

**Evaluation of Comments  
on Proposed Regulations  
11 AAC 96  
99-08-0067**

**August 29, 2008**

**Comment Summary.** A total of 84 comments on the proposed regulations were received from individuals and groups. The majority of the comments were in support of the proposed regulations, either generally or in regard to specific paragraphs or subparagraphs. Some of these suggested changes, increases or decreases to specific limits in the regulations. Comments expressed in opposition were typically specific in their concerns with focused issues, however many of the opposition comments were based on a misunderstanding of the nature, purpose and effect of the proposed regulations.

Many of the commenters were of the belief that the proposed regulations are intended to change the department's management regulations, such as Generally Allowed Uses (11 AAC 96.020), or change limitations or restrictions on state lands. This is not the case. However, some of the proposed regulations do more specifically define an existing limitation in order to establish measurable limits on which to gauge violations of the existing regulation. Others believed that the regulations were redundant, creating new rules that repeated other existing laws or regulations. Again this is not the case. The expressed purpose of these proposed regulations is to establish citation authority in regulation for DNR and law enforcement officials to allow for the enforcement of existing state land management regulations, such as Generally Allowed Uses(11 AAC 96.014). This authority was created for DNR in the Knik River Public Use Area by the legislature under ch. 83 SLA 2006

**Responses to Issues**

**General Comments:**

30 commenters expressed general support for the entire regulations package stating in various ways that the regulations would improve the safety and utility of the area for the public. Many of these offered suggestions that would exceed the scope and intent of the proposed regulations. Such comments include in comment summaries for each subparagraph. 8 commenters expressed general opposition to the proposed regulations. Some of these were generally of the position that they did not want any more additional regulation or restrictions on the use of state land. Others believed that the regulations did not go far enough to provide protections for the resources and uses in the area, and/or that the proposed regulations were an indication that the department was disregarding earlier comments and concerns, or worse circumventing or overturning existing protective regulations. One person thought the whole project was less than sensible. 2 general comments were statements and could not be categorized as neither in support or opposition.

Issue/Response by section.

**11 AAC 96 .014(25) Knik River Special Use Area 1 support**

**Issue:** This area should be managed in the same manner as the KRPUA

**Response:** It is the intent of the department to manage the Knik River Special Use Area using the same management guidelines and principles as the Knik River Public Use Area. However, because this area was not included in the enabling legislation (ch. 83. SLA 2006, AS 41.23.180- 41.23.230) it is not subject to the same enforcement authorities and therefore the violations and citation provisions of 11 AAC 96.015 will not apply.

**11 AAC 96 .015(a) Designated public use areas 1 support, 1 oppose**

**Issue:** change language on "page 2" to read..." within the KRPUA the following restrictions apply..." Whole page is garbage.

**Response:** This subsection is intended as "purpose" lead in for the entire section, and to apply to all public use areas in the state, not just the Knik River Public Use Area. As such this change would be inappropriate. The proposed regulation is not intended to create a new use restriction on state lands but to define a violation based on existing land use restriction or limitations on which an enforcement officer can issue a bailable citation. Subsection 11 AAC 96.015(c) and (d) identify those violations for the Knik River Public Use Area. The department believes that the proposed regulations will best serve the public and does not believe that the proposed regulations are garbage.

**11 AAC 96 .015(b) 2 support, 1 oppose**

**Issue:** General support expressed.

**Response:** DNR appreciates your support of this regulation.

**Issue:** These regulations propose a registration/permitting process for commercial recreation but do not establish criteria for the granting of a permit. There should be some commercial activities that are limited in number or not permitted at all due to their detrimental impact on vegetation, wildlife and recreation users.

**Response:** The registration/permitting process for commercial recreation activities on all state lands is already in place through 11 AAC 96.010 and 020. The proposed changes to these sections simply incorporate the authorities established under AS 41.23.180-

41.23.230 in these regulations. The intent in doing this is to make explicit the department's authority to regulate these activities and to issue citations for violations of management regulations. Criteria for the granting of a permit and any limitations are established in the Division of Mining, Land and Water's permitting procedures, and regulations, as well as the management plan(s) for the area.

These proposed regulations are not intended to create new use restrictions or management standards within the Knik River Public Use Area, but to define violations based on existing land use restrictions or limitations on which an enforcement officer can issue a bailable citation.

### **11 AAC 96.015(b)(3) and (c)**

**Issue:** Generally Allowed Uses ... SHOULD BE: ... are allowed uses ... The use of "generally" invites interpretation and flexibility. The word is not necessary here.

**Response:** The language in this subsection is making reference to an existing body of land management regulations under 11 AAC 96.020, Generally Allowed Uses (GAU's). Those regulations identify uses and activities on state land that area generally allowed without a permit or registration. Changing 11 AAC 96.015(b)(3) to eliminate the word "generally" would create confusion and inconsistency in the relation of these two sections and would be inappropriate.

**Issue:** One commenter stated that the whole page [of regulations] is garbage.

**Response:** The department disagrees and believes that the proposed regulations will best serve the public and does not believe that the proposed regulations are garbage.

### **11 AAC 96 .015(c) 1 support, 1 oppose**

**Issue:** One commenter stated that the whole page (section) is garbage.

**Response:** The department disagrees and believes that the proposed regulations will best serve the public and does not believe that the proposed regulations are garbage.

**Issue:** Another commenter suggested the following edit: a person may not ... SHOULD BE: a person shall not ... The correct legal terminology is "shall".

**Response:** The restrictive use of "may" in these enforcement regulations is the correct usage.

**11 AAC 96 .015(c)(1)** (restriction and violation regarding vehicle abandonment) **16 support, 1 oppose, 2 unknown**

**Issue:** Several commented that a provision should be added providing a period of time for the owner to remove the vehicle and for the revocation of the citation if the vehicle is shown to be out of the area within the time allowed. Suggestions from 24 to 72 hours.

**Response:** DNR will consider adding a provision to the regulation allowing for revocation of the citation if the abandoned vehicle is removed from the KRPUA within 72 hours of the issuance of the citation.

**Issue:** (Use of expletives). One commented that abandoning a vehicle is already a violation of state law. See AS 28.11.010

**Response:** These proposed regulations are not intended to create new use restrictions or management standards within the Knik River Public Use Area, but to define violations based on existing law, land use restrictions or limitations on which an enforcement officer, appointed by the commissioner, can issue aailable citation. This regulation is needed for that to happen, and thus is not redundant.

**Issue:** One commenter thought that the proposed changes for the KRPUA will not work, teenage offenders will not stop. They suggested blocking access with a long mud hole with ATV bypass along side of it at the beginning of the trail. This area is not safe for people driving cars and two wheel drive trucks, the majority of littering is from the teenage partying and most of them would not be able to get back there in what they are driving if the trail conditions were like it used to be.

**Response:** DNR disagrees. The department believes that a monetary fine, while it will not totally eliminate the practice, it will create a disincentive to people abandoning vehicles in the area. The fine will also help to offset the departments cost in vehicle removal. It is not the department's intent to restrict vehicle access within the KRPUA.

**11 AAC 96 .015(c)(2)** (restriction and violation regarding transport a non-functional vehicle) **14 support, 1 oppose, 0 unknown**

**Issue:** One commented that there should be a limit on the number of large vehicles within the 10,000 pound weight authorized to use the area and an upper limit established beyond which no authorizations will be issued.

**Response:** DNR disagrees. The use of highway vehicles is a generally allowed use under 11 AAC 96.020. These proposed regulations are not intended to create new use restrictions or management standards within the Knik River Public Use Area, but to define violations based on existing law, land use restrictions or limitations on which an enforcement officer, appointed by the commissioner, can issue aailable citation.

**Issue:** One asked: how does DNR propose to enforce this [regulation]. See AS 28.11.010. [DNR is] duplicating existing law.

**Response:** DNR maintains a dedicated management officer for the KRPUA. This officer will be able to call in Alaska State Trooper support to issue citations as needed. The Department intends to appoint and train at least one dedicated enforcement officer capable of issuing citations directly on behalf of the department.

These proposed regulations are not intended to create new use restrictions or management standards within the Knik River Public Use Area, but to define violations based on existing law, land use restrictions or limitations on which an enforcement officer, appointed by the commissioner, can issue aailable citation. This regulation is needed for that to happen, and thus is not redundant.

**11 AAC 96 .015(c)(3)** (violation regarding vehicles over 10,000) **19 support, 4 oppose, 2 unknown**

**Issue:** Most approve of the proposed regulation. However, some would like to see a decrease in the allowable curb weight from 10,000 lbs. Generally to 6,000 to 8,000 lbs. Some did not want any weight restrictions, for some they were concerned that such limitations would impede spring clean up operations. Others were concerned about the impact of larger vehicles on habitats and wildlife.

**Response:** This proposed regulation does not create or change land use restrictions or management standards within the Knik River Public Use Area, but defines violations based on existing law, regulations, land use restrictions or limitations on which an enforcement officer, appointed by the commissioner, can issue aailable citation. This regulation does not set a weight limit for use of vehicles on state land. 11 AAC 96.020(a)(1)(D) sets limits the use of a highway vehicle on state land to those with a curb weight of 10,000 lbs. Use of a highway vehicle on state lands that exceed that limit must be permitted by DNR. This proposed regulation, and 11 AAC 96.015(d), simply makes use of a highway vehicle, exceeding the existing 10,000 lb limit, on state land without a permit, a citable offense.

**Issue:** A few commented that currently, Generally Allowed Uses on state land allows vehicles, "...if use off the road easement does not cause or contribute to water quality degradation, alteration of drainage systems, significant rutting, ground disturbance, or thermal erosion." Currently, an authorization is required by DNR for any vehicle of any size causing the above.

They opposed rescinding this rule by requiring permits only for vehicles above 10,000 lbs. while allowing other vehicles to drive through waters and wetlands without restriction. Lacking bridges, vehicles of all curb weights up to 10,000 traveling to the Knik Glacier will have to drive through anadromous streams, destroying stream banks, stream bank vegetation and in-stream habitat, contaminating fish-bearing waters with

fluids and hazardous substances, without regard to HB307-Sec. 41.23.180, Paragraph 2. Request the department limit the number of vehicles of all sizes traveling through the waters unless roads and bridges are constructed, and to conform to Sec.41.23.200 – Incompatible Uses (b): Nothing in AS.41.23.180-41.23.230 prohibits the department of Fish & Game from engaging in rehabilitation, enhancement, and development of fish and wildlife habitat. Rules to be consistent and to be enforced with existing state and federal laws regulation regarding hazardous materials including automotive fluids in fish-bearing waters and waters of the United States.

DNR's proposed rules No. 3 and 4 DO represent the rescinding of existing State of Alaska statutes which would protect these areas and others. They were very much opposed to changing the existing rules that would allow the continued rutting of trails, destruction of the vegetative mat, erosion of stream banks, and the contamination of our waters.

They thought that Alaskan industries, from construction to mining and oil and gas have to follow the rules that protect wildlife habitat, natural resources and clean water. These industries have incredibly high costs in order to follow these rules and pay incredibly high penalties if they violate them.

They felt that it is not fair that DNR proposes to take away the protection of habitat, natural resources and clean and abundant water to satisfy the desires of the recreational motorized industry in order to continue the ongoing destruction in Knik River Valley.

**Response:** This proposed regulation does not rescind any existing law or regulation. This proposed regulation creates the authority in regulation for a bailable citation that will enable the department to prosecute violations of certain existing land use limitations set in existing departmental regulations. See response above regarding enforcement of existing regulations.

Other issues expressed in this comment are outside the scope of the proposed regulations. AS 41.23.190 states that the commissioner will adopt and revise a management plan for the area. This plan is currently being drafted and will be released for public comment soon. Issues regarding vehicle use restrictions and habitat protection raised in this comment may be addressed in that management plan. Should the plan restrict size or use of vehicles within the portions of the KRPUA, the department will propose additional regulations to modify the GAU's under 11 AAC 96.020, and enforcement under 11 AAC 96.015 as appropriate.

**Issue:** Several thought that a lower vehicle size limit should be established for the KRPUA. They would rather see a limit set of between 5,000 and 8,000 lbs. They offered that the curb weight of large sport utility vehicles is less than 8,000 lbs. The operation of a vehicle larger than this will have considerable impact on fish and wildlife resources, will damage softer trails diminishing user experience for all other user groups, and should require prior written authorization. Commercial activities, clean up efforts, military

operations, major trail work or other activities require prior arrangement anyway as addressed elsewhere in statute and regulations. Hence, this regulation primarily addresses private recreational use for which the 10,000 lb weight allowance is not supportable.

**Response:** This issue is outside the scope of these proposed regulations. See responses above regarding enforcement of existing regulations and adoption of a management plan for the KRPUA. Private recreational use of vehicles up to 10,000 lbs is supported and allowed under 11 AAC 96.020(a)(1)(D).

**Issue:** One asked whether “curb weight” need to be defined for this document? Does it include a full tank of fuel? What are the vehicle components included in the curb weight? Are after-market accessories or customizations included in the calculation of this curb weight?

**Response:** “curb weight” is defined under 11 AAC 96.250(11). The definition does not address after-market accessories or customizations but it can be reasonably assumed that weight of the vehicle would include any of these fixtures intended to be attached to the vehicle and contributing to its operation. E.g. A tow hitch but not a trailer, a camper or shell but not a portable tool box.

**Issue:** One thought that this is essentially the same regulation within 11 AAC 96.020 governing Generally Allowed Uses (GAU) on state lands. If we are to protect areas within KRPUA, keeping the same statute (5AAC 11.96.020) that already governs other state lands doesn’t go far enough. Commenter opposes this regulation for that reason and would like to see a weight restriction based on GVWR that is not higher than 8,000 pounds GVWR.

**Response:** The purpose of this proposed regulation is not to create or amend existing use restrictions or management standards within the Knik River Public Use Area, but to define violations based on existing law, land use restrictions or limitations on which an enforcement officer, appointed by the commissioner, can issue aailable citation. 11 AAC 96.020(a)(1)(D) sets limits the use of a highway vehicle on state land to those with a curb weight of 10,000 lbs. Use of a highway vehicle on state lands that exceed that limit must be permitted by DNR. This proposed regulation, and 11 AAC 96.015(d), simply makes use of a highway vehicle, exceeding the existing 10,000 lb limit, on state land without a permit, a citable offense. Other issues expressed in this comment are outside the scope of the proposed regulations. See responses above regarding enforcement of existing regulations and adoption of a management plan for the KRPUA.

**Issue:** Many expressed concerns regarding the requirement to obtain a permit for the operation of a vehicle over 10,000 lbs. Such vehicles or equipment may be necessary for rescue efforts, annual area cleanups or to retrieve other vehicles which may have broken down or been abandoned. The concern was expressed that the permitting process should

not be difficult or time consuming and that the area manager be vested with the authority to issue such permits.

**Response:** This issue is outside the scope of these proposed regulations. See responses above regarding enforcement of existing regulations and adoption of a management plan for the KRPUA. This proposed regulation does not create the requirement for a permit for the operation of a vehicle over 10,000 lbs on state land. 11 AAC 96.010(a)(1)(B) is the existing regulation that creates that requirement. This proposed regulation, and 11 AAC 96.015(d), simply makes use of a highway vehicle, exceeding the existing 10,000 lb limit, on state land without a permit, a citable offense. The South Central Region of the Division of Mining, Land and Water is delegated the responsibility of permitting land use activities in the KRPUA. While it is anticipated that the KRPUA manager will have the authority to issue most types of land use permits to facilitate a timely response, there will likely be some authorizations that require the involvement of other state and/or federal agencies and may take longer to adjudicate.

**11 AAC 96 .015(c)(4)** (violation regarding disturbance of the wetlands or vegetative mat to a depth greater than six inches) **2 support, 7 support with modification , 22 oppose, 5 unknown**

**Issue:** A few commented that one violation depth for all soil or terrain types made no sense. Variable depths need to be set for the various areas within the KRPUA based on soil types and conditions. One thought that the regulation should be revised to reference these areas as identified in the proposed management plan for the KRPUA currently under development. This plan could include a table and maps of different soil types and allowable impact levels on a scale that would allow reasonable management of the KRPUA.

**Response:** It is not the purpose of this proposed regulation to create or amend land use restrictions or management standards within the Knik River Public Use Area, but to define a violation based on existing regulations, land use restrictions or limitations on which an enforcement officer, appointed by the commissioner, can issue a citable citation. In this case, 11 AAC 96.020(a)(1)(D) and 11 AAC 96.025(1)-(3) (Generally Allowed Uses) are the existing regulations that address impacts to state land and resources resulting from generally allowed vehicle use. The purpose of this proposed regulation is not only to establish a violation, for which citations can be issued, but to set reasonable and enforceable threshold levels of impact that could result in the issuance of the citation.

AS 41.23.190 does require the commissioner to adopt and revise a management plan for the KRPUA and this plan is being developed. It is this land use plan that will take into consideration soil types and potential adverse impacts, and establish appropriate land management standards on a unit by unit basis. This plan will address management standards within the KRPUA and may, in part, condition these on soil types, location and land forms.

It would be inappropriate to amend this proposed regulation to reflect soil classifications that may be identified in a management plan that has yet to be adopted.

Issues raised in this comment are more appropriate for that land planning effort. Should the plan identify areas within the KRPUA that require greater protections or management standards greater than those provided in 11 AAC 96.020(a)(1)(D) and 11 AAC 96.025(1)-(3), the department will propose additional regulations to modify the Generally Allowed Uses under 11 AAC 96.020, and enforcement under 11 AAC 96.015, as appropriate.

**Issue:** Most commented in opposition to this proposed regulation as they believed that the effect of the proposed regulation was to rescind, weaken or reduce the protections provided by 11 AAC 96.020(a)(1)(D) and (E)(Generally Allowed Uses) with regard to protecting state lands from significant rutting and ground disturbance. They also expressed belief that the proposed regulation set a 6” as the definition of “significant rutting” as used in 11 AAC 96.020(a)(1)(D) and (E), and that level of disturbance was arbitrary, inappropriate to many soil types. The concern was that setting six inches as the threshold for the issuance of a citation would allow for, or encourage, the wholesale destruction of many sensitive areas, including wetlands, within the KRPUA. A related concern was that allowing this level of impact would also degrade habitats and impact wildlife in these sensitive areas.

Some wanted the regulation amended to provide for no damage or impact to wetlands within the KRPUA.

**Response:** DNR respectfully disagrees with these comments. Those expressing these concerns misunderstand or misinterpret the purpose and intent of the proposed regulations.

This proposed regulation does not modify or rescind the generally allowed use regulations under 11 AAC 96.020(a)(1)(D) and (E). The opposite is the case. The purpose of proposed regulations 11 AAC 96.015(c)(4), and 11 AAC 96.015(d), is two fold;

1) to make the operation of a vehicle in a manner that results in disturbance of the wetlands or vegetative mat, without a state land use permit, in violation of 11 AAC 96.020(a)(1)(D) or (E) and 11 AAC 96.025(1)-(3), a citable offense enforceable by the department, and

2) to define the measurable limit of disturbance, from the operation of a vehicle, that could result in the issuance of that kind of citation and collection of a fine.

These proposed regulations will give the department the ability to enforce these two existing regulations, it does not weaken them. This proposed regulation creates a violation and that will enable the department to prosecute violators of these existing land use regulations, through the issuance of aailable citation, in a timely and efficient manner. The proposed six inch limit applies only to the depth of damage that will trigger

this new, stronger, citation authority, it does not eliminate any existing enforcement authority the department has to manage state land.

These new regulations are needed because currently the department's only recourse for enforcing its land management regulations was through civil legal action, specifically a law suit. This has proven to be a costly, time consuming, and ineffective way of stopping or preventing such violations. Use of this method of enforcement would not be effective within the heavily used KRPUA.

The intent of these proposed regulations is to provide stronger protective measures regarding the state resources, wildlife habitats, and recreational uses of the area. DNR did not intend this proposed regulation to prosecute every vehicle operator that violates 11 AAC 96.020(a)(1)(D) or (E) but to address the worst, most blatant cases, those creating disturbances greater than six inches.

In order for the department to have an easily used, enforceable, regulation of this kind, a quantifiable level of the violation had to be established. Because 11 AAC 96.020(a)(1)(D) or (E) use the subjective and unenforceable term "significant rutting" an objective and measurable standard had to be established in this proposed citation regulation. 11 AAC 96.15(c)(4) defines a measurable, maximum, level of disturbance of the wetlands or vegetative mat throughout the KRPUA of six inches. This does not mean that significant rutting or ground disturbance of wetlands or the vegetative mat is allowable. It simply means that if that activity occurs over the established limit a bailable citation can be issued to the violator.

DNR recognizes that certain areas within the KRPUA are more sensitive than others and these will be identified and protected in the management plan currently being developed. Until these areas are identified and protection measures addressed in the department's management plan, DNR's enforcement regulation has no basis on which to make distinctions with regard to different levels of impact or enforcement to different soils or habitat. Therefore a uniform six inch level was established over the entire KRPUA. Once these more sensitive areas are identified and specific protection measures adopted in the management plan, a second phase of regulation development will be undertaken to modify the currently proposed regulation and may adopt new ones targeted at making violations in more specific sensitive areas.

That does not mean that these proposed regulations do not provide DNR with the ability to impose citations for disturbances under six inches in these sensitive areas. This, in part, is a purpose for the regulation proposed under 11 AAC 96.015(d). This proposed regulation provides that "a person who fails to acquire, or abide by the terms, conditions or limitations of, a permit required under (b)(1) of this section, register under (b)(2) of this section, or who engages in a use or activity prohibited under (c) of this section is subject to citation." Use of a highway or off-road vehicle in a manner that causes significant rutting or ground disturbance is not a generally allowed use, and thus would require a permit. In situations and areas where the department considers rutting or disturbance of the vegetative mat, less than six inches in depth, a significant violation of

11 AAC 96.020(a)(1)(D) or (E) then the an authorized enforcement officer could issue a bailable citation under this regulation as well. This means that any rutting or disturbance that the enforcement officer determines as “significant” can result in a citation. However, because “significant” is a subjective standard, the enforcement office would have to gather more evidence and document a case to a much greater degree in order to have the citation sustain a court challenge.

The proposed regulation does not attempt to define “significant” as used in 11 AAC 96.020(a)(1)(D) and (E), nor does it allow for or encourage the violation of these two generally allowed use regulations. As stated previously, “significant” is a subjective term and can mean different levels of impact in different soil types and conditions. A “significant” case of rutting would have to be proved on a case by case basis. The department maintains the same ability it held before these regulations were proposed to civilly prosecute violators of 11 AAC 96.020(a)(1)(D) and (E) in court. These proposed regulations provide the department with two alternative ways to enforce the generally allowed use regulations.

**Issue:** One commenter stated their objection to what they perceived was a proposed regulation that allowed for the stripping of the vegetative mat, that such a regulation was unsustainable from a biological and ecological perspective, especially when considering the negative cumulative effects through time. They further stated that the “six-inch rule” was indefensible (i.e. unscientific), unenforceable, and unacceptable. The proposed regulation also does not protect those areas that have been both scarred or denuded of vegetation as a result of uncontrolled recreational activities (e.g. dunes, creek beds, forest, and wetlands). Another wondered how DNR arrived at the six inch limit.

**Response:** As explained previously, the purpose of this proposed regulation is to establish a violation that will provide the department with the ability to issue a citation for operation a highway or off-road vehicle in violation of 11 AAC 96.020(a)(1)(D) and (E).(See first Issue Response) It is intended to give DNR a stronger tool that will allow the department greater ability to enforce its existing land use regulations. The proposed regulation was not intended to address cumulative impacts of previous or current vehicle use, only the individual violations. These types of issues should be addressed in the pending Management plan for the KRPUA.

The department considered limits ranging from zero to six inches when determining where to set the citation threshold. The six inch limit was not derived by any scientific method, but rather through the consideration of the physical characteristics of most highway and off-road vehicles, and the department practical ability to enforce generally allowed use regulations in the field.

Because the threshold would apply generally over the entire KRPUA, questions about defensibility of whether ruts of this depth could be considered “significant” and considering the limitations of DNR’s onsite enforcement capacity, impact depths of zero to four inches were ruled out. Six inches was determined to be a reasonably average height of the bottom of differential and transmission housing on these types of vehicles.

It was also thought to be an average depth at which the vegetative mat would be broken and the underlying, loose soils exposed.

Again, the department is not trying to create management standards for the KRPUA or define specific, soil-type by soil-type significant impact standards, but provide a general, defensible, KRPUA-wide enforcement standard that will allow for the issuance of a citation at a certain level of impact. Considering the purpose and the intent, the department considers the proposed regulation and six inch standard to be defensible, enforceable, and acceptable.

**Issue:** A few commenting in opposition to this subparagraph expressed concern that they believed the proposed regulation was not consistent with the provisions of the laws and purposes for which the KRPUA was created.

One comment stated that: “Disturbing wetlands is not consistent with the purpose of AS.43.23.180-230 to perpetuate, enhance, protect and maintain habitat. The department shall allow only those uses in the wetlands which are consistent with Sec. 41.23.180 “

They further referenced Sec. 41.23.190, subsection (d), which states: “(d) The commissioner shall identify wetland areas within the Knik River Public Use Area and provide for the protection and use of the wetland areas in the management plan.

They went on to say: “The department shall allow only those uses in the wetlands which are consistent with Sec. 41.23.180 – Paragraph 2; Sec. 41.23.190 Sec. d states that the “The commissioner shall identify wetland areas within the Knik River Public Use Area and provide for the protection and use of the wetland areas in the management plan. We see this as “Use appropriate to wetlands, such as non-motorized on land and water with prime consideration to protect and maintain migratory and resident waterfowl and wildlife habitat.” The determination of viability of vegetative mat shall be based on science. In addition, we urge the Commissioner to designate this unique and productive habitat, consisting of wetlands, lakes and dunes, as either “Critical Habitat,” or an “Area Meriting Special Attention,” as has been recommended in several scientific studies and government plans for the past 25 years.”

**Response:** See previous response regarding the purpose and intent of the proposed regulation.

DNR believes the proposed regulation to be consistent with purposes and requirements of AS 41.23.180- AS 4123-230. The proposed regulation does not permit the destruction of wetlands or habitat within the KRPUA through the allowance of disturbance of the wetlands or vegetative mat to a depth greater than six inches. Rather the proposed regulation allows the department to enforce existing land use restrictions or limitations by defining a violation based on which an enforcement officer can issue aailable citation. This violation threshold is set at six inches.

The statutes cited do not say that a purpose of the KRPUA is to ...”to perpetuate, enhance, protect and maintain habitat”. Rather, the statute stays in full:

The purpose of [AS 41.23.180](#) - 41.23.230 is to establish the area described in [AS 41.23.230](#) as the Knik River Public Use Area. The Knik River Public Use Area is established to

(1) perpetuate and enhance

(A) general public recreation;

(B) public enjoyment of fish and wildlife;

(2) protect and maintain migratory waterfowl nesting areas; habitats for moose, Dall sheep, and brown bear; and other fish and wildlife habitat so that traditional public use of fish and wildlife populations may continue;

(3) provide an area for the public to enjoy the full spectrum of public uses, including maintenance and enhancement of off-road motorized vehicle and nonmotorized recreational opportunities;

(4) allow

(A) continued motorized access for miners and owners of private property in the Knik River Public Use Area; and

(B) additional public uses of the area determined by the commissioner to be compatible with this section.

The department is not required to allow only those uses in the wetlands which are consistent with AS. 41.23.180. There are many resources and public uses of the KRPUA that are identified, and DNR is charged with managing and balancing multiple uses of the area. Off-road motorized vehicle activities, non-motorized recreational opportunities and protection and maintenance of habitats within the area all have equal significance in the law and each are consistent with AS 41.23.180.

DNR may consider whether designating unique and productive habitats, wetlands, lakes or dune areas as Critical Habitat or Areas Meriting Special Attention, in the management plan which is currently under development.

**Issue:** Vegetation disturbance of six inches or more requires considerable time for recovery due to the sensitive nature of the wetlands and shoreline vegetation and the cold climate of the area. The required limit for authorization should be 2 inches and no vehicles should be given authorization to exceed 6 inches.

**Response:** 11 AAC 96.010(a)(1)(B), 11 AAC 96.020(a)(1)(D) 11 AAC 96.020(a)(1)(E), in combination, set the limit for highway or off-road vehicle use on state land that requires authorization. This proposed regulation does not set a limit for the requirement of an authorization but defines a violation based on these existing regulations, on which an enforcement officer can issue a bailable citation. Whether vehicle use is authorized by permit to leave ground disturbance greater than six inches will be determined by the department on a case-by-case basis.

**Issue:** A few commenters raised the issue of existing and cumulative impacts. They expressed concern that the proposed regulation would encourage ATV drivers to seek lands that have less than 6" disturbance and that this would spread out the impacts. They thought that it would be difficult to promulgate a more restrictive regulations later. They believed that ATV's and other vehicles cause significant and lasting damage to wetlands.

A commenter expressed the opinion that wetlands are crucial to overall health of ecosystem and inhabitants and are an important recreational resource. They believed the proposed regulation was not consistent with General Allowed Use regulations and asked DNR to reconsider this ill-conceived regulation. Use General Allowed Uses regulations and Proposed regulation 11 AAC 15(c)(18) to manage ATV use. They also raised the question of whether a person drive in a rut that is already over 6 inches is that person in violation of the disturbance regulation.

**Response:** As addressed in an issue response, the proposed regulation was not intended to address cumulative impacts of previous or current vehicle use, only the individual violations. These types of issues should be addresses in the pending management plan for the KRPUA. DNR disagrees that these proposed regulations would increase the difficulty in adopting more restrictive regulations in the future. In fact, the department intends to undertake a second round of regulations development once the management plan for the KRPUA has been adopted. These future regulations could include stricter limits and more violations to implement the management plan.

As also addressed in previous issue responses, the proposed regulation is not only consistent with the Generally Allowed Uses regulations they are intended to give the department the increased ability to enforce select uses addressed in those regulations. Proposed regulation 11 AAC 15.(C)(18) does not address or control ATV use, but establishes a limit on the creation of new trails (both pedestrian and vehicular) and defines a violation based on that limitation and existing regulations on which an enforcement officer can issue a bailable citation.

With regard to whether a person travelling on ground that has been previously disturbed and is exceeding the six inch limit could be issued a violation, DNR is primarily interested addressing the avoiding and penalizing the creation of new disturbances. DNR does not anticipate that travel in an existing "rut" without increasing the severity of the impact would result in a citation, however, the department does anticipate that the

enforcement officer will use their discretion in determining how a violation will be handed out.

**Issue:** Several commented regarding the use of vehicles, ATV's or off-road vehicles in the KRPUA. They believed that motorized vehicles cause significant and lasting damage to wetlands, and that these vehicles were responsible for the majority of the impacts to soils and vegetation in the KRPUA. They also expressed belief that another problem was the creation of a spider web of new, unauthorized or renegade trails created by motorized vehicles within the public use area.

Many believed that this proposed regulation may add to the problems in the KRPUA because vehicle operators would try to avoid a depth of 6 inches so as not to get stuck or bogged down by going around the muddy spots causing the damage to be spread. They suggested that the proposed regulation should be amended to restrict use only on existing trails.

Several expressed the opinion that vehicle use in the KRPUA should be banned or restricted to existing and approved roads and trails so that these impacts can be stopped. They believed that vehicles should be allowed to drive over vegetation. Their interpretation of the legislation creating the KRPUA was that the law preserves existing trails, however, it did not allow new ones to be made daily by vehicles of all sizes driving wherever they want to.

One felt that driving multiple times over the vegetative mat should be construed to be "developing...a road or trail", which would be contrary to proposed rule 18.

A couple of commenters, voiced concern that, "Under the proposed regulation, ATV users will be allowed to leave the existing trails, provided that they don't disturb over 6 inches of the vegetative mat.", or "Would set a precedent to allow ATV's to go anywhere in KRPUA."

Still another commenter stated, "AS 41.23.190(d) that mandates the department to "provide for the protection and use [my italics]" of wetlands does not mandate DNR to specifically provide for motorized use of any kind when it is incompatible with providing protections."

**Response:** DNR acknowledges and agrees that irresponsible and indiscriminant use of highway and off-road vehicles within the KRPUA have damaged areas and created problems. This is the reason that this regulation was proposed. As stated in previous issue responses, the purpose of proposed regulation 11 AAC 96 .015(c)(4), is to set a defensible threshold of violation of the generally allowed use regulations regarding vehicles use and defines a violation based on which an enforcement officer can issue aailable citation. This proposed regulation gives the department the ability to enforce GAU's in an effective and timely manner.

DNR disagrees that banning or limiting the use of motor vehicles to existing roads and trails within the KRPUA is appropriate or the answer to the issue. Many of the commenters on this issue have apparently misinterpreted the GAU regulations, 11 AAC 96.020(a)(1)(D) and (E). The use of a highway vehicle, with a curb weight of up to 10,000 lbs, or an off-road or all-terrain vehicles, with a curb weight of up to 1,500 lbs, are specifically allowed on state land through these regulations.

Further, the statutes establishing the KRPUA also specifically allow for off-road vehicle use. The relevant citation from AS 41.23.180 is: “...The Knik River Public Use Area is established to...(3) provide an area for the public to enjoy the full spectrum of public uses, including maintenance and enhancement of off-road motorized vehicle and nonmotorized recreational opportunities”. Banning or restricting off-road motorized vehicle use would be inconsistent with this law. The law clearly mandates DNR to specifically provide for off-road motorized vehicle use.

The proposed enforcement regulation on which they have commented does not revise or repeal the generally allowed use regulations with regard to impacts from off-road motorized vehicle use. Rather, this proposed regulation allows the department to enforce the existing regulations by defining a violation based on which an enforcement officer can issue a bailable citation.

DNR also disagrees that the proposed regulation will add to the problems within the KRPUA. As stated above, the proposed regulation will be used to enforce existing land use regulation and used as a tool to help curtail the worst of the land and habitat impacts from this type of use. Proposed regulation 11 AAC 96.015(c)(18) does not apply to users that driving multiple times over the vegetative mat but rather the construction of roads and trails up to five feet in width using hand tools. Expanding the definition of construct to include such activities would make the proposed regulation unreasonably difficult to enforce.

**Issue:** A couple of commenters expressed concern that the proposed regulation was too strict; wondering whether crossing a swamp in a motorized vehicles would be prohibited under the proposed regulation. They stated that the proposed regulation should not be more strict than the GAU regulations.

**Response:** The use of a highway vehicle, with a curb weight of up to 10,000 lbs, or an off-road or all-terrain vehicles, with a curb weight of up to 1,500 lbs, are specifically allowed on state land through the GAU regulations, 11 AAC 96.020(a)(1)(D) and (E). The limitation of impacts to state lands is also a provision of those existing regulations. The proposed enforcement regulations do not change those limitations, nor are they stricter, they will allow the department to better enforce those regulations.

Crossing a wetlands area is possible if it can be done within the GAU limitations. If not, then crossing would be and always has been a violation of that GAU regulation.

**Issue:** One commenter asked that the regulation be strengthened by adding the word “wetlands”.

**Response:** The proposed regulation already included the word “wetlands”.

**Issue:** A few commenters expressed the opinion that the proposed regulation was not sufficiently defined because it did not specify a length or width of a disturbance. Others were concerned that conditions such as, the violator’s intent and the weather conditions should be factored into the proposed regulation.

**Response:** The goal was to provide the department with a defensible, effective and usable tool to enforce land management regulations within the KRPUA. Adopting these changes would work against that goal and make enforcing this regulation difficult if not impossible. The depth of the disturbance is the dimension of the ground disturbance that DNR is most concerned with as the vegetative mat only extends to a certain depth. Width and length are factors, however they need not be quantified to define the violation. DNR anticipates that the enforcement officer will use their discretion in determining whether to issue a citation.

**Issue:** Several question where within KRPUA would the propose regulation apply and expressed that this issue needed clarification. Some thought that the regulation allied only off existing roads and trails, and others wondered if it applied to existing roads and trails. Many expressed that the proposed regulation should not apply to existing roads and trails.

**Response:** As discussed previously, the use of a highway vehicle, with a curb weight of up to 10,000 lbs, or an off-road or all-terrain vehicles, with a curb weight of up to 1,500 lbs, are specifically allowed on state land through the GAU regulations, 11 AAC 96.020(a)(1)(D) and (E). The limitation of impacts to state lands is also a provision of those existing regulations. The impact limitations of both of these existing regulations apply to existing roads and trails. Specifically both regulations contain the phrase “...on or off an established road easement...”. While the existing GAU regulations apply on all state owned lands and throughout the KRPUA, the proposed enforcement regulation would only apply in wetlands and in vegetated areas. If a trail or existing road was vegetated, then the proposed regulation would apply on these as well. However, DNR anticipates that the enforcement officer will use their discretion in determining whether to issue a citation.

**Issue:** A few commented that the proposed regulation should be expanded to cover activities other than motorized vehicle use. One wanted the regulation to cover disturbances from hunting and recreational camping activities, while other thought that in fairness the department should add horses, bikes, carts and motorcycles.

**Response:** The comment is outside the scope of the proposed regulations.

The GAU regulations only set impact restrictions with regard to motorize vehicle use, such as highway vehicles, ATV's or all terrain vehicles(including motorcycles), and aircraft. No limitations exist for other travel or recreational activities mining, hiking, bicycling, camping or use of horses or domestic livestock on state land. This proposed regulation seeks to provide DNR with a better, more effective way of enforcing existing impact limitations and it would be inappropriate to impose such new restrictions.

**Issue:** Several suggested that DNR amend the proposed regulation to allow individuals to avoid or prevent a citation by repairing any ground disturbance that their vehicle use might cause. Another wanted to amend the regulation to add a 10 feet distance component to allow an offender to stop and reverse out of the rutting situation once they recognized the damage was occurring.

**Response:** DNR does not believe that allowing repairs is a reasonable alternative to a citation. DNR would expect that repairs of any ground disturbance would be required of the violator by any DNR enforcement officer issuing the citation as normal mitigation of the impact in addition to the citation. Also, DNR does not consider the option of allowing for the repair of a ground disturbance to avoid or reduce a violation as a viable mitigation in most circumstances. Wetlands, ground vegetation and even road and trail surfaces, once disturbed, not only become unstable and are extremely susceptible to additional disturbance and erosion, but can take a long time to fully recover. Ground disturbance to an extent that would trigger a citation under this regulation is considered a serious impact to the land by the department warranting citation. However, DNR anticipates that the enforcement officer will use their discretion in determining how a violation will be handed out.

**Issue:** Several commented on the department's ability to enforce this proposed regulation. Some wondered how DNR could enforce the proposed regulation without restricting trail usage or violating their land use rights. They thought the regulation needed better definition. Another questioned who would be allowed to determine and measure the depth of the ground disturbance. Another observed that even though the Generally Allowed Uses and conditions in 11 AAC 96.020 and .025 will apply in the KRPUA, those standards would be difficult to demonstrate and enforcement would most likely rely on the measurable depth of 6 inches.

**Response:** As previously addressed the purpose of this proposed regulation was to define a violation based on existing regulations, land use restrictions or limitations on which an enforcement officer, appointed by the commissioner, can issue a bailable citation. In this case, 11 AAC 96.020(a)(1)(D) and 11 AAC 96.025(1)-(3) (Generally Allowed Uses) are the existing regulations that limit impacts to state land and resources resulting from generally allowed vehicle use. The purpose of this proposed regulation is not only to establish a violation, but to set reasonable and enforceable threshold level of impact that could result in the issuance of the citation. Any use rights a user of the KRPUA is derived from applicable laws and these regulation, and come with limitations. DNR seeks to enforce the limitations thought this proposed regulation. DNR anticipates that the

enforcement officer will use their discretion in determining how a violation will be handed out.

**Issue:** Several suggested that DNR should propose a new regulation that allowed the department to impose access restrictions and make any violation of such a restriction, trail or area closure a citable offense. Another express that if the department closed an area to motorized vehicle access was this proposed regulation necessary.

**Response:** This is outside the scope of the DNR's proposed regulations.

This comment will be considered in the department's ongoing development of its proposed management plan and when it prepares its second phase of regulations for the KRPUA. Such a regulation would require the adoption of the management plan including an inventory of existing roads and trails, and designations of use areas by that plan. As addressed previously, DNR believes that the proposed regulation is necessary to enforce its existing land use regulations.

**Issue:** One stated that the proposed regulation should be applied to other areas than vegetated areas.

**Response:** This is outside the scope of the DNR's proposed regulations.

While DNR is concerned with any ground disturbance, in violation of 11 AAC 96.020(a)(1)(C) and (D), throughout the KRPUA and on all state lands, it has limited this violation to vegetated areas in order to protect the more sensitive land forms and habitats.

**Issue:** One group of commenters urged the department to designate this unique and productive habitat, consisting of wetlands, lakes and dunes within the KRPUA, as either "Critical Habitat," or an "Area Meriting Special Attention," as has been recommended in several scientific studies and government plans for the past 25 years.

**Response:** This is outside the scope of the DNR's proposed regulations.

DNR recognizes that certain areas within the KRPUA are more sensitive than others and these may be identified and addressed in the management plan currently being developed for the KRPUA.

**Issue:** One commenter discussed The Advantages of Designating Trails within the KRPUA.<sup>1</sup>

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<sup>1</sup> Designated trails are easily understood by the users; the public does not have to be concerned and confused about whether or not their activity will cost them a fine. Designated trails allow users to make intentioned decisions for the kind of trail experience they desire and can expect to enjoy.

Designated trails are manageable; motorized trails can be hardened and managed intensively to improve the experience and to reduce impacts to the resources. Designated trails have quantifiable characteristics to meet a management intent eliminating potential subjectivity in the land manager's role of interpreting impacts, measuring or quantifying damage and assessing needs for closure or protection of natural resources, etc. Preparation for improvements, design or use designations can be intelligently and practically planned; in the same regard, responsible and planned budgeting within a designated trails management scheme can reduce waste in government dollars and reduce the amount of government time and resources spent on "fixing" damage or other negative impacts.

They stated that designated trails make enforcement practical. “For the first time in state history, DNR has an opportunity to seize the moment and garner real political and community support for enforcement authority to enforce reasonable, practical and public safety-minded regulations. Designated trails prevent ambiguous law enforcement decisions. They often make enforcement a clear cut choice - rather than encouraging personal interpretations on the part of the public and State of the level of “damage” or “impacts” which opens the department up to criticism and accusations of inconsistency or bias.

They believed that designated trails would require DNR to inventory and classify the existing trails and quantify and characterize the “trail opportunities”. This could reduce the unlawful creation of “new trails” developed through unplanned use and the subsequent accumulation of impacts over time. Designated trails will reduce the sprawl of pioneer trails that some may want to justify under the “traditional use” definition (11 AAC 96.010 (c)(18). Designated trails would only be necessary and useful to the users and the management of KRPUA if they are confined to upland lands. The public should be allowed to continue to the river corridor bounded by the OHWL of the Knik River.

**Response:** This is outside the scope of the DNR’s proposed regulations.

As stated in previous issue responses, the purpose of proposed regulation 11 AAC 96 .015(c)(4), is to set a defensible threshold of violation of the generally allowed use regulations regarding vehicle use and defines a violation in which an enforcement officer can issue aailable citation. This proposed regulation gives the department the ability to enforce GAU’s in an effective and timely manner. It is not intended, nor doe it address, trail identification or management.

DNR recognizes the value of designating existing and future trails within the KRPUA, and the benefit that designation would provide the department in managing access and use issues in the KRPUA. These comments will be considered, and DNR may consider designating trails, in the management plan which is currently under development.

There is no regulation at 11 AAC 96.010 (c)(18) and the department is unaware of any definition for “traditional use” in the Miscellaneous Land Use regulations.

**Issue:** One commenter proposed that DNR set the depth for permit requirement at greater than 2"

**Response:** This is outside the scope of the DNR’s proposed regulations.

As stated in previous issue responses, 11 AAC 96 .010 establishes what activities require a permit, and the GAU regulations in 11 AAC 96 .020(a)(1)(C) and (D) set the limits for impacts for allowed motor vehicle use on state land. The purpose of this proposed regulation is to set a defensible threshold of violation of the GAU regulations regarding vehicles use and defines a violation based on which an enforcement officer can issue aailable citation.

**11 AAC 96 .015(c)(5)** (restriction and violation regarding size and location of open fires); **4 support, 17 support with amendments, 1 oppose, 0 unknown**

**Issue:** Several expressed their support for the proposed regulation. One commenter agreed that there should be a limit on the maximum size of fires in the area, while another stated that all state and borough burn bans should be enforced

**Response:** DNR appreciates the support. The department does not believe that a regulatory limit on the maximum size of fires is appropriate for all of the KRPUA. The proposed restriction and violation apply only to vegetated areas. The proposed regulation specifies that the Division of Forestry regulation regarding burn permits and burn bans apply to the KRPUA. The department will use this proposed regulation to enforce the regulation within the KRPUA.

**Issue:** Most commenters argued that the fire size limit of three foot was too small, and that the size should be increased to as much as 5 or 6 feet.

**Response:** DNR does not agree with the suggestions to increase the fire size restriction set by this proposed regulation. 11 AAC 96.020(a)(3)(C) (Generally Allowed Uses) allows for cooking or warming fires on state land without a permit, unless the department has closed the area to fires during the wildfire season. The size restriction set by this proposed regulation applies only to within 100 feet of vegetated or wooded areas within the KRPUA. There is no fire size restriction in areas further away than 100 feet from vegetated areas. The intent of this proposed regulation is to minimize large warming and cooking fires in or near forested areas to minimize risk of wildfire. The purpose of the proposed regulation is to establish a measurable and enforceable size limit on these fires and define a violation in which a department enforcement officer, authorized by the commissioner, can issue aailable citation. The department will utilize this citation authority, with discretion, as needed to control fire size and location within the KRPUA.

Forest lands in the Butte area contain a high degree of standing dead spruce, and therefore are more susceptible to wild fires. Historically, large, unauthorized fires are a chronic violation of existing regulations, and a threat to property and resources of the area. However, the department recognizes that the threat of forest fire is diminished during the winter months. DNR will consider amending this proposed regulation to address widening the fire diameter for warming and cooking fires within 100 feet of forested areas during the winter season.

**Issue:** One commenter stated that the setback of fires should be reduced to 50 feet from marketable timber.

**Response:** The department does not agree that this amendment is appropriate. The department considers the proposed setback of 100 feet from vegetated areas the minimal distance necessary to protect forest resources.

**Issue:** A few stated that they would like to see a provision that anyone within 50 feet of a violation be cited.

**Response:** The department does not agree that this amendment is appropriate. The intent of this regulation is to cite the person(s) responsible for building or contributing to the size and location of a fire in violation of this proposed regulation, not anyone that might be standing within 50 feet of the fire and are not contributing the fire. DNR anticipates that the enforcement officer will use their discretion in determining how a violation will be handed out with regards to a person's involvement in the fire.

**Issue:** A few commenters referenced existing state laws and regulations on this issue and challenged the departments need for a "redundant" regulation. They stated that all state and borough burn bans should be enforced.

**Response:** For DNR to enforce the provisions of existing regulations such as Generally Allowed Uses (11 AAC 96.020) and the Division of Forestry's regulation regarding burn permits and burn bans through a citation process within the KRPUA, the department is required to adopt these types of enforcement regulations. All existing laws, regulations and ordinances regarding fires and burning will be enforced.

**Issue:** A few commenters stated that state burn bans should be included in the proposed regulation.

**Response:** DNR will consider amending this proposed regulation to include 11 AAC 95.450 regarding burn bans issued by the Division of Forestry.

**Issue:** One commented that the proposed regulation should be amended to read " a person may not have an open fire larger than 3 feet period"

**Response:** DNR does not agree with the proposed amendment. The regulation as drafted addresses the issues necessary to create an enforceable violation regulation.

**Issue:** One commenter stated their total opposition to this proposed regulation..."Forget this one, not needed."

**Response:** DNR does not agree with the commenter. Uncontrolled large fires in the KRPUA have been identified by DNR, area users and local residents as a significant problem and threat to state and private property and resources in the KRPUA. Large fires have repeatedly gotten out of control and burned significant forested areas in the KRPUA. DNR will not consider eliminating this proposed regulation based on this comment.

**11 AAC 96.015(c)(6)** (restriction and violation regarding burning of wooden pallets, a vehicle, structure, household or commercial refuse, construction debris, or non-naturally occurring material); **18 support with amendments, 0 oppose, 0 unknown**

**Issue:** Many commented that this proposed regulation should be amended to allow for the burning of camp garbage as long as unburned material is hauled away.

**Response:** The department does not agree that this amendment is appropriate. The purpose of this proposed regulation defines a violation on which a department enforcement officer, authorized by the commissioner, can issue aailable citation. The intent of this regulation is to prevent the buildup of hazardous debris or toxins on state land associated with warming, camp, or bonfires. Camp garbage often includes a variety of materials including glass, metal, and plastics. Campfires will likely be used to burn some camp debris, however this camp debris must be of naturally occurring material capable of quick incineration such as paper or wood products. DNR believes that the proposal to allow burning of non-naturally occurring camp debris provided such material is hauled away after a campfire is abandoned would be unenforceable.

**Issue:** Some stated that they would like to see a provision that anyone within 50 feet of a violation be cited.

**Response:** The department does not agree that this amendment is appropriate. The intent of this regulation is to cite the person(s) responsible for building or contributing to the burning of restricted materials, not anyone that might standing within 50 feet of the fire and are not contributing the prohibited material to the fire. DNR anticipates that the enforcement officer will use their discretion in determining how a violation will be handed out with regards to a person's involvement in the fire.

**Issue:** Several commented that they should be allowed to burn wooden construction debris and pallets in camp fires as long as nails or other unburnable material was removed or collected.

**Response:** The intent of this regulation is to prevent the burning of non-naturally occurring material. Wood scrap material from untreated dimensional lumber that is free of metal debris hazards such as nails and screws (clean wood), pose no significant hazard and would not be prevented from being burned in campfires. However, lumber that has been chemically treated or plywood or chip board containing adhesives would be prohibited. DNR anticipates that the enforcement officer will use their discretion in determining how a violation will be handed out with regards to material burned in fires.

**Issue:** One commenter expressed that the proposed regulation be amended to prohibit the burning of "non-naturally occurring material for the area".

**Response:** The department does not agree that this amendment is appropriate as it is too restrictive and would encompass materials that DNR believes are acceptable to be burned. The department believes that limiting the restriction to naturally occurring material will be sufficient to protect the area.

**Issue:** One person inquired how the department plans to enforce the proposed regulation.

**Response:** This proposed regulation is intended to establish the enforcement authority for DNR regarding the burning of certain materials within the KRPUA. This proposed regulation defines a violation on which a department enforcement officer, authorized by the commissioner, can issue a bailable citation. The department will utilize this citation authority, with discretion, as needed to control burning within the KRPUA.

**11 AAC 96.015(c)(7)** (Violation based on discarding or abandoning waste, refuse, trash, or any form of litter; **14 support, 7 support with modification, 3 unknown**)

**Issue:** Littering already a violation of state law. These need to be enforced.

**Response:** DNR acknowledges that littering or dumping of garbage and waste may be covered by other state laws and or regulations. This proposed regulation defines a violation on which a department enforcement officer, authorized by the commissioner, can issue a bailable citation. For DNR to enforce the provisions of the department's existing regulations within the KRPUA, through a citation process, the department is required to adopt these types of enforcement regulations. This regulation implements enforcement authorities granted in AS 41.23.180-230.

**Issue:** Many commented that the proposed regulation should be amended to specifically include items such as *spent munitions casings, target material (including clay pigeons), or any form of litter.*

**Response:** The department does not agree that this amendment is necessary. The proposed littering regulation covers "discarded and abandoned waste, refuse, trash, or any form of litter", which would include spent munitions casings and target materials.

**Issue:** Several commented that the proposed regulation should be amended to prohibit the use of bullets, shot, and "clay pigeons" containing lead.

**Response:** These comments address an issue that is outside the scope of the proposed regulations. The proposed regulations did not address a restriction on use of lead containing projectiles or targets. The purpose of this proposed regulation is not to create a new use restriction or management standard regarding lead used in projectiles or targets within the KRPUA, but to define violations based on existing law, land use regulations or limitations which would allow an enforcement officer, duly appointed by the commissioner, to issue a bailable citation.

The concern expressed in these comments was with regard to lead contamination of the environment from lead based ammunition and targets. The intent of this regulation is to minimize the dumping or spread of trash, litter and debris left by users of the KRPUA. Although the department can encourage the use of lead-free ammunition and targets, it would be difficult to field verify the composition this type of material in the field.

Further, the department does not believe that this amendment is necessary. The use of lead shot and bullets are allowed on state lands and within the KRPUA.

**Issue:** Several expressed support for this proposed regulation and some stated that it needed a high fine associated with the violation.

**Response:** DNR appreciates the support. This proposed regulation only establishes the violation on which a department enforcement officer, authorized by the commissioner, can issue aailable citation. The size of the fine is set by the Alaska Supreme Court, not the department.

**11 AAC 96.015(c)(8) (Violation based on placing, dumping, or abandoning hazardous materials ) 15 support, 1 unknown**

**Issue:** Dumping (hazardous waste) already a violation of state law.

**Response:** DNR acknowledges that littering or dumping of hazardous material may be covered by other state laws and or regulations. This proposed regulation defines a violation on which a department enforcement officer, authorized by the commissioner, can issue aailable citation. For DNR to enforce the provisions of the department's existing regulations within the KRPUA, through a citation process, the department is required to adopt these types of enforcement regulations. This regulation implements enforcement authorities granted in AS 41.23.180-230. Existing department regulations regarding dumping hazardous waste will be enforced by the department through this regulation.

**Issue:** Several expressed support for this proposed regulation and some stated that it needed a high fine associated with the violation.

**Response:** DNR appreciates the support. This proposed regulation only establishes the violation on which a department enforcement officer, authorized by the commissioner, can issue aailable citation. The size of the fine is set by the Alaska Supreme Court, not the department.

**11 AAC 96.015(c)(9) (restriction and violation regarding the erection or abandonment of a structure other than a temporary structure authorized under 11 AAC 96) 11 support, 2 unknown**

**Issue:** Two commenters expressed concern that the way the proposed regulation was written that it could be interpreted that it was acceptable for non-temporary structures to be abandoned.

**Response:** This proposed regulation is meant to define a violation on which a department enforcement officer, authorized by the commissioner, can issue aailable citation for the unauthorized erection of non-temporary structures or the abandonment of any structures.

The purpose of this proposed regulation is to deter people from erecting non-temporary structures because they usually become trespass problems and often are abandoned after use. However, DNR will consider amending this proposed regulation so that its intent is less confusing.

**Issue:** One commenter agreed with the proposed regulation for the most part but stated that there needed to be a permit system to allow for duck blinds.

**Response:** Erection of temporary structures (a duck blinds tent, or lean-to etc) are considered Generally Allowed Uses on state land provided the camp is vacated and the temporary structures removed after 14 days. (11 AAC 96.020(4)(A) Erection of a structure intended remain on state land for longer periods of time require a permit from the department.

**11 AAC 96.015(c)(10),** (Violation based on the harvest or collect non-timber forest products for commercial use without prior written authorization from the department; **1 oppose, 16 support, 1 unknown**

**Issue:** Several commented that commercial harvest should not be allowed within the KRPUA.

**Response:** Commercial harvest of non-timber forest products within the KRPUA will be allowed as long as prior written authorization from the department has been acquired. This is in line with the provisions listed under the *Generally Allowed Uses* of 11 AAC 96.020, as well as *Uses Requiring a Permit* found in 11 AAC 96.010(B) “uses that are not listed in 11 AAC 96.020 as Generally Allowed Uses”. Further, DNR is in the process of creating regulations dealing with the commercial harvest of non-timber forest products (proposed 11 AAC 96.035). These proposed regulations address application and harvest fees, establishing a permitting process, standards and conditions for the issuance of permits, establish harvest limits, and harvest practices through the adopted *Alaska Non-Timber Forest Products Harvest Manual*.

**Issue:** Many commenters expressed concern that the proposed regulation should be amended to add a section to this proposed regulation addressing the stripping of bark from trees, especially practices that result in the girdling and killing the tree, both for private or commercial use.

**Response:** These comments are outside the scope of the proposed regulations as DNR did not address harvest practices of non-timber forest products. This proposed regulation is meant to minimize the illegal harvest of non-timber forest products within the KRPUA by commercial operators through the definition of a violation on which a department enforcement officer, authorized by the commissioner, can issue aailable citation.

As stated previously, the department has developed a harvest manual that provides guidance to the harvester for the appropriate means of harvesting non-timber forest

products on state lands. Commercial operators will be required to abide by the harvest manual guidelines as part of their written authorization for commercial harvest of non-timber forest products. This includes the appropriate technique for stripping bark from birch trees. If the commercial operator is not abiding to the terms and conditions of their authorization then they may be cited for a violation and/or their authorization may be revoked.

**Issue:** One person inquired if personal use (of non-timber forest products) was ok?

**Response:** Personal use of non-timber forest products is generally allowed on state lands. (11 AAC 96.020)

**Issue:** One person inquired how the department plans to enforce the proposed regulation.

**Response:** This proposed regulation is intended to establish the enforcement authority for DNR regarding the illegal harvest of non-timber forest products within the KRPUA by commercial operators. This proposed regulation defines a violation on which a department enforcement officer, authorized by the commissioner, can issue aailable citation. The department will utilize this citation authority, with discretion, as needed to control illegal harvest within the KRPUA.

**11 AAC 96.015(c)(11)** (Violation based on the cutting, collecting, or harvesting dead standing or live trees without prior written authorization from the department) **17 oppose, 4 conditional support, 2 support, 2 unknown**

**Issue:** Many commented that the non-commercial cutting of dead standing trees should be allowed in the KRPUA. They believed that private harvest of dead wood for use in campfires, camps and pole structures, trapping, trail maintenance, vehicle extraction, and even for cleanup or aesthetic reasons. Others expressed concern that not allowing the cutting of dead standing trees made little sense as this dead timber posed a threat in the form of fuel for wild fires, and as such removal should be encouraged. Some opposed the proposed regulation in general because cutting of timber was a common activity in the area and should be allowed to continue.

**Response:** Regulations currently exist that limit the personal use of trees to only dead and down wood (11 AAC 96.020(a)(3)(B)and (C) – Generally Allowed Uses. These regulations state in relevant part:

11 AAC 96.020(a)(3)(B) “ .... The cutting of trees is not a Generally Allowed Uses under this subparagraph.”

11 AAC 96.020(a)(3)(B) ... (a) ... the following land uses and activities, alone or in combination, are Generally Allowed Uses on state-owned public domain land without any permit or other written authorization from the department, ..... (3) removing or using state resources, as follows; (C) ... the following land uses and activities, alone or in combination, are Generally Allowed Uses on state-owned

public domain land without any permit or other written authorization from the department.....

Per these regulations it is lawful to remove wood that is dead and down, but it is unlawful to cut standing live or dead trees without a written authorization from the department. Regardless of the interests of recreational or private users of the KRPUA, dead standing and live trees over six inches in diameter at breast height are considered marketable timber, and harvest of this resource for purposes other than an authorized commercial harvest is not allowed. Larger diameter dead trees are also important habitat for cavity nesting birds and small animals. Further, DNR believes that fuel reduction projects are better suited by specialists within the department's Division of Forestry rather than allowing personal users to make those decisions. However, DNR will consider amending this proposed regulation to limit the definition of "trees" to trees over six inches in diameter at breast height to accommodate the need for firewood and other personal uses in the KRPUA .

**Issue:** A few were concerned that it should not be a criminal act to cut wood for trapping and camping purposes.

**Response:** The purpose of this regulation is to minimize the unlawful cutting of live or dead standing trees. Collection of downed trees is allowed throughout the area. In popular camping areas, and along high use trails, trees of all sizes have been cut down for a variety of reasons leaving behind stumps that create public safety concerns to recreationists. Uncontrolled tree removal also widens trails, accelerates erosion, and creates public safety issues to users of the area. DNR will consider amending this proposed regulation to limit the definition of "trees" to trees over six inches in diameter at breast height to accommodate the need for firewood and other personal uses in the KRPUA .

**Issue:** "Tree" needs to be defined, as opposed to "shrub", "bush", "alder" devils club"etc.

**Response:** Harvesting wild plants, mushrooms, berries, and other plant material for personal, noncommercial use is a generally allowed use on state lands. This would include shrubs, bushes, and saplings. This proposed regulation does not restrict that use in the KRPUA. DNR will consider amending this proposed regulation to clarify that the definition of "trees" is limited to trees over six inches in diameter at breast height to accommodate the need for personal uses of this plant material within the KRPUA .

**Issue:** State mentioned in meeting that its main concern was that stumps were left behind that pose a danger to other users. Add verbiage to require persons harvesting dead standing trees to leave no more than a certain height stump say 2 inches maximum.

**Response:** While DNR does have concerns that uncontrolled harvest of trees within the KRPUA can leave hazardous stumps behind, as previously stated, regulations currently exist prohibit the cutting of live or dead standing trees on state land without a written authorization from the department.. 11 AAC 96.020(a)(3)(B)and (C) – (Generally Allowed Uses) limit the personal use of trees to only dead and down wood. Amending the proposed regulation to require leaving of stumps less than two inches would not be consistent with these regulations.

**Issue:** One thought that commercial use should be prohibited but not private limited use. People should be allowed to harvest privately.

**Response:** This comment is outside the scope of the proposed regulations. DNR has no intent to prohibit the commercial use of timber within the KRPUA. Decisions regarding commercial harvest of timber on state lands are the responsibility of the forestry professionals of the department’s Division of Forestry.

**11 AAC 96.015(c)(12)** (Violation based on erection of a camp, structure or facility, whether occupied or unoccupied, for more than 14 consecutive days; and requirement to move any camp, structure, or facility and all equipment at least 2 miles away at the end of the 14 day period; restriction and violation regarding the relocation of a camp, structure or facility to a site within two miles of the initial site for at least 4 consecutive days). **7 support, 6 oppose, 2 unknown**

**Issue:** Most commenters believed that 14 days is not enough time during the hunting season. Camps should be allowed to stay up for 30 days or more, especially during hunting season.

**Response:** Regulations currently exist that limit camp locations to 14 days (11 AAC 96.020(a)(5) – Generally Allowed Uses which states that “setting up and using a camp for personal, non-commercial recreational purposes”, for no more than 14 days at one site is the maximum time allowed.). The existing regulation was subject to public and legal review and has been in place since 2002. This proposed regulation was created in an effort to give department employees the ability to issue citations for violating those camp stay limits. The reason for this camp term limit is to prevent the monopolization of popular camp sites, and to allow other people to use these sites.

**Issue:** Camps lasting 14 days should be allowed at the mouth of Jim Creek to the sand dunes. Camps at Jim and McRoberts Creeks proper should be restricted to 5-7 days.

**Response:** As previously stated, regulations currently exist that allow camp locations for up to 14 days (11 AAC 96.020(a)(5) – Generally Allowed Uses). This comment is outside the scope of the proposed regulation as DNR is not considering reducing this time limit.

**11 AAC 96.015(c)(13)** (Violation based on limiting event, gathering, or assembly to 50 people) **10 support, 3 oppose, 2 unknown**

**Issue:** Many expressed concern that this regulation should distinguish the difference between an “organized event” and the coincidental gathering of large numbers of people engaged in lawful fishing.

**Response:** Many people feel that this regulation should be written in a way that excludes large numbers of people lawfully fishing. The intent of this regulation is to cite people participating in an organized, but unauthorized event such as a party, race, or community event, without a permit. DNR will consider amending this proposed regulation to incorporate the distinction between an “organized event” and a gathering for legal fishing.

**Issue:** The regulation should allow for more than 50 people without a permit, 100 would be better. Some also expressed concern that the proposed regulation may not withstand a challenge based on constitutional grounds.

**Response:** Regulations currently exist that require events with 50 or more people to acquire written authorization (11 AAC 96.020 – Generally Allowed Uses). The existing regulation was subject to public and legal review and is considered within the state’s authority. This proposed regulation was promulgated to coincide with the Generally Allowed Uses, and gives the department the ability to cite organizers and/or participants of groups larger than 50 people for involvement in an organized, unauthorized event, including events sponsored by non-profit organizations or commercial enterprise.

**Issue:** 50 people are too many without a permit. A lower threshold number would give the department more discretion in controlling sanitation.

**Response:** Regulations currently exist that require events with 50 or more people to acquire written authorization (11 AAC 96.020 – Generally Allowed Uses). This proposed regulation was promulgated to coincide with the Generally Allowed Uses, and gives the department the ability to cite organizers and/or participants of groups larger than 50 people for involvement in an unauthorized, organized event, including events sponsored by non-profit organizations or commercial enterprise.

**11 AAC 96.015(c)(14)** (Violation based on limiting targets made of materials other than wood, paper, clay, or like material); **17 support, 3 oppose, 2 unknown**

**Issue:** Many suggested a provision requiring the cleanup of targets and shell casings. “Clay” includes clay pigeons. Clay pigeons on the south bank of Knik River, littering the waterfront and water. This is a material that does not readily decompose. Is there an alternative?

**Response:** The requirement for cleaning up targets and shell casings is covered under (c)(7) “a person may not discard or abandon waste, refuse, trash, or any form of litter”. A provision in this regulation may appear to be redundant since littering has already been addressed. The department will consider revising (C)(7) to address shell casings and target materials.

**Issue:** Many requested adding a requirement that all ammo and clay targets be lead-free.

**Response:** These comments address an issue that is outside the scope of the proposed regulations. The concern expressed in these comments was with regard to lead contamination of the environment from lead based ammunition and targets. The purpose of this regulation is to minimize the spread of debris associated with target shooting by providing a list of target materials the department deems acceptable, and does not address the contents of the target material or the projectiles. Although the department can encourage the use of lead-free ammunition and targets, it would be difficult to field verify the composition of the debris to determine whether or not it contains lead.

**Issue:** Targets should not have live trees as backdrops for target practice.

**Response:** The use of the term “wood” in this regulation is referring to dimensional lumber, and/or fabricated targets, not live trees. DNR will consider amending this regulation to read: “a person may not discharge a firearm for the purposes of target practice at targets made of materials other than wood products (not trees), paper, clay, or like material, without prior written authorization from the department; for the purposes of this regulation.

**Issue:** You should add metal silhouette targets to the list.

**Response:** This proposed regulation did not incorporate metal targets because metal targets can take on a variety of different shapes and sizes. The department seeks to minimize the distribution of metal debris commonly associated with target shooting, such as propane tanks, automobiles, automotive parts, steel drums, appliances, etc. DNR will consider amending this regulation to incorporate the addition of metal silhouette targets.

**Issue:** Determine low use-use areas and permit target shooting only in low-use areas, guaranteeing “no-disturbance” from noise and guaranteeing personal safety to residents, area users and wildlife with assurance that targets and shells be removed.

**Response:** AS 41.23.190 limits the department’s authority to restrict the use of firearms within the KRPUA except in locations where the commissioner determines that the use of weapons constitutes a threat to public safety. Restricting shooting only to low use areas would not be consistent with the intent of the statute.

**Issue:** The word “then” in the regulation should be “than”. “Like material” is too vague. I don’t know what it could include?

**Response:** The word “then” will be change to “than”. DNR will consider revising this regulation to clarify the term “like material”.

**11 AAC 96.015(c)(15)** (Violation based on discharge firework, explosive, or similar device without ); **2 support, 9 oppose, 0 unknown**

**Issue:** (aggregate) Many opposed this proposed regulation citing that the river bed or the lakes area was the best location for the discharge of fireworks. Most suggested that the department allow the fireworks in winter months of December and January.

**Response:** The use of fireworks is banned year round within the Matanuska – Susitna Borough by borough ordinance. As the primary wildfire fighting agency for southcentral Alaska, DNR concurs and supports this prohibition to protect state resources and private property. Although the Matanuska – Susitna Borough maintains a fireworks ban, this regulation would give the department the ability to issue citations to individuals who violate this regulation when the violation occurs within the KRPUA.

**Issue:** This regulation needs to go it’s already covered by the Matanuska – Susitna Borough.

**Response:** DNR acknowledges that the Matanuska – Susitna Borough currently has ordinances banning the use of fireworks. This proposed regulation defines a violation on which a department enforcement officer, authorized by the commissioner, can issue aailable citation. This proposed regulation is needed to provide the department with the ability to enforce the fireworks ban within the KRPUA by issuing its own fines when a violation occurs.

**Issue:** Generally agree; however, The department needs to further define to the public the terms and purposes for discharging explosives prior to implementing Rule #15. We support a permit for purposes such as mining. Residents and users, particularly holders of commercial permits and commercial enterprises operating within the KRPUA shall be notified prior to issuing such a permit.

**Response:** This comment is outside the scope of the proposed regulations. The terms and purposes for discharging explosives will be addressed on a case by case basis during the permit adjudication process.

**11 AAC 96 .015(c)(16)** (restrictions and violation regarding the use of fire arms within three designated areas of the KRPUA ) **28 support, 24 oppose, 6 unknown**

**Issue:** Several opposed the proposed regulation in general. Some interpreted the proposed restriction as a total shooting restriction over a broad area or the whole KRPUA, eliminating recreational shooting the KRPUA. Some stated that the restrictions

were unnecessary as they believed shooting can be done safely throughout the area. Others thought the department should consider a seasonal shooting restriction or shooting hours, and others felt that existing laws and regulations restricting machineguns and explosives were sufficient to deal with the problems within the KRPUA.

**Response:** The area proposed for shooting restrictions is not broad but rather limited to three discrete areas where the discharge of fire arms present the greatest threat to public safety. These areas are along the Maud Road extension and Rippy Trail, the area between the Knik River Bridge and Jim Creek, and along the east end of the Knik River and its shoreline. These areas are all heavily used by visitors and have limited or no obstructions to prevent

It is also not a total shooting restriction as the entire KRPUA is open to the use of firearms for lawful hunting and trapping.

While it may be possible that shooting can be done safely within the designated areas by reasonable individuals employing good judgment and weapons safety practices, unfortunately a significant number of users do not employ these safeguards. Reckless shooting in these areas has been identified and suggested to be the primary problem within the KRPUA. DNR believes that establishing and enforcing these restrictions are necessary to increase public safety within KRPUA. Seasonal restrictions or shooting hours will not effectively address these problems.

With this regulation the department is attempting to minimize conflicts related to target shooting in popular high use areas. Section 41.23.200 – Incompatible Uses, part (c)(2), states that the commissioner may not restrict, “the use of weapons, including firearms, in the Knik River Public Use Area except in locations where the commissioner determines that the use of weapons constitutes a threat to public safety”. The areas that we have proposed restricting target shooting include high use trails, facilities, the Knik River, and high use areas near access points. Based on comments received during the management planning process, and field inspections by department staff, the department believes the best approach to improving public safety would be best achieved by restricting target shooting in the areas proposed through this regulation.

Lastly, any existing laws or regulations regarding use of machineguns or explosives are not applicable for use by DNR in land use enforcement. These regulations are necessary for the department to effectively manage the area for the safe use and enjoyment of all area users.

**Issue:** Many expressed general support and appreciation of the proposed shooting regulations. Some provided descriptions of conflict and incidents over the years that they believed supported the need for shooting restrictions in high use areas within the KRPUA. Many expressed that they believed the proposed shooting restrictions would go a long way to making the KRPUA a safer, more pleasant place for all users, and help protect private property south of the river.

**Response:** DNR appreciates the support.

**Issue:** Area on north side of Knik River up to glacier should remain open to shooting. Do not block or displace this use segment to other less safe areas. Suggest closing some areas to foot traffic or commercial recreational users.

**Response:** The area on the north side of the Knik River is used primarily by off-road vehicles travelling along the Knik Glacier Trail. Target shooting is allowable on the north side of the Knik River as long as the shooting doesn't occur on or within a ¼ mile of the trail or in the Knik River. The purpose of this regulation is to improve public safety by minimizing target shooting along popular trails and up river destinations. The proposal included in the comment does not improve public safety. Displacement may occur but it should be limited to other, safer areas within the KRPUA.

**Issue:** (aggregate) Many people have expressed concerns that target shooting restrictions would be acceptable if a designated area was set aside to provide the opportunity. Some opposed this proposed regulation closing the identified areas as too restrictive and suggested the department not close these areas until and unless designated shooting area(s) were established to replace them. Some expressed concern that the proposed closure of these areas would displace this activity to other less acceptable locations. One wanted to know if the department had completed any studies for suitable shooting areas within the KRPUA.

Several suggested that DNR establish a safe target shooting area(s) on Maud Rd., somewhere North of Rippy Trail or between Mud and Jim Lakes. Several ask that any designated shooting area be reachable by highway and handicap accessible.

**Response:** The intent of this regulation is to improve public safety for all users by minimizing unsafe target shooting in high use areas. As stated above, reckless shooting in these areas has been identified as the primary problem within the KRPUA. DNR believes that establishing and enforcing these restrictions now as opposed to waiting for the establishment of designated shooting areas is necessary to increase public safety within KRPUA.

Although it would be inappropriate to address proposed management actions for the area in these proposed violation regulations, the issue of establishing road accessible designated target shooting areas will be addressed through the management planning process. DNR acknowledges that the areas that are proposed to be closed to target shooting will displace this use to other locations, however, the department believes that this displacement will be to other, unrestricted, safer locations within the KRPUA, or to the areas that may be designated as shooting areas. This restriction is being proposed for public safety reasons only, not to cater to one user group or another.

**Issue:** Some requested that DNR reduce the proposed restricted shooting areas within the KRPUA. Some commenter's felt the proposed restriction areas were too large and that limiting shooting restrictions to ¼ mile of any commercial operation (while limiting

future commercial operators) was sufficient protection. Another thought that the area included in the proposed regulations were too restrictive and will only push the problem up the river bar to private or corporation lands. That these areas are a popular accessible location for families to teach their children about the safe use of firearms. One suggested limiting the restrictions to residential areas. Another stated that the restrictions should end at Jim Creek.

**Response:** DNR acknowledges that safe shooting on state land is a reasonable use and that places within the KRPUA can provide accessible locations for recreational shooting and family recreation and gun safety education. However, the proposed restriction areas are all heavily used by visitors and reckless shooting in these areas has been identified as the primary problem within the KRPUA. DNR believes that establishing and enforcing these restrictions are necessary to improve public safety within KRPUA.

The proposed regulations apply only to state owned lands within the KRPUA, and therefore there are no residential or corporation owned lands covered by the proposed regulations. As stated above, displacement of this use will occur out of the identified areas, however DNR believes that the displacement will be mostly to other state owned lands within the KRPUA where the shooting will still be allowed. DNR is responsible for managing state owned lands for the public interest. Private property and corporate land owners are responsible for managing their property interest as they determine necessary.

The shooting restriction within ¼ mile of the Rippy Trail ends at Jim Creek. Ending all shooting restrictions at Jim Creek would not be sufficient to protect the users of the bed of the Knik River, and along the Knik River Road, Knik Glacier Trail, and the face of the Knik Glacier. For this reason the proposed shooting restriction was extended farther East to the north-south township line between T16N, R3E and T16N, R4E SM. and to the face of the Glacier. DNR believes that these restrictions are minimally necessary to protect public safety and property interests.

**Issue:** (aggregate) Some requested that DNR reduce the proposed restriction at the face of the Knik Glacier (11 AAC 96.015(c)(16)(C)); Specific comments include:

- Shooting at the face of the glacier should be allowed on the left (North) side.
- Banning around glacier should not be necessary since there are no commercial developments at the foothills. Risk that large commercial companies could gain control of the area and deny general or public access.
- The area that is restricted around Knik Glacier is much too large and should be made smaller. 100-200 yards around the lake and north of the airstrip should be sufficient as a safety concern that commercial tourists operators may have.
- Shooting is a (generally allowed) public use. This is not a commercial area. Make the restriction within 500 yards of the lease commercial use. This is not a park.
- This section sounds like you are bowing to a few commercial interests, these interests should not supersede Generally Allowed Uses and this section should be deleted.

**Response:** While some believe that shooting at the face of the glacier should not be restricted, the glacier is a popular destination for off-road enthusiasts, hikers, and boaters, as well as some commercial tour operations. The safety of all users of this area was the concern of the department not just a few commercial operators. DNR does not believe that this proposed shooting restriction will result in the dominance of the area by commercial users. The department has proposed this regulation in an effort to minimize conflicts that result from target shooting and public safety. These proposed regulations are intended to limit the discharge of firearms as a generally allowed use within the identified areas. However, the department will consider the comments to reduce the size of the prohibited area on the north side of the glacier.

**Issue:** Recommend shooting be allowed at the glacier 1 day a week during the summer, and less restricted for the rest of the year.

**Response:** These regulations are specific to spatial restrictions. Time restrictions are outside of the scope to these proposed regulations. Time restrictions may be considered during the next phase of regulations.

**Issue:** The whole area should be closed to shooting except during hunting and trapping seasons.

**Response:** Hunting occurs in the KRPUA throughout all seasons. Although big game hunting seasons are usually restricted to spring and fall, small game hunting occurs on a year round basis. The department is not able to accept this comment.

**Issue: (General expansion comments)** Many commented that the proposed shooting restrictions should be expanded to cover areas and issues not addressed in the proposed regulation. Some felt that a ¼ mile distance was insufficient or ineffective as bullets can cover distances greater than one mile. They suggested that the distance should be increased to one mile or greater, especially in the area of the Rippy Trail. Some expressed that DNR should close the entire area to shooting because of safety and noise issues.

**Response:** DNR acknowledges that conflicts between shooters and other recreational users of the KRPUA, as well as safety concerns. Its goal in proposing these regulations is to try and maintain a balance between these uses while addressing the threat that shooting poses to all users of the KRPUA. However, AS 41.23.190 limits the department's authority to restrict the use of firearms within the KRPUA except in locations where the commissioner determines that the use of weapons constitutes a threat to public safety. DNR identified ¼ mile from the Maude Road extension, Old Glenn Highway, Knik River Road, Knik Glacier Trail (RST 17), Rippy Trail, the bed of the Knik River as a reasonable distance to provide protection to users and homeowners located on the south side of the Knik River. The department believes that a combination of factors including cumulative effect of two or more restrictions, and effect vegetation plays in reducing

bullet travel distances, will reduce the threat target shooting poses to the public while minimizing the shooting restrictions to meet the intent of AS 41.23.190.

**Issue:** Many requested that the shooting restrictions on the shores of the Knik River be extended from Knik Bridge to Friday creek on the north and south sides of the rivers and along the South Knik River Road. Others suggested that the restriction west of Knik River Bridge should be increased to 5 miles west of the bridge. Concerns were expressed that this expansion was necessary to protect private property users, boaters and other users of the KRPUA. Concern was also expressed about the effect shooting and lead shot would pose to wetlands/estuaries, habitat and animals in these areas.

**Response:** DNR acknowledges that concerns expressed in these comments, however the proposed regulations are intended to establish shooting restrictions and define violations on which an enforcement officer can issue a bailable citation on state owned lands within the KRPUA. DNR has no enforcement authority outside the KRPUA (AS 41.23.210). With exception of a small portion of the bed of the Knik River in T16S, R4E SM., the areas suggested for expansion are all outside of the KRPUA or on land owned privately, by the Federal Government, the Mat-Su Borough or Native corporations, and are outside the scope of the proposed regulations.

**Issue:** A few asked that the shooting restriction be expanded to the head of the Knik Glacier. Suggested distances varied up to 1.5 miles or to the moraine to encompass the glacial lake. Concern was expressed that the added distance was needed to keep bullets or shot from going into the lake and jeopardizing the safety of boaters and tourists. One stated that people camp on the moraine and that it was a popular attraction for tourists, hikers, and boaters.

**Response:** DNR acknowledges the concerns expressed in these comments and will consider expansion of the ½ mile buffer in front of the glacier to take into account the size and scope of the surrounding terrain.

**Issue:** Please also note ...HB307 does not define the term “use of weapons” and may be interpreted to be for the purpose of personal protection, rather than the purpose of recreational shooting. Others wished to expand the shooting restriction to include crossbows.

**Response:** DNR has chosen to restrict only firearms within the identified areas of the KRPUA. The department believes that the public safety concerns within the KRPUA are adequately addressed by limiting the restriction to only these types of weapons.

**Issue:** Several suggested that a new shooting restriction be created to cover the Jim Lake-Swan Lake wetlands area; that these areas should be afforded special protection by prohibiting discharge of firearms there as well. The concern was that target shooting should not be allowed in the wetlands due to lead shot pollution, and dangers target shooting poses to people using wetlands, wildlife and impacts to habitat. Further concern

was expressed that the existing proposed restrictions will displace users, and that they will move to these wetlands area. The lakes/wetlands areas are not acceptable places for target shooting.

**Response:** DNR acknowledges the concerns expressed in these comments, however the suggested new shooting restrictions are outside the scope of the proposed regulations. These comments may be considered during the development of the management plan for the KRPUA, or in the second phase of regulations for the management of the area.

**Issue:** Easily accessible areas of the public use area are not appropriate venues for recreational shooting. The area attracts users from Anchorage and Mat-Su. Residential communities border the Knik River, and the community of Butte is situated directly adjacent to the public use area. The public use area harbors critical and sensitive wetland habitat, supports healthy populations of wildlife, and is very popular for hunting, fishing, wildlife viewing, hiking, and ATV riding. An existing public shooting range exists in Palmer less than ten miles from the KRPUA, and at the Birchwood Shooting range. The majority of recreational shooters using the public use area are not responsible users and are not interested in shooting in managed ranges which is precisely why they frequent the area.

**Response:** DNR respectfully disagrees with this commenter. The KRPUA was set aside as a multiple-use Public Use Area. As cited previously, the enabling legislation not only acknowledges and encourages all these uses, but places restrictions on the department's authority to restrict the use of weapons including firearms. DNR further disagrees that the majority of those using the KRPUA for shooting are not responsible users. DNR acknowledges that shooting in high use areas poses a threat to public safety, especially from those few who are reckless, this is precisely why these regulations were proposed. However, responsible shooting on state land is an accepted and generally allowed use under state regulations and long standing traditional use of the area. The existence of alternative public or commercial shooting ranges is irrelevant to the use of the KRPUA for this purpose.

**Issue:** Regarding implementation of these regulations, the Matanuska-Susitna Borough has adjoining property to the Knik PUA including several popular access points. We would welcome a cooperative management agreement with the State to apply these regulations to adjoining MSB lands to allow for State enforcement.

**Response:** DNR appreciates the suggestion expressed in this comment, however the proposed regulations are intended to establish these shooting restrictions and define violations on which an enforcement officer can issue a bailable citation only on state owned lands within the KRPUA. DNR has no enforcement authority outside the KRPUA (AS 41.23.210).

**Issue:** The rules pertaining to development on private property, although they don't specifically point to any particular activity where they may do so, sort of allude to the

potential regulation of private land owners in the area. I think care should be taken to ensure property owners rights are protected and not unduly burdened with unclear permit requirements.

**Response:** The proposed regulation applies only to state owned lands within the KRPUA. DNR has no enforcement authority outside the KRPUA or on non-state owned lands.

**Issue:** Some expressed concern that proposed regulations 11 AAC 96.015.(16)(A) and (B) were redundant.

**Response:** This is not the case. 11 AAC 96.015.(16)(A) applies to uplands from the ordinary high water line of the Knik River, where 11 AAC 96.015.(16)(B) applies only to submerged lands in the bed of the Knik River. The ordinary high water line is the dividing line between the two restriction areas. DNR will consider revising proposed regulations to address any possible overlap in the ¼ mile of the bed of the Knik River.

**Issue:** Some agreed that there are areas where recreational shooting needs to be prohibited, but that the proposed regulation was not sufficiently consistent with AS.41.23.200, Section 2: or the Purpose of HB307 - AS.41.23.180 (2). They believe that the areas prohibited to shooting in the proposed regulations are not sufficient to ensure the safety of users and the well-being of wildlife.

**Response:** The proposed regulations were not meant to “ensure” public safety. The purpose of the proposed shooting regulations is to minimize threats to recreational users of the area. Although the protection of wildlife is important, that is not the goal or within the scope of this regulation.

**Issue:** If permits are required to shoot in the KRPUA they should not be tangled in a burdensome bureaucratic process.

**Response:** All permits go through an application process. The type and size of the proposed activity will influence the process in which the application is adjudicated.

**Issue:** Shooting boundaries are confusing.

**Response:** The target shooting restriction boundaries are based on both legal location via Meridian, Township, Range, and Section, as well as Latitude and Longitude. The locations may be difficult to decipher without the help of a map, therefore a map has been created, and will be posted on site at locations in the KRPUA. Signs and an educational component will also be implemented to aid in identifying prohibited target shooting areas.

**Issue:** The shooting regulation is too restrictive for elderly and handicap people.

**Response:** The intent of the regulation is to minimize target shooting in areas that receive high levels of use. It does not discriminate based on age or physical ability. Within restricted areas target shooting will be restricted to everyone.

**11 AAC 96 .015(c)(17)** (restriction and violation regarding harassment of fish or wildlife resources; ) **18 support, 0 oppose, 2 unknown**

**Issue:** Recommend using ADF&G version of harassment.

**Response:** The ADF&G version of ‘harass’ “means to repeatedly approach an animal in a manner which results in the animal altering its behavior”. The key word in ADF&G’s opinion is “altering” which they believe is more defensible than the term “disruption” which is used in the DNR definition. The department will consider rewording their definition of ‘harass’ to include the word “alteration”. NOTE FOR DISCUSSION: IS ALTERATION TOO LOW A THRESHOLD? Alteration could mean just moving animals

**Issue:** Several suggested a change that would include the concept of “intent” to the regulation as well as expand the levels of user interaction with wildlife that would result in a citation:

Suggest change to “a person may not approach wildlife if the intent is to harass fish or wildlife”; or,

This regulation should be stronger by changing to read, “a person shall not intentionally approach wildlife in a manner not reasonably related to lawful hunting and trapping that results in disturbance of wildlife behavior within migratory waterfowl nesting areas or other fish and wildlife habitat”; or

Suggest change to “a person shall not intentionally approach, threaten, harass, pursue, or intentionally disturb wildlife in a manner not reasonably related to lawful hunting and trapping within migratory waterfowl nesting areas or other fish and wildlife habitat”;

The term “disturb” should be used rather than “harass”.

**Response:** The department will consider amending the proposed regulation to address the lawful hunting issue, but otherwise believes that the purpose of the proposed regulation can best be implemented and defended using the proposed terms. Including a requirement that the “intent” of an individual be established as part of the requirement for the issuance of a citation would create a difficult standard on which to successfully prosecute violations.

The department chose to limit the violation to “harass” rather than include other terms such as “disturb”, “approach”, “threaten”, or “pursue” because those terms incorporated a wider scope of potential interactions between users and wildlife than the department wanted to address. Some of the suggested terms are overly broad or too subjective. Punishing unintended, incidental and benign interactions with wildlife was not the intent of this proposed regulation. Individuals who unintentionally influence an animal while pursuing activities such as photography or traveling along a trail will not be subject to a fine because an animal was disturbed by the person’s one time action. Rather, the focus of the proposed violation is aimed at more intentional and harmful abuses of wildlife within the KRPUA. Individuals that act in a manner that meets the definition for “harass” will be subject to the violation created by this proposed regulation. The department does not intend to replace “harass” with “disturb” or add other more restrictive terms.

**Issue:** Use of an existing trail should not constitute harassment if an eagle or swan decides to build a nest in the vicinity.

**Response:** This regulation will not restrict the use of existing trails or access routes. In the event that a nest is constructed alongside of a trail or access point, the trail use will not be restricted.

The regulation as proposed uses the “harass” standard rather than “disturb”. The definition of “harass” under proposed 11 AAC 96.250(30) is “to repeatedly approach an animal in a manner not reasonably related to lawful hunting or trapping and which results in a alteration of animal behavior within migratory waterfowl nesting areas or other fish and wildlife habitat.” If an individual user were to behave in this manner, then they may be subject to criminal citation under this proposed regulation.

**Issue:** The same regulations and enforcement practices should be employed for violations in KRPUA as those that are in place by US Fish and Wildlife and Alaska Division of Fish & Game for both industrial and recreational users elsewhere.

**Response:** DNR’s statutes and mission differ significantly from those of ADF&G and USF&WS, and focus on land and resource rather than game management. Use of enforcement practices of those agencies would not be appropriate for managing the KRPUA.

**Issue:** Additional suggestions:

Archeological protections should also be part of the regulations.

“It is unlawful to possess, destroy, injure, deface, remove, dig or disturb cultural or archeological resources.”

Human Waste and Sanitation regulations should be added. Since the area is heavily impacted from camping, there should be some enforceable regulation to control human waste issues.

“No disposal of human waste within one hundred feet of water sources, from high water mark, a campsite, or within sight of a trail.”

**Response:** These suggestions for new regulations are outside the scope of DNR’s current proposed regulations. These suggestions may be considered in the development of the department’s Phase II management regulations for the KRPUA once the management plan for the area is adopted.

**11 AAC 96 .015(c)(18)** (Violation based on construction, development, improvement or pioneering a road or trail without authorization) **7 support, 8 oppose, 3 unknown**

**Issue:** Closing "the" area to off road traffic is a bad idea.

**Response:** The proposed regulation does not close the area within the KRPUA to off-road travel. Off-road travel and related activities are still Generally Allowed Uses within the KRPUA under, 11 AAC 96.020(a)(1), including the use of highway vehicles (up to 10,000 lbs) and recreational type off-road or all-terrain vehicles (up to 1500 lbs). This proposed regulation is intended to limit the creation of new pioneer roads and trails within the KRPUA, and defining a violation on which an enforcement officer, appointed by the commissioner, can issue aailable citation.

**Issue:** Recommend changing to read " pioneer a new road or trail" in keeping with KRPUA legislation.

**Response:** The regulation as proposed reads; “a person may not construct, develop, improve or pioneer a road or trail without prior written authorization from the department;”. As used in the proposed regulation, ”pioneer” is synonymous with new”. The department will consider revising the proposed regulation to make this clearer.

Changing the proposed regulation as suggested could also be interpreted as to limit the scope of the entire regulation only to NEW roads or trails. Such a change would be inconsistent with the department’s intent to apply the proposed regulation in cases not only where NEW roads or trails are being pioneered, but where individuals construct, improve or develop existing roads or trails, beyond the road or trail’s current condition, with out a permit. The KRPUA legislation provides for the recognition of existing off-road motor vehicle trails and access those trails provide, it does not authorize uncontrolled road and trail expansion.

**Issue:** Plenty of trails already made. Don't want to have to get a permit to traverse around a washed out trail segment or clean up an existing trail with willow growth in it. Maybe some clarification??

**Response:** The intent of this regulation is not to prevent people from traversing around an obstruction in the trail. The department is aware of the vast trail system that exists in the overall area, and anticipates working with user groups to ensure the expansion of existing trails or the construction of new trails through the permitting system, avoids sensitive habitat, and/or are aligned with the management intent for the area. The violation is intended to prevent establishment of new trails or the significant expansion of existing trails without obtaining department approval.

**Issue:** Suggest a new regulation, “a person shall not violate access restrictions posted by DNR to comply with statutes and regulations protecting natural, cultural, and historical sites of significance”.

**Response:** This comment is outside the scope of the proposed regulations.

**Issue:** A map of the existing, authorized trails should be published and adopted into this regulation. DNR needs to be more specific about trails and roads that would be affected by this.

**Response:** The identification and inventory of the existing, authorized trails is an issue to be addressed in the management plan for the KRPUA currently being developed. Once this plan has been completed and adopted, a map such as the one suggested may be incorporated into the proposed Phase 2 regulations for the management and modification of the enforcement regulations. This proposed regulation does not create a restriction on the creation, improvement or expansion of roads or trails on state land, that limitation already exists under Generally Allowed Uses, 11 AAC 96.020(a)(2)(A). This restriction, and the proposed new regulation dealing with violations of that restriction apply to all roads and trails on state land within the KRPUA.

**Issue:** Several comments were received that stated that the Generally Allowed Uses were already in place. They objected to anything more restrictive than the Generally Allowed Uses, and wanted no more restrictions than in the existing laws.

**Response:** Generally Allowed Uses regulations remain in effect on state owned lands. However, this proposed regulation does place additional restrictions on the development and improvement of roads and trails within the KRPUA. This regulation is the result of unauthorized trail construction throughout the Knik River Public Use Area, the department’s recognition of and responsibility to manage and conserve the important public resources that exist within the KRPUA. The intent of this proposed regulation is to channel roads and trail development through the department’s permitting and easement reservation process. The department believes that the proposed restriction on trail creation (to only DNR permitted trails) is necessary to protect the resources and uses of the area.

**Issue:** Be more specific, need definitions for roads and trails.

**Response:** The proposed regulation applies to all roads and trails within the KRPUA.

**Issue:** Don't eliminate existing roads or trails. Improving trails should be encouraged

**Response:** The proposed regulation does not eliminate any existing roads or trails. The proposed regulations seeks to enforce the existing limitations on the construction and improvement of trails, on state land within the KRPUA, that already exists under Generally Allowed Uses regulations, 11 AAC 96.020(a)(2)(A). Any improvement of existing trails beyond what is allowed under the GAU's must be done through authorizations issued by the department.

**Issue:** Strongly support the proposed regulation as a necessary tool. This is one of the most critical regulations.

**Response:** The department appreciates the support.

**11 AAC 96 .015(c)(19) (restriction and Violation regarding damage of public property)  
11 support, 1 oppose, 0 unknown**

**Issue:** Recommend changing to read "facility" rather than "property" to indicate that this applies to facilities separately, land and trails are covered under other regulations.

**Response:** This proposed regulation is not intended to apply to vacant land or unimproved trails or roads, this proposed regulation is intended to apply to other types of public property including facilities, such as buildings or structures, pavement, barriers, signs, dumpsters and trail improvements like railings, bridges or boardwalks. Changing the regulation as proposed would define the violation too narrowly and limit the department's citation authority beyond the purpose of these proposed regulations.

**Issue:** Put in fines

**Response:** DNR is not proposing the size of the fines for these violations in these proposed regulations. The Alaska Supreme Court, not DNR, has the authority to set the size of the fine.

**Issue:** These regulations are already covered by statutes and regulations, and are not needed.

**Response:** This proposed regulation is intended to define violations based on existing law, regulations, land use restrictions or limitations on which an enforcement officer, appointed by the commissioner, can issue aailable citation. This type of regulation is required if the department or its appointed agents (State Troopers) are to be able to enforce it regulations through the issuance of citations carrying monetary fines.

**Issue:** We object to it and it should not be more restrictive than state statutes.

**Response:** The commenter did not provide a reason for their objection other than the statement that the proposed regulations should not be more restrictive than state statutes. The department is not aware of any less restrictive statutes applicable to damage, vandalism, or destruction of public property located on state land.

### **11 AAC 96.015(d) 1 comment in general support**

#### **11 AAC 96.250 (Definitions) 2 commenters**

**Issue:** (22) “firearm” The definition of “firearm” should include crossbow.

**Response:** It would be in appropriate to include crossbow in the definition of firearms as the intent of these regulations is to address high powered or gas powers firearms.

**Issue:** (24) “explosive”... or device that is commonly used or intended for the purpose of ... **ISSUE:** The word “commonly” should not be there.

**Response:** The commenter does not state why they believe the word “commonly” should be eliminated from the definition.

**Issue:** (26) “structure” ...**SHOULD BE:** ... include but are not limited to buildings, ... **ISSUE:** What about tents?

**Response:** In Regulatory construction it is unnecessary to add the phrase “but are not limited to” to expand the intent of the definition beyond the examples provided in the regulation. All similar types of structures are included by inference. Tents and other similar temporary, portable structures are not intended to be included in this definition.

**Issue:** (29) “hazardous material” ... substances that are harmful to human and environmental health and/or safety in relatively small quantities. **SHOULD BE:** ... substances that are harmful in relatively small quantities to human and environmental health or safety

**Response:** The department will make the appropriate change to make clear that the quantity statement applies to the hazardous substances rather the effected entities.

**Issue: (29) “hazardous material”** ... defined as “hazardous” by the state or federal government. ISSUE: What about destructive in addition to hazardous.

**Response:** The term “hazardous”, as used in this proposed regulation, sets a lower threshold than “destructive”. A substance would have to exceed the better understood hazardous standard before reaching a more subjective term as “destructive”. Such an addition is unnecessary.