

DEPARTMENT OF AGRICULTURE**Forest Service****DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service**

[FWS-R7-SM-2012-N044;
FXFR13350700640L6-123-FF07J00000]

Subsistence Management Program for Public Lands in Alaska

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

ACTION: Notice.

SUMMARY: The Departments, in compliance with the determinations of the District Court in *Peratrovich v. United States*, No. 3:92-cv-00734-HRH (D. Alaska), announce the initiation of reviews of pre-statehood withdrawals and reservations in the Tongass National Forest. These reviews, as ordered by the United States District Court for the District of Alaska, will be used in regulatory proceedings for the purpose of implementing Title VIII of the Alaska National Interest Lands Conservation Act with respect to submerged public lands within the Tongass National Forest.

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 or subsistence@fws.gov. For questions specific to National Forest System lands, contact Steve Kessler, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743-9461 or skessler@fs.fed.us.

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 provides a priority for taking of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to implement this Program in the **Federal Register** on June 29, 1990 (55 FR 27114), and final regulations in the **Federal Register** on May 29, 1992 (57 FR 22940). The Secretaries have amended these regulations a number of 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 the following subparts: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Litigation

In *Peratrovich v. United States*, No. 3:92-cv-00734-HRH (D. Alaska), the plaintiffs challenged, in part, the failure to include as public lands, subject to the priority under Title VIII of ANILCA (16 U.S.C. 3113-3126), certain marine waters in the Tongass National Forest. In its May 31, 2011, order, the Court partially held in favor of the plaintiffs. The Court stated that "it is the duty of the Secretaries [Agriculture & Interior] to identify any submerged lands (and the marine waters overlying them) within the Tongass National Forest to which the United States holds title." Because, if such title exists, it "creates an interest in [the overlying] waters sufficient to make those marine waters public lands for purposes of [the subsistence provisions] of ANILCA."

In the regulations, the Secretaries excluded the marine waters within the Tongass National Forest as public lands subject to the subsistence priority since marine waters within the exterior boundaries of a National Forest are not subject to reserved water rights. Subsequently, the United States also disclaimed interest in the marine submerged lands within the exterior boundaries of the Tongass National Forest in *Alaska v. United States*, No. 128 Orig., 546 U.S. 413 (2006).

In that case, the State of Alaska sought to quiet title to lands underlying marine waters within the boundaries of the Tongass National Forest and elsewhere within southeastern Alaska. In the course of that litigation, the United States disclaimed ownership to submerged lands in the Tongass National Forest, with some exceptions that generally involve small tracts, *Alaska v. United States*, 546 U.S. at 415. The Supreme Court accepted the disclaimer.

When the United States assumed control over the subsistence program in Alaska in 1990, the Secretaries responded to comments on the scope of the program during promulgation of the interim regulations, published in the **Federal Register** on June 29, 1990 (55 FR 27114). The Secretaries stated that "the United States generally does not hold title to navigable waters and thus navigable waters generally are not

included within the definition of public lands." That position was changed in 1999 when the subsistence priority was extended to waters subject to a Federal reserved water right in the Katie John litigation. *Alaska v. Babbitt*, 72 F. 3d 698 (9th Cir. 1995). Later the Secretaries identified certain submerged marine lands that did not pass to the State where the subsistence priority applied. The regulations recognized that additional marine waters might subsequently be determined to be public lands. Over the years, small areas of submerged marine lands in the Tongass National Forest have been identified as public lands subject to the subsistence priority (71 FR 49997, August 24, 2006, as amended by 74 FR 34696, July 17, 2009).

The court acknowledged in its order that inventorying all these lands could be an expensive undertaking, but that it is a burden "necessitated by the 'complicated regulatory scheme' which has resulted from the inability of the State of Alaska to implement Title VIII of ANILCA."

In its October 17, 2011, order, the court "enjoined" the United States "to promptly initiate regulatory proceedings for the purpose of implementing the subsistence provisions in Title VIII of ANILCA with respect to submerged public lands within Tongass National Forest" and directed entry of judgment.

Purpose of Notice

To comply with the order, the Federal Subsistence Board is proceeding to identify for the Secretaries those submerged lands within the Tongass National Forest that did not pass to the State at statehood and that are subject to Title VIII of ANILCA.

The Bureau of Land Management (BLM) has commenced the review of pre-statehood (January 3, 1959) withdrawals of submerged lands in the marine waters of the Tongass National Forest following the Court's May 31, 2011, order that preceded the final October 17, 2011, order. The BLM review process is proceeding. In addition to BLM, the U.S. Forest Service has started its review of records to identify lands filled in, built up, or otherwise reclaimed by the United States for its own use prior to Alaska statehood, and other areas that may not have passed to the State at statehood.

This notice announces to the public, including rural Alaska residents and federally recognized Tribes of Alaska, the initiation of reviews of pre-statehood withdrawals in the Tongass National Forest. When final, these

reviews will be used in regulatory proceedings, either by the Secretaries, or the Board, for the purpose of implementing Title VIII of ANILCA with respect to submerged public lands within the Tongass National Forest, as ordered by the U.S. District Court for Alaska.

Dated: May 11, 2012.

Peter J. Probasco,

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

Steve Kessler,

Subsistence Program Leader, USDA—Forest Service.

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DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Notice of Intent to Request an Extension of a Currently Approved Information Collection

AGENCY: National Institute of Food and Agriculture, USDA

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Office of Management and Budget (OMB) regulations that implement the Paperwork Reduction Act of 1995, this notice announces the National Institute of Food and Agriculture's (NIFA) intention to request approval for an extension of a currently approved information collection for Children, Youth, and Families at Risk (CYFAR).

DATES: Written comments on this notice must be received by August 6, 2012 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments concerning this notice and requests for copies of the information collection may be submitted by any of the following methods: Email:

gmendez@nifa.usda.gov; Fax: 202-720-0857; Mail: Office of Information Technology (OIT), NIFA, USDA, STOP 2216, 1400 Independence Avenue SW., Washington, DC 20250-2216.

FOR FURTHER INFORMATION CONTACT: Gidel Mendez, eGovernment Program Leader; Email: *gmendez@nifa.usda.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Children, Youth, and Families at Risk (CYFAR) Year End Report.

OMB Number: 0524-0043.

Expiration Date of Current Approval: January 31, 2011

Type of Request: Intent to seek approval for the extension of a currently approved information collection for three years.

Abstract: Funding for the Children, Youth, and Families at Risk (CYFAR) community project grants is authorized under section 3(d) of the Smith-Lever Act (7 U.S.C. 341 *et seq.*), as amended, and other relevant authorizing legislation, which provides jurisdictional basis for the establishment and operation of extension educational work for the benefit of youth and families in communities. The CYFAR funding program supports community-based programs serving children, youth, and families in at-risk environments. CYFAR funds are intended to support the development of high quality, effective programs based on research and to document the impact of these programs on intended audiences. The CYFAR Year End Report collects demographic and impact data from each community site to conduct impact evaluations of the programs on its intended audience.

The collection of information serves several purposes. It allows NIFA staff to gauge whether the program is reaching the target audience and make programmatic improvements. This collection also allows program staff to demonstrate the impacts that are realized as well as program capacity that is realized in the locales where federal assistance is provided.

The evaluation processes of CYFAR are consistent with the requirements of Congressional legislation and OMB. The Government Performance and Results Act (GPRA) of 1993 (Pub. L. 103-62), the Federal Activities Inventory Reform Act (FAIR Act) (Pub. L. 105-207), and the Agricultural, Research, Extension and Education Reform Act (AREERA) of 1998 (Pub. L. 105-185), together with OMB requirements, support the reporting requirements requested in this information collection. One of the five Presidential Management Agenda initiatives, Budget and Performance Integration, builds on GPRA and earlier efforts to identify program goals and performance measures, and link them to the budget process. The FAIR Act requires the development and implementation of a system to monitor and evaluate agricultural research and extension activities in order to measure the impact and effectiveness of research, extension, and education programs. AREERA requires a performance evaluation to be conducted to determine whether federally funded agricultural research, extension, and education programs result in public benefits that

have national or multi-state significance.

The immediate need of this information collection is to provide a means for satisfying accountability requirements. The long term objective is to provide a means to enable the evaluation and assessment of the effectiveness of programs receiving federal funds and to fully satisfy requirements of performance and accountability legislation in GPRA, the FAIR Act, and AREERA.

Estimate of Burden: There are currently CYFAR projects in 48 states and 3 territories. Each state and territory is required to submit an annual year-end report which includes demographic and impact data on each of the community projects. NIFA estimates the burden of this collection to be 322 hours per response. There are currently 51 respondents, thus making the total annual burden of this collection an estimated 16,422 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request to OMB for approval. All comments will become a matter of public record.

Done in Washington, DC, this 29th day of May, 2012.

Catherine E. Woteki,

Under Secretary, Research, Education, and Economics.

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DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Notice of Intent To Extend a Currently Approved Information Collection

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice and request for comments.