

(2) nonwasteful subsistence uses of fish and wildlife and other renewable resources shall be the priority consumptive uses of all such resources on the public lands of Alaska when it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife population or the continuation of subsistence uses of such population, the taking of such population for nonwasteful subsistence uses shall be given preference on the public lands over other consumptive uses; and

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native Corporations, appropriate State and Federal agencies, and other nations.

(Pub. L. 96-487, title VIII, §802, Dec. 2, 1980, 94 Stat. 2422.)

REFERENCES IN TEXT

This Act, referred to in pars. (1) and (3), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. Titles II through VII of this Act enacted sections 410hh to 410hh-5, 460mm to 460mm-3, 539 to 539e, and 1285b of this title, amended sections 1274, 1276, 1279, and 1280 of this title, and enacted provisions set out as notes under sections 431, 668dd, 1132, 1274, and 3145 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3113. Definitions

As used in this Act, the term “subsistence uses” means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. For the purposes of this section, the term—

(1) “family” means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) “barter” means the exchange of fish or wildlife or their parts, taken for subsistence uses—

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

(Pub. L. 96-487, title VIII, §803, Dec. 2, 1980, 94 Stat. 2423; Pub. L. 105-83, title III, §316(b)(4), (d), Nov. 14, 1997, 111 Stat. 1593, 1595.)

REFERENCES IN TEXT

This Act, referred to in provision preceding par. (1), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

AMENDMENTS

1997—Pars. (3) to (5). Pub. L. 105-83, §316(b)(4), which directed the addition of pars. (3) to (5) was repealed by Pub. L. 105-83, §316(d). Pars. (3) to (5) read as follows:

“(3) ‘customary and traditional uses’ means the non-commercial, long-term, and consistent taking of, use of, or reliance upon fish and wildlife in a specific area and the patterns and practices of taking or use of that fish and wildlife that have been established over a reasonable period of time, taking into consideration the availability of the fish and wildlife;

“(4) ‘customary trade’ means, except for money sales of furs and furbearers, the limited noncommercial exchange for money of fish and wildlife or their parts in minimal quantities; and

“(5) ‘rural Alaska resident’ means a resident of a rural community or area. A ‘rural community or area’ means a community or area substantially dependent on fish and wildlife for nutritional and other subsistence uses.” See Effective and Termination Dates of 1997 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1997 AMENDMENT

Until laws are adopted in Alaska which provide for definition, preference, and participation specified in sections 3113 to 3115 of this title, amendment by Pub. L. 105-83 was effective only for purpose of determining whether State’s laws provide for such definition, preference, and participation, and such amendment was repealed on Dec. 1, 1998, because such laws had not been adopted, see section 316(d) of Pub. L. 105-83 set out as a note under section 3102 of this title.

§ 3114. Preference for subsistence uses

Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such priority shall be implemented through appropriate limitations based on the application of the following criteria:

(1) customary and direct dependence upon the populations as the mainstay of livelihood;

(2) local residency; and

(3) the availability of alternative resources.

(Pub. L. 96-487, title VIII, §804, Dec. 2, 1980, 94 Stat. 2423; Pub. L. 105-83, title III, §316(b)(5), (d), Nov. 14, 1997, 111 Stat. 1593, 1595.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

AMENDMENTS

1997—Pub. L. 105-83, §316(b)(5), which directed the designation of existing provisions as subsec. (a) and the addition of subsec. (b) reading as follows: “The priority granted by this section is for a reasonable opportunity to take fish and wildlife. For the purposes of this subsection, the term ‘reasonable opportunity’ means an opportunity, consistent with customary and traditional uses (as defined in section 3113(3) of this title), to participate in a subsistence hunt or fishery with a reasonable expectation of success, and does not mean a guar-