

Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves a fireworks display that is not expected to result in any significant adverse environmental impact as described in NEPA.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T08-0873 is added to read as follows:

**§ 165.T08-0873 Great Mississippi Balloon Race and Fireworks Safety Zone; the Mississippi River, extending from mile marker 363 to mile marker 365.5, in the vicinity of Natchez, MS.**

(a) *Location.* The following area is a safety zone: those waters of the Lower Mississippi River, beginning at mile marker 363 and ending at mile marker 365.5, extending the entire width of the river.

(b) *Enforcement Period.* This section will be enforced from 7:15 p.m. to 8:45 p.m., local time, on October 15, 2010

and from 4:15 p.m. to 6 p.m., local time, on October 16, 2010.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Lower Mississippi River or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Lower Mississippi River or a designated representative. They may be contacted on VHF-FM channels 16 or by telephone at (901) 521-4822.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Lower Mississippi River and designated personnel. Designated personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) *Informational Broadcasts.* The Captain of the Port, Lower Mississippi River will inform the public when safety zones have been established via Broadcast Notice to Mariners.

Dated: September 16, 2010.

**Michael Gardiner,**

*Captain, U.S. Coast Guard, Captain of the Port, Lower Mississippi River.*

[FR Doc. 2010-25804 Filed 10-13-10; 8:45 am]

**BILLING CODE 9110-04-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-2009-0052; 70101-1261-0000L6]

#### RIN 1018-AW77

### Subsistence Management Regulations for Public Lands in Alaska, Subpart B; Special Actions

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the regulations that manage the taking of wildlife and fish in Alaska for subsistence purposes. In particular, the Federal Subsistence Board's (Board) process of accepting and addressing special action requests is clarified, along with the role of the Regional Advisory Councils in the special action process.

Public notice requirements are updated to bring them in alignment with the practices of the digital age and accommodate the new biennial regulatory cycle.

**DATES:** This rule is effective October 14, 2010.

**ADDRESSES:** The Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, MS 121, Anchorage, AK 99503, or on the Office of Subsistence Management Web site (<http://alaska.fws.gov/asm/index.cfm>).

**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](mailto: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](mailto: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 (Program). This Program grants a preference for subsistence uses of fish and wildlife resources on Federal public lands and waters in Alaska. The Secretaries first published regulations to carry out this Program in the **Federal Register** on May 29, 1992 (57 FR 22940). These regulations have subsequently been amended several 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 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 subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board is made up of:

- 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, U.S. Forest Service.

Through the Board, these agencies participate in the development of regulations for subparts A, B, and C, which set forth the basic program, and the subpart D regulations, which, among other things, set forth specific harvest seasons and limits.

In administration of the Program, Alaska is divided into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Regional Advisory Councils provide a forum for rural residents with personal knowledge of local conditions and resources to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Regional Advisory Council members represent diverse geographical, cultural, and user interests within each region.

Members of the regional councils, agency representatives, and the public expressed concern to the Federal Subsistence Board that 36 CFR 242.19 and 50 CFR 100.19, respectively, needed to be revised in a manner that provided more clarity to the Board's process of accepting and addressing special action requests. Special actions are actions that the Board takes to modify the take of fish and wildlife regulations on public lands, outside of the regulatory proposal period, to ensure the continued viability of a fish or wildlife population or for other reasons. These actions may include closing, opening, or adjusting the seasons; modifying the harvest limits; or modifying the methods and means of harvest for subsistence uses of fish and wildlife.

The problem with the lack of clarity in the regulations became particularly apparent during oral argument in the case of *Ninilchik Traditional Council v. Fleagle*, when the presiding judge struggled to interpret the procedural mechanisms described in the regulation and criticized it for being unclear. More recently, we recognized the need to modify § \_\_.19 to accommodate the programmatic shift to a biennial regulatory cycle.

**Current Rule**

The Secretaries published a proposed rule on October 14, 2009 (74 FR 52712), to amend subpart B, §§ \_\_.10, \_\_.18, and \_\_.19 of 36 CFR 242 and 50 CFR 100.

These modifications will:

(1) Improve clarity with respect to the Board's process of accepting and addressing special action requests;

(2) Update public notice requirements and bring them into line with the practices of the digital age;

(3) Bring clarity to the role of the regional councils with respect to special action requests; and

(4) Accommodate the biennial regulatory cycle, which was implemented in 2008 (73 FR 35726; June 24, 2008).

These regulatory revisions will result in no direct change to subsistence uses or fish and wildlife populations, but clarify the process by which special action requests are accepted or rejected by the Board. The proposed rule opened a comment period, which closed on January 12, 2010. The Departments advertised the proposed rule by mail, radio, and newspaper.

The Secretaries, through the Board, held a public meeting on January 12, 2010, to receive comments from Regional Advisory Council Chairs, or designated representatives, and the public. The Board met again on April 13, 2010, to review and formulate a recommendation to the Secretaries.

*Public Review and Comment*

During the public comment period, the Secretaries received two comments, one from a State advisory commission and a second from a private organization. At the public meeting on January 12, 2010, the Secretaries, through the Board, received four comments, two from two separate sporting organizations, one from a Native organization, and one from the State. In addition, the Regional Advisory Council Chairs were provided the opportunity to comment to the Board. The major comments from all sources are addressed below:

*Comment:* The proposed rule wrongly expands the authority of the Board under ANILCA into regulating nonsubsistence uses on Federal public lands thereby infringing on sovereign State authority.

*Response:* The Secretaries hold the position that they have the authority to open, close, restrict, or modify nonsubsistence uses, as needed, in the taking of fish and wildlife on Federal public lands. Due to possible misinterpretation, the Secretaries decided to remove the phrase " \* \* or otherwise modify the requirements regarding the taking of fish and wildlife on public lands for nonsubsistence uses." from the language presented in the proposed rule.

*Comment:* The proposed rule needs to address specific conditions for

reopening an area for nonsubsistence use.

*Response:* Under direction from the Secretaries, the Board adopted a policy on closures to hunting, trapping and fishing on Federal public lands and waters in Alaska on August 29, 2007. This policy addresses in detail the removal of closures on Federal public lands and waters and was approved by the Secretaries prior to being adopted by the Board.

*Comment:* The proposed rule does not provide deference to the Regional Advisory Councils in consideration of special actions.

*Response:* The Secretaries address the Board's deference to the Regional Advisory Councils in 36 CFR 242.10(e) and 50 CFR 100.10(e), "Federal Subsistence Board; "Relationship to Regional Councils". It is further addressed in the Board's closure policy of August 29, 2007.

*Comment:* The proposed rule does not clarify the State's role in regard to Federal determinations that affect the State's management responsibilities for fish and wildlife when implementing special actions.

*Response:* The relationship between the Board and the State is defined in 36 CFR 242.14 and 50 CFR 100.14, "Relationship to State procedures and regulations". In addition, the Memorandum of Understanding signed on December 5, 2008, between the Board and the State established guidelines to coordinate the management of subsistence uses of fish and wildlife resources on Federal public lands and waters in Alaska.

These final regulations reflect Secretarial review and consideration of the Federal Subsistence Board

recommendation and Regional Advisory Council and public comments. The public received extensive opportunity to review and comment on all changes.

Analysis and justification for the action taken are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, Alaska 99503, or on the Office of Subsistence Management Web site (<http://alaska.fws.gov/asm/index.cfm>).

**Conformance With Statutory and Regulatory Authorities**

*Administrative Procedure Act Compliance*

The Secretaries have provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule notice in the **Federal Register**, participation in multiple Regional Council meetings, additional public review and comment on proposed regulatory changes, and opportunity for additional public comment during the Board meeting prior to their recommendation to the Secretaries.

Therefore, the Secretaries finds good cause pursuant to 5 U.S.C. 553(d)(3) to make this rule effective upon the date set forth in **DATES** to ensure continued operation of the subsistence program.

*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 analyses 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 a 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 a 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, implemented the Federal Subsistence Management Program and included a framework for a regulatory cycle for the subsistence taking of wildlife and fish. The following **Federal Register** documents pertain to this rulemaking:

SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: FEDERAL REGISTER DOCUMENTS PERTAINING TO THE FINAL RULE

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 <b>Federal Register</b> .
64 FR 1276 .....	January 8, 1999 ....	Final rule .....	Amended the regulations 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 to an Alaska Native Corporation. Specified and clarified the 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.

## SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA, SUBPARTS A, B, AND C: FEDERAL REGISTER DOCUMENTS PERTAINING TO THE FINAL RULE—Continued

Federal Register citation	Date of publication	Category	Details
67 FR 30559 .....	May 7, 2002 .....	Final rule .....	Amended the operating regulations in response to comments on the June 12, 2001, interim rule. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 7703 .....	February 18, 2003	Direct final 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.	Because no adverse comments were received on the direct final rule (68 FR 7703), the direct final rule was adopted.
69 FR 60957 .....	October 14, 2004 ..	Final rule .....	Clarified the membership qualifications for Regional Advisory Council membership and relocated the definition of "regulatory year" from subpart A to subpart D of the regulations.
70 FR 76400 .....	December 27, 2005.	Final rule .....	Revised jurisdiction in marine waters and clarified jurisdiction relative to military lands.
71 FR 49997 .....	August 24, 2006 ....	Final rule .....	Revised the jurisdiction of the subsistence program by adding submerged lands and waters in the area of Makhnati Island, near Sitka, AK. This allowed subsistence users to harvest marine resources in this area under seasons, harvest limits, and methods specified in the regulations.
72 FR 25688 .....	May 7, 2007 .....	Final rule .....	Revised nonrural determinations.

An environmental assessment was prepared in 1997 on the expansion of Federal jurisdiction over fisheries and is available from 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.

#### Section 810 of ANILCA

An ANILCA Section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. 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. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the "may significantly restrict" threshold that would require

notice and hearings under ANILCA section 810(a).

#### Paperwork Reduction Act

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the following collections of information associated with the subsistence regulations at 36 CFR 242 and 50 CFR 100: Subsistence hunting and fishing applications, permits, and reports, Federal Subsistence Regional Advisory Council Membership Application/Nomination and Interview Forms (OMB Control No. 1018-0075 expires January 31, 2013).

#### Regulatory Planning and Review (Executive Order 12866)

The Office of Management and Budget (OMB) has determined that this rule is not significant and has not reviewed this rule under Executive Order 12866. OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees,

loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of \$3.00 per pound, this amount would equate to about \$6 million in food value statewide. Based upon the amounts and values cited above, the Departments certify 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.

#### Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and 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.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority 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.

Unfunded Mandates Reform Act

The Secretaries have determined and certify 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 there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

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 subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act does not specifically provide rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries have elected to provide tribes an opportunity to consult on this rule. The Secretaries, through the Board, provided a variety of opportunities for consultation through: proposing changes to the existing rule; commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Advisory Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O.

13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Peter J. Probasco of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Sandy Rabinowitch and Nancy Swanton, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen and Patricia Petrivelli, Alaska Regional Office, Bureau of Indian Affairs;
- Jerry Berg and Carl Jack, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Steve Kessler, Alaska Regional Office, U.S. Forest Service.

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 Federal Subsistence Board amends subpart B of part 242 of title 36 and part 100 of title 50 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 continues 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.

■ 2. Amend § \_\_.10 by revising paragraph (d)(4)(vi), redesignating paragraphs (d)(4)(vii) through (d)(4)(xix) as paragraphs (d)(4)(viii) through (d)(4)(xx), and adding a new paragraph (d)(4)(vii) to read as follows:

§ \_\_.10 Federal Subsistence Board.

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(vi) Restrict the taking of fish and wildlife on public lands for

nonsubsistence uses or close public lands to the take of fish and wildlife for nonsubsistence uses when necessary for the conservation of healthy populations of fish or wildlife, to continue subsistence uses of fish or wildlife, or for reasons of public safety or administration. The Board may also reopen public lands to nonsubsistence uses if new information or changed conditions indicate that the closure is no longer warranted;

(vii) Restrict the taking of a particular fish or wildlife population on public lands for subsistence uses, close public lands to the take of fish and wildlife for subsistence uses, or otherwise modify the requirements for take from a particular fish or wildlife population on public lands for subsistence uses when necessary to ensure the continued viability of a fish or wildlife population, or for reasons of public safety or administration. As soon as conditions warrant, the Board may also reopen public lands to the taking of a fish and wildlife population for subsistence users to continue those uses;

\* \* \* \* \*

■ 3. Revise the introductory text of paragraph (a) of § \_\_.18 to read as follows:

§ \_\_.18 Regulation adoption process.

(a) The Board will accept proposals for changes to the Federal subsistence regulations in subparts C or D of this part according to a published schedule, except for proposals for emergency and temporary special actions, which the Board will accept according to procedures set forth in § \_\_.19. The Board may establish a rotating schedule for accepting proposals on various sections of subpart C or subpart D regulations over a period of years. The Board will develop and publish proposed regulations in the Federal Register, publish notice in local newspapers, and distribute comments on the proposed regulations in the form of proposals for public review.

\* \* \* \* \*

■ 4. Revise § \_\_.19 to read as follows:

§ \_\_.19 Special actions.

(a) Emergency special actions. In an emergency situation, if necessary to ensure the continued viability of a fish or wildlife population, to continue subsistence uses of fish or wildlife, or for public safety reasons, the Board may immediately open or close public lands for the taking of fish and wildlife for subsistence uses, or modify the requirements for take for subsistence uses, or close public lands to take for nonsubsistence uses of fish and wildlife,

or restrict the requirements for take for nonsubsistence uses.

(1) If the timing of a regularly scheduled meeting of the affected Regional Council so permits without incurring undue delay, the Board may seek Council recommendations on the proposed emergency special action. Such a Council recommendation, if any, will be subject to the requirements of § 18(a)(4).

(2) The emergency action will be effective when directed by the Board, may not exceed 60 days, and may not be extended unless the procedures for adoption of a temporary special action, as set forth in paragraph (b) of this section, have been followed.

(b) *Temporary special actions.* After adequate notice and public hearing, the Board may temporarily close or open public lands for the taking of fish and wildlife for subsistence uses, or modify the requirements for subsistence take, or close public lands for the taking of fish and wildlife for nonsubsistence uses, or restrict take for nonsubsistence uses.

(1) The Board may make such temporary changes only after it determines that the proposed temporary change will not interfere with the conservation of healthy fish and wildlife populations, will not be detrimental to the long-term subsistence use of fish or wildlife resources, and is not an unnecessary restriction on nonsubsistence users. The Board may also reopen public lands to nonsubsistence uses if new information or changed conditions indicate that the closure is no longer warranted.

(i) Prior to implementing a temporary special action, the Board will consult with the State of Alaska and the Chairs of the Regional Councils of the affected regions.

(ii) If the timing of a regularly scheduled meeting of the affected Regional Council so permits without incurring undue delay, the Board will seek Council recommendations on the proposed temporary special action. Such Council recommendations, if any, will be subject to the requirements of § 18(a)(4).

(2) The length of any temporary action will be confined to the minimum time period or harvest limit determined by the Board to be necessary under the circumstances. In any event, a temporary opening or closure will not extend longer than the end of the current regulatory cycle.

(c) The Board may reject a request for either an emergency or a temporary special action if the Board concludes that there are no time-sensitive circumstances necessitating a regulatory change before the next regular proposal

cycle. However, a special action request that has been rejected for this reason may be deferred, if appropriate and after consultation with the proponent, for consideration during the next regular proposal cycle. The Board will consider changes to customary and traditional use determinations in subpart C of this part only during the regular proposal cycle.

(d) The Board will provide notice of all regulatory changes adopted via special action by posting the change on the Office of Subsistence Management Web site (<http://alaska.fws.gov/asm/index.cfm>). When appropriate, notice may also include distribution of press releases to newspapers, local radio stations, and local contacts, as well as direct notification to the proponent and interested parties. The Board will publish notice and reasons justifying the special action in the **Federal Register** as soon as practicable.

(e) The decision of the Board on any proposed special action will constitute its final administrative action.

(f) Regulations authorizing any individual agency to implement closures or restrictions on public lands managed by the agency remain unaffected by the regulations in this part.

(g) Fish and wildlife may not be taken in violation of any restriction, closure, or change authorized by the Board.

Dated: July 13, 2010.

**Ken Salazar,**

*Secretary of the Interior, Department of the Interior.*

**Beth G. Pendleton,**

*Regional Forester, USDA—Forest Service.*

[FR Doc. 2010-25816 Filed 10-13-10; 8:45 am]

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

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 112**

**[EPA-HQ-OPA-2009-0880; FRL-9213-8]**

**RIN 2050-AG59**

### **Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure (SPCC) Rule—Compliance Date Amendment**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA or the Agency) is promulgating a new compliance date of November 10, 2011 by which certain facilities must prepare or amend their

Spill Prevention, Control, and Countermeasure (SPCC) Plans, and implement those Plans, providing an additional year for certain facilities. This action allows additional time for those affected in the regulated community to understand the revisions to the SPCC rule finalized in December 2008 and November 2009. However, EPA is not extending the compliance date for drilling, production or workover facilities that are offshore or that have an offshore component, or for onshore facilities required to have and submit Facility Response Plans (FRPs). Additionally, the Agency is delaying the compliance date by which facilities must address milk and milk product containers, associated piping and appurtenances that are constructed according to the current applicable 3-A Sanitary Standards, and subject to the current applicable Grade "A" Pasteurized Milk Ordinance (PMO) or a State dairy regulatory requirement equivalent to the current applicable PMO. The date by which the owner or operator of a facility must comply with the SPCC requirements for these milk and milk product containers is delayed one year from the effective date of a final rule specifically addressing these milk and milk product containers, associated piping and appurtenances, or as specified by a rule that otherwise establishes a compliance date for these facilities. Both the extension and delay of the compliance date provide time for certain facilities to undertake the actions necessary to prepare or amend their SPCC Plans, as well as implement them.

**DATES:** This final rule is effective on October 14, 2010.

**ADDRESSES:** The public docket for this rulemaking, Docket ID No. EPA-HQ-OPA-2009-0880, contains the information related to this rulemaking, including the response to comment document. All documents in the docket are listed in the index at <http://www.regulations.gov>. Although listed in the index, some information may not be publicly available, such as Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at the EPA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday,