

"major rule" as defined by 5 U.S.C. 804(2).

#### *J. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 62**

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Dated: August 6, 1999.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

40 CFR Part 62 of the Code of Federal Regulations is amended as follows:

#### **PART 62—[AMENDED]**

1. The authority citation for Part 62 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7642.

#### **Subpart PP—South Carolina**

2. Part 62.10100 is amended by adding paragraphs (b)(4) and (c)(4) to read as follows:

#### **§ 62.10100 Identification of plan.**

\* \* \* \* \*

(b) \* \* \*

(4) South Carolina Implementation Plan for Existing Municipal Solid Waste Landfills, submitted on April 12, 1999, by the South Carolina Department of Health and Environmental Control.

(c) \* \* \*

(4) Existing municipal solid waste landfills.

#### **Subpart PP—[Amended]**

3. Subpart PP is amended by adding a new § 62.10160 and a new undesignated center heading to read as follows:

#### **Landfill Gas Emissions From Existing Municipal Solid Waste Landfills**

##### **§ 62.10160 Identification of sources.**

The plan applies to existing municipal solid waste landfills for which construction, reconstruction, or modification was commenced before May 30, 1991, that accepted waste at any time since November 8, 1987, or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

[FR Doc. 99–21823 Filed 8–23–99; 8:45 am]

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#### **DEPARTMENT OF THE INTERIOR**

#### **Office of Hearings and Appeals**

#### **43 CFR Part 4**

**RIN 1090–AA70**

#### **Indian Affairs Hearings and Appeals**

**AGENCY:** Office of Hearings and Appeals, Interior.

**ACTION:** Final rule and request for comments.

**SUMMARY:** The Office of Hearings and Appeals (OHA) is amending its regulations concerning certain hearings and appeals procedures. The regulations govern who has the authority to make summary distributions in Indian trust estates, and when this authority can be exercised. Under the existing regulation, Bureau of Indian Affairs (BIA) Superintendents can make distribution determinations whenever an Indian dies intestate leaving only trust personal property or cash valued at less than \$1,000. The jurisdictional amount of \$1,000 was established in 1971. This rule clarifies the BIA Superintendents' authority to make summary distributions, and increases, from \$1,000 to \$5,000, the amount of trust personal property or cash which the BIA Superintendent has jurisdiction to distribute. In addition, this rule clarifies that a party has the right to appeal the distribution decision of the BIA Superintendent.

**DATES:** Final rule is effective on August 24, 1999. OHA must receive comments on or before September 23, 1999.

**ADDRESSES:** Comments should be mailed to the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., 11th Floor, Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:** Charles E. Breece, Deputy Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson

Bldv, 11th Floor, Arlington, Virginia 22203. Telephone: (703) 235–3810.

**SUPPLEMENTARY INFORMATION:** Under 25 U.S.C. 372, the Secretary of the Interior may establish regulations to implement his authority to make heirship determinations in Indian trust estates. Under this authority, the OHA's regulations at 43 CFR 4.271 set forth the rules and procedures governing the summary distribution of trust estates, which is invoked when an Indian dies intestate leaving only trust personal property or cash. Under the current regulations, a Superintendent can assemble the heirs, hold an informal hearing and make a summary distribution of the estate when the cash or trust personal property is valued at less than \$1,000 and no real property interests are involved. The regulation also allows the Superintendent or the administrative law judge to dispose of claims of creditors during the summary distribution process. The current language is unclear about when an administrative law judge can be substituted for a Superintendent to make distribution determinations in these estates. OHA is amending the current regulation at 43 CFR 4.271 to clarify that, absent exceptional circumstances, the BIA Superintendent will assemble heirs, hold informal hearings, make distribution determinations and dispose of claims of creditors. The BIA Superintendent will request that an administrative law judge assume jurisdiction only in cases involving exceptional circumstances, real property or wills. The general authority of administrative law judges is set forth at 43 CFR 4.202.

The threshold amount of cash and trust personal property in Indian estates appropriate for summary disposition by a Superintendent must be adjusted to account for inflation and other economic changes. The current \$1,000 amount was established in December 1971 and is no longer appropriate. OHA is amending the regulation to increase the amount of trust personal property or cash which the BIA Superintendent has jurisdiction to distribute from \$1,000 to \$5,000, not including any interest which may have accrued after the death of decedent. This action is intended to further the original purpose of the rules for summary distribution.

The current regulations at 43 CFR 4.320 are unclear about an interested party's right to appeal a Superintendent's decision under 43 CFR 4.271. Under 43 CFR 4.1(b)(2)(ii), the Interior Board of Indian Appeals (IBIA) has jurisdiction to exercise the review authority of the Secretary and decide

matters referred to it by the Secretary, the Director of the OHA and the Assistant Secretary for Indian Affairs. In 1994, the Assistant Secretary for Indian Affairs issued a blanket referral to IBIA of all decisions made under § 4.271, until such time as § 4.320 is amended to clarify the right of appeal. OHA is now amending 43 CFR 4.320 to provide interested parties the right to appeal from a Superintendent's decision.

These amendments promote administrative efficiency and the timely and prompt determination of heirs in Indian estates involving only cash or personal trust property.

#### **Determination To Issue a Final Rule**

The Department has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply because this action relates to agency management and prior notice is not required by statute. This amendment clarifies OHA's rules of practice and procedure and updates the threshold value of estates appropriate for summary distribution, in order to reflect the changes in property values over the 28 years since the existing amount was established in 1971. These amendments do not substantively alter the original purpose of the summary distribution provisions. In addition, it is in the public interest and in the interest of Indian beneficiaries and heirs not to delay implementation of these changes pending notice and comment, particularly when no adverse comments are anticipated. However, OHA invites and will consider public comments submitted in response to this final rule. If significant adverse comments are received, OHA will amend the rule as appropriate.

#### **Determination To Make Rule Effective Immediately**

Because these amendments do not impact the substance of the regulations and in the interest of avoiding delays in the summary distribution of the estates at issue, OHA has determined it appropriate to waive the requirement of publication 30 days in advance of the effective date found at 5 U.S.C. 553(d). Accordingly, this amendment is issued as a final rule effective on the date of publication in the **Federal Register** for good cause shown under 5 U.S.C. 553(d)(3). The Department further concludes that this rule should be effective immediately, because it relieves a restriction on the efficient summary distribution of Indian trust estates. With the passage of time, the \$1,000 threshold amount has become an

unreasonable restriction on the use of the summary distribution provisions, due to inflation and the change in personal property values since the promulgation of the existing regulations in 1971. It is in the public interest and in the interest of Indian beneficiaries and their heirs not to delay implementation of these procedural amendments.

#### **Executive Order 12866**

This rule is not a significant rule as defined in Executive Order 12866, and therefore, is not subject to review by the Office of Management and Budget (OMB).

#### **Regulatory Flexibility Act**

This rule does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act because the rule relates to agency procedure. 5 U.S.C. 601, *et seq.*

#### **Paperwork Reduction Act**

This rule contains no information collection or record keeping requirements subject to approval by the OMB under 44 U.S.C. 3501, *et seq.*

#### **Unfunded Mandates Reform Act of 1995**

This rule will not impose an unfunded mandate of \$100 million or more in any given year on local, tribal, and State governments in the aggregate, or on the private sector in accordance with the unfunded Mandates Reform Act. 2 U.S.C. 1501, *et seq.*

#### **Small Business Regulatory Enforcement Fairness Act**

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act.

#### **Federalism**

In accordance with Executive Order 12630, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Drafting/Information. The primary author of this rule is Charles E. Breece, Deputy Director, Office of Hearings and Appeals, U.S. Department of the Interior.

#### **List of Subjects in 43 CFR Part 4**

Administrative practice and procedure, Claims, Indians, Public Lands.

For the reasons set forth in the preamble, the Department amends Subpart D, Part 4 of Title 43 of the Code of Federal Regulations as follows:

#### **PART 4—[AMENDED]**

1. The authority citation for Part 4 continues to read as follows:

**Authority:** R.S. 2478, *as amended*, 43 U.S.C. sec. 1201, unless otherwise noted.

2. Section 4.271 is revised to read as follows:

#### **§ 4.271 Summary distribution.**

When an Indian dies intestate leaving only trust personal property or cash of a value of less than \$5,000, not including any interest that may have accrued after the death of the decedent, the Bureau of Indian Affairs Superintendent will assemble the apparent heirs and hold an informal hearing to determine the proper distribution of the estate, unless it appears that the decedent left a last will and testament intending to devise his estate, and/or the decedent died possessed of an interest in trust or restricted real property. A memorandum covering the hearing will be retained in the agency files showing the date of the decedent's death, the date of the hearing, the persons notified and attending the hearing, the amount on hand, and its disposition. In the disposition of such funds, the Superintendent will dispose of creditors' claims as provided in § 4.250 and § 4.251. The Superintendent will credit the balance, if any, to the legal heirs. When requested by the BIA Superintendent, an administrative law judge may assume jurisdiction to dispose of creditors' claims or to make distribution determinations if the administrative law judge finds that exceptional circumstances exist. A party in interest may appeal a distribution determination in accordance with 43 CFR 4.320.

3. Section 4.320 is amended by revising the introductory text to read as follows:

#### **§ 4.320 Who may appeal.**

A party in interest has a right to appeal to the Board of Indian Appeals from an order of an administrative law judge on a petition for rehearing, a petition for reopening, or regarding tribal purchase of interests in a deceased Indian's trust estate, and also from a summary distribution order made by a Bureau of Indian Affairs Superintendent or an administrative law judge pursuant to § 4.271.

\* \* \* \* \*

Dated: August 17, 1999.

**John Berry,**

*Assistant Secretary, Policy, Management and Budget.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 990304063-9063-01; I.D. 081899A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Vessels Catching Pollock for Processing by the Inshore Component in the Bering Sea Subarea

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the critical habitat/catcher vessel operational area (CH/CVOA) of the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the B season limit of pollock total allowable catch (TAC) specified for the inshore component within the CH/CVOA will be reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 19, 1999, until 1200 hrs, A.l.t., September 15, 1999.

**FOR FURTHER INFORMATION CONTACT:** Andrew Smoker, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(5)(i)(C)(1) and the revised emergency interim rule (64 FR 39087, July 21, 1999), the B season limit of pollock TAC specified for harvest within the CH/CVOA and processing by the inshore component is 56,648 metric tons (mt).

In accordance with § 679.22(a)(11)(iv)(A) the Administrator,

Alaska Region, NMFS, has determined that the B season limit of pollock TAC specified for harvest within the CH/CVOA and processing by the inshore component will be reached.

Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component within the CH/CVOA conservation zone, as defined at § 679.22(a)(11)(iv)(B).

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

#### Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent exceeding the B season limit of pollock TAC specified for harvest within the CH/CVOA and processing by the inshore component. A delay in the effective date is impracticable and contrary to the public interest. Further delay would result in noncompliance with reasonable and prudent management measures implemented to promote the recovery of the endangered Steller sea lion. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.22 and is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 19, 1999.

**Gary C. Matlock,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 99-21915 Filed 8-19-99; 3:33 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 99030463-9063-01; I.D. 072199B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Halibut Bycatch Mortality Allowance in the Bering Sea and Aleutian Islands Management Area

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Reapportionment of Pacific halibut bycatch mortality allowance

specified for the nontrawl fishery categories.

**SUMMARY:** NMFS issues this final rule that reapportions the 1999 halibut bycatch mortality allowance specified for the Pacific cod hook-and-line fishery category to the other nontrawl fishery category in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the harvest of species constrained by the other nontrawl halibut bycatch mortality allowance, in particular Greenland turbot, while not further restricting the hook-and-line Pacific cod fishery. This action is intended to promote the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 1, 1999, through 2400 hrs, A.l.t., December 31, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the FMP prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP are at subpart H of 50 CFR part 600 and 50 CFR part 679.

The BSAI halibut prohibited species catch (PSC) limit for nontrawl gear is an amount of halibut equivalent to 900 mt of halibut mortality (§ 679.21(e)(2)(i)). The apportionment of the nontrawl halibut PSC limit to bycatch allowances for the Pacific cod hook-and-line and other nontrawl fisheries was established by the Final 1999 Harvest Specifications of Groundfish for the BSAI (64 FR 12103, March 11, 1999) as 748 mt and 84 mt respectively.

A proposed rule for this action was published in the **Federal Register** on July 29, 1999 (64 FR 41068), requesting comments through August 12, 1999. One letter of comment was received during the comment period from a hook-and-line industry representative supporting the reapportionment. Based on this comment, and in order to provide greater opportunity to harvest the BSAI Greenland turbot total allowable catch (TAC) while not jeopardizing the opportunity to harvest the amount of the Pacific cod TAC allocated to hook-and-line vessels, NMFS increases the halibut bycatch mortality allowance specified for the other nontrawl fishery category by 150