

responsibilities between the Federal Government and Indian tribes. Nevertheless, Indian Tribes that have questions concerning the provisions of this Proposed Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. Draft documentation supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that

may lead to the discovery of a significant environmental impact from this proposed rule.

### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.937 to read as follows:

#### § 165.937 Safety Zone; Annual River Rampage Offshore Power Boat Races in the Captain of the Port Sault Ste. Marie Zone.

(a) *Location.* The safety zone is established for the waters of the St. Mary's River, adjacent to Sault Ste. Marie, MI. The safety zone will encompass all waters of the St. Mary's River within the following coordinates: 46°29'48" N, 084°18'75" W, then northeast to 46°29'69" N, 084°18'24" W, then southeast to 46°29'32" N, 084°17'87" W, then southwest to 46°29'19" N, 084°18'11" W. [DATUM: NAD 83].

(b) *Enforcement date.* Last weekend in July with the following Monday as a rain date; sunrise to termination of event.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light or other means, the operator shall proceed as directed.

(3) Recreational vessels may request permission from the Captain of the Port Sault Ste. Marie to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Sector Sault Ste. Marie on Channel 16, VHF-FM.

(4) Marine Event Permits (CG-4423) will still need to be sent to U. S. Coast Guard Sector Sault Ste. Marie, MI.

(c) *Notice of annual enforcement period.* The Captain of the Port Sault Ste. Marie will cause notice of enforcement of the safety zone established by this section to be made by all appropriate means to the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). The COTP may also issue notices in the Ninth Coast Guard District Local Notice to Mariners the dates and times this section will be enforced each year.

Dated: May 10, 2007.

**E.Q. Kahler,**

*Captain, U.S. Coast Guard, Captain of the Port Sault Ste. Marie.*

[FR Doc. E7–11539 Filed 6–14–07; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 21

RIN 1018–AV14

#### Migratory Bird Permits; Religious or Spiritual Use of Feathers by Native Americans

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Advance notice of proposed rulemaking; notice of intent to prepare an environmental assessment; request for comments and information.

**SUMMARY:** The U.S. Fish and Wildlife Service is considering amending its migratory bird regulations to allow Native Americans to acquire parts and feathers from birds other than eagles for religious or spiritual use. No current regulations govern the acquisition and possession of migratory bird parts and feathers of birds other than eagles for Native American religious or spiritual use. We have a compelling interest in protecting the traditional religious and spiritual resource values of Native Americans as part of our trust relationship with federally recognized Native American tribes. We recognize the need to balance this compelling reason against the equally compelling basis for the Migratory Bird Treaty Act. We seek information necessary to prepare an environmental assessment under the National Environmental Policy Act and its implementing regulations for a possible proposed rule.

**DATES:** To ensure consideration, we must receive your written comments and suggestions on or before August 14, 2007.

**ADDRESSES:** *Viewing Comments:* If you wish to view the complete file for this action, including comments and materials submitted by others, you may call (612) 713-5436 to make an appointment, during normal business hours, to view materials at the U.S. Fish and Wildlife Service, 1 Federal Drive, Ft. Snelling, MN 55111.

*Submitting Comments:* When submitting comments, refer to RIN 1018-AV14 and please include your name and return address. Please submit your comments by only one of the following methods:

1. *U.S. Mail:* Andrea Kirk, Permits Administrator, Migratory Birds (use address above);
2. *E-mail:* [otherfeathers@fws.gov](mailto:otherfeathers@fws.gov);
3. Submit comments via <http://www.regulations.gov> and reference RIN 1018-AV14; or
4. *Fax:* (612) 713-7179.

**FOR FURTHER INFORMATION CONTACT:** Andrea Kirk, Permits Administrator, Migratory Birds—Region 3, U.S. Fish and Wildlife Service, 1 Federal Drive, Fort Snelling, MN 55111.

**SUPPLEMENTARY INFORMATION:**

**Background**

We, the U.S. Fish and Wildlife Service (Service), are the Federal agency with the primary responsibility for managing migratory birds. Our authority is based on the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*), which implements conventions with Great Britain (for Canada), Mexico, Japan, and the Soviet Union (Russia). Activities with migratory birds are prohibited unless specifically authorized by regulation. Regulations governing the issuance of permits for migratory bird use are authorized by the MBTA and are found in title 50, Code of Federal Regulations, parts 10, 13, 21, and 22. According to 50 CFR 21.11, permits are required for most actions involving “any migratory bird, or the parts, nests, or eggs of such bird.”

The MBTA contains no express provisions regarding the religious/spiritual use of migratory bird feathers. However, we recognize the significance of the parts and feathers to Native American religious/spiritual practices under the American Indian Religious Freedom Act (42 U.S.C. 1996; AIRFA), a policy statement issued by Secretary of the Interior C.B. Morton in 1975, and our 1994 Native American Policy. The American Indian Religious Freedom Act (AIRFA), passed in 1978, clarifies U.S.

policy pertaining to the protection of Native American religious freedom. AIRFA acknowledges prior infringement on the right of freedom of religion for Native Americans and clearly states that laws passed for other purposes are not meant to restrict the rights of Native Americans. The Morton policy statement provides Native Americans protection from Federal prosecution, harassment, or other interference for their possession, transport, use, donation, exchange, or loan of the feathers of federally protected species without compensation. The Morton policy statement also protects Native Americans who wish to possess bird parts and/or feathers to be worked on by tribal craftsmen for eventual use in religious/spiritual activities and allows the transfer of parts and/or feathers to tribal craftsmen without charge.

Our 1994 Native American Policy states that we must expedite processing and distribution of animal parts to Native Americans. Between 1990 and 2000, our National Eagle Repository distributed eagle parts and feathers to enrolled tribal members. Regulations governing permits for use of eagle parts and feathers are in 50 CFR Part 22. The Repository also distributed migratory bird parts and feathers from birds other than eagles to enrolled tribes. We conducted this distribution on an ad-hoc basis under the authority of 50 CFR 21.27, Special Purpose Permits, with no criteria or conditions specific to Native American religious or spiritual use. In 1999, we temporarily suspended distribution of non-eagle feathers, due to administrative resource constraints. We now intend to prepare an environmental assessment for a possible proposed regulation for the legal acquisition by Native Americans of non-eagle feathers for religious/spiritual use.

**Environmental Assessment**

We intend to prepare an assessment in order to analyze the potential impacts of various alternatives for establishing a legal mechanism for the acquisition of non-eagle feathers by Native Americans for religious/spiritual purposes. We will assess potential impacts on the natural and human environment that may result from different alternatives for legalizing the acquisition of these feathers, including impacts to Native American culture and religion. We particularly solicit comments on the following topics (most of these are discussed further following the list):

- (1) The source(s) of the parts and feathers that we would make available;
- (2) What criteria or conditions we should establish for individuals to be

eligible to receive the migratory bird parts and feathers;

(3) How different means of legal acquisition may affect Native American tribes;

(4) How Native American tribes could be affected if we extend such authorization to other persons in addition to enrolled members of federally recognized Native American tribes;

(5) The extent of Native American demand for the parts and feathers;

(6) Whether the types of feathers being requested should be limited to those historically significant to the tribe acquiring them;

(7) Which species of migratory birds are most valuable for Native American religious/spiritual purposes;

(8) Potential impacts to migratory bird populations and other wildlife; and

(9) Other concerns the public may have related to this initiative.

Further discussion of selected items from above list follows:

(1) *Sources.* The sources of the parts and feathers to be made available is one of the primary concerns of this notice. The merits of centralized availability, such as the National Eagle Repository, versus decentralized availability, the extent to which tribes will have access and input into the source availability and eventual acquisition, and the various avenues for acquiring the feathers and parts are issues upon which we seek comments, suggestions, and guidance from interested parties.

(2) *Eligibility.* The MBTA, unlike the Bald and Golden Eagle Protection Act (16 U.S.C. 668a), does not provide for possession of migratory birds for religious/spiritual purposes by Native American tribes, regardless of whether or not they are members of recognized tribes. However, we have traditionally limited access to migratory birds and their parts to enrolled members of recognized tribes. We seek input on the potential impacts of providing legal access to non-eagle feathers for religious/spiritual use to individuals other than enrolled members of recognized tribes, including impacts to enrolled tribal members, members of non-recognized tribes, or other affected parties.

(3) *Means.* We will look favorably upon methods that involve decentralized availability and recognize tribal autonomy. We seek a solution that will uphold the MBTA without placing a burden on our resources.

(4) *Demand.* We seek input, suggestions, and comments on possible uses, the frequency and pervasiveness of these uses, and an estimation of the

demand upon the resource for these uses.

(5) *Wildlife Population and Habitat Impacts*. We do not expect to authorize any means of acquisition that would affect migratory bird or wildlife populations or impact wildlife habitat. We do not anticipate take from the wild

of live birds through hunting or any other method. However, we seek input, comments, and suggestions on this issue.

**Authority:** The authorities for this notice are the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703–712), and the Bald

and Golden Eagle Protection Act (16 U.S.C. 668a).

Dated: May 29, 2007.

**David M. Verhey,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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