

*Additional update:* The President signed SJR 69.

*Update:* The Senate just passed S.J.R. 69.

The House voted last week to pass [House Joint Resolution 69](#). The resolution disapproves of the Fish & Wildlife Service rule, "[Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures on National Wildlife Refuges in Alaska](#)," which was finalized on August 5, 2016. The resolution uses the Congressional Review Act (CRA), which allows Congress to disapprove of—thereby nullifying—recently finalized agency rules via joint resolutions in the House and Senate passed by a simple majority. Disapproval under the CRA prevents the agency from making any substantially similar rule.

The primary feature of the rule at issue was to restrict certain forms of non-subsistence hunting on the 16 National Wildlife Refuges in Alaska, following a recent liberalization in rules by the State Board of Game. The types of practices banned included taking black or brown bear cubs or sows with cubs, taking brown bears over bait, taking bears using traps or snares, taking wolves or coyotes during denning season, and taking bears from an aircraft. Because of its focus on these hunting methods, it is sometimes referred to as the "Fair Chase Rule."

Supporters of the resolution frame the CRA disapproval as a means of combatting federal overreach into state lands and authority. Don Young (R-AK), the House sponsor of the resolution, stated "Not only does this action undermine Alaska's ability to manage fish and wildlife upon refuge lands, it fundamentally destroys a cooperative relationship between Alaska and the federal government." Alaskan representatives claimed that this rule impeded the state's Predator Control Program.

The FWS, in the final rule, explained their position on the federalism concerns raised by opponents, highlighting that though states generally possess broad police powers over fish and wildlife (even those on Federal lands), the National Wildlife Refuge System was specifically created for the principal purpose of conserving wildlife, and thus this rule "involves a Federal function specifically authorized by Congress."

During the public comment, many raised concerns that this rule would affect subsistence takes of wildlife, which are given high priority under the Alaska National Interest Land Conservation Act sections 302 and 303. The relevant sections provide that the purposes of the act are:

“(i) To conserve fish and wildlife populations and habitats in their natural diversity, and (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats. The third purpose listed is to provide, in a manner consistent with the purposes set forth in (i) and (ii), above, the opportunity for continued subsistence uses by local residents.”

FWS responded that the rule comports with the statutory language, which affords equal weight to conservation and subsistence purposes, and thus allows the restriction on hunting method to serve conservation purposes.

Primary opponents of repeal include wildlife conservation groups, as well as some hunting groups, who see rules such as these as violating an ethic of fair chase. Forty-seven organizations, both national and local, signed an [open letter](#) against the resolution, arguing that the repeal signaled an undermining of federal authority to manage wildlife for conservation purposes.

The companion resolution in the Senate, [SJ Res 18](#), sponsored by Dan Sullivan (R-AK) and Lisa Murkowski (R-AK), is not yet scheduled for a vote.

If you are interested in contacting your Senators about this resolution, [here is some advice](#).

Emily Renda drafted this blog post.