



SUBSISTENCE – RURAL DETERMINATION PROCESS

The Federal Subsistence Board (Board), acting on behalf of the Secretaries of the Interior and Agriculture (Secretaries), is in the process of shifting the current rural determination process to the non-rural determination process for the Federal Subsistence Program in Alaska.

Effective on January 12, 2017, the Board adopted the policy on Non-rural Determinations; this policy outlines the process for making or rescinding non-rural determinations of communities or areas for the purpose of identifying rural residents who may harvest fish and wildlife for subsistence uses on Federal public lands in Alaska.

BACKGROUND

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 111–3126), the Secretaries jointly implement the Federal Subsistence Management Program (Program). The Program provides a preference to rural Alaskan residents for taking fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska.

ANILCA, Title VIII, Section 802 asserts that “the purpose of this title is to provide the opportunity for rural residents engaged in a subsistence way of life to do so”. In drafting ANILCA, however, Congress did not define the term “rural”.

Senate Report No. 96-413, which comments on Title VIII, provides examples of *cities* excluded from rural status and examples of *communities* that are rural. The Senate Report further indicates the dynamic nature of rural communities and the inevitability of change. Under current regulations, the Board determines which community or area of Alaska is rural using guidelines and characteristics defined by the Secretaries.

In October 2009, the Secretary of the Interior initiated a Subsistence Program Review; and the Secretary of Agriculture concurred with the review findings. One finding was that the Board should review the process for rural determinations. At its January 2012 public meeting, the Board elected to conduct a global review of the rural/non-rural determination process; beginning the process by obtaining recommendations from the Regional Advisory Councils (Councils), comments from the public, and consultations with Tribes and ANCSA Corporations.

In a Federal Register notice, published December 31, 2012 (77 FR 77005), the Board identified five elements in the rural determination process for public review: population thresholds; rural characteristics; aggregation of communities; timelines, and information sources. The Board followed this action with a request for comments and announcement of public meetings to receive public, Tribal, and Alaska Native Corporations’ input on the rural determination process. The Board received 475 substantive comments from these groups, as well as other local groups and borough governments.



Based on this information, at their April 2017 public meeting, the Board recommended a simplification of the rural determination process by identifying which areas or communities are *non-rural* in Alaska; all other communities or areas would, therefore, be *rural*. The Board would make non-rural determinations using a comprehensive approach that takes into consideration population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, any other relevant material, and information provided by the public. The Board would rely heavily on the recommendations of the Councils.

In summary, based on Council and public comments, Tribal and Alaska Native Corporation consultations, and briefing materials from the Office of Subsistence Management; the Board developed a proposal that simplifies the process of rural and non-rural determinations and submitted its recommendation to the Secretaries on August 15, 2014. On November 24, 2014, the Secretaries requested that the Board initiate rulemaking to pursue the regulatory changes recommended by the Board. The Secretaries also requested that the Board obtain Council recommendations and public input, and conduct Tribal and Alaska Native Corporation consultation on the proposed changes.

On November 4, 2015, the Board published a direct final rule revising the list of non-rural areas in Alaska. Based on the Secretaries' review of the rural determination process and the subsequent change in the regulations governing this process, the Board is revising the current non-rural determinations to the list that existed prior to 2007. Accordingly, the community of Saxman and the area of Prudhoe Bay will be removed from the non-rural list. The following areas continue to be non-rural, but their boundaries will return to their pre-2007 borders: the Kenai area; the Wasilla/Palmer area; the Homer area and the Ketchikan area. Only residents of areas that are rural are eligible to participate in the Federal Subsistence Management Program on public lands in Alaska. This rule became effective on December 19, 2015.

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