

# Proposal 178

- 5 AAC 92.200. Purchase and sale of game.
  - Prohibit commercial barter of game or their parts taken for subsistence uses
  - Effect = definition of “noncommercial” as applies to barter of game taken for subsistence uses:
    - Help guide enforcement
    - Help protect subsistence resources where barter may have developed into commercial activities

**Board-generated proposal**  
**ADF&G – Support; neutral on allocative aspects.**  
Fairbanks AC – Oppose (0-12-1)



# Current statutes

- AS 16.05.940(2) “barter” mean the exchange or trade of fish or game, or their parts, taken for **subsistence uses**
  - *“Subsistence uses” = noncommercial, customary and traditional uses for direct personal or family consumption as food, shelter, fuel, clothing, tools, transportation, handcrafts; and for customary trade, barter, and sharing (AS 16.05.940(33))*



# Current statutes, continued

- AS 16.05.940(2) “barter” mean the exchange or trade of fish or game, or their parts, taken for subsistence uses
  - For other fish or game or their parts; or
  - For other food or for nonedible items **other than money** if the exchange is of a **limited** and **noncommercial** nature



# “other than money”

- Proposal does NOT address any activities involving **CASH**



– Barter = game or their parts

- For other fish or game, OR
- Other food and nonedible items

– Cash = “customary trade” [AS 16.05.940(8)]

- Statute already defines as “limited”
- Board has further set these limits at 5 AAC 92.200(**b**)



# “Limited”

- 5 AAC 92.200(c) board has limited barter of
  - Big game trophies,
  - Black bear trophies of any kind,
  - GMU 23 caribou antlers (unless handicraft),  
and
  - Bear gallbladders



# Background

*For other food of for nonedible items other than money if the exchange is of a limited and noncommercial nature*

- What is “noncommercial”?
- History of proposal



# Subsistence barter in Alaska

**Long standing and widespread customary and traditional activity from pre-contact times to present day**



- Exchanged through established networks of friends and relatives
  - Reciprocity expectations
- Recent documented examples:
  - Moose and beaver meat for fish (Tanana)
  - Moose meat for seal oil (Chuathbaluk)
  - Deer meat for eulachon/hooligan oil (Klawock)
  - Herring roe for ground squirrel hides (Sitka)
  - Beluga whale for caribou and whitefish (Buckland)
- Many many more examples



# **NOT** intended to apply to:

- Any activities involving **FUR**
  - New language inserted under 5 AAC 92.200 (**c**) not intended to apply to current language found at (**d**).
  - State law says money sales (as customary trade) of furs and furbearers is **NOT** limited to “noncommercial” levels [AS 16.05.940(8)]





# IS intended to apply to:

- Those who may be commercially profiting from subsistence barter
  - Help enforcement determine if barter has risen to a commercial level
  - Help ensure subsistence resources are not used commercially, per state law.



# Proposed language

5 AAC 92.200. Purchase and sale of game.

(c) A person may not barter, advertise for barter, or otherwise offer for barter

**(4) The following individuals and businesses are prohibited from engaging in the barter of game or their parts taken for subsistence uses:**

**(A) an individual or business holding a license under AS 43.70 or AS 43.75, or their Alaska resident employee, to engage in the commercial sale of the food items or nonedible items provided by the barter exchange; and**

**(B) an individual or business licensed under AS 43.70 or AS 43.75, or their Alaska resident employee, to engage in providing the services provided by the barter exchange.**

**(5) for purposes of this subsection, in addition to the definitions in AS 16.05.940, in 5 AAC 01–5 AAC 02, and in 5 AAC 84–5AAC 92, unless the context requires otherwise, “non-commercial” means not for profit or disposal in commercial channels.**



# Examples of intended application

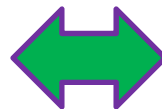
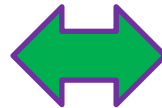
## Proposed language

(A) an individual or business holding a license under AS 43.70 or AS 43.75, or their Alaska resident employee, to engage in the commercial sale of the food items or nonedible items provided by the barter exchange; and

(B) an individual or business licensed under AS 43.70 or AS 43.75, or their Alaska resident employee, to engage in providing the services provided by the barter exchange.

## Example

- Grocery store inventory could not be bartered for subsistence moose meat
  - An employee's own subsistence moose could be bartered for subsistence fish.
- Air taxi services could not be bartered for subsistence caribou meat
  - An owner's own subsistence caribou could be bartered for subsistence moose



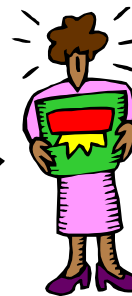
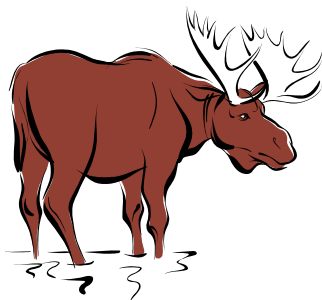
# Examples, continued

Alaska resident owner or employee of **grocery store:**

- Barter subsistence moose meat for boat ride in private boat = YES
- Barter grocery store inventory for subsistence moose meat, anywhere in the state = NO
- Barter subsistence moose meat for grocery store inventory, anywhere in the state=NO

Alaska resident owner or employee of **boat rental business:**

- Barter subsistence moose meat for use of someone else's privately-owned boat = YES
- Barter use of business-owned boats for subsistence moose meat = NO
- Barter use of personal boat for subsistence moose meat = NO
- Barter subsistence moose meat for use of someone else's business-owned boat = NO

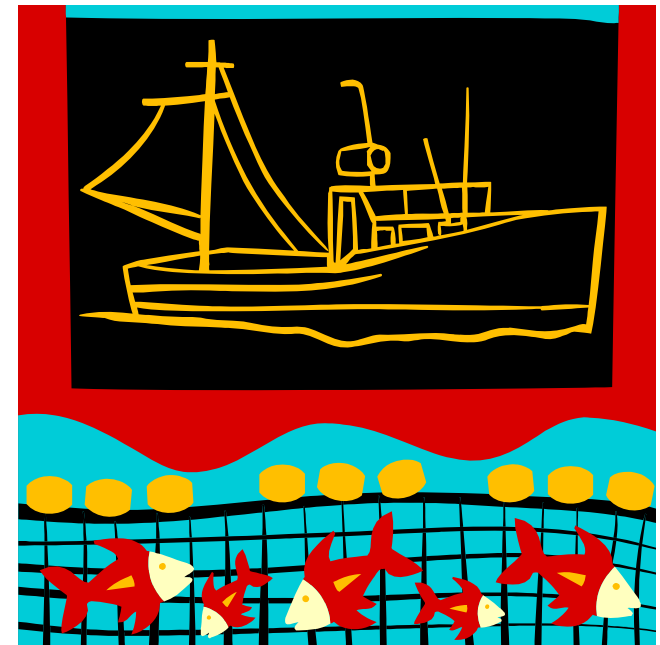


# Examples, continued

Alaska resident commercial salmon fishermen, commercial fish processors, or Alaska resident employees:

- Barter their commercially-caught fish for subsistence moose meat = NO
- Barter their "homepack" finfish for subsistence moose meat=NO (5 AAC 39.010(a))
- Cannot receive for commercial purposes or barter or solicit to barter subsistence taken salmon or their parts (5 AAC 01.010(j))
- Barter personally-caught subsistence fish for subsistence moose meat= YES

Sport-caught fish cannot be bartered (5 AAC 75.015)



# Proposal 178 summary

- Not intended to apply to small-scale traditional barter
- Does not involve cash
- Would help clarify enforcement efforts to ensure subsistence resources are not used commercially.



**ADF&G – Support; neutral on allocative aspects.**

# Proposal 136

- 5 AAC 92.990. Definitions.
  - Create definition for “general hunt”
  - Effect = a definition of “general hunt”
    - Proposal indicates separation and quantification of subsistence and nonsubsistence uses

**Public proposal**

**ADF&G – Neutral.**

**Department of Law comment**

Anchorage AC – Support (14-0)

Fairbanks AC – Support (13-0)

Mat Valley AC – Support (7-6-0)

Delta AC – Support (5-0-5)

Upper Lynn Canal AC – No action

Wrangell AC – No action



# Current regulations

## 5 AAC 85:

“In this section, the phrase ‘General hunt only’ means that there is a general hunt for residents, but no subsistence hunt, during the relevant open season”

No definition of “general hunt” in 5 AAC 92

Authority: AS 16.05.060 AS 16.05.255 AS 16.05.258 AS 16.05.330

**Editor's note:** At its November 9 — 11, 1993 meeting, the Board of Game read and adopted AS 16.05.060, (a)(6), (a)(13), (a)(14), and (a)(16) — (a)(22) in their entirety, without change, under ch. 1, SSSLA 1992 (the 1992 subsistence law), which repealed and reenacted AS 16.05.258. As of Register 126, July 1993, the Regulations Attorney deleted from 5 AAC 85.025(a)(22) invalid language regarding transportation of caribou.

**5 AAC 85.030. Hunting seasons and bag limits for deer.** (a) In this section, the phrase “General hunt only” means that there is a general hunt for residents, but no subsistence hunt, during the relevant open season. For those units or portions of units within non-subsistence areas established by the Joint Boards of Fisheries and Game (5 AAC 99.015), there is a general hunt only. Hunting seasons and bag limits for deer are as follows:

Units and Bag Limits	Resident Open Season (Subsistence and General Hunts)	Nonresident Open Season
(1) Unit 1(A), that portion on the Cleveland Peninsula bounded by an east-west line from Yes Bay to Santa Anna Inlet 2 bucks	Aug. 1—Nov. 30	Aug. 1—Nov. 30
Remainder of Unit 1(A) 4 bucks	Aug. 1—Nov. 30	Aug. 1—Nov. 30
Unit 1(B) 2 bucks	Aug. 1—Dec. 31	Aug. 1—Dec. 31
Unit 1(C), that portion including Douglas, Lincoln, Shelter, and Sullivan Islands	Aug. 1—Dec. 31	Aug. 1—Dec. 31

Page 877 of 2013-2014 edition of Alaska Fish and Game Laws and Regulations Annotated (LexisNexis)





# Subsistence hunting

- 5 AAC 99.021(3): Subsistence hunting means the taking of, hunting for, or possession of game by a resident of the state **for subsistence uses** by means defined by the Board of Game.



# Designations and guidelines

## ■ Three (for residents only):

### 1. General hunt only

- Nonsubsistence area
- Negative customary and traditional (C&T) use finding

Sept. 6—Nov. 30  
(General hunt only)

### 2. Subsistence hunt only

- Positive C&T
- Only enough harvestable surplus available to provide for the amount reasonably necessary for subsistence (ANS)

Sept. 15—Oct. 7  
(Subsistence hunt only)



# Designations and guidelines, continued

3. “Subsistence and General Hunts”
- Designation implied by the absence of designation in unit/subunit listings
  - Season is same for general hunt and subsistence hunt
  - Some undesignated listings cross nonsubsistence area boundaries or include populations with negative customary and traditional use findings

**Resident  
Open Season  
(Subsistence and  
General Hunts)**

Aug. 1—Nov. 30



# Comments

- Proposal indicates separation and quantification of subsistence and nonsubsistence uses
  - Some listings may be clarified (black bears)
  - Alignment of hunt areas with nonsubsistence area boundaries and documentation of compliance with customary and traditional use patterns
    - Subsistence hunting = hunting for customary and traditional uses
- Costs to the department:
  - Over 95 pages of Chapter 85 would need to be analyzed and rewritten to clearly allocate hunts between:
    - Areas inside and outside nonsubsistence areas
    - Game populations with positive and negative C&T findings



# Recommendation and Summary

- If adopted, no need for designations for nonresidents
  - Already a separate column
- Some discrepancies in designations would be clarified
- Department and board would need to clarify alignment of hunt areas and game populations, and C&T patterns
- Costs to the department

**CUSTOMARY AND TRADITIONAL USE WORKSHEET - II(17)**

**MOOSE - GAME MANAGEMENT UNIT 11**

**Prepared by the Division of Subsistence  
Alaska Department of Fish and Game**

**November 1992**

*Excerpt from ADF&G C&T worksheet*



**ADF&G – Neutral**

Proposal 136 - 7

# Proposal 137

- 5 AAC 92.990. Definitions.
  - Establish definitions for subsistence hunting and subsistence uses that exclude references to “...a resident domiciled in a rural area of the state...”
  - Effect = Duplicate or contradict the regulations adopted by the Joint Board in October 2013

Public proposal

ADF&G – Take No Action.



# Advisory committee positions

- Delta AC – Support (3-0-9)
- Fairbanks AC – Support (13-0)
- Stony-Holitna AC - unclear (minutes say oppose but vote 5-0)
- Mat Valley AC – TNA (no objection)
- Minto Nenana AC – no vote recorded
- Upper Lynn Canal AC – no action
- Wrangell AC – no action
- Kotzebue Sound AC – no action
- Central Peninsula AC – Oppose (0-13)
- Northern Seward Peninsula AC – Oppose (0-6)
- Nushagak AC - Oppose (0-6)



# Current regulations

- October 2013 Joint Board meeting
  - Established definitions at 5 AAC 99.021 that make no reference to place of residence
- Other definitions in Alaska statute

Register 209, April 2014 FISH AND GAME

portions of the year; in this paragraph [SECTION], "normally accessed" means that it is reasonably feasible to transport persons, food, and other supplies to domiciles by motorized highway vehicles;

(2) "subsistence fishing" means the taking of, fishing for, or possession of fish, shellfish, or other fisheries resources by a resident of the state for subsistence uses with a gillnet, seine, fish wheel, longline, or other means defined by the Board of Fisheries;

(3) "subsistence hunting" means the taking of, hunting for, or possession of game by a resident of the state for subsistence uses by means defined by the Board of Game;

(4) "subsistence uses" means the noncommercial, customary and traditional uses of wild, renewable resources by a resident of the state 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 by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in this paragraph, "family" means persons related by blood, marriage, or adoption, and a person living in the household on a permanent basis.

(Eff. 7/31/87, Register 103; am 2 /23/2014, Register 203.)

Authority: AS 16.05.258





# Background

- Original subsistence statute had rural priority
  - Eliminated by court rulings
- October 2013 Joint Board addressed regulations
- Proposal deadline



# Recommendation and summary

- Take no action due to Joint Board action

CA 36. Repeal the second of three factors listed in 5 AAC 99.010(c) for distinguishing among subsistence users in Tier II hunts and fisheries. *(Amended with substitute language, RC 49 as amended, which repeals the pertinent language and adopts subsistence hunting and fishing definitions which are consistent with statutory definitions.)*

*Excerpt from ADF&G summary of actions, October 2013 Joint Board meeting*

## ADF&G – Take No Action



# Proposal 138

- 5 AAC 92.XXX. [new regulation]
  - In case of state, national, natural disaster, create emergency subsistence moose hunts
    - Quotas to villages according to human and moose population levels
  - Effect =
    - Moose harvest near villages during emergency would be limited by board-established quota, and
    - Authorities would control meat distribution

**Public proposal**

**ADF&G – Neutral**



# Advisory Committee positions

Delta AC – Support (11-9-0)    Upper Lynn Canal AC – no action    Anchorage AC – Oppose (0-14)

Wrangell AC – no action    Fairbanks AC – Oppose (0-13)

Mat Valley AC – Oppose (0-13-0)

Stony-Holitna AC – Oppose (1-3)



# Current regulations

- 5 AAC 92.400. Emergency taking of game.
  - Take game for food in “dire emergencies”:
    - Remote location
    - Involuntary absence of food
    - Unable to survive if game not taken
    - Cannot get food in time
  - Salvage requirements: all edible portions, deliver leftovers
- 5 AAC 96.625. Joint board petition policy.
  - Emergency petitions and emergency regulations in rare instances
- Emergency order authority
- No specific regulations for natural disasters or allocation of moose to villages



# Background

- Allocations on a hunt-by-hunt basis
- 1989 court ruling
  - Place of residence may not be a factor in determining who may participate in subsistence hunts
- Potlatch regulations
  - 92.017. Koyukon potlatch ceremony
  - 92.053. Permit to take moose for Nuchalawoyya Potlatch



# Comments

- Current authority
- Unclear who makes finding of emergency and who authorizes harvest



## Winter Moose Hunt Opens in Game Management Unit 17A

(DILLINGHAM) – The Alaska Department of Fish and Game and the U.S. Fish and Wildlife Service, Togiak National Wildlife Refuge, are announcing an extension of the winter moose hunt in Game Management Unit 17A. The season, which was scheduled to close on January 31, will be extended until February 14.

*Excerpt from ADF&G Emergency Order news release*



**ADF&G – Neutral**

# Proposal 140

- 5 AAC 92.010. Harvest tickets and reports
  - Require hunters to designate harvest as being taken for “wild food harvest for subsistence uses or for recreational values” for each harvest report or permit
  - Effect = Hunters required to classify harvest as either “wild food harvest for subsistence uses or for recreational values” on harvest reports

**Public proposal**

**ADF&G – Neutral**





# Advisory Committee positions

Anchorage AC – Support  
(14-0)

Mat Valley AC – Support  
(10-0-3)

Fairbanks AC – TNA

Northern Seward Peninsula (0-11)

AC – Neutral

Upper Lynn Canal AC –

Unclear – Minutes say  
opposed but vote is 8-0

Copper Basin AC – Oppose

Delta AC – Oppose (3-5-2)

Kodiak AC – Oppose (0-12)

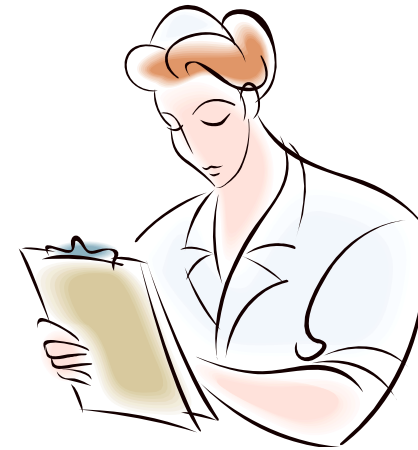
Sitka AC – Oppose (11-1)

Kotzebue Sound AC –  
Oppose (0-6)

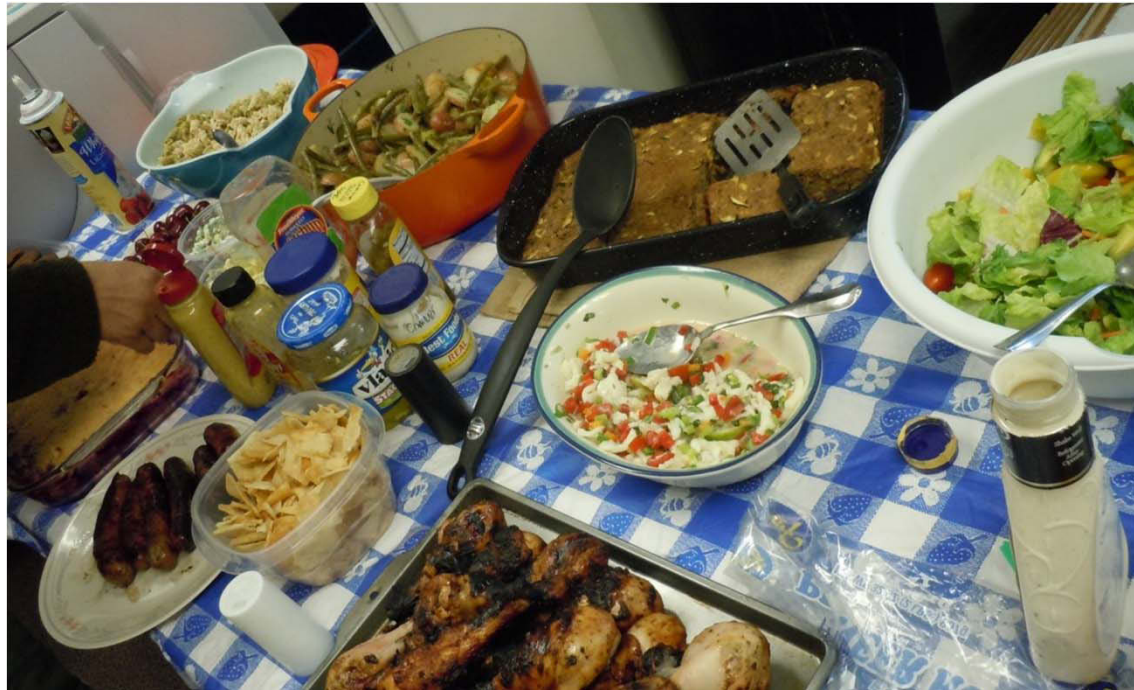


# Current regulations

- 92.010. Harvest tickets and reports
  - Harvest tickets = black bears (some units), deer, moose, caribou, sheep
    - Sex, antler configuration, age
    - Not required for caribou north of the Yukon River
  - Effort
    - Number of days
    - Date of kill
    - Location
    - Commercial services
    - Mode of transport
  - Certification statement
- Permit hunts use permit instead of harvest ticket and report
  - Bears, moose, caribou, sheep, elk, goats, muskoxen, bison
- No reporting regulations specific to characterization of harvest



# Background



- As required by regulation, most hunts by Alaskans provide wild food



# Background

- Limited utility for amounts reasonably necessary for subsistence (ANS) or reasonable opportunity for subsistence without additional information:
  - How uses correspond to customary and traditional use patterns as found by board
  - Information on factors considered by respondents when classifying harvest as either for subsistence uses or for recreation
  - Clarification if animal
    - Was harvested in nonsubsistence area, or
    - Had negative customary and traditional use finding



# Comments

- Not affect ability to manage for sustained yield
- Limited utility for regulatory or statutory purposes
- Board establishes ANS using participation and harvest from
  - Harvest tickets and reports from all Alaskans
  - Permit returns from all Alaskans
  - Systematic household surveys
  - Information provided by all Alaskans during board meetings
- Subsistence hunting and subsistence uses

<p><b>C1. Range = 1,250 – 4,250</b> Average harvest by all Alaskans from 1990–2009 (2,750 caribou) bounded by standard deviation of the mean = 1,500.</p> <p><b>C2. Range = 1,900 – 3,500</b> Average harvest by all Alaskans in years since 1990 that herd size has been within the management objectives of 35,000– 40,000 (2,700 caribou; 1990, 1998, 2004, 2005, 2006); bounded by standard deviation of the mean = 820.</p> <p><b>C3. Range = 1,300 – 2,700</b> Average harvest by all Alaskans in years since 1990 that herd size has been within management objectives of 35,000–40,000 (2,700 caribou) as the high end of the range; lowest harvest within these years as the low end of the range.</p>	
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*Excerpt from ANS options document*



# Comments, continued

- Most harvest reports already fully utilized to obtain information necessary for management
- May require larger cards, or that other information be omitted
- Board guidance regarding language and criteria for hunters to correctly report
- Cost to department

**ADF&G – Neutral**

