

(c) Lands included within unit; acquisition of land by Secretary

Only those lands within the boundaries of any conservation system unit which are public lands (as such term is defined in this Act) shall be deemed to be included as a portion of such unit. No lands which, before, on, or after December 2, 1980, are conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such units. If the State, a Native Corporation, or other owner desires to convey any such lands, the Secretary may acquire such lands in accordance with applicable law (including this Act), and any such lands shall become part of the unit, and be administered accordingly.

(Pub. L. 96-487, title I, § 103, Dec. 2, 1980, 94 Stat. 2376.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, 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.

SUBCHAPTER II—SUBSISTENCE
MANAGEMENT AND USE

§ 3111. Congressional declaration of findings

The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence;

(2) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses;

(3) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents; and

(5) the national interest in the proper regulation, protection, and conservation of fish and wildlife on the public lands in Alaska and

the continuation of the opportunity for a subsistence way of life by residents of rural Alaska require that an administrative structure be established for the purpose of enabling rural residents who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

(Pub. L. 96-487, title VIII, § 801, Dec. 2, 1980, 94 Stat. 2422; Pub. L. 105-83, title III, § 316(b)(3), (d), Nov. 14, 1997, 111 Stat. 1592, 1595.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (4), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1997—Pub. L. 105-83, § 316(b)(3), which directed the designation of existing provisions as subsec. (a) and the addition of subsec. (b) relating to further congressional findings as to subsistence use of public lands by rural residents of Alaska, was repealed by Pub. L. 105-83, § 316(d). 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.

§ 3112. Congressional statement of policy

It is hereby declared to be the policy of Congress that—

(1) consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for each unit established, designated, or expanded by or pursuant to titles II through VII of this Act, the purpose of this subchapter is to provide the opportunity for rural residents engaged in a subsistence way of life to do so;

(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, 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, enacted provisions set out as notes under sections 668dd, 1132, 1274, and 3145 of this title, and enacted provisions listed in a table of National Monuments Established Under Presidential Proclamation set out under section 320301 of Title 54, National Park Service and Related Programs. 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 guarantee that fish and wildlife will be taken.” was repealed by Pub. L. 105-83, §316(d). 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, pref-