

significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone closes a portion of the Shark River to nonparticipating vessel traffic on August 20, 1995, from 11 a.m. until 5 p.m., unless extended or terminated sooner by the Captain of the Port New York. Although this regulation prevents traffic from transiting a small portion of Shark River off of Maclearie Park north of the charted navigation channel, the effect of this regulation will not be significant for several reasons: the limited duration of the event; mariners can transit to the south of the zone via the charted navigation channel; the safety zone does not impact any charted navigation channel; the affected portion of Shark River is charted as having only 2 feet of water; there is approximately 300 yards of open water, with minimum water depths, between the north boundary of the safety zone and the closest point of land; and the extensive, advance advisories that will be made. Accordingly, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that

this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, July 29, 1994, the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the power boat race under the National Environmental Policy Act will be conducted in conjunction with the marine event permitting process.

Lists of Subjects in 33 CFR Part 165

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

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A temporary section, 165.T01-064, is added to read as follows:

§ 165.T01-064 Safety Zone; Belmar Power Boat Race, Shark River, Belmar, New Jersey.

(a) *Location.* This rectangular safety zone includes all waters of the Shark River ranging from 100 to 350 yards off the northern shoreline of Maclearie Park, Belmar, New Jersey, from the Municipal Boat Basin western entrance, extending westerly approximately 750 yards, and bounded by the lines of latitude 40°10'48"N and 40°10'55"N, and the line of longitude 074°01'58"W and 074°02'26"W (NAD 1983).

(b) *Effective period.* This section is in effect on August 20, 1995, from 11 a.m. until 5 p.m., unless extended or terminated sooner by the Captain of the Port of New York.

(c) *Regulation.* (1) Vessels not participating in this event, swimmers, and personal watercraft of any nature and precluded from entering or moving within the safety zone.

(2) The general regulations contained in 33 CFR 165.23 apply.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: July 31, 1995.

J. Rutkovsky,

Commander, U.S. Coast Guard, Captain of the Port, New York Acting.

[FR Doc. 95-19674 Filed 8-8-95; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Federal Public Lands in Alaska, Customary and Traditional Use Determinations; Review Policies

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Review Policies.

SUMMARY: Pursuant to the regulatory authority at 36 CFR 242.10(a), 242.18(b) and 50 CFR 100.10(a) and 100.18(b), the Federal Subsistence Board (Board) provides notice of a revised procedure for reviewing customary and traditional use determinations, and details the associated administrative process, under the Federal Subsistence Management Program. This document also rescinds the previous policy published in the **Federal Register** on July 15, 1994.

EFFECTIVE DATE: The Federal Subsistence Board policies contained in this document shall be effective August 9, 1995.

ADDRESSES: Any comments concerning this document may be sent to the Chair, Federal Subsistence Board, c/o Richard S. Pospahala, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o Richard S. Pospahala, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 E. Tudor Road,

Anchorage, Alaska 99503; telephone (907) 786-3447. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802-1628; telephone (907) 586-7921.

SUPPLEMENTARY INFORMATION:

Background

In 1990, the Board assumed subsistence management responsibilities on Federal public lands and adopted the existing State of Alaska customary and traditional use determinations (55 FR 27125). Such determinations identified customary and traditional subsistence uses of certain fish and wildlife resources by specific communities and areas in Alaska. Due to changes in the rural status of some communities, public comments on the draft environmental impact statement "Subsistence Management for Federal Public Lands in Alaska" (October 7, 1991), comments received on temporary and implementing subsistence regulations, and customary and traditional use determination appeals submitted under the temporary subsistence regulations, the Board recognized the need for new assessments of existing customary and traditional use determinations. However, the Board deferred action on customary and traditional use until after July 1, 1992 (the effective date of final implementing rules for the Federal subsistence program) and indicated that a customary and traditional use determination process and schedule would be developed and published (57 FR 22948-22949). Customary and traditional use determination assessments were begun in regard to the Kenai Peninsula and Upper Tanana areas in 1992, and the Copper River Basin more recently. These areas were prioritized based upon public comments received during the environmental impact statement process and subsequent Board meetings. On July 15, 1994, a notice set forth an initial customary and traditional use determination schedule to be updated on a routine basis dependent upon input from the public and Federal Subsistence Regional Advisory Councils (Regional Councils). Details of the administrative process involved in customary and traditional assessments, public and advisory council input opportunities, and decision making steps, were also set forth. During a meeting of the Chairs of the Regional Councils and the Staff Committee of the Board on February 13, 1995, a

consensus was reached that prompted Board revision of the customary and traditional use determination process.

Revised Customary and Traditional Use Determination Procedures

Based on the recommendation of the Regional Council Chairs, the Board is implementing a revised process for dealing with customary and traditional use determinations. The Board will entertain proposals to revise the customary and traditional use determinations at the same time as it accepts proposals for changes to the seasons and harvest limits. This period normally occurs from mid-August/early September to late October/early November each year. Because of the backlog of customary and traditional use determination proposals that have been held over from previous years and staff limitations, the Regional Councils may be asked to prioritize which of the proposals should be reviewed each year. The Regional Councils may focus their attention on community or area uses of large mammals (ungulates and bears) where there are specific problems that preclude local users from harvesting a resource rather than clarifying areas where a "no determination" situation exists.

The Board retains the authority to initiate assessments and make determinations related to the customary and traditional use of any species taking into consideration recommendations of any appropriate Regional Council(s).

Existing regulations at 36 CFR 242.16(b) and 50 CFR 100.16(b) identify eight factors that exemplify customary and traditional subsistence uses of a community or area. Although the customary and traditional use of a resource may be self evident to local users, the Board will base its determination of customary and traditional use on substantial information of a reasonable and defensible nature. The extent to which a community, group of communities, or area meet the characteristics of customary and traditional use are exemplified by eight factors, as follows:

1. A long-term consistent pattern of use, excluding interruptions beyond the control of the community or area;
2. A pattern of use recurring in specific seasons for many years;
3. A pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics;
4. The consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or

reasonably accessible from the community or area;

5. A means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate;

6. A pattern of use which includes the handing down of knowledge of fishing and hunting skills, values and lore from generation to generation;

7. A pattern of use in which the harvest is shared or distributed within a definable community of persons; and

8. A pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social and nutritional elements to the community or area.

All participating Federal agencies and the Regional Councils have substantial roles in the revision of customary and traditional use determinations. All proposals received in a timely manner will be circulated to the pertinent Regional Council(s) and the public for comment at the same time as proposed changes in the subsistence harvest regulations. A staff analysis will also be prepared for consideration during the late Winter/Spring Regional Council meetings, along with the public comments received. The extent of the staff analysis may vary with the complexity of the proposal. The Regional Councils will have an opportunity to review the analyses, deliberate, and forward their recommendations to the Board for action.

The Board may not be able to address all customary and traditional use determination proposals during this year's regulatory cycle. Consequently, the Board may need to establish priorities. These priorities will be based on public requests, recommendations of Regional Councils and Federal land management agencies, and the availability of personnel and financial resources to conduct the work.

Drafting Information: This policy was drafted under the guidance of Richard S. Pospahala, U.S. Fish and Wildlife Service, Alaska Regional Office, Office of Subsistence Management, Anchorage, Alaska. The primary authors were Taylor Brelsford and William Knauer of the same office; Sandy Rabinowitch of the National Park Service, Alaska Regional Office; Tom Boyd, Bureau of Land Management, Alaska State Office; and Ken Thompson, USDA-Forest Service, Alaska Regional Office.

Dated: July 27, 1995. Dated: July 28, 1995.

Richard S. Pospahala,

Acting Chair, Federal Subsistence Board.

Robert W. Williams,

Acting Regional Forester, USDA-Forest Service.

[FR Doc. 95-19482 Filed 8-8-95; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018-AC82

Subsistence Management Regulations for Public Lands in Alaska, Subparts C and D—1995-1996 Subsistence Taking of Fish and Wildlife Regulations for the Kenai Peninsula

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

ACTION: Final rule.

SUMMARY: This rule establishes customary and traditional use determinations and seasons and harvest limits related to the taking of moose for subsistence uses on Federal lands on the Kenai Peninsula during the 1995-1996 regulatory year.

EFFECTIVE DATES: The amendments to § ____.24 are effective August 10, 1995. The amendments to § ____.25 are effective August 10, 1995, through June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Richard S. Pospahala, Office of Subsistence Management, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3447. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, P.O. Box 21628, Juneau Alaska 99802-1628, telephone (907) 586-7921.

SUPPLEMENTARY INFORMATION:

Customary and Traditional Use Determinations

The Federal Subsistence Board (Board) implemented a systematic program for review of customary and traditional use determinations as

provided for in 36 CFR 242 and 50 CFR 100. As a priority consideration, the Board focused its determinations on community or area uses of large mammals (ungulates and bears), examining uses of species of large mammals by communities or areas rather than focusing on individual herds or populations. The Board recognized that subsistence resource use patterns of neighboring communities are often interrelated and should be analyzed concurrently.

Existing regulations at 36 CFR 242.16(b) and 50 CFR 100.16(b) identify eight factors that a community or area shall generally exhibit which exemplify customary and traditional subsistence uses. The eight factors are as follows:

1. A long-term consistent pattern of use, excluding interruptions beyond the control of the community or area;

2. A pattern of use recurring in specific seasons for many years;

3. A pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditional by local characteristics;

4. The consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or reasonably accessible from the community or area;

5. A means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations including consideration of alteration of past practices due to recent technological advances, where appropriate;

6. A pattern of use which includes the handing down of knowledge of fishing and hunting skills, values and lore from generation to generation;

7. A pattern of use in which the harvest is shared or distributed within a definable community of persons; and

8. A pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social and nutritional elements to the community or area.

Each Federal Subsistence Regional Advisory Council (Regional Council) has a substantial role in reviewing and developing information on which to base a recommendation to the Board concerning customary and traditional use determinations. The Southcentral Regional Council had available for consideration an extensive compilation of existing information on historic and contemporary large mammal resource use patterns by rural Kenai Peninsula communities. A draft report, dated December 8, 1993, incorporated information from historic ethnographic

sources; census data; community surveys conducted by the Alaska Department of Fish and Game, Division of Subsistence; and harvest ticket and sealing records compiled by the Alaska Department of Fish and Game.

During its public meeting of February 28-March 2, 1995, the Southcentral Regional Council reviewed and discussed written information and oral testimony on resource use patterns as related to the eight factors for the Kenai Peninsula rural communities of Whittier, Hope, Cooper Landing, Ninilchik, the Homer rural area, Nanwalek (formerly known as English Bay), Port Graham and Seldovia. Based on this review and discussion, the Southcentral Regional Council developed and submitted to the Board recommendations for customary and traditional use determinations for rural communities in Units 7 and 15. The Board adopted these recommendations, and subsequently issued a proposed rule announcing its action. Following the public comment period for the proposed rule, the Southcentral Regional Council convened in a public session on July 12, 1995, and re-evaluated the recommendations reflected in the proposed rule, revising its recommendation to the Board. The revised recommendations called for positive customary and traditional use determinations for moose in Unit 15 by the communities of Ninilchik, Seldovia, Nanwalek, and Port Graham. The revised recommendations also called for deferral of customary and traditional use findings for species other than moose, and for communities other than Ninilchik, Seldovia, Nanwalek, and Port Graham.

At its July 13, 1995, public meeting, the Board amended the proposed rule in response to several considerations. A primary consideration was the revised recommendations submitted by the Southcentral Regional Council. An additional consideration was compelling public testimony calling into question the factual basis for the proposed customary and traditional use determinations. A related concern was that the customary and traditional use determinations in the proposed rule may not have been supported by substantial evidence reflecting the eight factors used to access customary and traditional uses, particularly with regard to the factors concerning long-term consistent pattern of local resource use and the community's pattern of reliance upon a wide diversity of local resources for cultural, economic, social and nutritional needs.

The Board adopted the Southcentral Regional Council's revised