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of **ALASKA**
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USDA Forest Service
Director, Public Benefits
201 14th Street SW
Public Benefits Office
Washington, DC 20250
Submitted online at [regulations.gov](https://www.regulations.gov)

Re: Travel Management, National Forest System Lands

The State of Alaska (State) reviewed the U.S. Forest Service's (USFS) Notice of Intent (NOI) to prepare an environmental impact statement (EIS) and rulemaking to revise the Forest Service's travel management regulations, 36 CFR part 212: "Travel Management; National Forest System Lands" (91 FR 54686, August 24, 2026). The proposed revisions seek to increase access while simplifying regulatory requirements and maintaining local decision-making authority. The proposed action would establish, as national policy, a presumption that existing roads, trails, airfields, trailheads, and other access routes and points on National Forest System (NFS) lands are open to appropriate public use unless closure or restriction is required. The comments below incorporate input from the Departments of Natural Resources (DNR) and Fish and Game (ADF&G).

While this nationwide policy favoring public access is a positive step in ensuring better access to NFS public lands, the proposed rule must explicitly recognize, and the EIS address, the statutory access protections granted by the Alaska National Interest Lands Conservation Act (ANILCA) to Forest Service lands in Alaska.

The State is generally supportive of the stated intent to increase access on Forest Service lands, but the NOI does not address Alaska's unique land authorities and fails to reference statutory requirements under ANILCA (P.L. 96-487) that govern motorized vehicle use and access on NFS lands in Alaska. Forest Service lands in Alaska make up approximately 12 percent of all Forest Service lands and roughly 51 percent of all Forest Service managed wilderness. Existing Forest Service regulations do not adequately reflect Alaska's distinctive statutory mandates, geography, cultural considerations, access realities, and subsistence provisions, much of which results in management practices that differ substantially (or should) from those applied in the Lower 48. Many of the access allowances granted by ANILCA apply in designated wilderness areas, wild and scenic river corridors and National Historic and Scenic Trail Corridors (all identified as Conservation System Units (CSUs) by ANILCA) but not to the Forest Service's general public use lands. Congress deliberately allowed motorized access in Alaska's CSUs to preserve traditional activities, transportation and subsistence practices. Many of the access allowances granted by ANILCA apply within CSUs but not to the Forest Service's general, multi-use public lands. This creates a clear inconsistency: motorized use is expressly protected in

Alaska's most restricted federal land categories yet may be broadly prohibited on standard National Forest lands where no comparable statutory protections exist.

The State requests that 1) the USFS provides opportunities for direct coordination and formal consultation regarding decisions on access proposals, 2) any national policy recognize the unique land management paradigm in Alaska established by ANILCA, and consider an Alaska-specific exception or savings clause, and 3) the USFS incorporate existing information available from the State regarding existing access on public lands.

Importance of Opportunities for State Consultation

The State requests clarification on whether the USFS intends to consult directly with the State on the following:

- Routes within National Forests or CSUs where the State asserts management authority (e.g. RS 2477 routes).
- Routes that terminate at the ordinary high-water mark or mean high water of navigable or public waters.
- Routes where motorized use will be governed by vehicle weight limits.
- Routes that provide access to state land selections or topfilings.
- Routes that provide access to towns, villages, or any other established communities.
- Approval of routes or modes of transportation that may result in any cross-boundary impacts, including those to State-issued authorizations and permits.

Given the management authority and the subject matter expertise that DNR holds over many of the routes that may be included in the proposed rulemaking process, a formal role for the State in coordination and/or joint reviews for routes that span state and federal land is both necessary and of benefit to the public and should therefore be prioritized during the rule-making process.

Additionally, under Alaska law, conflicts involving fish and wildlife harvest, whether between subsistence, recreational, or other uses, must be resolved by the Alaska Board of Fisheries or Board of Game or by the Federal Subsistence Board. These state and federal boards hold exclusive authority to determine customary and traditional use designations, set harvest methods and means, and balance competing uses accordingly. A national regulation cannot supplant this established dual-management framework without a clear statutory basis for overriding those boards' jurisdiction.

Travel management decisions directly determine public access opportunities, which in turn alter hunter distribution, affect harvest success, impact subsistence opportunity, and influence state fish and wildlife management objectives. ADF&G requests that the final rule require formal, early coordination with the State of Alaska prior to initiating any travel management planning, route designation, or access restrictions on NFS lands in Alaska.

ANILCA Context

The State has consistently advocated for Alaska "exceptions" to other national rules, given that land management realities are different in Alaska than in all other states, and uniform national policies often overlook the complex dynamics in the state and the unique provisions required by ANILCA. Any proposed action establishing a uniform national policy related to access and travel management must recognize through the rulemaking process that in Alaska, the provisions of ANILCA prevail. Formal consultation on any rulemaking or management decision involving

State land interests in Alaska is essential for meeting the requirements of ANILCA and for producing outcomes that benefit public lands in Alaska and the citizens who use them.

To ensure the Alaska context is captured in the future regulations, the State urges the Forest Service to adopt one of the following regulatory approaches:

- Propose draft national regulations to recognize and provide for motorized uses in Alaska as authorized under ANILCA.
- Develop a parallel set of regulations specifically for the Alaska Region that properly implement provisions of ANILCA authorizing motorized vehicle use.
- Include in the draft travel-management regulatory packet an explicit ANILCA limitations and savings clause (16 USC 3125) to ensure continuity of pre-ANILCA subsistence, access, and management rights in Alaska, except where ANILCA expressly provides otherwise.

The NOI appropriately identifies public access to NFS lands for recreation, subsistence and other uses, including the exercise of legal rights, as the first item on the preliminary list of substantive issues for analysis in the EIS. It also anticipates evaluating the associated impacts including changes in access opportunities, use patterns, and conflicts among uses, based on proposed transition provisions, exemptions, and subsequent local decisions. In this evaluation, it will be important for the EIS to address Alaska lands differently. While the NOI appropriately includes subsistence on the *Preliminary List of Substantive Issues and Summary of Expected Impacts*, we question whether a national rule can fully integrate the statutory direction ANILCA provides for Forest Service lands. For example, ANILCA Section 811 requires that rural residents engaged in subsistence uses “shall” have reasonable access to subsistence resources on all federal public lands in Alaska by use of snowmobiles, motorboats, and other means of traditional surface transportation.

In the preamble to the final travel management rule in 2005, the Forest Service did not address any provisions of ANILCA besides 811 and 1110(a), changing the substance of the State’s request that the rule reflect other provisions of ANILCA. The agency’s reply asserted that no rights of way or treaty rights were revoked.¹ ANILCA includes multiple provisions governing access, beyond the issues addressed in Sections 811 (subsistence access) and 1110(a) (access for traditional activities). Many of these provisions of ANILCA direct agencies to allow specific activities in Alaska under defined conditions. These allowances are substantive and mandatory and should not be merely “recognitions” through agency policy.

We provide the following short summaries of ANILCA sections that address motor vehicle access in Alaska’s National Forests. If a separate Alaska specific rule is not prepared, the rule needs to incorporate the full statutory framework Congress established for Alaska.

Section 811 ensures that rural residents engaged in subsistence uses “shall” have reasonable access to subsistence resources on all federal public lands in Alaska by use of snowmobiles, motorboats, and other means of surface transportation traditionally employed for subsistence purposes. Such access includes off-highway vehicles where such methods were used generally in the area prior to ANILCA. Such access is subject to “reasonable regulations” (which have not been adopted for Forest Service lands).

¹ 70 FR 68264, November 9, 2005: <https://www.federalregister.gov/d/05-22024/p-344>, accessed 9/15/2026

Section 1109 ensures any valid right of access which existed prior to ANILCA.

Section 1110(a) ensures the use of snowmachines, motorboats, airplanes, and non-motorized surface transportation methods for traditional activities “shall” be allowed on conservation system units, national recreation areas, and national conservation areas, and those public lands designated as wilderness study. In Alaska’s two National Forests, this provision applies to units in the National Wilderness Preservation System, National Trails System, National Forest Monuments, and any unit of the National Wild and Scenic Rivers System that may be designated in the future.

Section 1110(b) ensures adequate and feasible access “shall” be allowed to inholdings and other valid occupiers within or effectively surrounded by conservation system units (e.g. designated monuments and Wilderness areas) and wilderness study areas in Alaska, including valid mining claims and subsurface rights. Such access may include off-highway vehicles.

Section 504(g) ensures holders of unperfected mining claims in Misty Fjords and Admiralty Island National Monuments have the same access rights as inholders under Section 1110(b).

Section 1111 allows access across conservation system units and wilderness study areas to adjacent State or private lands for the purposes of survey, geophysical, exploratory, or other temporary uses. Such access may include off-highway vehicles.

Section 1310 allows the use of reasonable access (including off-highway vehicles) for operation and maintenance of new and existing air and water navigation aids, communication sites and related facilities, and facilities for weather, climate, and fisheries research.

Section 1315(b) authorizes the State of Alaska to conduct fishery research, management, enhancement, and rehabilitation in Forest Service wilderness and wilderness study areas. This allowance includes reasonable access, such as temporary use of motorized equipment, for “furtherance of research, management, rehabilitation, and enhancement activities subject to reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.”

Section 1316(a) allows on all public lands where the taking of fish and wildlife is permitted, the Secretary shall permit, subject to reasonable regulation to ensure compatibility, the continuance of existing uses, and the future establishment, and use, of temporary campsites, tent platforms, shelters, and other temporary facilities and equipment directly and necessarily related to such activities.

Section 1323(a) states that “the Secretary [of Agriculture] shall provide such access to non-federally owned lands within the boundaries of the National Forest System as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: Provided, that such owner comply with rules and regulations applicable to ingress and egress to or from the National Forest System.” This access may include off highway vehicles.

Specific Access Provisions & Traditional Uses

The State supports the intent outlined in the NOI, that the Forest Service will allow off-route access for game retrieval and to open backcountry airstrips. These allowances are in line with access provisions in ANILCA 1110(a). We also advocate for the inclusion of Section 1316 allowances in proposed travel management guidance.

- **Off-Route Travel:** ADF&G strongly supports broad motorized off-route access for fish and wildlife harvest, big-game retrieval, firewood gathering, and subsistence activities. In Alaska's remote environments, off-route motorized access is a customary component of traditional surface transportation under ANILCA and is essential to prevent game spoilage and support Alaskans' livelihoods. The final rule must explicitly affirm that off-route motorized travel for these purposes remains permissible under the "open until closed" framework of ANILCA across all Chugach and Tongass lands.
- **Airfields, Backcountry Airstrips, and Water Landing Sites:** Fixed-wing aircraft are often a primary, vital means of access across CSU areas and general NFS lands in Alaska. The final rule must guarantee that all backcountry airstrips, gravel bars, alpine ridgelines, and water landing sites across all NFS lands in Alaska remain open to aircraft landing under Section 1110(a) authority without requiring individual use permits or specific map listings.
- **ANILCA Section 1316 and Motorized Equipment:** Under ANILCA Section 1316 (16 U.S.C. § 3204), the Secretary is authorized and directed to permit the continued use and maintenance of temporary campsites, tents, shelters, and other equipment, including motorized equipment where the taking fish and wildlife is permitted, subject to reasonable regulations to ensure compatibility, the continuance of existing uses, and the future establishment and use. Travel management planning under Part 212 must explicitly protect and accommodate the use of motorized equipment authorized under Section 1316 across all NFS lands in Alaska, ensuring that hunters, trappers, and anglers can transport and utilize necessary gear for fish and game harvest and retrieval without restrictive limitations.

Extending the ANILCA Access Framework Beyond CSUs

The Forest Service's NOI indicates a national policy presuming that existing roads, trails, airfields, trailheads, and other access routes on National Forest System lands are open to appropriate public use unless closure or restriction is required by applicable law or supported by specific, documented justification based on resource conditions, safety, user conflicts, or administrative capacity. This intent aligns directly with ANILCA's longstanding "open until closed" framework for Alaska, which ensures that access for traditional and subsistence activities remains available unless formally closed through a legally required public process and rulemaking. Any closure action in Alaska must be justified by public safety concerns, wildlife conservation needs, or administrative necessity specific to resource management, and must follow public process.

ANILCA established that in Alaska, reasonable access "shall" be allowed, as outlined more specifically above. Therefore, to remain consistent with both ANILCA and the Forest Service's stated intent to favor increased access and simplify regulation, the proposed rule should explicitly adopt an "open until closed" standard for all Forest Service lands in Alaska—including

general forest lands. Travel management in Alaska should not impose access restrictions that are more limiting than those applied in CSUs (including designated Wilderness), particularly when Congress has mandated a more permissive, Alaska-specific access regime.

Reconciliation of 36 CFR Part 212 Route Designations with ANILCA Closure Rules

The explicit "open until closed" standard should also clearly apply for subsistence and traditional activities for all across all NFS lands in Alaska, including general forest lands. General forest lands in Alaska should not impose access restrictions that are more restrictive than those governing CSUs. The proposed revisions to Part 212 must explicitly include an Alaska-specific exception or savings clause clarifying that Part 212 route designation requirements do not override or supplant ANILCA access provisions. Access by snowmachines, motorboats, airplanes, and other surface transportation for traditional activities and access to inholdings must remain guaranteed across all NFS lands in Alaska without requiring advance discretionary permitting or restrictive route designations.

- **Mandatory ANILCA Closure Procedures:** Any closure or restriction of access for subsistence or traditional activities, whether on general forest lands or inside a CSU, should strictly adhere to ANILCA closure procedures (43 CFR Part 36 and 50 CFR Part 36). These rules mandate public notice, local hearings, and specific administrative findings that a proposed use causes significant resource damage or detrimental impacts to area values.
- **Need for an Alaska Savings Clause:** On general forest lands outside CSUs, treating unmapped terrain or non-designated trails as "closed" creates a regulatory conflict. Part 212 must include an explicit Alaska-specific savings clause clarifying that Part 212 route designation rules do not override or supplant ANILCA access provisions.

Proposed ANILCA Savings Clause Text:

Nothing in 36 CFR Part 212 shall be construed to limit, restrict, or modify access for traditional activities, subsistence uses, access, or the use of motorized equipment guaranteed under the Alaska National Interest Lands Conservation Act across any National Forest System lands in Alaska, regardless of unit designation.

Utilize Publicly Available Data Related to Access:

One of the top priorities of DNR's area planning process is the establishment and preservation of access. Planning for access on lands managed by the State of Alaska is based on the following principles:

- **Public Access:** maintain, enhance, or provide adequate access to public and private lands and resources.
- **Trails:** maintain, enhance, or provide adequate access within areas of development and between areas of current or future development.
- **Retain existing access:** improve or maintain public access to areas with significant public resource values by retaining access sites and corridors in public ownership; reserving rights of access when state land is sold or leased; or identifying, managing and legally validating RS 2477 (Revised Statute Section 2477) rights-of-way.
- **Access to Non-State Lands:** reasonable access will be provided across state lands to other public and private lands. Existing legal access will not be precluded unless equivalent access is available.

The principle of access to non-state lands is especially relevant in the context of interagency planning between the State and the USFS and should also be considered a top-priority for the USFS during the rulemaking process. The State requests that the USFS consider existing trails, roads, routes, and other forms of access that cross land ownership boundaries between the State of Alaska and the Forest Service, and the rules regarding motorized use on these routes. Routes that span multiple land ownerships offer continuity for the public, but can become problematic if there are different rules regulating the types of motorized uses that are allowed.

Through public processes related to area planning and other land management decision-making, DNR has identified roads, trails, and airfields that benefit the public, and has used this information to develop a state-maintained geospatial database. DNR recommends that the USFS refer to the publicly available geospatial database via the Alaska Mapper website as an open source for obtaining valuable and specific information that can inform rules related to access and travel management. The Alaska Mapper website is available here:

<https://mapper.dnr.alaska.gov/map#map=4.393176317635158/-17368420.48/8918191.29/0>

Annual Review

The NOI indicates the proposed rule will require annual review of all trails, roads, airfields, trailheads, and other access routes and points that are closed or highly restricted.

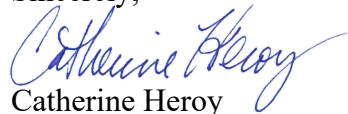
An annual review of closed or highly restricted trails across all Alaska Forest Service lands on an annual basis may not be feasible. We request that any time limits set are realistic given agency staffing and funding.

Closing

Thank you for the opportunity to review and comment on this proposed EIS and rulemaking. The State supports the intent and spirit of the proposed rulemaking process and looks forward to continued involvement and consultation in the rulemaking process. To improve outcomes resulting from this favorable process, the State requests that 1) the USFS provides opportunities for direct coordination and formal consultation regarding decisions on access proposals, 2) any national policy recognize the unique land management paradigm in Alaska established by ANILCA, and consider an Alaska-specific exception or savings clause, and 3) the USFS incorporate existing information available from the State regarding access on public lands.

Please contact me at (907)269-0880 or by email at catherine.heroy@alaska.gov to coordinate any follow up discussions.

Sincerely,



Catherine Heroy
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