

day from Monday, August 16, 2004, through Wednesday, August 18, 2004, to conduct necessary maintenance on the bridge.

**DATES:** This temporary deviation is effective from 8 a.m. on Monday, August 16, 2004, until 2 p.m. on Wednesday, August 18, 2004.

**ADDRESSES:** Materials referred to in this temporary deviation are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 500 Poydras Street, New Orleans, Louisiana 70130-3310, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589-2965. The Eighth District Bridge Administration Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** Phil Johnson, Bridge Administration Branch, telephone (504) 589-2965.

**SUPPLEMENTARY INFORMATION:** The BNSF Railway Company requested a temporary deviation from the normal operation of the drawbridge in order to replace railroad rails on the lift span of the bridge. This maintenance is essential for the continued safe transit of trains across the bridge. This temporary deviation will allow the bridge to remain in the closed-to-navigation position from 8 a.m. until 2 p.m. each day from Monday, August 16, 2004, through Wednesday, August 18, 2004. In the event of an approaching tropical storm or hurricane, the work will be rescheduled and the bridge will continue to operate normally.

The bridge has a vertical clearance of 4 feet above high water in the closed-to-navigation position and 73 feet above high water in the open-to-navigation position. Navigation on the waterway consists of tugs with tows, oil industry related work boats and crew boats, commercial fishing vessels and some recreational craft. Since the lift span of the bridge will only be closed for six hours per day for three days, ample time will be allowed for commercial and recreational vessels to schedule transits. For this reason, as well as considering prior experience with similar closures of this bridge, it has been determined that this closure will not have a significant effect on these vessels. The Intracoastal Waterway—Morgan City to Port Allen Route and the Landside Route, including Bayou Boeuf is an alternate route for vessels not requiring greater than a 12-foot draft. The bridge will not be able to open for emergencies during the 6-hour per day closure periods.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 22, 2004.

**Marcus Redford,**

*Bridge Administrator.*

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**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—Unalakleet River Adjustment**

**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 chinook salmon escapement in the Unalakleet River, while still providing subsistence harvest opportunities for other fish. The fishing method restrictions will provide an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on February 3, 2004. Those regulations established seasons, harvest limits, methods, and means relating to the taking of fish and shellfish for subsistence uses during the 2004 regulatory year.

**DATES:** The fishing method change for the Unalakleet River, Norton Sound District, Subdistrict 6, is effective July 10, 2004, through August 1, 2004.

**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 2004 fishing seasons, harvest limits, and methods and means were published on February 3, 2004, (69 FR 5018).

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 Fisheries (BOF), manages sport, commercial, personal use, and State subsistence harvest on all lands and waters 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 adjustments are necessary because of the need to maintain the viability of chinook salmon stocks in the Unalakleet River based on in-season run assessments. These actions are authorized and in accordance with 50 CFR 100.19(d-e) and 36 CFR 242.19(d-e).

*Unalakleet River—Norton Sound District, Subdistrict 6*

This seasonal adjustment closes the Federal Waters of the Unalakleet River to the use of all subsistence fishing methods except for beach seining. The retention of chinook salmon is prohibited. If chinook salmon are incidentally taken by beach seine while subsistence users are harvesting other species, they must be immediately released unharmed to the water.

Salmon migrations in to the Norton Sound rivers began early this season. Chinook salmon at the Unalakleet River have now been entering the river for over three weeks. The passage rate at both the Unalakleet Test Net and at the North River Tower has been slow and unsteady. Other salmon species have shown advanced migration timing as well. This raises the likelihood of the escapement attaining less than 60% of the lower end of the escapement goal range. Given the historical record of the migration passage at both the test net and the tower, the migration past the tower is now at the 75th percentile point. The total passage at the tower would have to double in the next few days to reach the midpoint of the escapement goal range.

The pink salmon return is quite strong, currently on track as the third strongest since statehood. Chum salmon are expected to reach the lower limit of their escapement goal range. These stocks can support harvest and will help to offset this conservation closure that prohibits the retention of chinook salmon. The special action will be lifted when coho salmon reach the Federal Waters and the chinook salmon harvest is no longer a concern.

Federally qualified users of the Unalakleet River are not expected to be significantly impacted by this action because this action will allow the favored method of subsistence pink salmon harvest, beach seining, to continue while closing the subsistence harvest methods most likely to cause chinook salmon mortality.

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, 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 Compliance*

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 22940–22964, 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).

*Compliance With 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 any information collections for which Office of Management and Budget (OMB) approval is required under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*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 boat, fishing gear, and gasoline dealers. The number of small entities affected is unknown, but 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*

Theodore Matuskowitz 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; Rod Simmons, Alaska Regional Office, U.S. Fish and Wildlife Service; Bob Gerhard, Alaska Regional Office, National Park Service; Dr. Glenn Chen, 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: July 26, 2004.

**Thomas H. Boyd,**

*Acting Chair, Federal Subsistence Board, Fish and Wildlife Service.*

Dated: July 22, 2004.

**Steve Kessler,**

*Subsistence Program Leader, USDA—Forest Service.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 63**

**[OAR–2003–0014; FRL–7797–6]**

**RIN 2060–AM29**

### **National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule; amendment.

**SUMMARY:** On May 29, 2003 (68 FR 32172), EPA issued national emission standards for hazardous air pollutants for printing, coating, and dyeing of fabrics and other textiles (Fabric NESHAP) under section 112 of the Clean Air Act (CAA). This action amends the standards to clarify the applicability of the Fabric NESHAP to coating, slashing, dyeing, or finishing operations at synthetic fiber manufacturing facilities where the fibers are the final product of the facility. The printing, coating, and dyeing of fabrics and other textiles source category does not include any synthetic fiber manufacturing operations, and we did not intend to impose any requirements on such operations in the final Fabric NESHAP. We are making the amendment by direct final rule, without prior proposal, because we view the revision as noncontroversial and anticipate no adverse comments.

**DATES:** The direct final rule is effective on October 4, 2004 without further notice, unless EPA receives relevant adverse written comment by September 3, 2004 or if a public hearing is requested by August 16, 2004. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which

provisions are being withdrawn due to adverse comment. The EPA will then proceed to take final action on the parallel proposed rule appearing in the Proposed Rule section of this **Federal Register**.

**ADDRESSES:** *Comments.* Submit your comments, identified by Docket ID No. OAR–2003–0014 (formerly Docket No. A–97–51), by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- E-mail: [http://www.epa.gov/edocket](mailto:http://www.epa.gov/edocket) and [almodovar.paul@epa.gov](mailto:almodovar.paul@epa.gov)

- Fax: (202) 566–1741 and (919) 541–5689.

- Mail: U.S. Postal Service, send comments to: HQ EPA Docket Center (6102T), Attention Docket Number OAR–2003–0014, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. (Please include a total of 2 copies.)

- Hand Delivery: In person or by courier, deliver comments to: HQ EPA Docket Center (6102T), Attention Docket ID Number OAR–2003–0014, 1301 Constitution Avenue, NW., Room B–108, Washington, DC 20460. (Please include a total of 2 copies.)

We request that a separate copy of each public comment also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

*Instructions:* Direct your comments to Docket ID No. OAR–2003–0014. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the Federal regulations.gov websites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the