

between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

Under figure 2–1, paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

2. Add a temporary § 100.35–T05–105 to read as follows:

§ 100.35–T05–105 Choptank River, Cambridge, MD.

(a) *Regulated area.* The regulated area includes all waters of the Choptank River within 200 yards either side of a line drawn northwesterly from a point on the shoreline at latitude 38°33'45" N, 076°02'38" W, thence to latitude 38°35'06" N, 076°04'42" W, a position located at Great Marsh Park, Cambridge, MD. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all persons participating in the Chesapeakeman Ultra Triathlon swim under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(c) *Special local regulations.* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the swim course.

(d) *Effective period.* This section will be effective from 6:30 a.m. to 10:30 a.m. on October 1, 2005.

Dated: August 18, 2005.

L.L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AT81

Subsistence Management Regulations for Public Lands in Alaska, Subpart A

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Proposed Rule: Notice of availability of supplemental information and reopening of the comment period.

SUMMARY: On December 8, 2004, we, the Federal Subsistence Board, published a proposed rule to revise and clarify the jurisdiction of the Federal Subsistence Management Program in coastal areas in southwestern Alaska. This rulemaking is necessary in order to exclude numerous saltwater embayments within National Wildlife Refuge boundaries that were never intended to fall under the jurisdiction of the Federal Subsistence Management Program. We are now reopening the comment period for this rulemaking action because of newly available maps of the specific embayments in southwestern Alaska to be excluded from the jurisdiction of the Federal Subsistence Management Program. If you have already commented on the proposed rule and have no additional comments to make as a result of viewing the newly available maps, then you do not need to resubmit your comment(s), as they will

be fully considered in the final determination.

DATES: We must receive your written public comments on this proposed rule no later than October 21, 2005.

ADDRESSES: Please submit comments electronically to Subsistence@fws.gov. See "Viewing Documents" and "Public Comment" under **SUPPLEMENTARY INFORMATION** for information about viewing the maps and electronic filing of your comments. You may also submit written comments to the Office of Subsistence Management, 3601 C Street, Suite 1030, 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 Steve Kessler, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region, (907) 786-3888.

SUPPLEMENTARY INFORMATION:

Background

Federal Subsistence Management Regulations (50 CFR 100.3 and 36 CFR 242.3) currently specify that they apply on "all navigable and non-navigable waters within the exterior boundaries * * *" of the parks, refuges, forests, conservation areas, recreation areas, and Wild and Scenic Rivers. This includes, within National Wildlife Refuge boundaries, hundreds of thousands of acres of saltwater embayments that were not withdrawn prior to Statehood and thus where the current regulations exert jurisdiction. During the early interagency discussions relative to inclusion of fisheries management in the Federal Subsistence Management Program, there does not appear to have been any intention to specifically extend Federal jurisdiction to various embayments where there was no pre-Statehood withdrawal of submerged lands and waters.

On December 8, 2004, the Secretary of the Interior and the Secretary of Agriculture published a proposed rule in the **Federal Register** (69 FR 70940) that, if finalized, would revise and clarify the jurisdiction of the Federal Subsistence Management Program in coastal areas of southwestern Alaska to exclude those various embayments where there was no pre-Statehood withdrawal of submerged lands and waters. During the comment period, which closed originally on January 24, 2005, and was extended until April 1, 2005, one commenter indicated that in order to make meaningful comments, the public needed to know which

specific bays would be affected and needed access to maps of the affected areas. We agree and are making maps available for review and are reopening the comment period to accept comments on the maps as well as on the proposed rule (69 FR 70940).

Areas To Be Excluded From Federal Subsistence Management Program Jurisdiction

Under the proposed rule, all of the following areas have been identified for exclusion from jurisdiction under the Federal Subsistence Management Program. Maps are now available for these areas.

Within the Alaska Peninsula or Izembek National Wildlife Refuge boundaries:

Wide Bay
Agripina Bay
Kujulik Bay
Chignik Lagoon, including Mallard

Duck Bay and Schooner Bay

Mud Bay

Anchorage Bay

Lake Bay

Castle Bay

Warner Bay, including Ross Cove

Devils Bay

Kuiu Bay, including Portage Bay,

Windy Bay, Foot Bay, Fishhook Bay, and Herring Lagoon

Mitrofan Bay, including Fishrack Bay

Ivanof Bay

Boulder Bay

Fox Bay

American Bay

Albatross Anchorage

Pavlof Bay, including Canoe Bay,

Jackson Lagoon, and Chinaman

Lagoon

Long John Lagoon

Dushkin Lagoon

Bear Bay

Cold Bay, including Lenard Harbor,

Nurse Lagoon, and Kinzarof Lagoon

Morzhoi Bay, including Littlejohn

Lagoon

Traders Cove

Bechevin Bay, including Hotsprings Bay

Herendeen Bay, including Mine Harbor

Port Moller, including Mud Bay, Right

Head, and Left Head

Within Togiak National Wildlife

Refuge boundaries:

Tvativak Bay

Kulukak Bay

Metervik Bay

Within the Yukon Delta National

Wildlife Refuge boundaries:

Kangirlvar Bay, including Toksook Bay

Hazen Bay

Hooper Bay

Kokechik Bay

Viewing Documents

To view maps, go to the Office of Subsistence Management Web site at

<http://alaska.fws.gov/asm/home.html>. If you do not have access to the internet, you may contact the Office of Subsistence Management at the address and phone number shown at **FOR FURTHER INFORMATION CONTACT** and we will send the maps to you.

Public Comment

Electronic filing of comments (preferred method): Please submit electronic comments and other data to Subsistence@fws.gov. Please submit as either WordPerfect or MS Word files, avoiding the use of any special characters and any form of encryption.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours.

Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

William Knauer drafted this document under the guidance of Thomas H. Boyd of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Greg Bos, Carl Jack, and Rod Simmons, Alaska Regional Office, U.S. Fish and Wildlife Service; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Warren Eastland, Pat Petrivelli, and Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs; and Steve Kessler, Alaska Regional Office, USDA-Forest Service provided additional guidance.

Dated: July 25, 2005.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

Dated: July 27, 2005.

Steve Kessler,

Subsistence Program Leader, USDA-Forest Service.

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