

incorrectly on a correctly installed aileron trim chain. We are issuing this AD to prevent incorrect connection of the aileron trim cables, which could result in failure of the aileron trim system and consequent reduced controllability of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Replacement of Aileron Trim Chain and Modification of Installation

(f) Within 30 months after the effective date of this AD: Replace the aileron trim chain, part number (P/N) 14127003-401, with a new, improved aileron trim chain, P/N 14127003-403; and modify the installation of the aileron trim chain; according to the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41-27-061, Revision 1, dated July 12, 2002.

Actions Accomplished According to Previous Issue of Service Bulletin

(g) Replacements and modifications accomplished before the effective date of this AD according to of BAE Systems (Operations) Limited Service Bulletin J41-27-061, dated November 7, 2001, are considered acceptable for compliance with the corresponding actions specified in this AD.

No Reporting Requirement

(h) Although the service bulletin referenced in this AD specifies to report compliance information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Related Information

(j) British airworthiness directive 006-11-2001 also addresses the subject of this AD.

Issued in Renton, Washington, on November 30, 2004.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-26919 Filed 12-7-04; 8:45 am]

BILLING CODE 4910-13-P

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

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would 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 not withdrawn prior to Statehood, were never intended to fall under the subsistence management jurisdiction, but have been unintentionally included within the Subsistence Management Program jurisdiction.

DATES: We must receive your written public comments on this proposed rule no later than January 24, 2005.

ADDRESSES: Please submit comments electronically to Subsistence@fws.gov. See **SUPPLEMENTARY INFORMATION** for file formats and other information about electronic filing. 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: Electronic filing of comments (preferred method): Please submit electronic comments (proposals) 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.

The Federal Subsistence Board will hold a public meeting in Anchorage, Alaska, within the comment period to receive comments on this proposed rule.

Widespread notice will be made of this meeting in the Statewide newspapers and by general news release.

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 joint program to grant a preference 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, 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 Departments published the Temporary Subsistence Management Regulations for Public Lands in Alaska in the **Federal Register** (55 FR 27114).

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 242.1-242.28 and 50 CFR 100.1-100.28, 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.

Consistent with Subparts A, B, and C of these regulations, as revised May 7, 2002 (67 FR 30559), 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, 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 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 hundreds of thousands of acres of saltwater embayments within National Wildlife Refuge boundaries that were not withdrawn prior to Statehood where the Secretaries have unintentionally exerted jurisdiction. We have concluded that our regulations (50 CFR 100.3 and 36 CFR 242.3) are in error as they relate to some bays associated with certain Refuges in Western Alaska. Therefore, we believe it is appropriate to correct the Federal Subsistence Management Regulations for Public Lands in Alaska to accurately reflect the intended jurisdiction in those areas.

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. The preambles of the Advance Notice of Proposed Rulemaking (61FR 15014, April 4, 1996) and the Proposed Rule (62 FR 66215, December 17, 1997) refer only to jurisdiction problems along rivers, not in marine areas.

Prior to 1999, the Federal Subsistence Management Program clearly and specifically identified the waters under its jurisdiction in the 1992 rule that set out the structure of the Federal Program

(57 FR 22940, May 29, 1992). The various embayments under discussion were not included in that 1992 rule. The Ninth Circuit Court decision in *Alaska v. Babbitt*, 72.3d 698 (1995) (the Katie John decision), expanded Federal subsistence management to those navigable waters where the Federal Government holds reserved water rights. As work began to identify these waters, discussion centered on the problem of "checkerboard jurisdiction" as it occurred on rivers within Conservation System Units. Federal officials recognized that meaningful management of a subsistence priority could not be accomplished unless there was a more unified area of jurisdiction within Federal conservation system units and other Federal areas. As a result, wording was adopted that extended Federal jurisdiction over subsistence fisheries to "all navigable and non-navigable waters within the exterior boundaries * * *" This wording created some unforeseen consequences.

Additionally, ANILCA Section 103 is very specific that in coastal areas, boundaries for new additions to Federal reservations shall not extend seaward beyond the mean high-tide line unless the State concurs. The regulations published in compliance with that section delineating the National Wildlife Refuge boundaries (48 FR 7890, February 24, 1983) specify that Federal ownership does not extend below mean high tide except where the State may agree to that extension. Even though maps show hundreds of thousands of acres of marine waters (exclusive of pre-Statehood withdrawals) within the exterior boundaries of refuges, the Fish and Wildlife Service has never attempted nor intended to exercise any jurisdiction within those areas. Reworded Federal Subsistence Management Regulations would bring consistency among these documents.

A further point of conflict arises over the identification of the boundary of the Alaska Maritime National Wildlife Refuge (and, therefore, the waters within that boundary.) One interpretation of the Refuge maps and BLM Master Title Plats is that there is a landward boundary of the Alaska Maritime NWR identified and that the seaward boundary is located at the boundary of territorial waters. If this interpretation is correct, then the Federal Subsistence Management Program would have subsistence fisheries jurisdiction over most of the marine waters in the State of Alaska. This was clearly not the intent when including all waters within the exterior boundaries.

Additionally, in the final Issue Paper and Recommendations of the Alaska [Katie John] Policy Group (attachment to Acting Regional Solicitor Dennis Hopewell's memorandum of June 15, 1995, as amended July 12, 1995), he stated that:

Where a federal reservation with reserved water rights includes rivers or streams flowing into marine waters, reserved water rights will apply to all waters above the mouth of said rivers or streams, when the mouth is within the exterior boundaries of the federal reservation. The mouth is defined by a line drawn between the termini of the headlands on either bank of the river. * * *

There are apparently no cases in which the federal government has asserted reservation of rights to marine waters under the Winters doctrine. * * *

Extending the Winters doctrine assertion of reserved water rights to marine waters would be without precedent and would represent a considerable leap in reasoning. * * * Potential appropriation of such waters remains implausible to any degree that could substantially affect marine water quantity or levels at all but the most restricted of locations (such as some salt chucks).* * * [T]he rationale behind the federal reserved waters doctrine would not apply to these marine waters. From this standpoint, it would be difficult to establish a need to reserve water in marine waters in order to accomplish the purposes of a reservation, even such a reserve as the Alaska Maritime National Wildlife Refuge that specifically includes the "adjacent seas."

He made the following recommendations:

Where a federal reservation with reserved water rights includes rivers or streams flowing into marine waters, reserved water rights will be asserted to the mouths of those rivers or streams, where the mouths are within the exterior boundaries of the reservation.

Reserved water rights will not be asserted in marine waters except to the extent that the United States has already taken the position that submerged lands underlying marine waters reserved to the United States at the time of Alaska statehood meet the ANILCA definition of public lands.

In order to correct any misconceptions regarding Secretarial intent; to create consistency among Solicitor opinions, subsistence regulations, and boundary regulations; and to avoid unnecessary complications and public confusion, we are proposing the amendments contained herein. The proposed § __.3(b) includes those areas (Alaska Maritime and Yukon Delta) where marine waters are included, and the regulations apply to both navigable and non-navigable waters. These are the refuge areas where pre-Statehood withdrawals exist. The proposed § __.3(c) includes those areas where marine waters are not included, but the regulations still apply to both navigable

and non-navigable waters. The proposed § __.3(d) includes those areas where the regulations apply only to non-navigable waters. These are the unassociated BLM lands that are not a part of a conservation system unit and have not been withdrawn from the public domain for specific purposes. Also, the addition of the text "other than military lands" is a clarification, inasmuch as the military lands have never been included in the Federal Subsistence Management Program because of national security and defense reasons and because they are not considered "public" lands.

Because this 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.

Conformance With Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) 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 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 comments 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, the Secretary of the Interior, with the concurrence of the

Secretary of Agriculture, through the U.S. Department of Agriculture—Forest Service, implemented 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, published May 29, 1992, implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. The following **Federal Register** documents pertain to this rulemaking:

FEDERAL REGISTER DOCUMENTS PERTAINING TO SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A AND B

Federal Register citation	Date of publication	Category	Details
57 FR 22940	May 29, 1992	Final Rule	"Subsistence Management Regulations for Public Lands in Alaska; Final Rule" was published in the Federal Register .
64 FR 1276	January 8, 1999	Final Rule (amended)	Amended to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. Extended the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or an Alaska Native Corporation. Specified and clarified Secretaries' authority to determine when hunting, fishing, or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority.
66 FR 31533	June 12, 2001	Interim Rule	Expanded the authority that the Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings.
67 FR 30559	May 7, 2002	Final Rule	In response to comments on an interim rule, amended the operating regulations. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 7703	February 18, 2003	Direct Final Rule	This rule clarified how old a person must be to receive certain subsistence use permits and removed the requirement that Regional Councils must have an odd number of members.
68 FR 23035	April 30, 2003	Affirmation of Direct Final Rule	Received no adverse comments on the direct final rule (68 FR 7703). Adopted direct final rule.

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.

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 the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

These rules contain no new 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 in the rule were approved by OMB under 44 U.S.C. 3501 and were assigned clearance number 1018-0075, which expires August 31, 2006. 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.

Other Requirements

Economic Effects—This rule is not a significant rule subject to OMB review under Executive Order 12866. This rulemaking will impose no significant costs on small entities; this rule does not restrict any existing sport or commercial fishery on the public lands, and subsistence fisheries will continue at essentially the same levels as they presently occur. The number of businesses and the amount of trade that will result from this Federal-land related activity is unknown but expected to be insignificant.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of regulatory flexibility analyses for rules that will have a significant economic 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 number of small entities affected is unknown; however, the fact that the effects will be seasonal in nature and will, in most cases, not impact continuing preexisting uses of public lands indicates that the effects will not be significant.

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 these final regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988 on Civil Justice Reform.

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 management authority over wildlife resources on Federal lands.

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.

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.

William Knauer drafted these regulations 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 and Bob Gerhard, Alaska Regional Office, National Park Service; Warren Eastland 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 propose to 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 would continue 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 would be revised to read as follows:

§ __.3 Applicability and scope.

(a) The regulations in this part implement the provisions of Title VIII of ANILCA relevant to the taking of fish and wildlife on public lands in the State of Alaska. The regulations in this part do not permit subsistence uses in Glacier Bay National Park, Kenai Fjords National Park, Katmai National Park, and that portion of Denali National Park established as Mt. McKinley National Park prior to passage of ANILCA, where subsistence taking and uses are prohibited. The regulations in this part do not supersede agency-specific regulations.

(b) The regulations contained in this part apply on all public lands, including all inland waters, both navigable and non-navigable, within and adjacent to the exterior boundaries of the following areas, and on the marine waters as identified in the following areas:

(1) Alaska Maritime National Wildlife Refuge, including the:

(i) Karluk Subunit: all of the submerged land and water of the Pacific Ocean (Shelikof Strait) extending 3,000 feet from the shoreline between a point on the spit at the meander corner common to Sections 35 and 36 of Township 30 South, Range 33 West, and a point approximately 1¼ miles east of Rocky Point within Section 14 of

Township 29 South, Range 31 West, Seward Meridian as described in Public Land Order 128, dated June 19, 1943;

(ii) Womens Bay Subunit: Womens Bay, Gibson Cove, portions of St. Paul Harbor and Chiniak Bay: all of the submerged land and water as described in Public Land Order 1182, dated July 7, 1955 (U.S. Survey 2539);

(iii) Afognak Island Subunit: all submerged lands and waters of the Pacific Ocean lying within 3 miles of the shoreline as described in Proclamation No. 39, dated December 24, 1892;

(iv) Simeonof Subunit: all of the submerged land and water of Simeonof Island together with the adjacent waters of the Pacific Ocean extending 1 mile from the shore line as described in Public Land Order 1749, dated October 30, 1958; and

(v) Semidi Subunit: all of the submerged land and water of the Semidi Islands together with the adjacent waters of the Pacific Ocean lying between parallels 55E57'00"-56E15'00" North Latitude and 156E30'00"-157E00'00" West Longitude as described in Executive Order 5858, dated June 17, 1932;

(2) Arctic National Wildlife Refuge, including those waters shoreward of the line of extreme low water starting in the vicinity of Monument 1 at the intersection of the International Boundary line between the State of Alaska and the Yukon Territory, Canada, and extending westerly, along the line of extreme low water across the entrances of lagoons such that all offshore bars, reefs and islands, and lagoons that separate them from the mainland to Brownlow Point, at approximately 70E10' North Latitude and 145E51' West Longitude;

(3) National Petroleum Reserve in Alaska, including those waters shoreward of a line beginning at the western bank of the Colville River following the highest highwater mark westerly, extending across the entrances of small lagoons, including Pearl Bay, Wainwright Inlet, the Kuk River, Kugrua Bay and River, and other small bays and river estuaries, and following the ocean side of barrier islands and sandspits within three miles of shore and the ocean side of the Plover Islands, to the northwestern extremity of Icy Cape, at approximately 70E21' North Latitude and 161E46' West Longitude; and

(4) Yukon Delta National Wildlife Refuge, including Nunivak Island: the submerged land and water of Nunivak Island together with the adjacent waters of the Bering Sea extending, for Federal Subsistence Management purposes, 3 miles from the shoreline as described in

Executive Order No. 5059, dated April 15, 1929.

(c) The regulations contained in this part apply on all public lands, excluding marine waters, but including all inland waters, both navigable and non-navigable, within and adjacent to the exterior boundaries of the following areas:

- (1) Alaska Peninsula National Wildlife Refuge;
- (2) Aniakchak National Monument and Preserve;
- (3) Becharof National Wildlife Refuge;
- (4) Bering Land Bridge National Preserve;
- (5) Cape Krusenstern National Monument;
- (6) Chugach National Forest;
- (7) Denali National Preserve and the 1980 additions to Denali National Park;
- (8) Gates of the Arctic National Park and Preserve;
- (9) Glacier Bay National Preserve;
- (10) Innoko National Wildlife Refuge;
- (11) Izembek National Wildlife Refuge;
- (12) Kanuti National Wildlife Refuge;
- (13) Katmai National Preserve;
- (14) Kenai National Wildlife Refuge;
- (15) Kobuk Valley National Park;
- (16) Kodiak National Wildlife Refuge;
- (17) Koyukuk National Wildlife Refuge;
- (18) Lake Clark National Park and Preserve;
- (19) Noatak National Preserve;
- (20) Nowitna National Wildlife Refuge;
- (21) Selawik National Wildlife Refuge;
- (22) Steese National Conservation Area;
- (23) Tetlin National Wildlife Refuge;
- (24) Togiak National Wildlife Refuge;
- (25) Tongass National Forest, including Admiralty Island National Monument and Misty Fjords National Monument;
- (26) White Mountain National Recreation Area;
- (27) Wrangell-St. Elias National Park and Preserve;
- (28) Yukon-Charley Rivers National Preserve;
- (29) Yukon Flats National Wildlife Refuge;
- (30) All components of the Wild and Scenic River System located outside the boundaries of National Parks, National Preserves, or National Wildlife Refuges, including segments of the Alagnak River, Beaver Creek, Birch Creek, Delta River, Fortymile River, Gulkana River, and Unalakleet River.

(d) The regulations contained in this part apply on all other public lands, other than military lands, including all non-navigable waters located on these lands.

(e) The public lands described in paragraph (b) 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.

3. In Subpart A of 36 CFR part 242 and 50 CFR part 100, § __.4c revise the definitions of "Inland Waters" and "Marine Waters" to read as follows:

§ __.4 Definitions.

* * * * *

Inland Waters means, for the purposes of this part, those waters located landward of the mean high-tide line and the waters located upstream of the straight line drawn from headland to headland across the mouths of rivers, creeks, or streams. Inland waters include lakes, reservoirs, ponds, creeks, streams, rivers, and other fresh and brackish water bodies.

Marine Waters means, those waters located seaward of the mean high-tide line or, with regard to rivers, creeks, streams and other inland waters, seaward of a straight line drawn from headland to headland at the mouth of such waters.

* * * * *

Dated: November 3, 2004.

Gale A. Norton,

Secretary of the Interior, Department of the Interior.

Dated: November 22, 2004.

Dennis E. Bschor,

Regional Forester, USDA-Forest Service.

[FR Doc. 04-26789 Filed 12-7-04; 8:45 am]

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

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03-OAR-2004-PA-0003; FRL-7845-2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC Requirements for Portable Fuel Containers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing the volatile organic compound (VOC) control requirements for portable fuel containers. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP submittal as a direct final rule without prior proposal because the Agency views this as a