

conditions appear in the error trade rules proposed today, and under the proposal SEFs will no longer have any obligation to determine whether a trade is an error trade—the determination can instead be left entirely to the parties to the trade. I look forward to comments regarding whether this “principles-based” approach goes too far and fails to give market participants sufficient clarity regarding error trades.

I support targeted, thoughtful reform of our SEF regulations, and I particularly applaud staff’s efforts to provide market participants with greater legal certainty through the codification of our existing no-action relief. I look forward to the comments.

Appendix 4—Statement of Commissioner Dan M. Berkovitz

I am voting in favor of today’s proposed rule that would amend certain Commission rules in parts 36, 37, and 43 relating to package transactions, block trades, and error transactions on swap execution facilities (“SEFs”) (“Proposal”). Today’s amendments largely codify longstanding no-action letters for limited categories of swaps transactions regarding the required methods of execution. Generally, I support the codification of no-action letters where, based on experience, doing so is consistent with our statutory mandate, protects customers, provides market participants with a greater level of certainty, and promotes market integrity.

Package Transactions

This Proposal would amend part 37 to allow the swap components of certain package transactions—including those that are illiquid and bespoke and therefore not suitable for trading on-SEF—to be executed on-SEF but through flexible methods of execution. In addition, the Proposal amends part 36 to exempt from the trade execution requirement a swap in a package transaction involving a bond sold in the primary market (“new issuance bond transaction”), which also is not conducive to trading on-SEF.

Beginning in 2014, the Commission issued a series of no-action letters specifying permissible methods of execution for certain package transactions, which have enabled market participants and the agency to apply the trading mandate to these transactions in a phased manner. As the market infrastructure for the trading and clearing of swaps has improved, the trading mandate has been applied to the packages involving more liquid and standardized swap components.¹ The remaining package transactions that would be covered by today’s Proposal represent a small percentage of swaps trading on the most active SEFs.

I encourage the industry to continue to develop systems that allow for increased execution of package trade swap components on-SEF. I also appreciate the Staff’s commitment, if this rule is finalized, to

continue to evaluate the categories of package transactions subject to the rule and revise the rule as necessary in the future to reflect developments in trading methodologies.

Error Trades

The Proposal also would amend part 37 to enable SEFs to permit market participants to use flexible methods of execution to correct error trades, and would require a SEF to establish error trade policies that largely track the conditions set forth in prior no-action letters. Notably, the Proposal would require market participants to provide prompt notice of an error trade to the SEF, enabling the SEF to fulfill its self-regulatory obligations. It would not alter the requirement that SEFs must adopt rules declaring that trades rejected from clearing are deemed void *ab initio*. The Proposal also includes the requirement under CFTC No-Action Letter No. 17–27 that after submitting one error trade, market participants will not be able to submit a second new trade with the original terms. These conditions facilitate a SEF’s direct supervision of its markets, protect against abuse, and promote fair competition.

Block Trades

The Proposal would revise the definition of “block trade” in Commission Regulation 43.2 to permit SEFs to offer non-Order Book methods of execution for market participants to execute swap block trades on-SEF. Like package transactions, block trades encompassed within the Proposal are a small percentage of the number of swaps traded. A significant benefit of this Proposal is that it would facilitate pre-trade credit checks by SEFs for block trades, in accordance with the SEF core principles.

It is my preliminary view that this Proposal would provide certainty to market participants and increase trading efficiencies, while not compromising the Congressional goal of moving standardized OTC derivative contracts to exchanges or electronic trading platforms. I look forward to public comments on the anticipated effects of these amendments, and I thank the staff of the Division of Market Oversight for their work on this Proposal.

[FR Doc. 2020–02721 Filed 2–18–20; 8:45 am]

BILLING CODE 6351–01–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–2019–0092; FXFR13350700640–201–FF07J00000]

RIN 1018–BE36

Subsistence Management Regulations for Public Lands in Alaska—2021–22 and 2022–23 Subsistence Taking of Fish and Shellfish Regulations

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulations for fish and shellfish seasons, harvest limits, methods, and means related to taking of fish and shellfish for subsistence uses during the 2021–2022 and 2022–2023 regulatory years. The Federal Subsistence Board (Board) is on a schedule of completing the process of revising subsistence taking of fish and shellfish regulations in odd-numbered years and subsistence taking of wildlife regulations in even-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle. When final, the resulting rulemaking will replace the existing subsistence fish and shellfish taking regulations. This proposed rule could also amend the general regulations on subsistence taking of fish and wildlife.

DATES:

Public meetings: The Federal Subsistence Regional Advisory Councils will hold public meetings to receive comments and make proposals to change this proposed rule March 2 through March 26, 2020, and will hold another round of public meetings to discuss and receive comments on the proposals, and make recommendations on the proposals to the Federal Subsistence Board, on several dates between August 18 and November 3, 2020. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, in January 2021. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

¹ For example, U.S. Dollar Spreadover package transactions account for nearly seventy percent of interest rate swaps trading in the inter-dealer swap market. No-action letters for these package transactions have expired and market participants now actively trade the swap component of these packages through required methods of trading. See Proposed Rule, Sect. IIA.1 and n.33.

Public comments: Comments and proposals to change this proposed rule must be received or postmarked by April 20, 2020.

ADDRESSES:

Public meetings: The Federal Subsistence Board and the Federal Subsistence Regional Advisory Councils' public meetings are held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

Public comments: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov> and search for FWS-R7-SM-2019-0092, which is the docket number for this rulemaking.

- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503-6199, or hand delivery to the Designated Federal Official attending any of the Federal Subsistence Regional Advisory Council public meetings. See **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Review Process section below for more information).

FOR FURTHER INFORMATION CONTACT:

Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas C. J. Doolittle, 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:

Region 1—Southeast Regional Council	Juneau	March 24, 2020.
Region 2—Southcentral Regional Council	Anchorage	March 4, 2020.
Region 3—Kodiak/Aleutians Regional Council	Kodiak	March 19, 2020.
Region 4—Bristol Bay Regional Council	Naknek	March 10, 2020.
Region 5—Yukon-Kuskokwim Delta Regional Council	Bethel	March 16, 2020.
Region 6—Western Interior Regional Council	Fairbanks	March 2, 2020.
Region 7—Seward Peninsula Regional Council	Nome	March 11, 2020.
Region 8—Northwest Arctic Regional Council	Anchorage	March 16, 2020.
Region 9—Eastern Interior Regional Council	Fairbanks	March 3, 2020.
Region 10—North Slope Regional Council	Utqiagvik	March 23, 2020.

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 (hereafter referred to as “the Secretaries”) jointly implement the Federal Subsistence Management Program (hereafter referred to as “the Program”). The Program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. Only Alaska residents of areas identified as rural are eligible to participate in the Program. The Secretaries published temporary regulations to carry out the Program in the **Federal Register** on June 29, 1990 (55 FR 27114), and final regulations on May 29, 1992 (57 FR 22940). Program officials have subsequently amended these regulations a number of times.

Because the Program is a joint effort between the Departments of the Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): The Agriculture regulations are at title 36, “Parks, Forests, and Public Property,” and the Interior regulations are at title 50, “Wildlife and Fisheries,” at 36 CFR 242.1-28 and 50 CFR 100.1-28, respectively. Consequently, to indicate that identical changes are proposed for regulations in both titles 36 and 50, in this document we will present references to specific sections of the CFR as shown in the following example: § __.24.

The Program 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 Program. The Board comprises:

- 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, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and public members participate in the development of regulations for subparts C and D. Subpart C sets forth important Board determinations regarding program eligibility, *i.e.*, which areas of Alaska are considered rural and which species are harvested in those areas as part of a “customary and traditional use” for subsistence purposes. Subpart D sets forth specific harvest seasons and limits.

In administering the Program, the Secretaries divided Alaska 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 resource requirements 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 varied geographical, cultural, and user interests within each region.

Public Review Process—Comments, Proposals, and Public Meetings

The Federal Subsistence Regional Advisory Councils will have a substantial role in reviewing this proposed rule and making recommendations for the final rule. The Federal Subsistence Board, through the Federal Subsistence Regional Advisory Councils, will hold public meetings on this proposed rule at the following locations in Alaska, on the following dates:

During April 2020, the written proposals to change the regulations at

subpart D, take of fish and shellfish, and subpart C, customary and traditional use

determinations, will be compiled and distributed for public review. Written

public comments will be accepted on the distributed proposals during a second 30-day public comment period. The Board, through the Regional

Advisory Councils, will hold a second series of public meetings in August through November 2020, to receive comments on specific proposals and to

develop recommendations to the Board at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council	Sitka	October 20, 2020.
Region 2—Southcentral Regional Council	Anchorage	October 7, 2020.
Region 3—Kodiak/Aleutians Regional Council	Cold Bay	September 10, 2020.
Region 4—Bristol Bay Regional Council	Dillingham	October 28, 2020.
Region 5—Yukon—Kuskokwim Delta Regional Council	St. Mary's	September 22, 2020.
Region 6—Western Interior Regional Council	Aniak	October 14, 2020.
Region 7—Seward Peninsula Regional Council	Nome	October 28, 2020.
Region 8—Northwest Arctic Regional Council	Kotzebue	November 3, 2020.
Region 9—Eastern Interior Regional Council	Fairbanks	October 14, 2020.
Region 10—North Slope Regional Council	Point Hope	August 18, 2020.

A notice will be published of specific dates, times, and meeting locations in local and statewide newspapers prior to both series of meetings. Locations and dates may change based on weather or local circumstances. The amount of work on each Regional Advisory Council's agenda determines the length of each Regional Advisory Council meeting, but typically the meetings are scheduled to last 2 days. Occasionally a Council will lack information necessary during a scheduled meeting to make a recommendation to the Board or to provide comments on other matters affecting subsistence in the region. If this situation occurs, the Council may announce on the record a later teleconference to address the specific issue when the requested information or data is available; it is noted that any follow-up teleconference would be an exception and must be approved, in advance, by the Assistant Regional Director for the Office of Subsistence Management. These teleconferences are open to the public, along with opportunities for public comment; the date and time will be announced during the scheduled meeting and that same information will be announced through news releases and local radio, television, and social media ads.

The Board will discuss and evaluate proposed changes to the subsistence management regulations during a public meeting scheduled to be held in Anchorage, Alaska, in January 2021. The Federal Subsistence Regional Advisory Council Chairs, or their designated representatives, will present their respective Councils' recommendations at the Board meeting. Additional oral testimony may be provided on specific proposals before the Board at that time. At that public meeting, the Board will deliberate and take final action on proposals received that request changes to this proposed rule.

Proposals to the Board to modify the general fish and wildlife regulations, fish and shellfish harvest regulations,

and customary and traditional use determinations must include the following information:

- a. Name, address, and telephone number of the requestor;
- b. Each section and/or paragraph designation in this proposed rule for which changes are suggested, if applicable;
- c. A description of the regulatory change(s) desired;
- d. A statement explaining why each change is necessary;
- e. Proposed wording changes; and
- f. Any additional information that you believe will help the Board in evaluating the proposed change.

The Board immediately rejects proposals that fail to include the above information, or proposals that are beyond the scope of authorities in § __.24, subpart C (the regulations governing customary and traditional use determinations), and §§ __.25, __.27, and __.28 of subpart D (the general and specific regulations governing the subsistence take of fish and shellfish). If a proposal needs clarification, prior to being distributed for public review, the proponent may be contacted, and the proposal could be revised based on their input. Once a proposal is distributed for public review, no additional changes may be made as part of the original submission. During the January 2021 meeting, the Board may defer review and action on some proposals to allow time for cooperative planning efforts, or to acquire additional needed information. The Board may elect to defer taking action on any given proposal if the workload of staff, Regional Advisory Councils, or the Board becomes excessive. These deferrals may be based on recommendations by the affected Regional Advisory Council(s) or staff members, or on the basis of the Board's intention to do least harm to the subsistence user and the resource involved. A proponent of a proposal may withdraw the proposal provided it has not been considered, and a

recommendation has not been made, by a Regional Advisory Council. The Board may consider and act on alternatives that address the intent of a proposal while differing in approach.

You may submit written comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. If you submit a comment via <http://www.regulations.gov>, your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov> at Docket No. FWS-R7-SM-2019-0092, or by appointment, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, at: USFWS, Office of Subsistence Management, 1011 East Tudor Road, Anchorage, AK 99503.

Reasonable Accommodations

The Federal Subsistence Board is committed to providing access to these meetings for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Caron McKee, 907-786-3880, subsistence@fws.gov, or 800-877-8339 (TTY), seven business days prior to the meeting you would like to attend.

Tribal Consultation and Comment

As expressed in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political

relationship that exists between the Federal Government and Federally Recognized Indian Tribes (Tribes) as listed in 82 FR 4915 (January 17, 2017). Consultation with Alaska Native corporations is based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: “The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.”

The Alaska National Interest Lands Conservation Act does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, because tribal members are affected by subsistence fishing, hunting, and trapping regulations, the Secretaries, through the Board, will provide Federally recognized Tribes and Alaska Native corporations an opportunity to consult on this proposed rule.

The Board will engage in outreach efforts for this proposed rule, including a notification letter, to ensure that Tribes and Alaska Native corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: Proposing changes to the existing rule; commenting on proposed changes to the existing rule; engaging in dialogue at the Regional 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. The Board will commit to efficiently and adequately providing an opportunity to Tribes and Alaska Native corporations for consultation in regard to subsistence rulemaking.

The Board will consider Tribes’ and Alaska Native corporations’ information, input, and recommendations, and address their concerns as much as practicable.

Developing the 2021–22 and 2022–23 Fish and Shellfish Seasons and Harvest Limit Proposed Regulations

In titles 36 and 50 of the CFR, the subparts C and D regulations are subject to periodic review and revision. The Board currently completes the process of revising subsistence take of fish and shellfish regulations in odd-numbered years and wildlife regulations in even-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use

determinations during the applicable cycle.

The current subsistence program regulations form the starting point for consideration during each new rulemaking cycle. Consequently, in this rulemaking action pertaining to fish and shellfish, the Board will consider proposals to revise the regulations in any of the following sections of titles 36 and 50 of the CFR:

- § __.24: customary and traditional use determinations;
- § __.25: general provisions governing the subsistence take of wildlife, fish, and shellfish;
- § __.27: specific provisions governing the subsistence take of fish; and
- § __.28: specific provisions governing the subsistence take of shellfish.

As such, the text of the proposed 2021–23 subparts C and D subsistence regulations in titles 36 and 50 is the combined text of previously issued rules that revised these sections of the regulations. The following **Federal Register** citations show when these CFR sections were last revised. Therefore, the regulations established by these three final rules constitute the text of this proposed rule:

The text of the proposed amendments to 36 CFR 242.24 and 242.27 and 50 CFR 100.24 and 100.27 is the final rule for the 2019–2021 regulatory period for fish (84 FR 39744; August 12, 2019).

The text of the proposed amendments to 36 CFR 242.25 and 50 CFR 100.25 is the final rule for the 2018–20 regulatory period for wildlife (83 FR 50758; October 9, 2018).

The text of the proposed amendments to 36 CFR 242.28 and 50 CFR 100.28 is the final rule for the 2011–13 regulatory period for fish and shellfish (76 FR 12564; March 8, 2011).

These regulations will remain in effect until subsequent Board action changes elements as a result of the public review process outlined above in this document and a final rule is published.

Compliance With Statutory and Regulatory Authorities

National Environmental Policy Act

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal

Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does 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 the subsistence program regulations was conducted in accordance with section 810. That evaluation also supported the Secretaries’ determination that the regulations will not reach the “may significantly restrict” threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act (PRA)

This proposed rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 *et seq.*). OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075 (expires January 31, 2020, and, in accordance with 5 CFR 1320.10, the Service may continue to sponsor the collection while the renewal is pending

at OMB). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Regulatory Planning and Review
(Executive Order 12866)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this proposed rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

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 proposed 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.

Executive Order 13771

This rule is not an Executive Order (E.O.) 13771 ("Reducing Regulation and Controlling Regulatory Costs") (82 FR

9339, February 3, 2017) regulatory action because this rule is not significant under E.O. 12866.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this proposed rule is not a major rule. It will 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 will 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 proposed 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 proposed 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, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, will provide Federally recognized Tribes and Alaska

Native corporations an opportunity to consult on this proposed rule. Consultations with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175."

The Secretaries, through the Board, will provide a variety of opportunities for consultation: Commenting on proposed changes to the existing rule; engaging in dialogue at the Regional 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 proposed 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 this proposed rule under the guidance of Thomas C.J. Doolittle of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Bruce Seppi, Alaska State Office, Bureau of Land Management;
- Joshua Ream, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Carol Damberg, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, USDA—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.

Proposed Regulation Promulgation

■ For the reasons set out in the preamble, the Federal Subsistence Board proposes to amend 36 CFR part 242 and 50 CFR part 100 for the 2021–22 and 2022–23 regulatory years.

The text of the proposed amendments to 36 CFR 242.24 and 242.27 and 50 CFR 100.24 and 100.27 is the final rule for the 2019–2021 regulatory period for fish (84 FR 39744; August 12, 2019).

The text of the proposed amendments to 36 CFR 242.25 and 50 CFR 100.25 is the final rule for the 2018–20 regulatory period for wildlife (83 FR 50758; October 9, 2018).

The text of the proposed amendments to 36 CFR 242.28 and 50 CFR 100.28 is the final rule for the 2011–13 regulatory period for fish and shellfish (76 FR 12564; March 8, 2011).

Thomas C.J. Doolittle,

Acting Assistant Regional Director, U.S. Fish and Wildlife Service.

Thomas Whitford,

Subsistence Program Leader, USDA—Forest Service.

[FR Doc. 2020–03306 Filed 2–14–20; 4:15 pm]

BILLING CODE 4333–15–P 3411–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 1 and 14

RIN 2900–Q81

Individuals Accredited by the Department of Veterans Affairs Using Veterans Benefits Administration Information Technology Systems To Access VBA Records Relevant to a Claim While Representing a Claimant Before the Agency

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations addressing when VA will allow individuals and organizations who are assisting claimants in the preparation, presentation, and prosecution of their claims before VA to use Veterans Benefits Administration's (VBA) information technology (IT) systems to access VA records relevant to a claim. This rulemaking addresses who is permitted, and under what circumstances, to directly access VA's claim records through those IT systems during representation of a VA claimant in a claim for VA benefits, but is not intended to address the larger issues involving who may access VA records more generally.

Further, the proposed amendments would outline appropriate behavior while using VBA's IT systems to access VA records and the consequences of mishandling such access for attorneys, agents, or representatives of a VA-recognized service organization.

DATES: VA must receive comments on or before April 20, 2020.

ADDRESSES: Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to: Director, Office of Regulation Policy and Management (OOREG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free telephone number.) Comments should indicate that they are submitted in response to “RIN 2900–AQ81—Individuals Accredited by the Department of Veterans Affairs Using Veterans Benefits Administration Information Technology Systems to Access VBA Records Relevant to a Claim While Representing a Claimant Before the Agency.”

All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1064, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free telephone number.) In addition, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Glen Wallick, Senior Management and Program Analyst, Appeals Management Office, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–530–9408 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This proposed rule would amend 38 CFR parts 1 and 14 to clarify one of the methods that an individual providing representation on a claim may use to access a claimant's records now that VA has transitioned to primarily using electronic records relevant to a claim for VA benefits. Specifically, this proposed rule clarifies how attorneys, agents, or representatives of a VA-recognized service organization who are accredited pursuant to 38 CFR 14.629, as well as designated to provide representation in a claim pursuant to 38 CFR 14.631, may access records relevant to their client's claim through VBA's IT systems. The purpose of this rulemaking is to ensure that claimants for VA benefits receive responsible, qualified services from VA-

accredited attorneys, agents, or representatives of a VA-recognized service organization when seeking VA benefits, including ensuring that those individuals providing representation have appropriate access to VA records relating to their client's claim; that VA claimants understand who may access their claim records when they designate an attorney, agent or service organization to provide representation; that attorneys, agents, or representatives of a VA-recognized service organization before VA take care to adequately protect their client's privacy; and that VA meets its IT security obligations while providing access to its information systems to individuals who are not VA employees or contractors (non-VA users). The statutory authority for proposed §§ 1.600 through 1.603 is 38 U.S.C. 5721 through 5728. Because the “security of Department information and information systems is vital to the success of the mission of the Department,” it is statutorily mandated that VA “establish and maintain a comprehensive Department-wide information security program to provide for the development and maintenance of cost-effective security controls needed to protect Department information, in any media or format, and Department information systems.” 38 U.S.C. 5722(a). In establishing its Department-wide information security program, Congress has entrusted to the VA information owners that oversee the system or systems to “determin[e] who has access to the system or systems containing sensitive personal information, including types of privileges and access rights.” 38 U.S.C. 5723(d)(2).

Veteran and claimant information may be closely associated, such as when the Veteran is also the claimant, but not all claimants before VA are Veterans, such as a Veteran's surviving spouse or child who may be entitled to VA benefits in some circumstances. These non-Veteran dependent claimants may file benefit claims under the claim number VA assigned to the Veteran whose military service renders them potentially eligible for benefits. Accordingly, this proposed rule addresses the requirements for IT systems access regardless of whether the representation is in a claim for VA benefits submitted by a Veteran, survivor, or family member, provided that the claim record is maintained electronically in a system that is configured for external access.

Under 38 U.S.C. 5701(a) and (b), “files, records, reports, and other papers and documents pertaining to any claim” before VA are generally “confidential and privileged,” but VA “shall make