

attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to this hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time devoted to each topic (signed original and eight (8) copies) by October 15, 2004. A period of ten minutes will be allotted to each person for making comments. An agenda showing the scheduling of speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

#### Proposed Effective Date

The regulations proposed in this document would apply on August 12, 2004 to all business entities existing on or after that date.

#### Drafting Information

The principal author of these proposed regulations is Thomas Beem of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and Recordkeeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

#### PART 301—PROCEDURE AND ADMINISTRATION

**Paragraph 1.** The authority citation for part 301 continues to read, in part, as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** In § 301.7701-1, paragraph (d) is revised to read as follows:

#### § 301.7701-1 Classification of organizations for federal tax purposes.

(d) [The text of the proposed amendment revising § 301.7701-1(d) is the same as the text of § 301.7701-1T(d) published elsewhere in this issue of the **Federal Register**.]

**Par. 3.** In § 301.7701-2 paragraph (b)(9) is added to read as follows:

#### § 301.7701-2 Business entities; definitions.

\* \* \* \* \*

(b) \* \* \*

(9) [The text of the proposed amendment adding § 301.7701-2(b)(9) is the same as the text of § 301.7701-2T(b)(9) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

**Par. 4.** Section 301.7701-5 is revised to read as follows:

#### § 301.7701-5 Domestic and foreign business entities.

[The text of the proposed amendment revising § 301.7701-5 is the same as the text of § 301.7701-5T published elsewhere in this issue of the **Federal Register**.]

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 04-18481 Filed 8-11-04; 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 Routes, and Use of Portable Ice Augers or Power Engines

**AGENCY:** National Park Service, Interior.  
**ACTION:** Proposed rule.

**SUMMARY:** The National Park Service (NPS) is proposing to designate areas and routes 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. The existing regulations prohibit such use unless routes, areas and water surfaces are specifically identified and promulgated as special regulations. 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 regulation, governing use, safety, and operating requirements would remain in effect.

**DATES:** Written comments will be accepted through October 12, 2004.

**ADDRESSES:** Comments should be addressed to: Superintendent, Apostle

Islands National Lakeshore, Route 1, Box 4, Bayfield, Wisconsin 54814. Comments may also be submitted electronically to: [APIS\\_Winter\\_Use@nps.gov](mailto:APIS_Winter_Use@nps.gov).

#### FOR FURTHER INFORMATION CONTACT:

Gregory F. Zeman, Chief of Protection, Apostle Islands National Lakeshore, Route 1, Box 4, Bayfield, Wisconsin 54814. Telephone: (715) 779-3398, extension 201.

#### SUPPLEMENTARY INFORMATION:

##### Background

The enabling legislation for Apostle Islands National Lakeshore (PL-424, enacted September 26, 1970) specifically authorized recreational use of the lakeshore by the public. It further included 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 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 Federal legislation that established the Lakeshore in 1970 includes the water areas of Lake Superior that surround every island and extend seaward from the mainland shoreline for a distance of one-quarter mile.

The use of snowmobiles, off-road motor vehicles, and ice augers or power engines was common prior to the establishment of the lakeshore and for a number of years following it. 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 areas during winter. The designation of routes and water surfaces will provide the public with the means to safely navigate around rough ice, cracks, pressure ridges and other dangerous ice conditions on frozen Lake Superior. It will facilitate 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 36 CFR 4.10, the use of snowmobiles and off-road motor vehicles within areas of the National Park System is prohibited, except on designated routes and water surfaces that are used by motor vehicles or motorboats during other seasons. These routes and water surfaces must be designated and must be 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 has determined that the uses authorized in this rule are consistent with the enabling legislation and will not result in a derogation 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/off-road motor vehicle user reaches their 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 mainland road is consistent with areas and routes used by powerboats and motor vehicles during other times of year. These proposed regulations limit the designation of specific routes, and further restrict designation of routes to surfaces used by motor vehicles during other times of year. Because of these proposed limitations, no additional snowmobile or off-road motor vehicle routes will be established and access to hunting, fishing, trapping areas, and non-motorized recreational opportunities will continue to be pursued through hiking, skiing, and snowshoeing activities in accordance with Federal and State regulations. 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. The disruptive noise of snowmobiles, off-road motor vehicles, and ice augers or power engines is not expected to exceed the level generated by motor boats during the summer visitation season. 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 throughout Ashland and Bayfield Counties. Bayfield County contains more than 430 miles of maintained snowmobile trail 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 inherently dangerous ice of Lake Superior.

Due to the short duration of accessibility, instability of the ice in all but the most severe of winters, and limited need for access to non-NPS property outside the lakeshore boundary, it is not anticipated that a large increase in snowmobiles, off-road motor vehicles, or commercial operations 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 to provide legal access for hunting, fishing, trapping, and non-motorized recreational activities.

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

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

This document is not a significant rule and has not been reviewed 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 is an agency specific rule.

(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 and is not expected to be controversial.

#### *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.

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

In accordance with Executive Order 12630, the rule does not have significant takings implications. A taking implication assessment is not required. 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 proposed rule only affects use of NPS administered lands and waters.

#### *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*

The National Park Service has analyzed this rule in accordance with the criteria of the National Environmental Policy Act. The NPS has determined that this proposed rulemaking will not have a significant effect on 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 incompatible uses which 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, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared. A categorical exclusion has been documented and is on file with the park headquarters.

#### *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 Band of Lake Superior Chippewa and the Great Lakes Indian Fish and Wildlife Commission. In return the park received a letter generally supporting the proposed regulations from the Red Cliff Band and verbal support from the Fish and Wildlife Commission.

#### *Clarity of Rule*

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 read 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 § 7.82 Apostle Islands National Lakeshore.) (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, Department of the Interior, 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).

### Drafting Information

The primary authors of this rulemaking are Robert J. Krumenaker, Superintendent, James A. Nepstad, Chief of Planning and Resource Management, and Gregory F. Zeman, Chief of Protection, Apostle Islands National Lakeshore.

### Public Participation

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to the Superintendent, Apostle Islands National Lakeshore, Route 1, Box 4, Bayfield, Wisconsin 54814. You may also comment via the Internet to *APIS\_Winter\_Use@nps.gov*. Please also include "Winter Use Rule" in the subject line and your name and return address in the body of your Internet message. Finally, you may hand deliver comments to the Superintendent, Apostle Islands National Lakeshore, 415 Washington Avenue, Bayfield, Wisconsin.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

### List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 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. Section 7.82 is amended by designating the existing text as paragraph (a) and adding paragraphs (b), (c), and (d) to read as follows:

#### § 7.82 Apostle Islands National Lakeshore.

\* \* \* \* \*

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

(i) The frozen surface of Lake Superior that surrounds every island from the shoreline 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 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.

(v) Access to non-NPS property by owners, and use and occupancy properties by lessees and their representatives or 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 in the following designated areas within the Lakeshore:

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

(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 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.

(v) Access to private property by owners, and use and occupancy properties by lessees and their representatives or 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) of this section 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 to the authorized boundary.

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

(5) Maps showing designated use areas shall be 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: August 4, 2004.

**Paul Hoffman,**

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

[FR Doc. 04–18429 Filed 8–11–04; 8:45 am]

**BILLING CODE 4312–97–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 66

[USCG–1998–3798]

RIN 1625–AA14

### Numbering of Undocumented Barges

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** The Coast Guard is reopening the comment period on its notice of proposed rulemaking on numbering of undocumented barges, published in the **Federal Register** on January 11, 2001 (66 FR 2385). Reopening the comment period gives the public more time to submit comments and recommendations on the issues raised in the proposed rule. This rulemaking is necessary to establish a statutorily required numbering system for undocumented barges more than 100 gross tons