower Koyukon Athabascan Feast of the Dead - Kaltag and Nulato
    - ▣ Adopted 1989; reporting required

# Current regulations and their background, cont.

- ▣ **Cultural education: 92.034 Permit to take and use game for cultural purposes**
  - **Deer, moose, caribou, black bears, mountain goats, small game, furbearers, migratory birds**
  - **Not allowed if accommodated under existing regulation**
  - **Teaching, preservation, historical traditional Alaskan cultural practices, knowledge values**

# Proposal 55

## Fairbanks Fish and Game Advisory Committee

### Effect of Proposal :

- ▣ Amend 5 AAC 92.019 to allow taking of big game for “potlatch ceremonies,” require permits for all similar ceremonies, remove notification requirement, specify hunting license required
  - Big game could be taken for unspecified potlatch ceremonies outside established seasons/bag limits
  - Permit required, including for Alaska Native funerary and mortuary ceremonies

### Recommendation :

- ▣ Neutral on allocative aspects.
- ▣ Current regulations respond to Alaska Supreme Court ruling
- ▣ Adding other unspecified ceremonies would expand taking of game out of season beyond religious funeral practices addressed in court ruling

# **Proposal 56**

**5 AAC 92.072 Community subsistence harvest hunt area and permit conditions**

**Public proposal**

## **Effects of Proposal :**

- ▣ **Several requests and effects (see next slides)**

## **Recommendation :**

**Neutral on eligibility requirements for the Copper Basin community subsistence hunts**

# Requests & effects

1. **Delete “group” throughout; specify there are community administrators (SW)**
  - “Group” mirrors AS 16.05.330(c)
2. **Delete “resident of community” throughout (SW)**
  - Participants not required to reside in the community
3. **Require department to determine if applicant conforms to definition of “community” prior to issuance of permit (CB)**
4. **Delete a reference to meat sharing (SW)**



# Requests & effects, cont.

5. **Waive annual report requirement for communities that demonstrate C&T pattern (SW)**
6. **Adopt criteria & scoring; allow department to deny CSH permit for 2 years if community fails to demonstrate C&T pattern (CB)**
  - **Minimum score would be developed**
7. **Provide appeals processes (SW)**
8. **Allow administrators to require community members observe C&T pattern (SW)**
9. **Amend definition of community (SW)**

# Background

- ▣ **March 2017 Board meeting: effective 2018/19 regulatory year**
  - **Retained Copper Basin CSH for moose and caribou**
  - **Distribute any-bulls by Tier II criteria; up to 350 permits**
  - **Moose season change Aug. 20-Sept. 20**
  - **Caribou bag limit increased to 2; cap increased to 400**

# Proposal 56

**Public proposal**

**Effects of Proposal :**

**Several requests**

**Recommendation :**

**Neutral on eligibility requirements for the**

**Copper Basin community subsistence hunts**

# **Proposal 57**

**5 AAC 92.072 Community subsistence harvest  
hunt area and permit conditions**

**Alaska Board of Game**

## **Effect of Proposal :**

- ▣ **Describe in a different way the Board's expectation of community patterns in Alaska's subsistence activities**

## **Recommendation :**

**Neutral**

# Current Regulation

- ▣ **5 AAC 92.072(i)(2)**
  - **A “community” or “group” is a group of people linked by a common interest in, and participation in uses of, an area and the wildlife populations in that area, that is consistent with the customary and traditional use pattern of that wildlife population and area as defined by the board.**

# Background

- ▣ **Adopted March 2015 in response to public comments**
  - **Effectiveness of community subsistence hunt program**
  - **Resource conservation**
  - **More accurately reflect intent & distinction of community Tier I patterns of use from individual Tier I pattern of use**

# Background, cont.

- ▣ **Examples of definitions**
  - **“Physical place” not recommended**
    - ▣ Residency cannot be used to limit eligibility
  - **American Heritage Dictionary**
    - ▣ 1a Same locality under same govt.
    - ▣ 1b Locality in which group lives
    - ▣ 2a Group having common interests
    - ▣ 2b Forming distinct segment
  - **Webster’s New Collegiate Dictionary**
    - ▣ Unified body of individuals (various examples)
    - ▣ Society at large

# Background, cont.

- ▣ **More examples**

- **Wikipedia**

- ▣ **Social unit w/something in common: norms, religion, values, identity**
    - ▣ **Durable relations extending beyond genealogical ties; important to identity and roles**



# Background, cont.

- ▣ **Durability + identity**
  - Community has history : not short-lived or ad-hoc
  - Members identify w/group at non-superficial level
  
- ▣ **Durability + identity = goals of Board in CSH & Joint Board in Eight Criteria**
  - Definition of CSH community, recognition of C&T patterns
  - Criteria 1, 6, 8
  
- ▣ **Limitations**
  - CSH participation cannot be limited to individuals with prior histories
  - Communities/groups can work toward establishing C&T pattern

# **Proposal 57**

## **Alaska Board of Game**

### **Effect of Proposal :**

- ▣ **Describe in a different way the Board's expectation of community patterns in Alaska's subsistence activities**

### **Recommendation :**

**Neutral**

# **Proposal 58**

**5 AAC 92.072 Community subsistence harvest hunt area and permit conditions, and 92.220 Salvage of game meat, furs, and hides**

**Denali Fish and Game Advisory Committee**

## **Effect of Proposal :**

- ▣ **Modify salvage requirements for moose and caribou taken under community subsistence harvest hunts**
  - **Moose and caribou meat naturally attached to bone in Chalkytsik moose and Copper Basin moose and caribou CSH**

## **Recommendation :**

**Neutral on location of salvage requirements**

# Current Regulations

- ▣ **Not currently in regulation**
- ▣ **Discretionary permit condition via referral to 5 AAC 92.052**
- ▣ **Chalkytsik moose discretionary permit condition**
  - **Moose taken before Oct. 1 - meat of front quarters, hind quarters, ribs must remain naturally attached to bone**
- ▣ **Copper Basin caribou and moose discretionary permit conditions**
  - **Caribou taken before Oct. 1 and moose taken in the fall season:**
    - ▣ **Meat of front quarters, hind quarters, ribs must remain naturally attached to bone**

# **Proposal 58**

## **Denali Fish and Game Advisory Committee**

### **Effect of Proposal :**

- ▣ **Modify salvage requirements for moose and caribou taken under community subsistence harvest hunts**
  - **Moose and caribou meat naturally attached to bone in Chalkytsik moose and Copper Basin moose and caribou CSH**

### **Recommendation :**

**Neutral**

# **Proposal 59**

**5 AAC 99.070 Tier II subsistence hunting permit point system and 5 AAC 92.072 Community subsistence harvest hunt area and permit conditions**

**Public proposal**

## **Effect of Proposal :**

- ▣ **Consider all C&T uses as eligibility criteria for Tier II and CSH**
  - **No change to Tier II application due to no authority (food only)**
  - **CSH application would include handicrafts; however, no change to eligibility**

## **Recommendation :**

**Neutral on eligibility; not consistent with law or court cases: take no action.**

# Current Tier II Regulation

- ▣ **Each Tier II applicant measured on two criteria**
  1. **Customary and direct dependence on a Tier II population for human consumption as mainstay of livelihood**
  2. **Ability to obtain food if subsistence use is restricted or eliminated**
- ▣ **State law does not mention handicraft uses**

# Current CSH Regulation

- ▣ **5 AAC 92.072**
  - **Community or group size of 25 or more**
  - **Alaska residents**
  - **No state HT/permit for other species where bag limit is same or fewer**
  - **One CSH per species per year**
  - **If CSH has Tier II, must have Tier II permit**
  - **2 year commitment**



# Background

- ▣ **Tier II addressed on multiple occasions, court challenges**
- ▣ **Four community hunts**
  - **Units 25B & 25D moose**
  - **Unit 25D black bears**
  - **Units 11 & 13 moose**
  - **Unit 13 caribou**
- ▣ **CSH established to accommodate traditional subsistence hunting practices and create group bag limits, rather than individual bag limits**

# Proposal 59

## Public proposal

### Effect of Proposal :

- ▣ **Consider all C&T uses as eligibility criteria for Tier II and CSH**
  - No change to Tier II application due to no authority
  - CSH application would include handicrafts; however, no change to eligibility

### Recommendation :

**Neutral on eligibility; not consistent with law or court cases: take no action**