

(b) *Summons*—(1) *In general.* For the purposes described in § 301.7602–1(a), the Commissioner is authorized to summon the person liable for tax or required to perform the act, or any officer or employee of such person or any person having possession, custody, or care of books of accounts containing entries relating to the business of the person liable for tax or required to perform the act, or any other person deemed proper, to appear before one or more officers or employees of the Internal Revenue Service at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry. This summons power may be used in an investigation of either civil or criminal tax-related liability. The Commissioner may designate one or more officers or employees of the IRS as the individuals before whom a person summoned pursuant to section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall appear. Any such officer or employee is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records, or other data produced in compliance with the summons.

(2) *Officer or employee of the IRS.* For purposes of this paragraph (b), officer or employee of the IRS means all officers and employees of the United States, who are engaged in the administration and enforcement of the internal revenue laws or any other laws administered by the IRS, and who are appointed or employed by, or subject to the directions, instructions, or orders of the Secretary of the Treasury or the Secretary's delegate. An officer or employee of the IRS, for purposes of this paragraph (b), shall include an officer or employee of the Office of Chief Counsel.

\* \* \* \* \*

(d) *Effective dates.* This section is applicable after September 3, 1982, except for paragraph (b), which is applicable on and after April 1, 2005. For rules under paragraph (b) that are applicable to summonses issued on or after September 10, 2002, see 26 CFR 301.7602–1T. For rules applicable on or before September 3, 1982, see 26 CFR 301.7602–1 (revised as of April 1, 1984).

### § 301.7602–1T [Removed]

■ **Par. 3.** Section 301.7602–1T is removed.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: February 15, 2005.

**Eric Solomon,**

*Acting Deputy Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 05–6407 Filed 3–31–05; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Part 7

#### RIN 1024–AD26

### **Apostle Islands National Lakeshore; Designation of Snowmobile and Off-Road Motor Vehicle Areas, and Use of Portable Ice Augers or Power Engines**

**AGENCY:** National Park Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The National Park Service (NPS) is adopting this final rule to designate areas on Lake Superior and the mainland unit for use by snowmobiles, off-road motor vehicles, and ice augers or power engines within Apostle Islands National Lakeshore. Unless otherwise provided for by special regulation, the operation of snowmobiles and off-road motor vehicles within areas of the National Park System is prohibited under existing regulations. The intended effect of the special regulations is to designate the routes, areas and frozen water surfaces identified herein and remove the requirement for a permit to operate an ice auger or power engine. All other portions of the existing regulations, governing use, safety, and operating requirements would remain in effect.

**DATES:** Effective April 1, 2005.

**ADDRESSES:** Mail inquiries to Superintendent, Apostle Islands National Seashore, Route 1, Box 4, Bayfield, Wisconsin 54814. Telephone: (715) 779–3398. E-mail: [APIS\\_Winter\\_Use@nps.gov](mailto:APIS_Winter_Use@nps.gov).

**FOR FURTHER INFORMATION CONTACT:** Jerry Case, Regulations Program Manager, National Park Service, 1849 C Street, NW., Room 7241, Washington, DC 20240. Phone: (202) 208–4206. E-mail: [Jerry\\_Case@nps.gov](mailto:Jerry_Case@nps.gov).

**SUPPLEMENTARY INFORMATION:**

### Background

This rule designates areas on the frozen surface of Lake Superior and a route on the mainland unit for use by snowmobiles, off-road motor vehicles, and ice augers or power engines within the established boundaries of Apostle Islands National Lakeshore. The areas designated are the frozen surface of Lake Superior surrounding every island from the shoreline out to the Lakeshore's ¼ mile boundary, and the frozen surface of Lake Superior from Sand Point to the mainland unit's eastern boundary. Motorized access will end at the shoreline of the islands. The route designated is the ¼ mile section of the Big Sand Bay Road that passes through the mainland unit to non-NPS property.

The enabling legislation for Apostle Islands National Lakeshore (16 U.S.C.; 460w–460w–7), specifically authorizes recreational use of the Lakeshore by the public. It further includes provisions for hunting, fishing, and trapping on the lands and waters within the boundaries, with certain limitations allowed for public safety administration, fish or wildlife management, or public use and enjoyment.

The Lakeshore comprises 21 islands and a 12-mile strip of mainland shoreline lying at the northern end of the Bayfield peninsula in Northern Wisconsin. Jurisdiction by the National Park Service extends for a distance of one-quarter mile offshore on the waters of Lake Superior surrounding each island and along the mainland coast. During the winter months, safe access up to shoreline areas and traditional hunting, fishing, and trapping areas frequently requires over ice travel by snowmobile and various forms of off-road motor vehicle transportation within the quarter-mile jurisdiction.

The Apostle Islands archipelago is roughly 287,000 acres in size, including all of the water between the islands. Of this 287,000 acres, less than 40,000 acres are contained within the park's islands, and an additional 27,500 acres are water, leaving over 210,000 acres of water within the archipelago that lie outside the jurisdiction of the NPS. In other words, the NPS has jurisdiction over only 15% of the waters between all of the islands.

The use of snowmobiles, off-road motor vehicles, and ice augers or power engines was common prior to the establishment of the Lakeshore and continues through the present day. The use of ice augers or power engines is necessary to provide access to the water through the ice for authorized fishing activities. Ice augers are typically operated only once a day at the

beginning of ice fishing activities. The length of operation is chiefly dependent on the thickness of the ice, which can vary from four inches to more than three feet. Most ice augers can cut through the ice surface in less than a few minutes. The exclusive purpose of operation is to cut or bore small holes in the frozen surface of Lake Superior to allow fishing equipment to pass freely.

These uses continue as a safe, common, and necessary method of access up to shorelines and other locations inside Lakeshore boundaries and corridors to areas outside the Lakeshore boundaries for gaining access to fishing and recreational areas during winter.

This designation of water surfaces and routes within the Lakeshore provides the public with the means to safely navigate around rough ice, cracks, pressure ridges and other dangerous ice conditions on frozen Lake Superior. It facilitates traditional and legislatively authorized uses such as hunting, fishing and trapping while also providing shoreline access for winter camping, hiking, snowshoeing, skiing, and other non-motorized recreational activities within the Lakeshore.

Under current NPS regulations, 36 CFR 2.18 and 4.10, the use of snowmobiles and off-road motor vehicles within areas of the National Park System is prohibited, except on water surfaces and designated routes that are used by motorboats or motor vehicles during other seasons. These water surfaces and routes must be designated and promulgated as special regulations. The use of portable engines associated with a power ice auger is allowed by permit only under 36 CFR 2.12(a)(3).

National Park Service Management Policies Section 8.2.2.1 states that any restriction of appropriate recreational uses will be limited to what is necessary to protect park resources and values, to promote visitor safety and enjoyment, or to meet park management needs. It also states the Superintendent will develop and implement visitor use management plans and take management actions, as appropriate, to ensure that recreational uses and activities within the park are consistent with authorizing legislation and do not cause unacceptable impacts to park resources or values.

After reviewing the issues surrounding the use of snowmobiles, off-road motor vehicles, and ice augers or power engines, NPS determined that the uses authorized in the rule are consistent with the enabling legislation and will not result in impairment of resources, values, or purposes for which the Lakeshore was established.

Snowmobiles and off-road motor vehicles are used as a means of transportation to a specific park location, where the user participates in a non-motorized recreational activity. When the snowmobile or off-road motor vehicle user reaches his or her destination, the snowmobile or off-road motor vehicle is stopped with the engine off, minimizing noise, pollution, and other associated impacts. By contrast, recreational touring, which is not allowed under this rule, would involve continuous or prolonged operation of a snowmobile or off-road motor vehicle which would increase noise, pollution, and other associated impacts.

The designation of areas and routes on the frozen surface of Lake Superior and the mainland road is consistent with water surfaces and routes used by powerboats and motor vehicles during other times of year. These regulations limit the designation of specific areas, and further restrict designation of routes to surfaces used by motor vehicles during other times of year. Because of these limitations, no additional snowmobile or off-road motor vehicle areas will be established. Hunting, fishing, trapping and non-motorized recreational opportunities on the islands will continue to be permitted as in the past. Operation of power engines in other areas or for other purposes will continue to be subject to authorization by permit only.

Less than 15 percent of the ice on Lake Superior that surrounds the islands is located within the Lakeshore's ¼-mile boundary. Exterior areas are owned by the State of Wisconsin and allow snowmobile and off-road motor vehicle operation pursuant to State regulations. With virtually unlimited snowmobile and off-road motor vehicle use in State areas, which are directly adjacent to park boundaries, the most significant factor for noise and emissions in island and mainland locations inside the Lakeshore boundary is wind speed and direction rather than where snowmobiles and off-road motor vehicles are operated. Sound and emissions can travel long distances over the hard frozen surface of Lake Superior.

The conditions that allow for reasonably safe snowmobile and off-road motor vehicle access on the frozen surface of Lake Superior are generally limited to late December through mid-March. During this time period, a majority of the wildlife has either migrated from the area or is in hibernation. Since snowmobiles and off-road motor vehicles are not permitted to operate outside of designated roads on

the mainland or on the islands themselves, no impact is expected on the wintering white-tailed deer population, other wildlife, or the snow-covered vegetation. Therefore, it is anticipated that adoption of this regulation will not adversely affect the resources of the Lakeshore.

Allowing the use of snowmobiles, off-road motor vehicles, and ice augers or power engines on the frozen surface of Lake Superior is not expected to dramatically increase visitation to the area. Traditional users include fishermen and recreational users that engage in winter hunting, trapping, camping, hiking, snowshoeing, skiing, and other non-motorized recreational activities.

Designated state and county trails for snowmobile and off-road motor vehicle use are abundant outside the Lakeshore throughout Ashland and Bayfield Counties. Bayfield County contains more than 430 miles of maintained snowmobile trails and in excess of 108 miles of all-terrain vehicle routes. Ashland County has more than 205 miles and 132 miles respectively. There is little demand for recreational touring on the ice of Lake Superior.

Due to the short duration of accessibility, instability of the ice at many times and limited need for access to non-NPS property outside the Lakeshore boundary, it is not anticipated that a large increase in snowmobiles or off-road motor vehicles will result from adopting these special regulations. With current use limited and no significant increase expected, no measurable economic impact is anticipated.

The NPS considers that local residents, area businesses, and park visitors are best served by allowing for the use of snowmobiles, off-road motor vehicles, and portable ice augers/engines in the designated areas and routes.

A proposed regulation was published in the **Federal Register** on August 12, 2004 (69 FR 49841). Public comment was invited. The comment period closed October 12, 2004.

#### Summary of Comments Received

During the public comment period, the NPS received 408 comments via U.S. Mail and electronic mail (e-mail).

#### *Comments Received in Support of the Rule:*

All comments received from neighboring city, county, and State governments, agencies, and officials were in support of the proposed rule. The letters of support expressed concern for the safety of fishermen and park

users. Of the comments received from individuals who support the proposed rulemaking, 94 percent are residents in the Apostle Islands (Chequamegon Bay) area and 76 percent are residents of the State of Wisconsin.

*Comment:* The operation of snowmobiles, off-road motor vehicles, ice augers or power engines on the frozen surface of Lake Superior is necessary to avoid hazardous ice, pressure ridges, and cracks, and provide reasonable and safe access to fishing areas and island shoreline locations.

*Response:* NPS agrees with respondents and supports efforts to maintain visitor access and safety.

No comments were received in support of snowmobiles or off-road vehicles for the purpose of recreational touring.

#### *Comments Received in Opposition to the Rule*

Of the comments received from individuals who wrote to oppose the proposed rulemaking, 5 percent are from residents from the State of Wisconsin. Over 98 percent of the comments in opposition to the proposed rule were received from the Bluewater Network internet Web site.

The Bluewater Network Web site offered internet users prepared text that could not be modified and the option for individuals to add comments about personal experiences relating to snowmobiles, off-road vehicles, and other issues. Fifty-eight respondents expressed concern about noise, pollution, and the negative impacts on wildlife and their outdoor experience. The prepared text from the Bluewater Network addressed five comments that are listed below. The NPS response follows each comment.

*Comment:* The Bluewater Network (and 340 form letter comments initiated from its Web site) commented that the current prohibition on ORV/snowmobiles should be maintained.

*Response:* NPS recognizes that snowmobile and off-road vehicle (ORVs) operation around the Apostle Islands on frozen Lake Superior is a historic and traditional use that was in existence prior the establishment of the Apostle Islands National Lakeshore in 1970. NPS has determined that the continuation of these uses for access on designated areas and routes will enhance public safety and facilitate authorized uses without causing unacceptable impacts on the resources, values or purposes of the Lakeshore.

*Comment:* The Bluewater Network (and 340 form letter comments initiated from its Web site) commented that the proposed rule does not distinguish

between ice fishing and recreational use, or how the regulations would be enforced.

*Response:* Snowmobiles and off-road motor vehicles are used as a means of transportation to a specific park location, where the user participates in a non-motorized recreational activity. When the snowmobile or off-road motor vehicle user reaches his or her destination, the snowmobile or off-road motor vehicle is stopped with the engine off. Recreational touring, which is not allowed under this rule, involves continuous or prolonged operation of a snowmobile or off-road motor vehicle. Park rangers will enforce this rule by monitoring visitor use and ice conditions. It is reasonable to expect users to travel around hazards on the ice and follow safe routes to access shoreline locations. Park rangers will verify that visitors are fishing, camping, snowshoeing, skiing, hiking or participating in other non-motorized activities based on their observed travel within the park, clothing, equipment, tools, and other accessories in their possession.

*Comment:* The Bluewater Network (and 340 form letter comments initiated from its Web site) commented that NPS should mark access corridors to prime fishing spots.

*Response:* The number of possible fishing spots (locations) around the Apostle Islands on Lake Superior is virtually unlimited. Fishermen choose areas primarily by existing ice conditions with safety as the paramount issue. Ice must be of adequate thickness to support people, fishing equipment, and methods of transport.

Unfortunately, the frozen surface of Lake Superior can change on a daily basis due to variable winds, waves, currents, and temperature conditions. It is typical for winter ice to form between some of the inner islands in the Apostle Islands archipelago, but ice around all of the islands is unusual due to the variety of weather conditions listed above. It is a rare occurrence for all of Lake Superior to freeze over. Ice that forms over a period of days or weeks can be destroyed in hours by high winds, shifting ice, and/or the forces of wave action. The pressure of moving ice can create cracks, fissures, and areas of open water without warning. Hence, there is no practical way to mark or maintain the unlimited number of corridors or routes to fishing locations.

*Comment:* The Bluewater Network (and 340 form letter comments initiated from its Web site) commented that the Rule should prohibit snowmobile/ORV use on waters around those islands that are recommended for wilderness

protection under alternative C in the 2004 Apostle Islands National Lakeshore Wilderness Suitability Study.

*Response:* The mainland unit, all of Sand, Basswood, and Long Islands, the lighthouses, and other existing developed areas of the Lakeshore, and all waters and frozen areas of Lake Superior were excluded from wilderness protection with the designation of the Gaylord A. Nelson National Wilderness (Pub. L. 108-447) on December 8, 2004. The wilderness boundary begins at the high water mark for each island having lands designated as wilderness, and proceeds inland. Operation of boats, snowmobiles, and off-road vehicles is limited to the waters and frozen surface of Lake Superior, which was not included in the wilderness designation. The use of motorized vessels and vehicles allow visitors safe access to island shorelines and other locations on Lake Superior both inside and outside of Lakeshore boundaries for fishing and non-motorized recreational activities. Regardless of what the NPS does, snowmobiles and ORVs will be legal ¼ mile from shore. Prohibiting them within the Lakeshore's ¼ mile boundary will not create quiet zones because of the long distances that sound travels over water and ice. Limiting or restricting access to shorelines would effectively prevent many park users from accessing proposed wilderness trailheads.

*Comment:* The Bluewater Network (and 340 form letter comments initiated from its Web site) commented that the NPS rule should require the use of advanced technologies, such as four stroke engines, for snowmobiles used at Apostle Islands National Lakeshore.

*Response:* Advanced technologies that reduce possible pollution are preferable, but it is impractical to require them now at the Apostle Islands for several reasons.

First, snowmobiles and off-road motor vehicles are used as a means of transportation to a specific park location, where the user participates in a non-motorized recreational activity. When the snowmobile or off-road motor vehicle user reaches his or her destination, the snowmobile or off-road motor vehicle is stopped with the engine off, minimizing noise, pollution, and other associated impacts. By contrast, recreational touring, which is not allowed under this rule, would involve continuous or prolonged operation of a snowmobile or off-road motor vehicle which would increase noise, pollution, and other associated impacts.

Second, Apostle Islands National Lakeshore has no "gate" or entrance through which all snowmobiles must pass before entering the park. The Lakeshore contains over 154 miles of shoreline on Lake Superior with virtually unlimited access points. Hence there is no practical way to stop non-complying machines from entering the park or assure compliance with technological criteria.

The Apostle Islands archipelago is roughly 287,000 acres in size, including all of the water between the islands. Of this 287,000 acres, less than 40,000 acres are contained within the park's islands, and an additional 27,500 acres are water, leaving over 210,000 acres of water or approximately 85% of the area, within the archipelago, outside of NPS jurisdiction. Requiring visitors to use only advanced technologies in an area that has so little NPS jurisdiction is not practical.

Lastly, there is no snowmobile rental industry in the park area, nor any fleets of snowmobiles owned by companies. Virtually all use in the park is by individuals, and virtually all machines are individually-owned. Imposing a technology requirement in the Lakeshore that exceeds other state and federal legal requirements would impose a high burden on individual users of the park which would not be justified here given the issues discussed above.

#### *Additional Comments*

*Comment:* The National Parks Conservation Association (NPCA) commented on the National Park Service's "lack of compliance with the National Environmental Policy Act" (NEPA). While supporting the implementation of the rule, NPCA urges that it be conditioned upon a future finding of no significant impact consistent with a more detailed NEPA analysis.

*Response:* The National Park Service has prepared an Environmental Assessment and Finding of No Significant Impact for the rule, in compliance with NEPA. Copies are available from Apostle Islands National Lakeshore at the address listed above.

The 27,500 acres of water within NPS jurisdiction is fragmented into 24 separate units (21 islands and 3 sections on mainland unit). Only 15% of the waters between all of the islands is located within park boundaries. Regardless of what the NPS decides with respect to these issues, snowmobiles, ORVs, and power augers will still be legal on more than 210,000 acres or 85% of the waters outside of

park boundaries within the Apostle Islands archipelago.

Although snowmobile and ORV use within the Apostle Islands archipelago is not without any environmental impacts, the proposed rule is expected to have less than significant impacts on the human environment in the Apostle Islands National Lakeshore for the following reasons:

- Preventing snowmobile use within the park's ¼-mile water boundary would not affect the amount of snowmobile use in the larger Apostle Islands archipelago, and therefore it would not decrease any associated environmental impacts.
- The proposed rule authorizes snowmobiles/ORV use for transportation only, not long-distance touring. Hence the machines' engines will be turned off for the majority of time that they are on the lake, minimizing associated environmental impacts.
- Use is not concentrated, but generally dispersed.
- Wildlife are extremely scarce on the frozen surface of the lake, greatly decreasing potential impacts.

*Comment:* The Red Cliff and Bad River Bands of Lake Superior Chippewa Indians both stated that they wanted written assurance that the proposed rule would not be applied to regulate the Tribes' treaty-reserved rights either within or outside of their reservations and requested that such assurance be included in either the notice of the final rule or in the rule itself.

*Response:* Nothing in this rule modifies, alters, or affects any treaty rights.

#### **Compliance With Other Laws**

##### *Need for an Immediate Effective Date*

This rule relieves restrictions on snowmobile, off-road vehicle, ice auger and power engine use that would ordinarily exist under NPS regulations. For this reason, the Department has determined that good cause exists to waive the normal 30-day delay and make this rule effective upon publication as allowed by 5 U.S.C. 553(d)(1).

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

This document is not a significant rule and is not subject to review by the Office of Management and Budget 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. Snowmobiles and off-road motor vehicles (all terrain vehicles) are not available for sale, rental, or lease through local businesses or tour companies within the Apostle Islands (Chequamegon Bay) area. Snowmobiles and off-road motor vehicles are almost exclusively privately owned or transported to the region from sources outside of the local geographic area.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Actions taken under this rule will not interfere with other agencies or local government plans, policies or controls. This rule supports local government and community plans for winter recreation that already exists.

(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. This rule will have no effects on entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule does not raise novel legal or policy issues. This rule codifies long-existing uses at Apostle Islands National Lakeshore.

#### *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.*). Snowmobiles and off-road motor vehicles (all terrain vehicles) are not available for sale, rental, or lease through local businesses or tour companies within the Apostle Islands (Chequamegon Bay) area. Snowmobiles and off-road motor vehicles are almost exclusively privately owned or transported to the region from sources outside of the local geographic area.

#### *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 proposed 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. This rule is an agency specific rule and does not impose any other requirements on other agencies, governments, or the private sector. The use of snowmobiles, off-road vehicles, and ice augers or power engines on the frozen surface of Lake Superior and the mainland unit is a voluntary activity.

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

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule codifies existing snowmobile, off-road vehicle, ice auger or power engine use on the frozen surface of Lake Superior and mainland unit. No taking of personal property will occur as a result of this rule.

#### *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. This rule codifies existing snowmobile, off-road vehicle, ice auger or power engine use on the frozen surface of Lake Superior and mainland unit and does not place any requirements on State or local governments.

#### *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 regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB Form 83-I is not required.

#### *National Environmental Policy Act*

As discussed above, the National Park Service has prepared an Environmental Assessment and Finding of No Significant Impact for this rule in compliance with NEPA. Copies are available from Apostle Islands National Lakeshore at the address listed above.

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

In accordance with the President's memorandum of April 29, 1994, "Government to Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2 have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects. Park staff consulted with the Red Cliff and Bad River Band of Lake Superior Chippewa and the Great Lakes Indian Fish and Wildlife Commission. In return the park received letters generally supporting the proposed regulations from the Red Cliff and Bad River Bands and verbal support from the Fish and Wildlife Commission.

#### **List of Subjects in 36 CFR Part 7**

National Parks, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, the National Park Service amends 36 CFR part 7 as follows:

#### **PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM**

■ 1. The authority citation for part 7 continues to read as follows:

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

■ 2. In § 7.82 the existing paragraph is designated as (a), and paragraphs (b),(c), and (d) are added to read as follows:

#### **§ 7.82 Apostle Islands National Lakeshore.**

\* \* \* \* \*

(b) *Snowmobiles.* (1) Snowmobiles may be operated for authorized purposes in the following designated areas within the Lakeshore:

(i) The frozen surface of Lake Superior that surrounds every island from the shoreline out to the authorized boundary;

(ii) The frozen surface of Lake Superior from Sand Point to the mainland unit's eastern boundary;

(iii) The ¼ mile section of the Big Sand Bay Road that passes through the park mainland unit to non-NPS property.

(2) Snowmobile use is authorized solely for the purpose of providing access for legal forms of:

(i) Ice fishing;

(ii) Hunting and trapping;

(iii) Winter camping;

(iv) Other non-motorized recreational activities; and

(v) Access to non-NPS property by owners, and to NPS properties by "use and occupancy" lessees and their guests.

(3) Snowmobiles may be used for administrative, law enforcement, and emergency services as determined by the Superintendent.

(4) Snowmobile use in areas and for purposes other than those stated in paragraphs (b)(1) and (b)(2) of this section is prohibited.

(5) Maps showing designated use areas are available at park headquarters.

(c) *Off-road vehicles.* (1) Off-road motor vehicles may be operated for authorized purposes in the following designated areas within the Lakeshore:

(i) The frozen surface of Lake Superior that surrounds every island from the shoreline out to the authorized boundary; and

(ii) The frozen surface of Lake Superior from Sand Point to the mainland unit's eastern boundary.

(2) Off-road motor vehicle use is authorized solely for the purpose of providing access for legal forms of:

(i) Ice fishing;

(ii) Hunting and trapping;

(iii) Winter camping;

(iv) Other non-motorized recreational activities; and

(v) Access to non-NPS property by owners, and to NPS properties by "use and occupancy" lessees and their guests.

(3) Off-road motor vehicles may be used for administrative, law enforcement, and emergency services as determined by the Superintendent.

(4) Off-road motor vehicle use in areas and for purposes other than those stated in paragraphs (c)(1) and (c)(2) is prohibited.

(5) Maps showing designated use areas are available at park headquarters.

(d) *Ice augers and power engines.* (1) *Ice auger* means a portable gasoline or electric powered engine connected to a rotating helical shaft for boring through the frozen surface of a lake.

(2) *Power engine* means a mobile gasoline or electric powered engine or device that is connected to a rotating saw blade or teeth linked in an endless chain for cutting through the frozen ice surface of a lake.

(3) Notwithstanding the requirements of 36 CFR 2.12(a)(3), operation of an ice auger or power engine is authorized on designated portions of Lake Superior for the specific purpose of cutting through the ice surface to provide access for legal ice fishing activity.

(4) Areas designated for use of an ice auger or power engine include:

(i) The frozen surface of Lake Superior that surrounds every island from the shoreline out to the authorized boundary; and

(ii) The frozen surface of Lake Superior from Sand Point to the mainland unit's eastern boundary.

(5) Maps showing designated use areas are available at park headquarters.

(6) Use of an ice auger or power engine on any land surface or frozen water surface outside of designated use areas is prohibited without a permit.

Dated: March 18, 2005.

**Paul Hoffman,**

*Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 05-6385 Filed 3-31-05; 8:45 am]

BILLING CODE 4312-97-P

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1270

RIN 3095-AB40

#### Presidential Records Act Procedures

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

**ACTION:** Final rule.

**SUMMARY:** In response to a petition for rulemaking, NARA is amending our rules concerning Presidential records to lengthen the time from 10 working days to 35 calendar days to appeal denial of access. This proposed rule will affect the public.

**DATES:** Effective May 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Davis Heaps at (301) 837-1801.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published in the October 1, 2004, *Federal Register* (69 FR 58875) for a 60-day public comment period. NARA notified several researcher organizations about the proposed rule. A copy of the proposed rule was also posted on the NARA Web site. NARA received three responses to the proposed rule from the public.

NARA proposed, in response to a petition for proposed rulemaking, to extend the timeframe in which a person may appeal the denial of a request for access to Presidential records made under the Presidential Records Act (PRA) (44 U.S.C. 2201-2207). Two public commenters agreed with the proposed regulation changes. One member of the public objected to NARA's proposed length of appeal time. The commenter said that a requester should be able to appeal NARA's letter of denial "within 35 working days after the requester receives written notification," not "within 35 calendar days of the date of NARA's denial letter" as NARA proposed.

We did not adopt that recommendation. The commenter argued that the proposed length in timeframe was unfair because the

delivery of NARA's denial letter could be considerably delayed. The commenter said that the appeal timeframe should continue to be based on when the requester receives the denial, not the date of NARA's denial letter.

NARA proposed the timeframe requested by the petitioners, which was based on the timeframe for appeals NARA permits under the provisions of the Freedom of Information Act (FOIA) (see 36 CFR 1250.72(a)) and the Privacy Act (PA) (see 36 CFR 1202.56(a)). The petition cited the following compelling reasons for requesting an extension to the length of time to file an appeal under the PRA:

- NARA's longer appeal timeframes for FOIA and PA denials;
- The disparity with the lengthy waits requesters have, only to learn of a denial of access; and,
- Extenuating circumstances that make it difficult for requesters to appeal in 10 days after receipt of NARA's denial. Among the latter are requesters being on vacation, business trips, and academic absences like visiting professorships and sabbaticals.

The petitioners' request is based on well-recognized and widely accepted practices in implementing the FOIA. NARA believes that this rule will be of assistance to requesters of Presidential records.

This rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB). As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on a substantial number of small entities because this rule applies to the public. This rule does not have any federalism implications. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking.

#### List of Subjects in 36 CFR Part 1270

Archives and records.

■ For the reasons set forth in the preamble, NARA amends part 1270 of title 36, Code of Federal Regulations, as follows:

#### PART 1270—PRESIDENTIAL RECORDS

■ 1. The authority citation for part 1270 is revised to read as follows:

**Authority:** 44 U.S.C. 2201-2207.

■ 2. Amend § 1270.42 by revising paragraphs (a), (b), and (d) to read as follows:

#### Subpart D—Access to Presidential Records

##### § 1270.42 Denial of access to public; right to appeal.

(a) Any person denied access to a Presidential record (hereinafter *the requester*) because of a determination that the record or a reasonable segregable portion of the record was properly restricted under 44 U.S.C. 2204(a), and not placed in the public domain by the former President or his agent, may file an administrative appeal with the appropriate Presidential library director at the address cited in part 1253 of this chapter.

(b) All appeals must be received by NARA within 35 calendar days of the date of NARA's denial letter.

\* \* \* \* \*

(d) Upon receipt of an appeal, the appropriate Presidential library director has 30 working days from the date an appeal is received to consider the appeal and respond in writing to the requester. The director's response must state whether or not the Presidential records requested are to be released and the basis for this determination. The director's decision to withhold release of Presidential records is final and not subject to judicial review.

Dated: March 25, 2005.

**Allen Weinstein,**

*Archivist of the United States.*

[FR Doc. 05-6410 Filed 3-31-05; 8:45 am]

BILLING CODE 7515-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R03-OAR-2005-PA-0006; FRL-7893-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Three Individual Sources

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for three major sources of volatile organic compounds (VOC). These sources are located in Pennsylvania. EPA is