

*The Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

*The Unfunded Mandates Reform Act of 1995*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UFMA), Public Law 104-4; 109 Stat. 48; 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by State, local, or tribal governments, or by the private sector. This rule does not result in any such expenditure nor will it significantly or uniquely affect small governments. Therefore, no actions were deemed necessary.

*Executive Order 13132: Federalism*

The Department of State finds that this regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

*Executive Order 12866: Regulatory Review*

The Department of State considers this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Therefore, the Department has submitted the rule to the Office of Management and Budget for its review.

*Executive Order 12988: Civil Justice Reform*

The Department has reviewed the regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

*The Paperwork Reduction Act of 1995*

This rule does not impose information collection requirements under the

provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

**List of Subjects in 22 CFR Part 51**

Administrative practice and procedure, Drug traffic control, Passports and Visas.

■ Accordingly, for the reason set forth above, 22 CFR part 51 is amended as follows:

**PART 51—PASSPORTS**

■ 1. The authority citation for Part 51 is revised to read as follows:

**Authority:** 8 U.S.C. 1153 note, 1351, 1351 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 2504(a), 4201, 4206, 4215, 4219; 31 U.S.C. 9701; Public Law 105-277, 112 Stat. 2681 *et seq.*; Public Law 109-167, 119 Stat. 3578; Public Law 108-447, 118 Stat. 2809 *et seq.*; E.O. 10718, 22 FR 4632, 3 CFR, 1954-1958 Comp., p. 382; E.O. 11295, 31 FR 10603, 3 CFR, 1966-1970 Comp., p. 570.

■ 2. Section 51.61 is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d) and adding a new paragraph (b) to read as follows:

**§ 51.61 Passport fees.**

\* \* \* \* \*

(b) A surcharge of six dollars on the filing of each application for a passport in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1165 note). The surcharge will be recovered by the Department of State from within the passport fee reflected in Schedule of Consular Fees. The surcharge will be imposed until October 1, 2010.

\* \* \* \* \*

Dated: August 4, 2006.

**Henrietta Fore,**

*Under Secretary for Management,  
Department of State.*

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**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**30 CFR Parts 250 and 254**

**RIN 1010-AD35**

**Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS) and Oil-Spill Response Requirements for Facilities Located Seaward of the Coast Line—Change in Reference to Official Title**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Final rule.

**SUMMARY:** MMS is changing the title "District Supervisor" to "District Manager" in regulations to make them consistent with a change in the title within MMS.

**DATES:** This rule is effective on August 14, 2006.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Blundon, Regulatory Specialist at (703) 787-1607 or FAX (703) 787-1555.

**SUPPLEMENTARY INFORMATION:**

**Background:** On August 14, 2003, an official change of title for District Supervisor positions was approved by the Offshore Minerals Management Associate Director, and by the Administration and Budget Associate Director. The titles were changed from "District Supervisor" to "District Manager" due to the breadth and scope of the District Supervisors' mission. The regulations at 30 CFR parts 250 and 254 need to be amended to reflect the official change of the title.

Because this rule only changes the reference to the official title of an MMS intermediate-level manager position and makes no substantive change in any rule or requirement, MMS for good cause finds that notice and public comment are impracticable and unnecessary pursuant to 5 U.S.C. 553(b)(B). For the same reason, MMS finds good cause to waive the delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), no party needing to adjust its conduct to conform to the rule.

**Procedural Matters**

*Regulatory Planning and Review  
(Executive Order 12866)*

This document is not a significant rule as determined by the Office of Management and Budget (OMB) and is not subject to review under E.O. 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. It will have no effect on any other agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. The rule only addresses a change of title.

(4) This rule does not raise novel legal or policy issues.

*Regulatory Flexibility Act (RFA)*

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities as defined under the RFA (5 U.S.C. 601 *et seq.*).

Comments from the public are important to us. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1-888-734-3247. You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the Department of the Interior.

*Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This rule is not a major rule under the SBREFA (5 U.S.C. 804(2)). This rule:

- a. Does not have an annual effect on the economy of \$100 million or more.
- b. Will not cause an increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- c. 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.

*Unfunded Mandates Reform Act (UMRA) of 1995*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

*Takings Implications Assessment (Executive Order 12630)*

This rule is not a governmental action capable of interference with constitutionally protected property rights. Thus, MMS did not need to prepare a Takings Implication Assessment according to E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

*Federalism (Executive Order 13132)*

With respect to E.O. 13132, this rule would not have federalism implications. This rule would not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this rule would not affect that role.

*Civil Justice Reform (Executive Order 12988)*

With respect to E.O. 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Paperwork Reduction Act (PRA)*

The proposed revisions do not contain any information collection subject to the PRA and do not require a form OMB83-I be submitted to OMB for review and approval under section 3507(d) of the PRA. The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information and assigns a control number, you are not required to respond.

*National Environmental Policy Act (NEPA) of 1969*

The MMS has determined that this final rule is strictly administrative in nature. This qualifies for a categorical exclusion under 516 Departmental Manual (DM) Chapter 2, Appendix 1.10. Therefore, it is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act (NEPA), pursuant to 516 DM, Chapter 2, Appendix 1. In addition, the final rule does not involve any of the 10 extraordinary circumstances listed in 516 DM, Chapter 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

*Energy Supply, Distribution or Use (Executive Order 13211)*

Executive Order 13211 requires the agency to prepare a Statement of Energy

Effects when it takes a regulatory action that is identified as a significant energy action. This rule is not a significant energy action, and therefore would not require a Statement of Energy Effects because it:

- a. Is not a significant regulatory action under E.O. 12866,
- b. Is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and
- c. Has not been designated by the Administrator of the Office of Information and Regulatory Affairs, OMB, as a significant energy action.

*Consultation With Indian Tribes (Executive Order 13175)*

Under the criteria in E.O. 13175, we have evaluated this proposed rule and determined that it has no potential effects on federally recognized Indian tribes. There are no Indian lands or tribes on the OCS.

**List of Subjects***30 CFR Part 250*

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Oil and gas exploration, Penalties, Pipelines, Public lands—minerals resources, Public lands—right-of-way, Reporting and recordkeeping requirements, Sulphur.

*30 CFR Part 254*

Continental shelf, Environmental protection, Intergovernmental relations, Oil and gas exploration, Oil pollution, Penalties, Pipelines, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: July 24, 2006.

**R.M. "Johnnie" Burton,**

*Director, Minerals Management Service, Exercising the delegated authority of the Assistant Secretary, Land and Minerals Management.*

■ For the reasons stated above, MMS amends 30 CFR parts 250 and 254 as follows:

**PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF**

■ 1. The authority citation for part 250 continues to read as follows:

**Authority:** 43 U.S.C. 1331 *et seq.*, 31 U.S.C. 9701.

**PART 250—[NOMENCLATURE CHANGE]**

■ 2. In part 250 remove the words "District Supervisor" wherever they appear and add, in their place, the words "District Manager."

■ 3. In part 250 remove the words "District or Regional Supervisor" wherever they appear and add, in their place, the words, "District Manager or Regional Supervisor."

■ 4. In part 250 remove the words "Regional or District Supervisor" wherever they appear and add, in their place, the words "District Manager or Regional Supervisor."

#### **PART 254—OIL-SPILL RESPONSE REQUIREMENTS FOR FACILITIES LOCATED SEAWARD OF THE COAST LINE**

■ 5. The authority citation for part 254 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

#### **PART 254—[NOMENCLATURE CHANGE]**

■ 6. In part 254 remove the words "District Supervisor" wherever they appear and add, in their place, the words, "District Manager."

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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**

#### **RIN 1018-AU92**

#### **Subsistence Management Regulations for Public Lands in AK; Kenai Peninsula Subsistence Resource Region**

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

**ACTION:** Direct final rule.

**SUMMARY:** We, the U.S. Forest Service and U.S. Fish and Wildlife Service, are amending the regulations governing subsistence use of fish and wildlife in Alaska by creating an additional subsistence resource region for the Kenai Peninsula. This addition of a separate subsistence resource region will allow for the creation of a separate Federal subsistence regional advisory council for that region. A new regional council responsible for only the Kenai Peninsula area will better ensure that residents with personal knowledge of the Kenai Peninsula area will have a meaningful role in the complex issues

and management challenges of subsistence management on the Federal lands of the Kenai Peninsula.

**DATES:** This rule will be effective on September 29, 2006, unless we receive significant adverse comments on or before September 18, 2006.

**ADDRESSES:** You may submit comments electronically to [Subsistence@fws.gov](mailto:Subsistence@fws.gov). See **SUPPLEMENTARY INFORMATION** for file format and other information about electronic filing. You may also submit written comments to the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, AK 99503.

**FOR FURTHER INFORMATION CONTACT:** For Forest Service questions, contact Steve Kessler, Regional Subsistence Program Leader, USDA-FS Alaska Region, at (907) 786-3592. For Fish and Wildlife Service questions, contact Pete Probasco at (907) 786-3888.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments**

You may submit electronic comments (preferred method) and other data to [Subsistence@fws.gov](mailto:Subsistence@fws.gov). Please submit as a PDF or MS Word file, avoiding the use of any special characters and any form of encryption. The existing Southcentral Regional Council will hold a meeting Thursday, August 24, 2006, in Anchorage, Alaska, to receive testimony and discuss the proposed Kenai Peninsula subsistence Resource Region. The specific time and place will be noticed in local and regional newspapers and by press 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 its 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 Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114).

#### **Federal Subsistence Regional Advisory Councils**

Pursuant to the Subsistence Management Regulations for Federal Public Lands in Alaska, April 6, 1992, and the Subsistence Management Regulations for Federal Public Lands in Alaska, 36 CFR 242.11 (2002) and 50 CFR 100.11 (2002), and for the purposes identified therein, we divided Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Regional Council). The Regional Councils provide a forum for residents of the regions, who have 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.

#### **Current Rule**

The Kenai Peninsula has unique fish and wildlife management challenges due to intense use of the Peninsula's fish and wildlife by local and nonlocal residents and by nonresidents, and due to the recent Board actions to begin to provide a meaningful subsistence priority for fisheries in Federally managed fresh waters on the Kenai Peninsula. Kenai Peninsula lands primarily under Federal management include the Chugach National Forest and the Kenai National Wildlife Refuge. A new region and regional council will better ensure that residents with personal knowledge of the Kenai Peninsula area will have a meaningful