

■ 2. Add temporary § 165.T01–108 to read as follows:

**§ 165.T01–108 Safety Zone; Blasting Operations, Demolition of Mattabassett Outfall, Connecticut River, Cromwell, CT.**

(a) *Location.* The following area is a safety zone: All waters of the Connecticut River, from surface to bottom, within a three hundred (300) yard radius of the blasting operations at Mattabassett Outfall located off Cromwell, CT.

(b) *Enforcement period.* This rule is effective from 7 a.m. EDT August 9, 2006 through 6 p.m. EDT on August 30, 2006.

(c) *Definitions.* (1) As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP).

(2) [Reserved]

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone by any person or vessel is prohibited unless authorized by the Captain of the Port (COTP), Long Island Sound or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic during blasting operations, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the COTP's designated representative.

Dated: August 3, 2006.

**P. J. Boynton,**

*Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.*

[FR Doc. E6–14069 Filed 8–23–06; 8:45 am]

**BILLING CODE 4910–15–P**

**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**36 CFR Part 242**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 100**

**RIN 1018–AU70**

**Subsistence Management Regulations for Public Lands in Alaska, Subpart A; Makhnati Island Area**

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

**ACTION:** Final rule.

**SUMMARY:** This rule revises the jurisdiction of the Federal Subsistence Management Program by adding submerged lands and waters in the area of Makhnati Island, near Sitka, Alaska. This would then allow Federal subsistence users to harvest marine resources in this area under seasons, harvest limits, and methods specified in Federal Subsistence Management regulations.

**DATES:** This rule will be effective September 25, 2006.

**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) 786–3888.

**ADDRESSES:** You may obtain additional information by contacting the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, Alaska 99503.

**SUPPLEMENTARY INFORMATION:**

**Background**

In Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), Congress found that “the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses \* \* \*” and that “continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened \* \* \* .” As a result, Title VIII requires, among other things, that the Secretary of the Interior and the Secretary of Agriculture

(Secretaries) implement a program to provide for rural Alaska residents a priority for the taking for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, priority, 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 priority in the State subsistence statute violated the Alaska Constitution. The Court's ruling in *McDowell* caused the State to delete the rural priority from the subsistence statute, an action which 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 Departments published the Temporary Subsistence Management Regulations for Public Lands in Alaska in the **Federal Register** (55 FR 27114). Permanent regulations were jointly published on May 29, 1992 (57 FR 22940), and have been amended since then.

As a result of this joint process between Interior and Agriculture, these regulations can be found in the Code of Federal Regulations (CFR) both in 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 the following subparts: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with Subparts A, B, and C of these regulations, as revised May 7, 2002 (67 FR 30559), and December 27, 2005 (70 FR 76400), the Departments established a Federal Subsistence Board (Board) to administer the Federal Subsistence Management Program, as established by the Secretaries. 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 (BLM); the Alaska Regional Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participated in the development of regulations for Subparts A, B, and C, and the annual Subpart D regulations.

### Jurisdictional Perspective

Federal Subsistence Management Regulations (50 CFR 100.3 and 36 CFR 242.3) currently specify that “The public lands described in paragraphs (b) and (c) of this section remain subject to change through rulemaking pending a Department of the Interior review of title and jurisdictional issues regarding certain submerged lands beneath navigable waters in Alaska.” In April 2005, the Board requested a review by the U.S. Department of the Interior’s Office of the Solicitor to determine whether a Federal interest presently exists in certain areas of southeastern Alaska. The specific areas were originally identified by the Sitka Tribe of Alaska and presented before the Southeast Alaska Subsistence Regional Advisory Council, who forwarded a request for review to the Board. In November 2005, the Office of the Solicitor responded that the Makhnati Island area withdrawal in Executive Order 8877 (August 29, 1941) was not rescinded until after statehood, so the submerged land did not transfer to the State at statehood. Since this submerged land is not included in any other withdrawal, reservation, or administrative setaside, the marine submerged lands, including any filled lands owned by the United States, are under the administration of the BLM. Accordingly, the Solicitor’s Office indicated that this area should be included within the jurisdiction of the Federal Subsistence Management Program. See 70 FR 76400 (December 27, 2005).

### Public Review and Comment

The Secretaries published a proposed rule (71 FR 25528) on May 1, 2006, soliciting comments through June 15, 2006, on the proposed revision to jurisdiction in the Makhnati Island area. During a May 10, 2006, teleconference, the Southeast Alaska Regional Advisory Council (Council) provided the public an opportunity to offer comments so that the Council could develop its recommendation to the Board. During the public comment period, the Secretaries (we) received four comments: one from a State entity, one from a Native organization, one from a private citizen, and one from a Regional Council. All concurred with the

proposal to include the Makhnati Island area under jurisdiction of the Federal Subsistence Management Program, and none offered comments needing to be addressed herein.

Therefore, we are amending the Federal Subsistence Management Regulations for Public Lands in Alaska to reflect Federal subsistence management jurisdiction in the area of Makhnati Island, near Sitka, Alaska.

The specific area encompasses approximately 610 acres of land and water adjacent to Japonski Island, Whiting Harbor and numerous small islands are included within the boundary of the withdrawal. The Board recommends the inclusion of this area in the Federal Subsistence Management Program. A map is available for this area. The purpose of this map is to provide to the subsistence user an overall graphic representation of the extent of the area. To view the map, 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 phone number or address shown at **FOR FURTHER INFORMATION CONTACT** or **ADDRESSES**, respectively, and we will send the map to you.

We are amending § \_\_.3(b), which includes those areas where marine waters are included, and where the regulations contained in 50 CFR 100 and 36 CFR 242 apply to both navigable and non-navigable waters. If additional marine submerged lands are determined in the future to be held by the United States, those additional lands would be the subject of future rulemakings.

Because the Federal Subsistence Management Program relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, we would propose to incorporate identical text into 36 CFR part 242 and 50 CFR part 100.

### Required Determinations

*Regulatory Planning and Review (E.O. 12866), Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))*

An economic analysis is not necessary for this rule because this rule will not have an economic impact on any entities, large or small. This rule is not a significant rule under E.O. 12866 and, therefore, was not reviewed by the Office of Management and Budget.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act:

(a) This rule will not “significantly or uniquely” affect small governments. A Small Government Agency Plan is not required.

(b) This rule will not produce a Federal mandate of \$100 million or greater in any year; that is, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act.

### Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required.

### Federalism

In accordance with Executive Order 13132, this rule does not have significant Federalism effects. A Federalism assessment is not required.

### Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

### Government-to-Government Relations

In accordance with the President’s memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 22951), 512 DM 2, and E.O. 13175, 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.

### Energy Effects

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. As this rule is not a significant regulatory action under Executive Order 13211, affecting energy supply, distribution, or use, this action is not a significant action and no Statement of Energy Effects is required.

*Paperwork Reduction Act (44 U.S.C. 3501 et seq.)*

This rule does not contain any new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995. Federal Agencies may not conduct or sponsor,

and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### *National Environmental Policy Act*

An environmental assessment was prepared in 1997 on the expansion of Federal jurisdiction over fisheries and 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 did not constitute a major Federal action significantly affecting the human environment, and therefore, signed a Finding of No Significant Impact. We have determined that an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 need not be prepared for this rule. This rule does not constitute a major Federal action significantly affecting the quality of the human environment.

#### *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. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program may have some local impacts on subsistence uses, but that the program is not likely to significantly restrict subsistence uses.

William Knauer 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. Dennis Tol and Chuck Ardizzzone, Alaska State Office, Bureau of Land Management; Greg Bos, Carl Jack, and Jerry Berg, Alaska Regional Office, U.S. Fish and Wildlife Service; Sandy Rabinowitch and Nancy Swanton, Alaska Regional Office, National Park Service; Dr. 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.

#### **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 Secretaries amend title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

#### **PART —SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA**

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

**Authority:** 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

#### **Subpart A—General Provisions**

■ 2. In Subpart A of 36 CFR part 242 and 50 CFR part 100, § .3 is revised by adding paragraph (b)(5) to read as follows:

#### **§ .3 Applicability and scope.**

\* \* \* \* \*

(b) \* \* \*

(5) Southeastern Alaska—Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 5°02'35" north latitude, 135°21'07" west longitude as shown on United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the point of beginning, by metes and bounds; S. 58° W., 2500 feet, to the southern point of Nepovorotni Rocks; S. 83° W., 5600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N. 6° W., 4200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N. 24° E., 3000 feet, to a point, 5°03'15" north latitude, 135°23'07" west longitude; East, 2900 feet, to a point in course No. 45 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; Southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1496 to angle point No. 35, on the southwestern point of Japonski Island; S. 60° E., 3300 feet, along the boundary line of Naval reservation

described in Executive Order No. 8216, July 25, 1939, to the point beginning.

\* \* \* \* \*

Dated: August 9, 2006.

**Dirk Kempthorne,**

*Secretary of the Interior, Department of the Interior.*

Dated: August 15, 2006.

**Dennis E. Bschor,**

*Regional Forester, USDA-Forest Service.*

[FR Doc. 06–7119 Filed 8–23–06; 8:45 am]

**BILLING CODE 3410–11–P; 4310–55–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Part 52**

[Docket No. EPA–R08–OAR–2004–MT–0001, FRL–8202–1]

#### **Approval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Montana on April 18, 2003. The revisions modify the open burning rules and references to federal regulations in the Administrative Rules of Montana. The intended effect of this action is to make federally enforceable those provisions that EPA is approving. This action is being taken under section 110 of the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective September 25, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket No. EPA–R08–OAR–2004–MT–0001. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. EPA requests that if at all possible, you contact the individual listed in the **FOR**