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**3410–11–P; 4333–15–P**

**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**36 CFR Part 242**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 100**

**[Docket No. FWS–R7–SM–2015–0156; FXRS12610700000-156-FF07J00000;**

**FBMS#4500087231]**

**RIN 1018–BA82**

**Subsistence Management Regulations for Public Lands in Alaska; Rural Determinations,**

**Nonrural List**

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

**ACTION:** Affirmation of direct final rule.

**SUMMARY:** The Federal Subsistence Board is adopting, without change, a direct final rule that revised the list of areas in Alaska determined to be nonrural for purposes of the Federal Subsistence Program to the list that existed prior to 2007. Accordingly, the community of Saxman and the area of Prudhoe Bay were removed from the nonrural list. The following areas continue to be nonrural, but their boundaries returned to their previous borders: the Kenai Area; the Wasilla/Palmer area; the Homer area; and the Ketchikan area. Because we received no substantive adverse comments on the direct final rule, it is now effective.

**DATES:** The direct final rule published at 80 FR 68245 on November 4, 2015, was effective December 21, 2015.

**ADDRESSES:** The direct final rule may be found online at *www.regulations.gov* in Docket No. FWS-R7-SM-2015-0156.

**FOR FURTHER INFORMATION CONTACT:** Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786-3888 or *subsistence@fws.gov*. For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743-9461 or *twhitford@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 (Program). This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. Only residents of areas identified as rural are eligible to participate in the Program on Federal public lands in Alaska. 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 242.1–242.28 and 50 CFR 100.1–100.28, respectively.

Consistent with these regulations, the Secretaries established a Federal Subsistence Board (Board) comprising Federal officials and public members to administer the Program. One of the Board’s responsibilities is to determine which communities or areas of the State are nonrural. The Secretaries also divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council (Council). The Council members represent varied geographical, cultural, and user interests within each region. The 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 Federal public lands in Alaska.

## **Related Rulemaking**

The Secretaries published a final rule (80 FR 68249; November 4, 2015) that sets forth a new process by which the Board will make rural determinations (“Subsistence Management Regulations for Public Lands in Alaska; Rural Determination Process”).

Until promulgation of the rule mentioned above, Federal subsistence regulations at 36 CFR 242.15 and 50 CFR 100.15 had required that the rural or nonrural status of communities or areas be reviewed every 10 years, beginning with the availability of the 2000 census data. In addition, criteria for aggregation of communities and population thresholds were listed. On May 7, 2007, the Board published a final rule that revised the list of nonrural areas (72 FR 25688), and the rule included a compliance date of May 7, 2012.

On October 23, 2009, Secretary of the Interior Ken Salazar announced the initiation of a Departmental review of the Federal Subsistence Management Program in Alaska; Secretary of Agriculture Tom Vilsack later concurred with this course of action. The Secretaries announced the findings of the review, which included several proposed administrative and regulatory reviews and/or revisions to strengthen the Program and make it more responsive to those who rely on it for their subsistence uses. One proposal called for a review, with Council input, of the rural determination process and, if needed, recommendations for regulatory changes.

The Board met on January 20, 2012, and, among other things, decided to extend the compliance date of its 2007 final rule on rural determinations. A final rule published March 1, 2012 (77 FR 12477), that extended the compliance date until either the rural determination process and findings review were completed or 5 years, whichever came first. The 2007 regulations have remained in titles 36 and 50 of the CFR unchanged since their effective date.

The Board followed that action with a request for comments and announcement of public meetings (77 FR 77005; December 31, 2012) to receive public, Tribal, and Alaska Native Corporation input on the rural determination process. At their fall 2013 meetings, the Councils provided a public forum to hear from residents of their regions, deliberate on the rural determination process, and provide recommendations for changes to the Board. The Board also held hearings in Barrow, Ketchikan, Sitka, Kodiak, Bethel, Anchorage, Fairbanks, Kotzebue, Nome, and Dillingham to solicit comments on the rural determination process, and public testimony was recorded. Government-to-government tribal consultations on the rural determination process were held between members of the Board and Federally recognized Tribes of Alaska. Additional consultations were held between members of the Board and Alaska Native Corporations.

Altogether, the Board received 475 substantive comments from various sources, including individuals, members of the Councils, and other entities or organizations, such as Alaska Native Corporations and borough governments. In general, this information indicated a broad dissatisfaction with the current rural determination process.

Based on this information, the Board, at their public meeting held on April 17, 2014, elected to recommend a simplification of the process by determining which areas or communities are nonrural in Alaska; all other communities or areas would, therefore, be rural. The Board would make nonrural determinations using a comprehensive approach that considers population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, and any other relevant material, including information provided by the public. The Board would rely heavily on the recommendations of

the Councils. The Board developed a proposal that simplifies the process of rural determinations and submitted its recommendation to the Secretaries on August 15, 2014.

On November 24, 2014, the Secretaries requested that the Board initiate rulemaking to pursue the regulatory changes recommended by the Board.

The Departments published a proposed rule on January 28, 2015 (80 FR 4521), to revise the regulations governing the rural determination process in subpart B of 36 CFR part 242 and 50 CFR part 100. Following a process that involved substantial Council and public input, the Departments published the final rule on November 4, 2015 (80 FR 68249).

### **Direct Final Rule**

During the rulemaking process, the Board went on to address a starting point for nonrural communities and areas.

Since the 2007 final rule (72 FR 25688; May 7, 2007) was contentious, and so many comments were received objecting to the changes imposed by that rule, the Board decided to return to the rural determinations prior to the 2007 final rule. The Board further decided that the most expedient method to enact their decisions was to publish a direct final rule adopting the pre-2007 nonrural determinations. As a result, the Board determined the following areas to be nonrural: Fairbanks North Star Borough; Homer area—including Homer, Anchor Point, Kachemak City, and Fritz Creek; Juneau area—including Juneau, West Juneau, and Douglas; Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch; Ketchikan area—including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of

Gravina Island; Municipality of Anchorage; Seward area—including Seward and Moose Pass, Valdez; and Wasilla area—including Palmer, Wasilla, Sutton, Big Lake, Houston, and Bodenbergs Butte.

While the Board received one comment on the direct final rule during the public comment period provided, the comment was not specific to the issues raised in this rulemaking action. Therefore, because the comment had no bearing on whether the new rule should become effective or the 2007 rule should remain in place, the direct final rule became effective December 21, 2015, as specified in that rule.

### **Authority**

This rule is issued under the authority of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126).

### **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.

**PART \_\_ —SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN  
ALASKA**

Accordingly, the Board is affirming as a final rule, without change, the direct final rule amending 36 CFR part 242 and 50 CFR part 100 that was published at 80 FR 68245 on November 4, 2015.

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

Dated: February 16, 2016.

Dated: February 18, 2016.

**Eugene R. Peltola, Jr.**

**Thomas Whitford**

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