

wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no substantial direct effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not a significant regulatory action under Executive Order 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information—Theo Matuskowitz drafted these regulations under the guidance of Peter J. Probasco of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Charles Ardizzone, Alaska State Office, Bureau of Land Management;
- Sandy Rabinowitch and Nancy Swanton, Alaska Regional Office, National Park Service;
- Drs. Warren Eastland and Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Jerry Berg and Carl Jack, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Steve Kessler, Alaska Regional Office, U.S. 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.

For the reasons set out in the preamble, the Federal Subsistence Board proposes to amend 36 CFR part 242 and 50 CFR part 100 for the 2008–10 regulatory years.

Dated: February 22, 2008.

Peter J. Probasco,

*Acting Chair, Federal Subsistence Board,
Assistant Regional Director, Office of
Subsistence Management, U.S. Fish and
Wildlife Service.*

Dated: February 22, 2008.

Steve Kessler,

*Subsistence Program Leader, USDA—Forest
Service.*

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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

[FWS–R7–EA–2007–0025; 70101–1335–0064L6]

RIN 1018–AV72

Subsistence Management Regulations for Public Lands in Alaska—2009–2010 and 2010–2011 Subsistence Taking of Fish and Shellfish Regulations

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulations for fishing seasons, harvest limits, methods, and means related to taking of fish and shellfish for subsistence uses during the 2009–2010 and 2010–2011 regulatory years. These regulations have been subject to an annual public review cycle, but starting in 2008 the Federal Subsistence Management Program will provide a public review process for subsistence hunting and trapping regulations in even-numbered years and subsistence fishing and shellfishing regulations in odd-numbered years. The Program will also address customary and traditional use determinations during the applicable biennial cycle. This cycle adjustment does not affect the public's ability to submit special action requests or requests for reconsideration, as outlined in the regulations. When final, the resulting rulemaking would replace the subsistence fish and shellfish taking regulations that will expire on March 31, 2009. This rule would also amend the customary and traditional use determinations of the Federal Subsistence Board and the general

regulations on taking of fish and shellfish.

DATES: We will accept comments and proposals received or postmarked on or before June 30, 2008. Federal Subsistence Regional Advisory Councils (Regional Councils) will hold public meetings on this proposed rule between August 24, 2008, and October 25, 2008. See **SUPPLEMENTARY INFORMATION** for additional information on the public meetings.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: RIN 1018–AV72; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Review Process section below for more information).

FOR FURTHER INFORMATION CONTACT:

Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Peter J. Probasco, 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) 786–3592.

SUPPLEMENTARY INFORMATION:

Background

Under title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program grants a preference for subsistence uses of fish and wildlife resources on Federal public lands and waters in Alaska. The Secretaries first published regulations to carry out this program in the **Federal Register** on May 29, 1992 (57 FR 22940). The Program has subsequently amended these regulations several times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, "Parks, Forests, and Public Property," and title 50, "Wildlife and Fisheries," at 36 CFR 242.1–28 and 50 CFR 100.1–28, respectively. The regulations contain subparts as follows: Subpart A, General

Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Federal Subsistence Board

Consistent with subparts A, B, and C of these regulations, the Departments established a Federal Subsistence 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 Regional Director, U.S. Bureau of Indian Affairs; and
- The Alaska Regional Forester, U.S. Forest Service.

Through the Board, these agencies participated in the development of regulations for subparts A, B, and C, which set forth the basic program, and they continue to work together on regularly revising the subpart D regulations, which, among other things, set forth specific harvest seasons and limits.

Federal Subsistence Regional Advisory Councils

In administering the program, the Secretaries divide Alaska into 10 subsistence resource regions, each of which is represented by a Regional Council. The Regional Councils provide

a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Alaska public lands. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

Public Review Process—Comments, Proposals, and Public Meetings

The Regional Councils had a substantial role in reviewing this proposed rule and making recommendations for the final rule. The Federal Subsistence Board (Board), through the Regional Councils, held meetings on this proposed rule at the following Alaska locations, on the following dates:

Region 1—Southeast Regional Council	Sitka	February 26, 2008.
Region 2—Southcentral Regional Council	Cordova	March 12, 2008.
Region 3—Kodiak/Aleutians Regional Council	Kodiak	March 25, 2008.
Region 4—Bristol Bay Regional Council	Dillingham	March 24, 2008.
Region 5—Yukon-Kuskokwim Delta Regional Council	Lower Kalskag	March 20, 2008.
Region 6—Western Interior Regional Council	Fairbanks	February 28, 2008.
Region 7—Seward Peninsula Regional Council	Nome	February 21, 2008.
Region 8—Northwest Arctic Regional Council	Kotzebue	March 7, 2008.
Region 9—Eastern Interior Regional Council	Tok	March 17, 2008.
Region 10—North Slope Regional Council	Barrow	March 4, 2008.

We published notice of specific dates, times, and meeting locations in local and Statewide newspapers prior to the meetings. The amount of work on each Regional Council's agenda determined the length of each Regional Council meeting.

During May 2008, we will compile and distribute for additional public review the written proposals to change subpart D fishing regulations and subpart C customary and traditional use determinations. A 30-day public comment period will follow distribution of the compiled proposal packet. We will accept written public comments on distributed proposals during the public comment period, which is currently scheduled to end on June 30, 2008.

We will hold a second series of Regional Council meetings from August 24 through October 25, 2008, at which the Regional Councils will develop recommendations to the Board. You may also present comments on published proposals to change fishing and customary and traditional use determination regulations to the Regional Councils at those fall meetings.

The Board will discuss and evaluate the proposed changes to the subsistence management regulations during a public meeting scheduled to be held in Anchorage, Alaska, beginning on January 13, 2009. The Regional Council

Chairs, or their designated representatives, will present their Council's recommendations at the Board meeting. You may provide additional oral testimony on specific proposals before the Board at that time. At that public meeting, the Board will then deliberate and take final action on proposals received that request changes to this proposed rule.

Proposals to the Board to modify fish and shellfish harvest regulations and customary and traditional use determinations must include the following information:

- (a) Name, address, and telephone number;
- (b) The section and/or paragraph of this proposed rule for which you are suggesting changes;
- (c) A statement explaining why the change is necessary;
- (d) The proposed wording change; and
- (e) Any additional information that you believe will help the Board in evaluating your proposal. The Board rejects proposals that fail to include the above information, or proposals that are beyond the scope of authorities in § __.24, subpart C (the regulations governing customary and traditional use determinations), and §§ __.25, __.27, and __.28, subpart D (the general and specific regulations governing the

subsistence take of fish and shellfish). During the January 13, 2009 meeting, the Board may defer review and action on some proposals to allow time for local cooperative planning efforts, or to acquire additional needed information, or if workload exceeds work capacity of staff, Regional Councils, or the Board. These deferrals will be based on recommendations of the affected Regional Council(s), staff members, and on the basis of least harm to the subsistence user and the resource involved. The Board may consider and act on alternatives that address the intent of a proposal while differing in approach.

Proposed Changes From the 2008–09 Fish and Shellfish Seasons and Harvest Limit Regulations

Subpart D regulations are subject to periodic review and revision. Through 2007, the public review process was annual. Starting in 2008, the Federal Subsistence Management Program will address subsistence hunting and trapping regulations in even-numbered years and subsistence fishing and shellfishing regulations in odd-numbered years. The Board will also address customary and traditional use determinations during each applicable biennial cycle. This change in schedule

is necessary due to Federal budget priorities.

The text of the 2008–09 subparts C and D final rule published March 14, 2008 (73 FR 13761), serves as the foundation for this 2009–11 subparts C and D proposed rule. The regulations relating to fish and shellfish contained in this proposed rule will take effect on April 1, 2009, unless elements are changed by subsequent Board action following the public review process outlined above in this document.

Conformance With Statutory and Regulatory Authorities

National Environmental Policy Act—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. The Final Environmental Impact Statement (FEIS) published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

An environmental assessment prepared in 1997 dealt with the expansion of Federal jurisdiction over fisheries and is available at 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, therefore, signed a Finding of No Significant Impact.

Compliance with section 810 of ANILCA—We completed a section 810 analysis under ANILCA as part of the FEIS process on the Federal Subsistence Management Program. 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. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of the January 8, 1999, rule (64 FR 1276) was also conducted in accordance with section 810. This evaluation supports the Secretaries' determination that the rule will not reach the "may significantly restrict" threshold for notice and hearings under ANILCA section 810(a) for any subsistence resources or uses.

Paperwork Reduction Act—The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and assigned OMB control number 1018–0075, which expires October 31, 2009. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a current valid OMB control number.

Regulatory Planning and Review (Executive Order 12866)

The Office of Management and Budget (OMB) has determined that this rule is not significant and has not reviewed this rule under Executive Order 12866. OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act

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. This rule does not restrict any existing sport or commercial use of wildlife on public lands, and wildlife uses will continue at essentially the same levels as they currently occur. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate

that 2 million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of \$3.00 per pound, would equate to about \$6 million in food value Statewide. The Departments certify based on the above figures 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.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and does 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.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority 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.

Unfunded Mandates Reform Act

The Secretaries have determined and certify 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 there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

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

Executive Order 13175

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no substantial direct effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

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On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not a significant regulatory action under Executive Order 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information—Theo Matuskowitz drafted these regulations under the guidance of Peter J. Probasco of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Charles Ardizzzone, Alaska State Office, Bureau of Land Management;
- Sandy Rabinowitch and Nancy Swanton, Alaska Regional Office, National Park Service;
- Drs. Warren Eastland and Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Jerry Berg and Carl Jack, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Steve Kessler, Alaska Regional Office, U.S. 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.

For the reasons set out in the preamble, the Federal Subsistence Board proposes to amend 36 CFR part 242 and 50 CFR part 100 for the 2009–11 regulatory years.

Dated: March 17, 2008.

Peter J. Probasco,

Acting Chair, Federal Subsistence Board, Assistant Regional Director, Office of Subsistence Management, U.S. Fish and Wildlife Service.

Dated: March 17, 2008.

Steve Kessler,

Subsistence Program Leader, USDA—Forest Service.

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DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Part 67**

[Docket No. FEMA–B–7771]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1 percent annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents, and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before July 16, 2008.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Maps (FIRMs) for the proposed BFEs for each community are available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–7771, to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C

Street, SW., Washington, DC 20472, (202) 646–3151, or (e-mail) bill.blanton@dhs.gov.

FOR FURTHER INFORMATION CONTACT:

William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151 or (e-mail) bill.blanton@dhs.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

Administrative Procedure Act Statement. This matter is not a rulemaking governed by the Administrative Procedure Act (APA), 5 U.S.C. 553. FEMA publishes flood elevation determinations for notice and comment; however, they are governed by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and do not fall under the APA.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility