

Joint Comment in Support of FWS–HQ–NWRS–2022–0106

On behalf of Alaska Wildlife Alliance, Alaska Adventures, Inc., Oasis Earth, Denali Mountain Works, Cooper Landing Safe Trails Committee, Bike Cooper Landing, Hugh Rose Photography, and Friends of Alaska National Wildlife Refuges, we support RIN 1018–BG78 National Wildlife Refuge System Rule concerning Biological Integrity, Diversity, and Environmental Health (BIDEH). As Alaskan-owned organizations and businesses, we represent thousands of members and clientele seeking increased protections for wildlife in the National Wildlife Refuge system.

We feel the time is now to review how our nation’s biological integrity, diversity, and environmental health are best preserved in National Wildlife Refuges. The Rule contains three components we support:

- 1) Proposed updates to policy that better protect wildlife and ecosystems that are facing challenges today due to the climate crisis and more, recognizing how National Wildlife Refuges nationwide support a diversity of fish and wildlife populations across a network of healthy lands and waters.
- 2) Prohibiting predator control on National Wildlife Refuges across the country, including in Alaska. This policy is critical as the State of Alaska continues to target predators through both official Predator Control programs and liberalized predator hunting and trapping regulations.
- 3) The rule also requires cooperating and coordinating with local communities and Tribal entities, including defining how Indigenous Knowledge can shape management decisions. This is a step in the right direction.

Regarding the climate component of this Rule, the timing is of utmost importance for Alaska's Refuges. Alaska is warming 2-4 times the rate of the lower 48¹. It is overdue to revise BIDEH definitions to acknowledge that historical conditions may need to serve as a reference point, rather than an end goal, for managing refuges where climate change and other anthropogenic change are significantly altering ecosystems. This rule also provides necessary clarifications on Predator Control in all refuges, but especially Alaska.

For example, on the Togiak Refuge, Mulchatna caribou are in rapid decline because of climate change and changing shrub conditions on tundra. As permafrost thaws, managing these permafrost-dependent caribou to historic levels is not only unwise, it’s likely impossible. Fish and Wildlife Service conducted joint studies with Alaska Department of Fish and Game² to study the

¹ Jacobs, P., Lenssen, N., Schmidt, G. and Rohde, R., 2021, December. The Arctic is now warming four times as fast as the rest of the globe. In *AGU Fall Meeting Abstracts* (Vol. 2021, pp. A13E-02).

² Dufour, Melanie. Can Wolf Predation Be Good for Caribou? – Friends of Alaska National Wildlife Refuges. 9 Mar. 2020, alaskarefugefriends.org/can-wolf-predation-be-good-for-caribou/.

decline, specifically in the context of the State's ongoing wolf control program near the Refuge. That study, as well as others by the State, concluded that the primary causes of caribou mortality were 1) poor nutritional quality, 2) disease, 3) out-of-season human harvest³.

Despite these findings, in 2021, the State submitted a proposal to the Board of Game requesting that they open a wolf control program on Togiak Refuge to support the caribou⁴, stating in their comments, *"In Winter 2020 the Secretary of the Interior communicated to the Commissioner of Fish & Game that the Division of Wildlife Conservation should draft a plan for predation control on federal lands in Units 17 & 18 to address the declining caribou population."*

Between 2020 and 2021, when this proposal was considered, the Federal Administration had changed and the proposal could not be adopted. Instead, the Board of Game took the same proposal and used it to create a new bear control program surrounding the refuge, despite having no bear population data for any of the Game Units surrounding Togiak Refuge⁵. The State made a rough estimate that the bear control program would kill between 15-23 bears. In under three weeks, the State shot 99 bears from helicopters (20 of which were cubs) along the border of Togiak Refuge and in the neighboring Game Units. This program is scheduled to repeat every year on State lands border Togiak Refuge until 2028.

This example demonstrates why this rule is so important for Alaska refuges:

- The State of Alaska has repeatedly scapegoated predators as the primary cause of ungulate mortalities, despite repeated research to the contrary.
- The State of Alaska does not manage for BIDEH, but manages for 'sustained yield' which is often interpreted as 'maximum sustained yield' with less than perfect, and at times (such as the Mulchatna example) no data.⁶
- Managing to expressly historic levels, especially when the key reason for a species decline is climate, can set managers up to fail. In the face of such dramatic climate and habitat change, particularly for Alaska's arctic species, historical population objectives may no longer be possible. Managers should thus be permitted to uphold the mandates of BIDEH while being realistic about what can be historically maintained.
- The Mulchatna example highlights our agreement with the Rule's revision that climate change is a major driver in species decline and biodiversity loss, especially in Alaska.

³ Alaska Department of Fish and Game. *Mulchatna Overview*. 2022.

http://www.adfg.alaska.gov/static/regulations/regprocess/gameboard/pdfs/2021-2022/csw/rc4_tab1.4_mch_overview.pdf

⁴ Alaska Department of Fish and Game. *Proposal 21*. 2022.

https://www.adfg.alaska.gov/static/regulations/regprocess/gameboard/pdfs/2021-2022/csw/adfg_staff_comments_csw_12-17-21.pdf

⁵ Parshly, Lois. "Open Season with Alaska's Wildlife Numbers Declining, Agencies Are Blaming — and Culling — Predators. The True Threat Is Much More Complex." *Grist*, 10 Jan. 2024,

[Grist.org/science/alaska-predator-control-caribou-wolves-bear-hunt/](https://grist.org/science/alaska-predator-control-caribou-wolves-bear-hunt/).

⁶ Sterling Miller, et al. article – Efficacy of Killing Large Carnivores to Enhance Moose Harvests: New Insights from a Long-Term View, [Diversity | Free Full-Text | Efficacy of Killing Large Carnivores to Enhance Moose Harvests: New Insights from a Long-Term View \(mdpi.com\)](https://www.mdpi.com/2311-5531/11/1/1)

- While ecosystem conservation can serve an essential role in both climate change mitigation and adaptation, it is not always enough. In the Togiak context, not much can be done on a landscape scale to reduce permafrost thaw. However, that does not mean that managers can't do their best to manage the refuge for BIDEH in the future. This Rule would allow refuge managers the flexibility to implement a combination of responses to address climate change impacts and provide discretion for managers to choose the most appropriate mitigation and adaptation strategies for their specific refuge, while upholding the regulatory standard.
- Similar to the point above, we see a growing need for climate adaptation management in our State's refuges. The proposed regulation at paragraph (c)(2) and associated policy updates would prioritize deference to natural processes and support ecological connectivity as a means of achieving refuge habitat objectives and landscape planning goals. However, when natural processes are insufficient to meet refuge habitat objectives, the proposed language would direct managers to intervene with science-based management techniques that mimic natural processes in accordance with the proposed regulatory standard. This paves the way for managers to be more proactive in their response to climate change, while maintaining standards set forth in NEPA and other regulations. In sum, this rule provides flexibility without undercutting the responsibilities and mandates we support in the Refuge system.

We also support this Rule for its requirement to cooperate and coordinate with local communities and Tribal entities, including defining how Indigenous Knowledge can shape management decisions. This is a step in the right direction as Alaska navigates new climate futures. We also support the Rule's acknowledgement of subsistence hunting practices in the proposed Predator Control definition.

While vocalizing our support for the Rule, we seek four modifications for improvement:

1. The definition of "natural" could be replaced with "self-sustaining ecological" because we are in an anthropocene – everything from precipitation, weather, and even soil is anthropogenically influenced. The draft defines "Natural processes" as interactions among plants, animals, and the environment that occur "without substantial human influence", but we ask - what in the current landscape is not a condition of "substantial human influence"? For example, on the Kenai Refuge, treeline is rising, wildfires are increasing, peatlands are drying, permafrost is thawing, glaciers are receding, and non-glacial waters are warming without the obvious hand of man being involved. But the root cause of all those changes are anthro-caused greenhouse gas emissions and climate warming. Alaska's climate is warming 2-4 times the rate of the lower 48 because of human-caused climate change⁷; ocean acidification from human-caused climate change is impacting the food webs of marine and terrestrial refuges in Alaska. The ecological cascades of our changing climate are immense - there are no "natural processes" left. Therefore, instead of chasing a marker of "natural

⁷ Jacobs, P., Lenssen, N., Schmidt, G. and Rohde, R., 2021, December. The Arctic is now warming four times as fast as the rest of the globe. In *AGU Fall Meeting Abstracts* (Vol. 2021, pp. A13E-02).

processes”, we encourage seeing ecosystems as “self-sustaining ecological processes.”

2. The proposed regulations include an unnecessary – and potentially counterproductive – redundancy permitting predator control actions as necessary to protect public health and safety. The proposed regulations expressly exclude from the definition of “predator control” those “actions necessary to protect public health and safety and those enumerated under paragraph (d)(1).” 89 Fed. Reg. 7352 (proposed 50 C.F.R. § 29.3). This language is redundant and confusing, given that one of the express exclusions from the proposed regulation’s more general prohibition on predator control is “agency removal of native predator(s) solely to protect public health and safety.” 89 Fed. Reg. 7352 (proposed 50 C.F.R. § 29.3(d)(1)(i)). This language could be falsely read to permit a more liberalized view of predator control efforts, justified – rightly or wrongly – in the name of protecting public health and safety. The Service should consider removing the phrase “necessary to protect public health and safety” from the definition of predator control, as it is expressly included in proposed 50 C.F.R. 29.3(d)(1)(i). The Service should also add clarifying language to proposed 50 C.F.R. 29.3(d)(1)(i) to narrow this exception and protect against overbroad – and overly aggressive – interpretations justifying removal of native predators based on protection for public health and safety: “We do not consider the following actions to be predator control; Agency removal of native predator(s) solely to protect public health and safety from an imminent threat.”
3. The proposed regulations prohibit “predator control” except for under certain limited circumstances, but state that a number of “actions” are not considered by the Service to be predator control. Those actions include “Use of barriers or nonlethal deterrents to protect the public, property, or vulnerable species, **but that are not intended** to reduce native predator populations.” 89 Fed. Reg. 7352 (proposed 50 C.F.R. § 29.3(d)(1)(ii)) (emphasis added). Instead of basing this definition on “intent,” the Service should instead consider whether the barrier or nonlethal deterrents in question have the effect of reducing native predator populations. Regardless of intent, the Service should treat such barriers as predator control if they have the effect of reducing native predator populations, and therefore should allow them only under the narrow circumstances prescribed in proposed 50 C.F.R. § 29.3(d)(1).
4. The proposed regulations also state that “Compatible, refuge-approved recreational hunting and fishing opportunities that do not compromise maintaining biological integrity, diversity, and environmental health **on the refuge**” are not “predator control.” 89 Fed. Reg. 7352 (proposed 50 C.F.R. § 29.3(d)(1)(iv)) (emphasis added). First, the Service should not exclude “recreational hunting” from the definition of predator control where recreational hunts for the species in question are part of an overall program aimed either at reducing predator populations or at bolstering/increasing prey (ungulate) populations by controlling predators. Second, the Service should not exclude recreational hunting from the definition of predator control where programs for predator control for the species in question are in place outside

the Refuge. In other words, for species that are already subject to efforts to reduce their populations outside the Refuge lands, the Service should not exclude hunts on Refuge lands from the definition of “predator control” and should allow such hunts only where consistent with the requirements in proposed 50 C.F.R. § 29.3(d)(1).

Thank you for the proposed updates to the biological integrity, diversity, and environmental health of the National Wildlife Refuge system nationwide. We support strengthening how the agency best considers and protects biodiversity in the face of climate change. We hope the Rule can be finalized in a timely manner, as the impacts of climate change are immense in Alaska. As Alaskans, we support the Rule’s ban on predator control practices, specifically because of our interest in preserving Alaska’s Fish and Wildlife Refuges. Today, some of the state of Alaska’s hunting regulations and other management activities are designed to decimate wolf and bear populations, and this must end to ensure healthy wildlife populations for generations to come on National Wildlife Refuges.

Signed,

Nicole Schmitt, Alaska Wildlife Alliance

Dave Bachrach, Alaska Adventures, Inc.

Richard Steiner, Oasis Earth

Juliette Boselli, Denali Mountain Works

Lorraine Temple, Cooper Landing Safe Trails Committee

Mike Amos, Bike Cooper Landing

Hugh Rose, Hugh Rose Photography

Marilyn Sigman, Friends of Alaska National Wildlife Refuges