

Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of April 13, 2006. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the

Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to the rule (310 CMR 7.26) for Massachusetts is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: April 3, 2006.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*

■ 40 CFR part 63 is amended as follows:

#### PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

#### Subpart E—[Amended]

■ 2. Section 63.99 is amended to correct paragraph (a)(21)(ii)(A) to read as follows:

#### § 63.99 Delegated Federal authorities.

- (a) \* \* \*  
(21) \* \* \*  
(ii) \* \* \*

(A) The material incorporated in the Massachusetts Department of Environmental Protection 310 CMR 7.26 and 310 CMR 70.01 pertaining to dry cleaning facilities in the Commonwealth of Massachusetts jurisdiction, and has been approved under the procedures in § 63.93 to be implemented and enforced in place of the Federal NESHAPs for Perchloroethylene Dry Cleaning Facilities (subpart M of this part) for area sources only, as defined in § 63.320(h).

\* \* \* \* \*

[FR Doc. 06-3488 Filed 4-12-06; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### 43 CFR Part 5

#### RIN 1093-AA10

### Making Pictures, Television Productions, or Sound Tracks on Certain Areas Under the Jurisdiction of the Department of the Interior

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Secretary is revising regulations found at 43 CFR 5.1 to allow implementation of legislation that directs the establishment of a reasonable fee for commercial filming activities or similar projects and still photography where a permit is required.

**DATES:** *Effective Date:* April 13, 2006.

**FOR FURTHER INFORMATION CONTACT:** Lee Dickinson, Special Park Uses Program Manager, National Park Service, 1849 C Street, NW., ORG CODE 2460, Washington, DC 20240, telephone: 202-513-7092, or e-mail: [Lee\\_Dickinson@nps.gov](mailto:Lee_Dickinson@nps.gov).

**SUPPLEMENTARY INFORMATION:** Public Law 106-206 (codified at 16 U.S.C. 460l-6d) directs the Secretaries of the Interior and Agriculture to establish a reasonable fee system (referred to as a location fee in this publication) for commercial filming and still photography activities on lands under the Secretaries' jurisdiction.

The Department of the Interior (DOI) regulations at 43 CFR part 5 prohibit the National Park Service (NPS) from collecting fees "for the making of motion pictures, television productions or sound tracks \* \* \*". The Office of the Secretary is revising the current regulation by removing the prohibition.

#### Background

Lands of the United States were set aside by Congress or the Executive Branch to conserve and protect areas of untold beauty and grandeur, historical importance, and uniqueness for future generations. Often it is the uniqueness of the land that attracts filmmakers. This tradition started with explorers who traveled with paint and canvas or primitive photo apparatus before the areas were designated as a national park, wildlife refuge, or forest. Generally, land management agencies allow commercial filming and still photography when it is consistent with their mission and will not harm the resource or interfere with the visitor experience.

While many commercial filming and still photography permits issued by the land management agencies are for small productions involving educational material or commercial advertising, a significant number of commercial filming permits have been issued to makers of major motion pictures.

Public Law 106-206 specifically requires permits, reasonable fees for use of federal lands and reimbursement of costs incurred by the government as a result of both commercial filming and certain still photography activities. Congress recognized in this law that when commercial filming and certain

still photography activities are allowed on Federal lands, it is necessary to manage the activity through a permitting process to minimize the possibility of damage to the cultural or natural resources or interference with other visitors to the area and the agencies will incur costs in providing this management.

### Key Issues

The Department of the Interior (DOI) regulations at 43 CFR part 5 which prohibit the NPS from collecting fees for commercial film productions are in conflict with the Pub. L. 106–206. Therefore, to implement the fee requirement of the law the Office of the Secretary is revising the current regulation by removing the prohibition.

In June 2004, the Government Accountability Office (GAO) at the request of some members of Congress began a review of NPS policy and guidance related to issuing special use permits for special events and for commercial filming and still photography. In a report issued May 6, 2005, the GAO concluded that the NPS could have collected and retained at least \$1.6 million in location fees for commercial filming and still photography activities permitted on park lands if Pub. L. 106–206 had been implemented. One recommendation of the report was that the NPS “Expedite the implementation of the law that requires the Park Service to collect location fees and costs for commercial filming and still photography, when appropriate.”

In order to expedite the implementation of Pub. L. 106–206, the Office of the Secretary will implement this final rule which will remove from current regulations found in 43 CFR 5.1(b)(1) the statement that prohibits the National Park Service from charging a fee “for the making of motion pictures, television productions or sound tracks. \* \* \*” This rule will allow the NPS to charge fees during an interim period while a Department-wide rule, which includes the Bureau of Land Management and the U.S. Fish and Wildlife Service, is promulgated. The Department-wide rule will establish a fee schedule specific to this rule.

### Compliance With Other Laws

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

This document is a significant rule and has been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy.

It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) While this rule follows the direction of Congress by implementing the provisions of Public Law 106–206, OMB has determined that the rule raises novel legal or policy issues.

#### *Regulatory Flexibility Act*

The Department of the Interior certifies that this rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### *Small Business Regulatory Enforcement Fairness Act (SBREFA)*

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

a. Does not have an annual effect on the economy of \$100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. 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.

#### *Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector.

#### *Takings (Executive Order 12630)*

In accordance with Executive Order 12630, the rule does not have significant takings implications.

#### *Federalism (Executive Order 13132)*

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

#### *Civil Justice Reform (Executive Order 12988)*

In accordance with Executive Order 12988, the Office of the Solicitor has

determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the order.

#### *Paperwork Reduction Act*

This proposed regulation requires individuals and companies wishing to do commercial filming and still photography park lands to obtain a permit from the superintendent managing the park land. The permit holder is also responsible for reimbursing the agency for costs incurred and to pay a land use fee. The mechanics of applying for the permit and the forms involved are not addressed in this proposed regulation, but are addressed in existing NPS regulations and internal guidance. The NPS uses application forms NPS 10–931 (Film—Short Form) and NPS 10–932 (Film—Long Form). Both forms are assigned OMB Control Number 1024–0026 and expire December 31, 2006. Therefore, these regulations do not contain information collection requirements that the OMB must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

#### *National Environmental Policy Act*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment, health, and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce noncompatible uses that might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, the regulation is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6, (49 FR 21438). Therefore, neither an environmental assessment nor an environmental impact statement has been prepared.

The location fee authorized by Public Law 106–206 and governed by this proposed regulation is a fee collected when a permit is issued by the NPS for a commercial filming or still photography activity. Any analysis required by the NEPA, as well as the National Historic Preservation Act, would be conducted in conjunction with the permitting process and would

evaluate the impact of the requested activity on the resource.

#### *Government-to-Government Relationship With Tribes*

In accordance with Executive Order 13175 "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249), the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22961), and 512 DM 2, we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

#### *Clarity of This Regulation*

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading; for example § 14.10 Purpose). (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, DOI, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: [Exsec@ios.doi.gov](mailto:Exsec@ios.doi.gov)

#### *Administrative Procedure Act*

In this rulemaking, we are revising existing regulations in order to implement Public Law 106-206, a law to allow the Secretary of the Interior to establish a fee system for commercial filming and certain still photography activities on Federal land. The existing regulations at 43 CFR 5.1 prohibit charging fees for these activities and the new law, Public Law 106-206, (codified at 16 U.S.C. 4601-6d), requires the Secretary to charge fees for these same activities. This rulemaking will delete the prohibition in the existing regulation. Therefore, we are publishing

this action without prior proposal because we view this as a nondiscretionary revision that is required by law. We find good cause, pursuant to 5 U.S.C. 553(b) and 553(d), that notice and public procedure are unnecessary and this rule will take effect upon publication. However later this year we will publish in the **Federal Register** and request comments on a proposed rule on commercial filming and still photography activities for Department of the Interior agencies, including the National Park Service, Fish and Wildlife Service, and Bureau of Land Management.

#### **List of Subjects in 43 CFR Part 5**

Motion pictures, Recordings, Television.

■ For the reasons set forth in the preamble, the Department of the Interior amends 43 CFR part 5 as follows:

#### **PART 5—MAKING PICTURES, TELEVISION PRODUCTIONS OR SOUND TRACKS ON CERTAIN AREAS UNDER THE JURISDICTION OF THE DEPARTMENT OF THE INTERIOR**

■ 1. The authority for part 5 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under DC Code 8-137 (1981) and DC Code 40-721 (1981).

#### **§ 5.1 [Amended]**

■ 2. Revise § 5.1(b)(1) to read as follows:

\* \* \* \* \*

(b) \* \* \*

(1) No fees will be charged for the making of motion pictures, television productions or sound tracks on areas administered by the U.S. Fish and Wildlife Service. The regular general admission and other fees currently in effect in any area under the jurisdiction of the National Park Service are not affected by this paragraph.

\* \* \* \* \*

Dated: April 6, 2006.

**P. Lynn Scarlett,**

*Deputy Secretary of the Interior.*

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#### **DEPARTMENT OF TRANSPORTATION**

#### **Federal Railroad Administration**

#### **49 CFR Part 234**

#### **Grade Crossing Signal System**

#### *CFR Correction*

In Title 49 of the Code of Federal Regulations, parts 200 to 299, revised as

of October 1, 2005, in part 234, on page 569, the first "Authority" is removed.

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#### **DEPARTMENT OF COMMERCE**

#### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No. 060216044-6044-01; I.D. 040706G]

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the West Yakutat District of the Gulf of Alaska**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2006 total allowable catch (TAC) of pollock specified for the West Yakutat District of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 10, 2006, through 2400 hrs, A.l.t., December 31, 2006.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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(c)(3)(ii), the 2006 TAC of pollock specified for the West Yakutat District of the GOA is 1,792 metric tons (mt) as established by the 2006 and 2007 final harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2006 TAC of pollock specified for the West Yakutat District of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,742 mt, and is setting aside the remaining 50 mt as bycatch to support other anticipated