

Limonite Avenue in the northeast corner of the Corona North, Calif., U.S.G.S. map;

(14) The boundary then continues south in a straight line until it reaches the northern shore of the Santa Ana River;

(15) The boundary then follows the north shore of the Santa Ana River until it intersects the 560 foot contour line in Section 1 T3S/R7W;

(16) The boundary then follows the 560' contour line to the north of the Santa Ana River in a generally westerly direction until it reaches Euclid Avenue on the Prado Dam, Calif., U.S.G.S. map;

(17) The boundary then follows Euclid Avenue north to the point of beginning.

Signed: March 1, 1995.

**Daniel R. Black,**  
Acting Director.

Approved: March 9, 1995.

**Dennis M. O'Connell,**  
Acting Deputy Assistant Secretary,  
(Regulatory, Tariff and Trade Enforcement).

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## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Part 13

#### RIN 1024-AC31

#### Denali National Park and Preserve, Alaska

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

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The National Park Service (NPS) is promulgating an interim rule to require mountain climbers to register a minimum of 60-days before any climb on Mount McKinley and Mount Foraker in Denali National Park. Mountaineering in the park has increased dramatically over the last ten years. The number of climbers on Mount McKinley has risen from 695 in 1984 to 1,277 in 1994. Climbing-related injuries and deaths have correspondingly increased. By requiring advance registration, the Denali park staff will be able to provide information to prospective mountaineers in advance of their climb. This may include information on the specific dangers they may face, how to prepare and equip, other safety related issues, and requirements concerning resource protection issues such as litter removal and human waste disposal. Currently, climbers are required to

register, but may do so as late as the day they depart for the mountain.

**DATES:** This rule is effective March 31, 1995. *Expiration date:* Section 13.63(f) will expire on March 31, 1997, unless amended or revised by future rulemaking. However, written comments will be accepted until May 30, 1995.

**ADDRESSES:** Comments should be directed to: Superintendent, PO Box 9, Denali National Park, AK 99755.

**FOR FURTHER INFORMATION CONTACT:** Steve Martin, Acting Superintendent, Denali National Park and Preserve, P.O. Box 9, Denali National Park, AK 99755.

#### SUPPLEMENTARY INFORMATION:

##### Background

Denali National Park was first established as Mt. McKinley National Park on February 26, 1917. A separate Denali National Monument was proclaimed on December 1, 1978. These two were combined, reconfigured and established as Denali National Park and Preserve on December 2, 1980, encompassing 6.5 million acres. Prior to achieving its current configuration, the land the park now encompasses was recognized for its unique ecological value and designated an International Biosphere Reserve in 1976. That designation has since been expanded to encompass the entire 6.5 million acre park and preserve. The park contains North America's highest mountain, 20,320 foot Mount McKinley. Mount Foraker, at 17,400 feet, and numerous large glaciers of the Alaska Range are also a part of this park's subarctic ecosystem. Wildlife includes caribou, Dall sheep, moose, grizzly bears and wolves.

The first ascent of Mount McKinley occurred in 1913. Climbing continued to be a popular activity, although on a small scale, after the park was established. However, during the last ten years mountaineering in the park has increased dramatically. The number of Mount McKinley climbers has risen from 695 in 1984 to 1,277 in 1994. With the numbers of climbers increasing, the number of accidents, rescues, and resource related problems have also increased. Since 1932 a total of 79 mountaineers have perished on the slopes of Mount McKinley; 23 percent of these deaths (18 people) have occurred since 1990. Recent years have also seen an increase in climbing related deaths on Mount Foraker and the other Alaska Range peaks located in the park. In 1990, eight mountaineers were rescued on Mount McKinley. In sharp contrast, the number of mountaineers rescued increased to 28 in 1992, and 27

in 1994. Studies by the NPS showed that the major reason climbers got into trouble on the mountain and required rescue was their unfamiliarity with the hazards unique to Mount McKinley. Specifically, extreme weather conditions, their changeability, and the other hazards associated with climbing in such northerly latitudes caught the climbers unprepared. The NPS determined that climbers need better education and information prior to their climbs and that an appropriate time frame was necessary to convey this information to the climbing community. Climbers from 22 countries registered to climb Mount McKinley in 1990. With so many climbers seeking permits, adequate lead time required to fulfill the requests lengthens. The 60 day pre-registration period will provide sufficient opportunity for the Denali park staff to provide the necessary information to prospective mountaineers on the dangers they may face climbing in the park, how to prepare and equip themselves for the climb, other safety related issues, and requirements concerning resource protection issues such as litter removal and human waste disposal.

##### Authority

This regulation is promulgated pursuant to the Secretary of the Interior's authority to make and publish necessary and proper rules and regulations for the use and management of parks, monuments and reservations under the jurisdiction of the National Park Service (16 U.S.C. 3).

##### Interim Rulemaking

The purpose of this rulemaking is to allow the park enough time to provide climbers with better general and safety related information in order to reduce the number of climbing accidents and the attendant injuries and deaths, the occurrence of which have recently and dramatically increased. In order for the NPS to implement these safeguards prior to the 1995 climbing season, which begins in April 1995, the interim rule will need to be effective upon the date of publication. The park is already receiving requests for information about the 1995 climbing season; allowing for notice and comment or delaying the effective date of the rule will not allow the NPS adequate time to implement these safeguards. The interim rule has a two-year "sunset clause". Notice and comment rulemaking will be conducted with full public involvement during this two-year time period. The intended result of this action is to immediately increase the safety of mountain climbers by allowing sufficient time for the park

to provide the necessary information to all climbers concerning the hazards associated with climbing in Denali National Park.

The NPS is promulgating this interim rule under the "good cause" exception of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) from general notice and comment rulemaking. As discussed above, the NPS believes that this exception is warranted because of the time constraints involved. Based upon this discussion, the NPS finds pursuant to 5 U.S.C. 553(b)(B) that it would be contrary to the public interest to publish a notice of proposed rulemaking. The NPS is, however, soliciting comments and will review comments and consider making changes to the rule based upon an analysis of comments.

In accordance with the Administrative Procedure Act (5 U.S.C. 531 *et seq.*), the NPS has further determined that publishing this interim rule 30 days prior to the rule becoming effective could further delay the dissemination of safety and resource related information to climbers. This also would be contrary to the public interest and the intended purpose of the rule. Therefore, under the "good cause" exception of the Administrative Procedure Act (5 U.S.C. 553(d)(3)), and as discussed above, the NPS has been determined that this interim rulemaking is excepted from the 30-day delay of effective date, and shall therefore become effective upon the date published in the **Federal Register**.

Because the NPS is soliciting comments as discussed above, the NPS plans to analyze comments received and prepare further rulemaking, as appropriate.

#### Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. However, in accordance with the above discussion, the urgent need to disseminate the information concerning the 60-day pre-registration notice and to ensure the safety of the mountain climbers, it has been determined that it is contrary to the public interest to delay the effective date of this interim rule pending public comment.

Nevertheless, interested persons are invited to submit written comments or suggestions regarding the proposed regulations to the address noted at the beginning of this rulemaking. Comments must be received on or before May 30, 1995. The NPS will review comments and consider making changes to the rule based upon an analysis of comments.

#### Drafting Information

The primary authors of this rule are Dennis Burnett, Washington Office of Ranger Activities and Brenda Bussard of Denali National Park and Preserve, National Park Service.

#### Paperwork Reduction Act

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

#### Compliance With Other Laws

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the NPS has determined that this interim rule will not have a significant economic effect on a substantial number of small entities, nor does it require a preparation of a regulatory analysis.

This rule was not subject to Office of Management and Budget (OMB) review under Executive Order 12866.

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 non-compatible uses which 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 interim rule is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

#### List of Subjects in 36 CFR Part 13

Alaska, National Parks; Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR part 13 is amended as follows:

#### PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

##### Subpart C—Special Regulations—Specific Park areas in Alaska

1. The authority citation for part 13 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; § 13.65(b) also issued under 16 U.S.C. 1361, 1531.

#### § 13.63 [Amended]

2. Section 13.63 is amended by revising paragraph (f) to read as follows:

\* \* \* \* \*

(f) *Mountain climbing.* Climbing on Mount McKinley or Mount Foraker without registering, on a form provided by the Superintendent, at least 60 days in advance of the climb is prohibited.

Dated: March 23, 1995.

**George T. Frampton, Jr.,**  
Assistant Secretary for Fish and Wildlife and Parks.

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Office of Inspector General

##### 42 CFR Part 1003

RIN 0991-AA65

##### Civil Money Penalties for Referrals to Entities and for Prohibited Arrangements and Schemes

**AGENCY:** Office of Inspector General (OIG), HHS.

**ACTION:** Final rule with comment period.

**SUMMARY:** This final rule implements the civil money penalty (CMP) provisions established through sections 1877(g)(3) and 1877(g)(4) of the Social Security Act. Specifically, in accordance with section 1877(g)(3), these regulations set forth CMPs, assessments and an exclusion against any person who presents, or causes to be presented, a bill or claim the person knows or should know is for a service unlawfully referred under section 1877(a)(1)(A) of the Act, or has not refunded amounts inappropriately collected for a prohibited referral. In addition, in accordance with section 1877(g)(4), these regulations set forth CMPs, assessments and an exclusion in cases where a physician or entity enters into an arrangement or scheme in which the physician or entity knows, or should have known, that the principal purpose is to assure referrals by the physician which, if made directly to a particular entity, would violate the prohibition on referrals described in section 1877(a) of the Act.

**DATES:** *Effective date:* This final rule with comment period is effective on March 31, 1995.

*Comment period:* Comments on the applicability of these CMPs for referrals to "designated health services" resulting from provisions in the Omnibus Budget Reconciliation Act (OBRA) of 1993 will