



## H. J. Res. 69 - Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule of the Department of the Interior relating to "Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska"

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### FLOOR SCHEDULE:

Expected to be considered on February 16, 2017, subject to a [closed rule](#).

### TOPLINE SUMMARY:

[H.J. Res. 69](#) would use the [Congressional Review Act](#) to provide for the disapproval under [chapter 8 of title 5, United States Code](#), of the rule submitted by the Department of the Interior relating to "Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska".

### COST:

A Congressional Budget Office (CBO) estimate is not yet available.

### CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### DETAILED SUMMARY AND ANALYSIS:

H.J. Res. 69 would provide for the disapproval of the [rule](#) submitted by the Department of the Interior relating to "Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska" (published at 81 Fed. Reg. 52247 (August 5, 2016)).

Under the Alaska National Interest Lands Conservation Act (ANCILA), Alaska manages hunting on the federal lands within the state. However, in contravention of historical practice by the state, the [rule](#) prohibits predator control on Alaskan refuges unless "sound science in response to a conservation concern" deems it necessary. The rule also prohibits several methods of taking bears, wolves and coyotes. In

addition, a Refuge Manager will only allow predator control on Alaskan Wildlife Refuges if: (1) predator control alternatives have been considered; (2) the predator control activities are compliant with the National Environmental Policy Act; (3) a refuge compatibility determination is completed; and, (4) the effects of the predator control activities have been evaluated by a ANILCA section 110 analysis. The [rule](#) authorizes commercial fishing rights, but does allow the Refuge Manager to prohibit these exercises if they represent a “significant expansion” of commercial fishing or if the Refuge Manager believes they are inconsistent with the refuge’s purpose. The rule also prohibits taking predators if a person has been on an aircraft on the same day (not including flights between public airports). Some conservatives believe the rule infringes on the state’s power to control hunting on national wildlife refuges within Alaska’s borders.

After the rule was released, U.S. Senator Dan Sullivan (R-AK) released a [statement](#) saying “The U.S. Fish and Wildlife Service’s rule severely restricts the State of Alaska’s efforts to sustainably manage wildlife and minimizes the participation of Alaskans in future decisions affecting the use of its refuges... Even more alarming, the FWS ignores the intent of federal law and promises made to Alaska at statehood.”

The [Congressional Review Act](#) provides an expedited legislative process for Congress to disapprove of administrative rules through joint disapproval resolutions. Regulations issued by executive branch departments and agencies, as well as issued by independent agencies and commissions, are all subject to CRA disapproval resolutions. In [order](#) for a regulation to take effect, the issuing agency must produce a report to Congress. Generally, Congress then has 60 days to pass a resolution of disapproval under the CRA. However, this timeline is shifted in circumstances when rules are submitted to Congress within 60 legislative days of adjournment. In this case, the clock for the 60-day consideration timeline will restart 15 days into the 115<sup>th</sup> Congress, giving Congress the full window for consideration. While the parliamentarian will determine the exact cut off day after which rules may be subject to the CRA, Congress will be able to consider rules going back to roughly mid-May. Regulations that are successfully disapproved of will then either not go into effect or will be looked at as if they have not gone into effect. The CRA also prevents any new regulation that is substantially similar to a disapproved regulation from being promulgated in the future, absent action from Congress. Rules must be disapproved of on a rule-by-rule basis, and must be disapproved of in their entirety.

Under the CRA process, if a joint resolution is introduced in the Senate within the permitted time period and the resolution is not reported from committee on a timely basis, 30 Senators may petition to bring the resolution to the floor. This resolution would not be subject to the filibuster. When debate commences, the Senate must fully consider the resolution before moving on to any other business, with only 10 hours of debate. Finally, enactment of a joint resolution under the CRA would require a majority vote in each chamber and a presidential signature. Though the CRA has only been used once, in 2000 against Clinton-era ergonomic regulations, conditions today are largely the same as they were that year – with Republicans securing control of the House, Senate, and presidency.

### **OUTSIDE GROUP SUPPORT:**

[Americans for Prosperity](#): Key Vote Yes

[Council for Citizens Against Government Waste](#): 2017 Congressional Ratings

[NRA](#): Key Vote Yes

### **COMMITTEE ACTION:**

H.J. Res. 69 was introduced on February 7, and referred to the House Committee on Natural Resources.

### **ADMINISTRATION POSITION:**

A Statement of Administration Policy is not yet available.

### **CONSTITUTIONAL AUTHORITY:**

Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, Clause 18  
"To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers,  
and all other Powers vested by this Constitution in the Government of the United States, or in any  
Department or Officer thereof."

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