

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 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 procedure; and related management system 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 proposed rule under Commandant Instruction M16475.ID, which guides 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 there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone;

therefore, paragraph (34)(g) of the Instruction applies.

Under figure 2–1, paragraph 34(g) of the Instruction, an "Environmental Analysis Check List" and "categorical exclusion determination" is not required under this rule.

### 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; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 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 section 165.T09–115 is added as follows:

#### § 165.T09–115 Irish Festival Currach Races, Lake Michigan, Milwaukee, WI.

(a) *Location:* The following area is a temporary safety zone: all waters of Lake Michigan within the following coordinates 43°02'12"N, 087°53'42"W; southeast to 43°02'07"N, 087°53'36"W; then southwest to 43°01'56"N, 087°53'39"W, then along the shoreline back to the point of origin. The geographic coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Effective period.* This regulation is effective from 12 p.m. (local) until 6 p.m. (local), on August 20 and 21, 2005. This zone will be enforced from 12 p.m. (local) until 6 p.m. (local), on August 20 and 21, 2005.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his

designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone shall comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: August 17, 2005.

**H.M. Hamilton,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Lake Michigan.*

[FR Doc. 05–17092 Filed 8–26–05; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 242

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 100

### Subsistence Management Regulations for Public Lands in Alaska, Subpart D; Seasonal Adjustments—Wildlife

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

**ACTION:** Seasonal adjustments.

**SUMMARY:** This provides notice of the Federal Subsistence Board's in-season management actions to protect moose populations in Unit 22 and caribou populations in Unit 9. These actions will provide an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on June 22, 2005. Those regulations established seasons, harvest limits, methods, and means relating to the taking of wildlife for subsistence uses during the 2005 regulatory year.

**DATES:** The closure of the fall subsistence caribou hunting season in parts of Unit 9 is effective August 10, 2005, through September 20, 2005. The closure of the fall subsistence moose hunting season in part of Unit 22A is effective August 15, 2005, through September 30, 2005. The reduced fall subsistence moose hunting season in parts of Unit 22B and 22D is effective August 15, 2005, through September 30, 2005.

**FOR FURTHER INFORMATION CONTACT:** Thomas H. Boyd, Office of Subsistence

Management, U.S. Fish and Wildlife Service, telephone (907) 786-3888. For questions specific to National Forest System lands, contact Steve Kessler, Subsistence Program Manager, USDA-Forest Service, Alaska Region, telephone (907) 786-3592.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111-3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. In December 1989, the Alaska Supreme Court ruled that the rural preference in the State subsistence statute violated the Alaska Constitution and, therefore, negated State compliance with ANILCA.

The Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of title VIII of ANILCA on public lands. The Departments administer title VIII through regulations at title 50, part 100 and title 36, part 242 of the Code of Federal Regulations (CFR). Consistent with Subparts A, B, and C of these regulations, as revised January 8, 1999 (64 FR 1276), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes 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; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for Subparts A, B, and C, which establish the program structure and determine which Alaska residents are eligible to take specific species for subsistence uses, and the annual Subpart D regulations, which establish seasons, harvest limits, and methods and means for subsistence take of species in specific areas. Subpart D regulations for

the 2005 hunting seasons, harvest limits, and methods and means were published on June 22, 2005 (70 FR 36268). Because this action relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical closures and adjustments would apply to 36 CFR part 242 and 50 CFR part 100.

The Alaska Department of Fish and Game (ADF&G), under the direction of the Alaska Board of Game (BOG), manages sport and State subsistence harvest on all lands throughout Alaska. However, on Federal lands and waters, the Federal Subsistence Board implements a subsistence priority for rural residents as provided by Title VIII of ANILCA. In providing this priority, the Board may, when necessary, preempt State harvest regulations for fish or wildlife on Federal lands and waters.

These actions are authorized and in accordance with 50 CFR 100.19(d-e) and 36 CFR 242.19(d-e).

##### *Units 9C and 9E*

The Northern Alaska Peninsula Caribou Herd has declined since 1984, from a peak population of 20,000 caribou to an estimated 1,200 caribou in 2005. The exact reasons for the decline of the Northern Alaska Peninsula Caribou Herd are unknown, but are believed to be related to nutritional stress in the herd due to over-grazing of the range south of the Naknek River, disease, predation and poor habitat conditions throughout their entire range. This drastic population decline represents a conservation concern. The Alaska Department of Fish and Game has recently announced that it will not have a hunt in this area.

The Federal Subsistence Board has also closed the fall subsistence caribou hunting season on Federal lands in Units 9C Remainder and Unit 9E on the Alaska Peninsula, effective Aug. 10, 2005.

##### *Unit 22A*

The Federal Subsistence Board has closed the fall moose hunting season in the central portion of Unit 22A in Western Alaska, due to low moose numbers in that area. The area affected is that portion of Unit 22A in the Unalakleet drainage and all drainages flowing into Norton Sound north of the Golsovia drainage and south of the Tagoomenik and Shaktoolik River drainages.

Recent moose surveys by the Bureau of Land Management and the Alaska Department of Fish and Game indicated there were approximately 123 moose in the area, substantially below the Alaska

Department of Fish and Game's management goal of 600 to 800 moose. Low numbers of yearling moose suggest that few moose are surviving to reproductive age. The combination of low moose density, a declining population trend and low numbers of yearling moose require eliminating the human harvest to allow for conservation of the herd.

The closure aligns Federal subsistence hunting regulations with the State's closure of the moose hunting season in the central portion of Unit 22A.

##### *Unit 22B and 22D*

The Federal Subsistence Board has shortened the fall subsistence moose hunting season on Federal lands in Unit 22D and in Unit 22B west of the Darby Mountains in the Nome area. The new season dates are Sept. 1 through Sept. 14. This action is being taken to reduce hunting pressure, due to serious concerns about declines in the moose population in the area. The change establishes a uniform season in all hunt areas adjacent to the Nome road system and is intended to reduce the chances of over harvest. The Board's action follows similar action taken by the Alaska Department of Fish and Game through Emergency Order No. 05-02-05.

The area affected in Unit 22D is within the Kougarok, Kuzitrin and Pilgrim river drainages and west of the Tisuk river drainage and Canyon Creek. The harvest limit in both Unit 22D and 22B west of the Darby Mountains remains 1 bull. The change also requires that hunters must have a State registration permit.

The Board finds that additional public notice and comment requirements under the Administrative Procedure Act (APA) for these adjustments are impracticable, unnecessary, and contrary to the public interest. Lack of appropriate and immediate conservation measures could seriously affect the continued viability of fish populations, could adversely impact future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive additional public notice and comment procedures prior to implementation of these actions and pursuant to 5 U.S.C. 553(d)(3) to make this rule effective as indicated in the **DATES** section.

## Conformance With Statutory and Regulatory Authorities

### *National Environmental Policy Act*

A Final Environmental Impact Statement (FEIS) was published on February 28, 1992, and a Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD) was signed April 6, 1992. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940, published May 29, 1992), implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. A final rule that redefined the jurisdiction of the Federal Subsistence Management Program to include waters subject to the subsistence priority was published on January 8, 1999 (64 FR 1276.)

### *Section 810 of ANILCA*

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

### *Paperwork Reduction Act*

The adjustment and emergency closures do not contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995.

### *Other Requirements*

The adjustments have been exempted from OMB review under Executive Order 12866.

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. The exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant

economic effect (both positive and negative) on a small number of small entities supporting subsistence activities, such as sporting goods dealers. The number of small entities affected is unknown; however, the effects will be seasonally and geographically limited in nature and will likely not be significant. The Departments certify that the adjustments will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility 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.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, the adjustments have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that the adjustments will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that the adjustments meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

In accordance with Executive Order 13132, the adjustments do 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. Cooperative salmon run assessment efforts with ADF&G will continue.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The

Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As these actions are not expected to significantly affect energy supply, distribution, or use, they are not significant energy actions and no Statement of Energy Effects is required.

### *Drafting Information*

Bill Knauer drafted this document under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Greg Bos, Alaska Regional Office, U.S. Fish and Wildlife Service; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Warren Eastland, Alaska Regional Office, Bureau of Indian Affairs; and Steve Kessler, USDA-Forest Service, provided additional guidance.

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

Dated: August 4, 2005.

**Thomas H. Boyd,**

*Acting Chair, Federal Subsistence Board.*

Dated: August 4, 2005.

**Steve Kessler,**

*Subsistence Program Leader, USDA-Forest Service.*

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## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1228

RIN 3095-AB31

### Records Center Facility Standards

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Final rule.

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**SUMMARY:** This final rule modifies NARA facility standards for records storage facilities that house Federal records to clarify requirements relating to design or certification of multiple story facilities and fire detection and protection systems; to revise certain requirements relating to fire-ratings of roofs, building columns, and fire barrier walls; and to clarify the application of