

currently reads, "Each U.S. MODU must comply with the operating requirements in 46 CFR part 109 when engaged in OCS activities." It should read, "Each U.S. MODU must comply with the operational requirements in 46 CFR part 109 when engaged in OCS activities."

31. On page 68497 in the third column, 145.105(a) currently reads, "The operating requirements in 46 CFR part 109." It should read, "The operational requirements in 46 CFR part 109."

32. On page 68498 in the first column, under section 145.106(a), paragraphs (1) and (2) currently read, "(1) Notified of each event listed in 46 CFR 4.05-1(a)(1) through (a)(6), and (2) Notified of an occurrence causing property damage in excess of \$100,000, this damage including the cost of labor and material to restore the property to its condition before the occurrence, but not including the cost of salvage, cleaning, gas-freeing, drydocking, or demurrage." They should read, "

"(1) Notified of each event listed in 46 CFR 4.05-1(a)(1) through (a)(6); and

(2) Notified of an occurrence causing property damage in excess of \$100,000, this damage including the cost of labor and material to restore the property to its condition before the occurrence, but not including the cost of salvage, cleaning, gas-freeing, drydocking, or demurrage."

33. On page 68498 in the second column, under section 145.110, paragraph (c) currently reads, "Information under paragraphs (a) and (b) of this section may be provided by telephone or may be submitted together with, and need not repeat, information submitted in applications and notices under the aids to navigation requirements in part 67 of this chapter." It should read, "Information under paragraphs (a) and (b) of this section may be provided by telephone or may be submitted together with, and need not repeat, information submitted in applications and notices under the aids to navigation requirements in part 67 of this chapter."

34. On page 68500 in the second column, under section 145.540, paragraph (b) currently reads, "If the OCMC determines that the MIDU meets the requirements of paragraph (a) of this part, the OCMC issues a letter of compliance for the MIDU. The OCMC may require that the MIDU be inspected as part of this determination." It should read, "If the OCMC determines that the MIDU meets the requirements of paragraph (a) of this section, the OCMC issues a letter of compliance for the MIDU. The OCMC may require that the

MIDU be inspected as part of this determination."

35. On page 68500 in the second column, under § 145.540, paragraph (c) currently reads, "A letter of compliance under paragraph (b) of this part is valid for 2 years or until the MIDU departs the OCS, whichever comes first." It should read, "A letter of compliance under paragraph (b) of this section is valid for 2 years or until the MIDU departs the OCS, whichever comes first."

36. On page 68501 in the first column, under section 146.100, paragraph (c) currently reads, "The owner and operator must ensure that the name of the individual acting as the person in charge is made available upon request by Coast Guard personnel." It should read, "The owner or operator, or their agent, must ensure that the name of the individual acting as the person in charge is made available upon request by Coast Guard personnel."

37. On page 68503 in the third column, the authority citation currently reads, "14 U.S.C. 85; 43 U.S.C. 1333; 49 CFR 1.46." It should read, "14 U.S.C. 85; 43 U.S.C. 1333; 49 CFR 1.46."

Dated: February 11, 2000.

**Joseph J. Angelo,**

*Director of Standards, Marine Safety and Environmental Protection.*

[FR Doc. 00-3825 Filed 2-18-00; 8:45 am]

**BILLING CODE 4910-15-U**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 242

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 100

#### RIN 1018-AG03

### Subsistence Management Regulations for Public Lands in Alaska, Subpart C—Board Determinations

**AGENCY:** Forest Service, Agriculture; and Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule solicits public comment on a request by the Kenaitze Indian Tribe for the Federal Subsistence Board to declare the entire Kenai Peninsula rural for the purposes of the priority afforded by Title VIII of the Alaska Interest Lands Conservation Act. Although currently proposing no changes from the existing regulations, this proposed rule requests public review and comment to assist the Board

in assessing the concerns of the Kenaitze Indian Tribe and the possible impacts of the Tribe's request and in reaching a decision.

**DATES:** The Federal Subsistence Board must receive your written comments no later than March 31, 2000. The Board will sponsor a public hearing to receive comments. See **SUPPLEMENTARY INFORMATION** for additional information.

**ADDRESSES:** You may submit written comments and proposals to the Office of Subsistence Management, 1011 E. Tudor Road, Anchorage, Alaska 99503.

**FOR FURTHER INFORMATION CONTACT:** Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas H. Boyd, Office of Subsistence Management, (907) 786-3888. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, (907) 271-2540.

### SUPPLEMENTARY INFORMATION:

#### Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111-3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell v. State of Alaska* that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court's ruling in *McDowell* required the State to delete the rural preference from the subsistence statute and, therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990.

As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114-27170). Consistent with Subparts A, B, and C of these

regulations, the Departments established a Federal Subsistence Board (Board) to administer the Federal subsistence management program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Area Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service.

The "Subsistence Management Regulations for Public Lands in Alaska; Final Rule" was published in the **Federal Register** (57 FR 22940-22964) on May 29, 1992. In a lawsuit consolidated with *Alaska v. Babbitt*, plaintiff Katie John challenged these rules, arguing that navigable waters are properly included within the definition of "public lands" set out in ANILCA. The United States Court of Appeals for the Ninth Circuit subsequently held: "[T]he definition of public lands includes those navigable waters in which the United States has an interest by virtue of the reserved water rights doctrine." *Alaska v. Babbitt*, 72 F.3d at 703-704. In the course of its decision, the Ninth Circuit also directed: "[T]he Federal agencies that administer the subsistence priority are responsible for identifying those waters." *Id.* at 704. As a result, we published a final rule (Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, C, and D, Redefinition To Include Waters Subject to Subsistence Priority, Final Rule, 64 FR 1276) on January 8, 1999, that conformed the Federal subsistence management regulations to the Ninth Circuit's ruling.

Through the Board, these agencies have participated in development of regulations for Subparts A, B, and C, and the annual Subpart D regulations. Because this proposed rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text would be incorporated into 36 CFR part 242 and 50 CFR part 100.

#### **History of the Rural/Nonrural Determinations for the Kenai Peninsula**

At its September 26, 1990, meeting, the Board made preliminary rural determinations, including nonrural findings for Sitka, Saxman, Kodiak, and some communities on the Kenai Peninsula. According to those proposed determinations, the rural communities on the Kenai Peninsula included Ninilchik, Seldovia, Port Graham,

Nanwalek, Hope, and Cooper Landing. Proposed nonrural determinations for the Kenai Peninsula included the Kenai area, including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifonsky, Kasilof, and Clam Gulch; the Homer area, including Homer, Anchor Point, Kachemak City, and Fritz Creek; and the Seward area, including Seward and Moose Pass. These proposed determinations were published in the **Federal Register** on October 5, 1990 (55 FR 40897). At its December 17, 1990, meeting, the Board finalized its rural determinations. After considering public testimony at the meeting, as well as public comments received at public hearings in response to the proposed determinations, the Board determined that Sitka, Saxman, and Kodiak were rural communities and made no changes on the Kenai Peninsula. The final rural determinations were published in the **Federal Register** on January 3, 1991 (56 FR 236).

On February 14, 1991, Alaska Legal Services filed a Petition for Reconsideration on behalf of the Kenaitze Tribe, asking that the Board change its nonrural determination for the Kenai Peninsula. The Board denied the request and explained its action to the proponents in a letter dated May 7, 1991.

In June 1995, eight public hearings were held on the Kenai Peninsula to gather testimony on the proposed customary and traditional use determinations for moose in Units 7 and 15. The determinations establish which rural residents of the Kenai Peninsula can hunt under Federal subsistence regulations. Although rural determinations were not the focus of those hearings, many of those who testified indicated their dissatisfaction with the current rural determinations previously established by the Board.

In September 1995, the Southcentral Regional Council met in Anchor Point and, in response to the public testimony received that summer and at its meeting, developed a recommendation to the Board that the entire Kenai Peninsula be considered rural. Council members spoke to the divisiveness of the current rural determinations, problems with aggregating and separating communities using the current process, and the importance of fishing and hunting to residents of the Kenai Peninsula. A dissenting minority of Council members felt that not all the communities on the Kenai Peninsula could be characterized as rural. When the Board subsequently met to discuss the recommendation, the Board decided that the most appropriate course of action was for the Regional Council to hold public hearings on the

Kenai Peninsula to allow for public comment on the proposal. However, at the next Regional Council meeting in February 1996, a motion to hold hearings failed, and no meetings were held.

In January 1998, the Institute of Social and Economic Research (ISER) issued a report commissioned by the Native American Rights Fund on behalf of the Kenaitze Tribe, assessing the rural character of Kenai Peninsula areas determined by the Board to be nonrural. The ISER report compares the characteristics of Kenai Peninsula communities, especially Kenai, Soldotna, and Homer, with Kodiak, Sitka, and Saxman, communities determined by the Board to be rural. The report found that on measures of rural character such as population density, seasonal employment, and levels of harvest, the Kenai Peninsula is similar to one or more of the areas the Board designated as rural. Only on the indicators of employment growth and diversity, according to the report, did the Kenai Peninsula not exhibit characteristics comparable to communities classified as rural.

At the March 1998 meeting of the Southcentral Regional Council, the Kenaitze Tribe requested that the entire Kenai Peninsula be made rural. The request asserted that special circumstances are present that warrant making this determination without waiting for the review of all rural determinations that is scheduled to occur following receipt of data from the 2000 census. The Board again suggested that the Regional Council hold public hearings on the Kenai Peninsula. The Regional Council voted to do so at its fall 1998 meeting. Public hearings were held in November 1998 in Seward, Homer, and Kenai. In March 1999, after hearing the report of the public hearings and further testimony from members of the Kenaitze Tribe and their attorneys, the Southcentral Regional Council again recommended that the Board approve the Kenaitze request to reconsider its 1990 nonrural determinations and declare the entire Kenai Peninsula rural in light of the special circumstances identified.

At its May 1999 meeting, after hearing further public testimony, the Board decided to reconsider the Kenai Peninsula communities. This proposed rule requests public review and comment to assist the Board in assessing the concerns of the Kenaitze Indian Tribe and the possible impacts of the Tribe's request and in reaching a decision.

The purpose of this proposed rule is to start the process leading to a Board

determination at its meeting in early May 2000.

### Analysis Available

As a result of the Kenaitze request, in May 1999, the Board directed staff to reevaluate the 1990 rural determinations for the Kenai Peninsula communities for a decision in May 2000. Copies of the analysis, "Re-evaluation of 1990 Rural Determinations for Kenai Peninsula Communities" are available upon request. Requests should be submitted to the Office of Subsistence Management, (907) 786-3888, or electronically to Bill\_Knauer@fws.gov.

### Hearing Locations and Comment Procedures

The Board will hold a hearing on this proposed rule in Kenai, AK, on March 1, 2000.

We will publish notice of the specific time and hearing location in local and statewide newspapers prior to the hearing. We may need to change the location and date based on weather or local circumstances. You may present comments on the proposal to change the rural/nonrural determinations on the Kenai Peninsula at the scheduled public hearing. We will accept written public comments on the proposal during the public comment period. Comments may also be submitted electronically to Bill\_Knauer@fws.gov. The Board will deliberate and take final action on the proposal at a public meeting to be held in Anchorage during May 2000.

### Conformance With Statutory and Regulatory Authorities

#### *National Environmental Policy Act Compliance*

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

Based on the public comment received, the analysis contained in the

FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, it was the decision of the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, to implement Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940-22964, published May 29, 1992) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations.

We prepared an environmental assessment on the expansion of Federal jurisdiction over fisheries that is available by contacting the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior with the concurrence of the Secretary of Agriculture determined that the expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and signed a Finding of No Significant Impact. Accordingly, an amended final rule for Subsistence Management Regulations for Public Lands in Alaska (64 FR 1276, published January 8, 1999) expanded the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations.

#### *Compliance With Section 810 of ANILCA*

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. We completed Section 810 analyses as part of the FEIS and the environmental assessment processes. These analyses concluded that the Federal Subsistence Management Program, with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses but will not reach the "may significantly restrict" threshold for notice and hearings under ANILCA Section 810(a) for any subsistence uses.

#### *Paperwork Reduction Act*

These rules in their entirety contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. They apply to the use of public lands in Alaska. The information collection requirements described below were approved by OMB under 44 U.S.C. 3501 and were assigned clearance number 1018-0075, which expires 5/31/2000. The information requirements described below will be submitted to OMB for approval beyond that date. We will not conduct or sponsor, and you are not required to respond to, a collection of information request unless it displays a currently valid OMB control number.

The collection of information under this proposed rule will be achieved through the use of a Federal Subsistence Hunt, Designated Hunter, or Fish/Shellfish Harvest/Designated Harvester application. This information will establish whether the applicant qualifies to participate in a Federal subsistence hunt or fishery on public land in Alaska and will provide a report of harvest and location of harvest.

The likely respondents to this collection of information are rural Alaska residents who wish to participate in specific subsistence hunts or fisheries on Federal land. The collected information is necessary to determine harvest success and harvest location in order to make management decisions relative to the conservation of healthy fish, shellfish, or wildlife populations. The annual burden of reporting and recordkeeping is estimated to average 0.25 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. The estimated number of likely respondents under this rule is less than 6,900, yielding a total annual reporting and recordkeeping burden of 1,725 hours or less.

Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (Subsistence), Washington, DC 20503. Additional information collection requirements may be imposed if Local Advisory Committees subject to the Federal Advisory Committee Act are established under Subpart B.

#### *Other Requirements*

This rule was not subject to OMB review under Executive Order 12866.

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand. Send a copy of any comments that concern how we could make this rule easier to understand to: USFWS, Office of Subsistence Management, Thomas H. Boyd, 1011 E. Tudor Road, Anchorage, Alaska 99503. You may also e-mail the comments to this address: Bill\_Knauer@fws.gov.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as ammunition, snowmachine, fishing tackle, boat, motor, and gasoline dealers. The number of small entities affected is unknown, but the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that the effects will not be significant.

In general, the resources harvested under rules contained in 36 CFR 242 and 50 CFR 100 will be consumed by the local harvester and do not result in a dollar benefit to the economy. We estimate a harvest of 2 million pounds of meat and 24 million pounds of fish (including 8.3 million pounds of salmon) are harvested by the local subsistence users annually and, if given a dollar value of \$3.00 per pound for meat and salmon and \$0.58 per pound for other fish, would equate to about \$40 million in food value statewide.

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Act. This rule will not have an effect on the economy of \$100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability

of U.S.-based enterprises to compete with foreign-based enterprises.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and no cost is involved to any State or local entities or tribal governments.

The Service has determined that this rule meets the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

In accordance with Executive Order 13132, the rule does not have any federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising management authority over fish or wildlife resources on Federal lands unless it meets certain requirements.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

#### Drafting Information

This document was drafted by William Knauer under the guidance of Thomas H. Boyd of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional guidance was provided by Curt Wilson, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Ida Hildebrand, Alaska Area Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service.

#### List of Subjects

##### 36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

##### 50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Accordingly, for the reasons set out in the preamble, the Departments propose to maintain the current regulations pertaining to rural determinations for the 2000 subsistence seasons and beyond found at § \_\_\_\_\_.23(a) of title 36, part 242, and title 50, part 100, of the Code of Federal Regulations (CFR). Following a review of any comments received on this proposed rule and a meeting of the Federal Subsistence Board in May 2000, we will publish a final rule either maintaining the current regulations found in 36 CFR 242.23(a) and 50 CFR 100.23(a) or amending those regulations to remove the Kenai Peninsula communities from the list of areas determined to be nonrural.

Dated: February 2, 2000.

**Thomas H. Boyd,**

*Acting Chair, Federal Subsistence Board.*

Dated: February 2, 2000.

**Kenneth E. Thompson,**

*Acting Regional Forester, USDA—Forest Service.*

[FR Doc. 00-4271 Filed 2-17-00; 4:03 pm]

BILLING CODE 3410-11-P 4310-55-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA095-0216; FRL-6539-4]

### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Ventura County Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval of revisions to the California State Implementation Plan (SIP) which concerns the control of sulfur emissions within the Ventura County Air Pollution Control District.

The intended effect of proposing a limited approval of this rule is to regulate emissions of sulfur dioxide (SO<sub>2</sub>) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate it into the federally approved SIP. EPA has evaluated this rule and is proposing a limited approval under provisions of the CAA regarding EPA action on SIP submittals and