

to the jurisdiction of the United States located within that unit, including navigable waters and areas within their ordinary reach (up to the mean high water line in places subject to the ebb and flow of the tide, or up to the ordinary high water mark in other places that are navigable), irrespective of ownership of submerged lands, tidelands or lowlands.

This rulemaking also proposes to revise the definition of "boundary." "Boundary," as revised, would better cover the many and diverse sites that have been placed under the care and administration of the NPS. The revision would afford comprehensive protection to persons and property at NPS sites such as maintenance facilities and warehouses, administrative sites, ranger stations, visitor information centers and associated parking lots, which, though located outside a park proper, are managed and administered by the NPS as components of the National Park System. The definition is also tailored to cover the various NPS-administered sites in the District of Columbia. The term "park area" would be revised to mean the same as the term "National Park System." The proposed definition for "National Park System" repeats the statutory definition from 16 U.S.C. 1c.

The proposed revision to Section 13.2 serves three purposes: (1) Paragraph (c) is revised to clarify that Alaska National Interest Lands Conservation Act (ANILCA) Title VIII subsistence regulations apply "on the public lands within" those parks where subsistence is authorized; (2) paragraph (e) is revised to clarify that, pursuant to proposed § 1.2(a)(3), NPS general regulations are specifically applicable within the reach of navigable waters located within the boundaries of park areas in Alaska; and (3) paragraph (e) is revised to clarify that the Part 13 modifications (that generally are relaxations of prohibitions contained in the general regulations) also apply on the navigable waters of national parks in Alaska (e.g., ANILCA § 1110(a) special authorization for motorboat travel to villages).

Section-by-Section Analysis

Section 1.2 paragraph (a) is proposed as it currently exists. This paragraph limits the applicability of NPS regulations to within park boundaries and interests.

Proposed subparagraphs (a)(1) and (a)(2) provide that the regulations apply, respectively, on lands and waters located within park system boundaries that are federally owned, or administered as park lands by the NPS (in whole or in part) through an

agreement with the owner, party of interest, or the person, corporation, company, organization, state or political subdivision holding an interest in, or title to, such land. An agreement could be in the form of a lease, public use easement, memorandum (of agreement), or some other written form. Lands and waters administered under this subparagraph would usually be subject to the same general regulations as federally owned lands (Parts 1 through 5, and Parts 7 and 13 as applicable). An owner or party of interest who wishes to retain certain rights or uses could do so as part of the written agreement, otherwise NPS general regulations will apply equally to the owner or party of interest as they would to third parties. Without such an agreement, NPS regulations would not apply on non-federally owned lands within park boundaries, the exception being particular regulations containing a provision that makes them specifically applicable to such lands. See, e.g., 36 CFR 2.2(g) (regulation applicable to lands and waters under legislative jurisdiction within a park); See also, 36 CFR Part 6 (59 FR 65948). Two other provisions that are contained in existing subparagraph (a)(2) are, in this rulemaking, proposed separately as subparagraphs (a)(3) and (a)(4).

Proposed subparagraph (a)(3) more clearly defines and includes waters subject to federal jurisdiction that are located within National Park System boundaries, including navigable waters, within the scope of NPS regulations. Subparagraph (a)(4) contains a provision for the NPS to administer lands and waters in the District of Columbia (pursuant to the Act of March 17, 1948 (62 Stat. 81)), that was added to the existing subparagraph (2) in 1986 (51 FR 37010). The less-than-fee interests provision, currently subparagraph (a)(3), has been revised, renumbered and proposed as subparagraph (a)(5). This provision encompasses scenic easements (sometimes referred to as negative easements) and other federal interests where NPS administration of the site is shared or limited.

Proposed paragraph (b) continues to limit the applicability of NPS general regulations to federally owned lands in the absence of an agreement or a superseding provision. Similarly, in order for NPS general regulations to apply on Indian tribal trust lands located within National Park System boundaries, the NPS must enter into an agreement with the benefiting Indian nation, tribe, band or pueblo (pursuant to proposed subparagraph (a)(2)). Without such an agreement, and regardless of jurisdictional status, NPS

authority on Indian lands located within National Park System units is limited to federal laws and implementing regulations made applicable at the express direction of Congress.

Proposed paragraph (d) would extend existing administrative exceptions to include Part 13 regulations.

Section 1.4 proposes a revision to the definition of the terms "boundary" and "park area." "Boundary," as revised, would afford comprehensive coverage to the many and diverse sites that have been placed under the care and administration of the NPS, particularly those sites located in the District of Columbia. The term "park area" would be revised to mean the same as the term "National Park System." The proposed definition for "National Park System" repeats the statutory definition from 16 U.S.C. 1c.

Section 13.2 proposed paragraph (c) has been revised to clarify that subsistence regulations for Alaska apply only "on the public lands within" those parks where subsistence is authorized. Paragraph (e) has been revised to clarify that NPS general regulations (e.g., Part 2), as modified by Part 13, apply to waters subject to federal jurisdiction, including navigable waters, located within the boundaries of park areas in Alaska.

Drafting Information

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Paperwork Reduction Act

This rule does not contain collections of information requiring approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior has determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

The NPS has determined that this proposed rulemaking will not have a significant effect on the quality of the