These antler restrictions protect the continued opportunity for the satisfaction of subsistence needs over the long term and provide more meat for the subsistence user.

Some commentors believed that ANILCA requires that Federal lands be closed to harvest by non-subsistence users before any restriction, such as the antler restriction, is imposed on subsistence hunters. The Board recognizes the responsibility to provide a meaningful priority for subsistence uses over non-subsistence uses on the Federal public lands, and that nonsubsistence uses must be reduced or proscribed before subsistence uses are limited. The Board determined that after a decade and a half with no subsistence seasons, the Federal subsistence moose season for Unit 15(B) and 15(C) on the Kenai Peninsula represents a major advance in providing for subsistence uses. The subsistence moose season adopted by the Board implements a subsistence priority in that during the first ten days of the season, subsistence users exercise an exclusive harvest opportunity on Federal public lands. This will result in a significant reallocation of harvest toward subsistence users. Non-Federally qualified subsistence users are restricted to entering Federal lands to hunt moose ten days later under the State season starting on August 20. The Federal and State seasons both end of September 20, and both include the antler restriction, which is at the center of management efforts to conserve a healthy moose population on the Kenai Peninsula.

Many commentors believed that the rural priority unfairly discriminates against non-rural residents. Sections 801(5), 802(1), and 803 of ANILCA confine the eligibility for qualifying for a subsistence priority to rural Alaska residents. The Board is obligated to implement the rural priority as mandated by Congress in ANILCA.

A large number of commentors believe that the communities of Hope, Cooper Landing, Ninilchik, and other areas on the Peninsula with the exception of Port Graham, Nanwalek, and possibly Seldovia are non-rural. The issue of whether or not a community is rural or nonrural for the purposes of Title VIII is beyond the scope of this rulemaking. The Board will, however, in the future, reexamine these communities to determine if their status should be changed. That effort will be widely publicized and comments solicited from the public.

Two commentors indicated that they believed an economic analysis should be completed for this rule. The economic impacts of this rule are minimal, because there is no closure of Federal public lands to non-Federally qualified users. Should it be necessary to close the Federal lands to non-Federally qualified users, a more detailed examination of the economic impacts will be completed.

A number of commentors were concerned about non-residents and parttime summer residents, as well as new residents hunting under the Federal Subsistence Management regulations. Federal regulations prohibit anyone except Federally-qualified subsistence users from hunting under the Federal Subsistence Management regulations. The regulations define resident as "any person who has his or her primary, permanent home within Alaska and whenever absent . . . has the intention of returning to it." These regulations automatically disqualify nonresidents and part-time residents. They do provide the opportunity for new residents moving permanently into a rural community to adopt the practices of that community, including the subsistence taking of fish and wildlife

A few commentors felt that non-rural residents were discriminated against because they had no representation on the Southcentral Regional Council. The only requirement for membership on the Regional Council is residency within the region. Applications are solicited annually with the most qualified individuals, based on their knowledge of subsistence uses and needs and their knowledge of other uses of fish and wildlife resources, being recommended to the Secretaries for appointment. Members of the Regional Councils represent their entire region. Currently two members of the Southcentral Regional Council are from the Kenai Peninsula.

A few individuals stated that there was inadequate opportunity for public input. Recognizing the level of public concern and the importance of this issue, the Board set a comment period that exceeded 60 days and held public hearings in 7 communities on the Kenai Peninsula plus Anchorage. The hearings were held during the day and in the evening, during the week and on the weekend to provide ample opportunity for public comment.

Some commentors felt that the proposed regulations ignore the purposes for which the Kenai National Wildlife Refuge was established and that subsistence is not consistent with those purposes. The purposes of the refuge as stated in Section 303 of ANILCA and the Section 804 subsistence priority are not mutually exclusive. Implementation of the

subsistence priority does not prevent the Fish and Wildlife Service from fulfilling its responsibility to manage the Kenai Refuge according to the Section 303 purposes.

Many commentors indicated that the Federal government should not be involved in management of fish and wildlife resources in Alaska. The Secretaries and the Board agree that it is preferable for the State of Alaska to manage the subsistence taking and use of fish and wildlife. However, until such time as the State comes into compliance with Title VIII, the Federal government must provide implementation of Title VIII as directed by Congress.

Conformance with Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (EIS) that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments and staff analysis and examined the environmental consequences of the four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992

Based on the public comment received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, it was the decision of the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, to implement a modified Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulation for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940-