

(c) As a condition of entry, the COTP may order that each vessel:

(1) Maintain a continuous radio guard on channels 13 and 16 VHF-FM while underway;

(2) Not overtake the T/V EMSGAS unless the overtaking is to be completed before any bends in the channel, and the pilots, masters and operators of both vessels clearly agree on all action including speeds, time and location of overtaking.

(3) Operate at a minimum no wake speed sufficient to maintain steerage while T/V EMSGAS is moored at the Sun Refining and Marketing Refinery terminal on the Delaware River, at Marcus Hook, Pennsylvania;

(4) Proceed as directed by the Captain of the Port or by his designated representative.

(d) The COTP may be contacted on VHF channels 13 & 16. The Captain of the Port of Philadelphia and the Command Duty Officer at the Marine Safety Office, Philadelphia, may be contacted at telephone number (215) 271-4940.

(e) *Definitions:*

*Captain of the Port* or *COTP* means the Captain of the Port Philadelphia or any Coast Guard commissioned, warrant or petty officer authorized to act on his behalf.

*Loaded Condition* means loaded with LPG that exceeds 2 percent of the vessel's cargo carrying capacity.

Dated: June 20, 1996.

John E. Veentjer,

*Captain, U.S. Coast Guard, Captain of the Port, Philadelphia, PA.*

[FR Doc. 96-16893 Filed 7-3-96; 8:45 am]

BILLING CODE 4910-14-M

Alaska. This revision clarifies the applicability of those NPS regulations that apply in all National Park System areas to waters subject to federal jurisdiction located within park boundaries, including navigable waters.

In order to protect wildlife and the other values and purposes of the National Park System, NPS developed general regulations intended to be applicable on navigable waters located within park boundaries irrespective of ownership of submerged lands. However, litigation concerning a seal shot in the navigable waters of a national park revealed that a 1987 editorial correction to 36 CFR 1.2(b), aimed at clarifying a separate and distinct application of the regulations, had the unforeseen and unintended effect of arguably linking federal title to submerged lands with the exercise of management authority over activities occurring on navigable waters. This rulemaking will clarify the regulations and ensure the continued protection of wildlife and other National Park System values and purposes on navigable waters within parks, regardless of ownership of submerged lands. The revision clarifies that NPS regulations continue to apply on navigable waters, as they have for years. Two definitions, "park area" and "boundary," are modified by this revision. This rulemaking clarifies and interprets existing NPS regulatory intent, practices and policies, and generally would not place new or additional regulatory controls on the public.

**EFFECTIVE DATE:** August 5, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Dennis Burnett, Ranger Activities Division, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127, Telephone (202) 208-4874.

**SUPPLEMENTARY INFORMATION:**

Background

The NPS Organic Act of 1916 directs the Secretary of the Interior and the NPS to manage national parks and monuments to "conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." 16 U.S.C. § 1. The organic act also grants the secretary the authority to implement "rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments and reservations under the jurisdiction of the National Park Service." 16 U.S.C. § 3. In the Redwood Expansion Act of 1978,

Congress gave further direction to the secretary to ensure that:

The authorization of activities shall be construed and the protection, management and administration of [NPS] areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress. 16 U.S.C. § 1a-1.

In to general regulatory authority delegated in 16 U.S.C. § 3, in 1976 Congress amended the 1970 Act for Administration (known as the General Authorities Act) and authorized NPS to "[p]romulgate and enforce regulations concerning boating and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States. \* \* \*" 16 U.S.C. § 1a-2(h). "Waters subject to the jurisdiction of the United States" include navigable waters. See, H. Rep. No. 1569, 94th Cong., 2nd Sess., 4292 (1976). Under these authorities the NPS has managed and regulated activities occurring on and in the waters of the National Park System.

Before 1966, NPS regulations for boating, sanitation, and other water-use regulations were scattered throughout 36 CFR parts 1 and 2. In 1966, NPS published consolidated boating regulations as 36 CFR part 3. The regulations provided for the enforcement of U.S. Coast Guard regulations by NPS "on navigable waters of the United States" located within park boundaries (31 FR 16650). In 1983, NPS moved water-use activity regulations from part 2 to part 3 (48 FR 30290). In addition to regulations generally applicable in all national park areas, NPS has promulgated special park-specific regulations that NPS enforces on and in navigable waters within the boundaries of particular National Park System units. See, e.g., 36 CFR 7.45(f)-(h) (Everglades National Park, Fishing and Boating); 36 CFR 7.38(b) (Isle Royale National Park, Underwater diving); 36 CFR 7.83(a) (Ozark National Scenic Riverways, Boating); 36 CFR 13.65(b) (Glacier Bay National Park, Vessel Management/Whale protection).

Applicability and Scope Provision

In 1982-83 NPS undertook a comprehensive review of general regulations that apply in virtually all NPS administered areas (47 FR 11598). The applicability and scope provisions adopted pursuant to the 1983 rulemaking included navigable waters.

**DEPARTMENT OF THE INTERIOR**

**National Park Service**

**36 CFR Parts 1 and 13**

**RIN 1024-AC21**

**General Regulations for Areas Administered by the National Park Service and National Park System Units in Alaska**

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

**ACTION:** Final rule.

**SUMMARY:** The National Park Service (NPS) is revising portions of its general regulations for areas it administers that define the primary scope and applicability and contain definitions for terms used in the text of the regulations. NPS is also modifying regulations that relate to National Park System units in

In that rulemaking, 36 CFR 1.2(a) provided that the regulations contained in 36 CFR chapter 1 would apply: (1) on federally owned waters, and (2) on waters "controlled, \* \* \* administered or otherwise subject to the jurisdiction of the National Park Service. \* \* \*" (48 FR 30252). In some park areas, the United States holds title to the submerged lands under navigable waters. In other park areas, the United States does not hold title to the submerged lands beneath navigable waters within the boundaries of the park; federal authority to regulate within the ordinary reach of these waters is based on the commerce and property clauses of the U.S. Constitution, not ownership. Like the United States Coast Guard, NPS exercises authority over navigable waters irrespective of ownership of submerged lands. 16 U.S.C. § 1a-2(h). As promulgated in 1983, 36 CFR 1.2(a)(2) reflected the congressional intent that NPS regulations applied in these waters.

The 1983 regulations also provided that—except in park areas under the legislative jurisdiction of the United States, where 10 specifically enumerated provisions were intended to apply regardless of ownership—the regulations were "not applicable on privately owned lands and waters. \* \* \*" (48 FR 30252); 36 CFR 1.2(b). While 36 CFR 1.2(b) (as promulgated in 1983) was specific as to the applicability of the 10 enumerated provisions on privately owned lands, it was silent as to the applicability of those 10 regulations on lands and waters owned by a state or other government entity. In 1987, in response to questions concerning this issue, and in order to clarify the original NPS intent (*i.e.*, that the 10 specifically enumerated provisions were meant to apply on all lands and waters regardless of landownership) the term "privately owned lands and waters" was replaced with the term "non-federally owned lands and waters." (52 FR 35238; *see also*, 52 FR 12037). The 1987 rulemaking emphasized that it was only an editorial change and not a substantive change, the sole purpose of which was to clarify the originally intended reach of the 10 enumerated provisions; there was no change intended concerning state lands.

However, in its effort to ensure that (in areas of legislative jurisdiction) the 10 enumerated regulations clearly apply on all "non-federally owned lands and waters" within the boundaries of park areas, the 1987 revision to section 1.2(b) inadvertently incorporated language that seems ambiguous and could

preclude park regulation of "non-federally owned \* \* \* waters." *See*, 52 FR 35238, September 18, 1987. NPS recognizes that regulations must provide an ordinary person a reasonable opportunity to know when regulations apply. Accordingly, this rulemaking clarifies that NPS regulations otherwise applicable within the boundaries of a National Park System unit apply on and within waters subject 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, and jurisdictional status.

This rulemaking also revises the definition of "boundary" to better cover the many and diverse sites that have been placed under the care and administration of NPS. The revision provides protection to people 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 NPS as components of the National Park System. This definition is also tailored to cover the various NPS-administered sites in the District of Columbia. The term "park area" is revised to mean the same as the term "National Park System." The definition for "National Park System" adopted by this rulemaking repeats the statutory definition from 16 U.S.C. § 1c.

Revisions to section 13.2 in this rule serve three purposes: (1) Paragraph (c) is revised to clarify that NPS subsistence regulations, promulgated under the authority of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. § 3101 *et seq.*, Titles II and VIII, apply only "on federally owned lands and interests therein within park areas where subsistence is authorized;" (2) paragraph (e) is revised to clarify that, pursuant to proposed § 1.2(a)(3), NPS general regulations specifically apply 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.*, 36 CFR 13.20 (authorization for recreational gold panning), *see also*, 43 CFR 36.11(d)

(special authorization for motorboat use)).

#### Analysis of Comments

NPS published the proposed rule in the Federal Register on December 5, 1995 (60 FR 62233). NPS received six timely comments on the proposed rule. The State of Alaska, Office of the Attorney General and the Alaska State Legislature; the Alaska Miners Association, Incorporated; the International Association of Fish and Wildlife Agencies; Sierra Club; and the National Parks and Conservation Association commented. NPS has carefully considered each of these comments. NPS's responses to the comments are as follows:

#### *Legislative Jurisdiction: Ten Enumerated Regulations*

One commenter supposed that adoption of this rule would make the 10 enumerated 36 CFR part 2 regulations that apply on all lands and waters within a park that are under the legislative jurisdiction of the United States apply on park waters (regardless of legislative jurisdiction). Those ten regulations are:

- 36 CFR 2.2 Wildlife protection
- 36 CFR 2.3 Fishing
- 36 CFR 2.4 Weapons, traps and nets
- 36 CFR 2.13 Fires
- 36 CFR 2.22 (a)(2), (b) and (c) Property
- 36 CFR 2.30 Misappropriation of property and services
- 36 CFR 2.31 Trespassing, tampering and vandalism
- 36 CFR 2.32 Interfering with agency functions
- 36 CFR 2.34 Disorderly conduct
- 36 CFR 2.36 Gambling

NPS believes that confusion over this point stems from the fact that the rule uses the term "waters subject to the jurisdiction of the United States" in subparagraph 1.2(a)(3). NPS notes that this term may be confused with the term "lands and waters under the legislative jurisdiction of the United States" (*see, e.g.*, 36 CFR 2.2(g); *see also*, 36 CFR 4.1).

"Legislative jurisdiction" means exclusive federal or concurrent (state and federal) jurisdiction (*see*, 36 CFR § 1.4 (definition of legislative jurisdiction) and 40 U.S.C. 255 (the legislative authority for cessions of jurisdiction)), *i.e.*, lands and waters over which the federal government has general lawmaking authority. The 10 enumerated provisions of 36 CFR part 2 apply on lands and waters that are within park boundaries and under the legislative jurisdiction of the United States regardless of ownership (*see, e.g.*, 36 CFR 2.2(g); *see also*, 36 CFR 4.1).

“Waters subject to the jurisdiction of the United States” has a different meaning, and refers to waters over which the United States exercises federal commerce clause authority (see, H. Rep. No. 1569, 94th Cong., 2nd Sess., 4292 (1976); see also, 33 CFR parts 328–329). This rulemaking clarifies that NPS regulations contained in 36 CFR parts 1 through 5, part 7, and part 13 (including the 10 enumerated regulations) apply on such waters located within park boundaries regardless of jurisdictional status.

*National Park System Units in Alaska: ANILCA Section 103*

The Alaska State Legislature contends in their comments that ANILCA § 103(c) should be interpreted as superseding NPS authority to regulate waters within park boundaries pursuant to 16 U.S.C. § 1a–2(h). The Attorney General of Alaska makes a similar contention concerning NPS general authority to protect natural and other resources through general regulations; the Attorney General concedes only that 16 U.S.C. § 1a–2(h) permits NPS to promulgate and enforce regulations concerning boating and related activities, and to enforce Coast Guard regulations on navigable waters within park boundaries. In contrast, the National Parks and Conservation Association writes that NPS has clear authority to regulate on all waters within National Park System areas to protect park purposes and values.

In ANILCA, Congress outlined an expansive and inclusive scope of resource protection that was to apply within national parks in Alaska. Congress further charged NPS to protect populations of fish and wildlife and habitat that necessarily includes the great river systems running through and within the parks (ANILCA Title II). NPS does not agree with the State of Alaska’s contention that ANILCA § 103(c) preempts NPS’s well-established authority on navigable waters. NPS does not think that ANILCA § 103(c), which was characterized by Congress as a minor technical provision, should be read in isolation from the context of the whole act. ANILCA should be interpreted consistent with its underlying protective purposes: to protect objects of ecological, cultural, geological, historical, prehistorical, and scientific interest.

*National Park System Units in Alaska: Subsistence Uses on “Public Lands”*

In response to a comment NPS would like to emphasize that this rulemaking does not affect subsistence uses conducted in National Park System

units in Alaska. As adopted, subparagraph (c) of 36 CFR 13.2 provides that: “Subpart B of this part 13 contains regulations applicable to subsistence uses. Such regulations apply on federally owned lands and interests therein within park areas where subsistence is authorized.” This revision merely moves the reference to federally owned lands currently found in subparagraph (e) to subparagraph (c) to maintain the status quo. Although the term “public lands” appeared in the proposed rule (rather than “federally owned lands”) NPS intended no change. Application of Federal Subsistence Board regulations (i.e. seasons and bag limits) to navigable waters or selected but not yet conveyed lands is outside the scope of this rulemaking. See, 61 FR 15014, April 4, 1996.

*Lands Administered Pursuant to the Terms of a Written Instrument*

NPS would like to clarify that when NPS leases property and administers the property for public-use purposes, NPS regulations apply. If an owner/lessor wishes to retain rights or uses, the owner should do so as part of the lease; otherwise NPS general regulations will apply equally to the owner as they would to a third party. When NPS administers property for public use pursuant to an easement, the easement will define the federal interest. The scope of the acquired federal interest will determine the regulations that would apply. However, when NPS enters into an agreement to administer property through a written instrument, such as a memorandum of agreement, memorandum of understanding, or other written form (such as a national trail certification agreement), NPS regulations will apply only to the extent provided by the owner of the property during the term of the agreement. The agreement document must describe the type(s) of public use to be managed by NPS or otherwise define the scope of management delegated by the owner to NPS. Regulations that are consistent with the intent of the agreement will then apply.

NPS wishes to note that NPS often enters into agreements with landowners where there is no intent by the landowner to grant—nor by NPS to assume—regulatory control of the property.

*Section-by-Section Analysis*

Section 1.2 paragraph (a) is promulgated without change. This paragraph limits the applicability of NPS regulations to within park boundaries and interests.

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 NPS (in whole or in part) through a written instrument 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. A written instrument could be in the form of a lease or public use easement, or a memorandum of agreement or some other written form authorizing NPS management. 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 applies to lands and waters under legislative jurisdiction within a park); see also, 36 CFR part 6 (59 FR 65948).

Subparagraph (a)(3) 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 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 former subparagraph (2) in 1986 (51 FR 37010). The less-than-fee interests provision, formerly subparagraph (a)(3), has been revised, renumbered and adopted 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.

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, 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. Paragraph (d) extends existing administrative exceptions to include part 13 regulations.

Section 1.4 adopts revisions to the definitions "boundary" and "park area." "Boundary," as revised, affords comprehensive coverage to the many and diverse sites that have been placed under the care and administration of NPS, including those sites located in the District of Columbia. The term "park area" is revised to mean the same as the term "National Park System." The definition for "National Park System" repeats the statutory definition from 16 U.S.C. 1c.

Section 13.2 paragraph (c) has been revised to clarify that NPS general subsistence regulations for Alaska apply on federally owned lands and interests therein within park areas where subsistence is authorized. The final rule refers to subsistence uses rather than subsistence activities to standardize part 13 text. The term "subsistence uses" is defined at section 13.42(c) and used throughout section 13, subpart B. The omission of Sitka National Historical Park from the list of subsistence-excepted parks in the proposed rule was an oversight that this rulemaking corrects. ANILCA does not authorize subsistence uses in Sitka National Historical Park. Paragraph (e) is 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

The primary authors of this revision are Michael Tiernan, Division of Conservation and Wildlife, Office of the Solicitor, Department of the Interior, Washington, DC, and Steve Shackelton and Russel J. Wilson of the Alaska System Support Office and Alaska Field Office, National Park Service. Richard G. Robbins, Division of Conservation and Wildlife, Office of the Solicitor, Department of the Interior, Washington, DC, also contributed.

#### 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 U.S.C. 601 *et seq.*). The economic effects of this rulemaking

are local in nature and negligible in scope.

NPS has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

NPS has determined that this 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 that may 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 (EA) nor an Environmental Impact Statement (EIS) has been prepared.

#### List of Subjects

##### 36 CFR Part 1

National parks. Reporting and recordkeeping requirements.

##### 36 CFR Part 13

Alaska, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, NPS amends 36 CFR chapter I, parts 1 and 13, as follows:

#### PART 1—GENERAL PROVISIONS

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

Authority: 16 U.S.C. 1, 3, 9a, 460 1–6a(e), 462(k); D.C. Code 8–137, 40–721 (1981).

2. Section 1.2 is amended by revising paragraphs (a), (b) and (d) to read as follows:

##### § 1.2 Applicability and scope.

(a) The regulations contained in this chapter apply to all persons entering, using, visiting, or otherwise within:

(1) The boundaries of federally owned lands and waters administered by the National Park Service;

(2) The boundaries of lands and waters administered by the National Park Service for public-use purposes

pursuant to the terms of a written instrument;

(3) Waters subject to the jurisdiction of the United States located within the boundaries of the National Park System, 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 and up to the ordinary high water mark in other places) and without regard to the ownership of submerged lands, tidelands, or lowlands;

(4) Lands and waters in the environs of the District of Columbia, policed with the approval or concurrence of the head of the agency having jurisdiction or control over such reservations, pursuant to the provisions of the Act of March 17, 1948 (62 Stat. 81);

(5) Other lands and waters over which the United States holds a less-than-fee interest, to the extent necessary to fulfill the purpose of the National Park Service administered interest and compatible with the nonfederal interest.

(b) The regulations contained in parts 1 through 5, part 7, and part 13 of this chapter do not apply on non-federally owned lands and waters or on Indian tribal trust lands located within National Park System boundaries, except as provided in paragraph (a) or in regulations specifically written to be applicable on such lands and waters.

\* \* \* \* \*

(d) The regulations contained in parts 2 through 5, part 7, and part 13 of this section shall not be construed to prohibit administrative activities conducted by the National Park Service, or its agents, in accordance with approved general management and resource management plans, or in emergency operations involving threats to life, property, or park resources.

\* \* \* \* \*

3. Section 1.4 is amended in paragraph (a) by revising the definition of *Boundary*, by adding a definition for *National Park System*, and by revising the definition of *Park area* to read as follows:

#### § 1.4 Definitions.

(a) \* \* \*

*Boundary* means the limits of lands or waters administered by the National Park Service as specified by Congress, or denoted by presidential proclamation, or recorded in the records of a state or political subdivision in accordance with applicable law, or published pursuant to law, or otherwise published or posted by the National Park Service.

\* \* \* \* \*

*National Park System* (Park area) means any area of land and water now

or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes.

\* \* \* \* \*

*Park area.* See the definition for National Park System in this section.

\* \* \* \* \*

## PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

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

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; subpart D also issued under 16 U.S.C. 20, 3197; § 13.65(b) also issued under 16 U.S.C. 1361, 1531.

5. Section 13.2 is amended by revising paragraphs (c) and (e), to read as follows:

### § 13.2 Applicability and scope.

\* \* \* \* \*

(c) Subpart B of this part 13 contains regulations applicable to subsistence uses. Such regulations apply on federally owned lands and interests therein within park areas where subsistence is authorized. Subsistence uses are not allowed in Kenai Fjords National Park, Katmai National Park, Glacier Bay National Park, Klondike Gold Rush National Historical Park, Sitka National Historical Park, and parts of Denali National Park. The regulations in subpart B amend in part the general regulations contained in this chapter and the regulations contained in subpart A of this part 13.

\* \* \* \* \*

(e) For purposes of this chapter, "federally owned lands" does not include those land interests:

(1) Tentatively approved to the State of Alaska; or

(2) Conveyed by an interim conveyance to a Native corporation.

Dated: June 21, 1996.

George T. Frampton, Jr.,

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 96-17168 Filed 7-3-96; 8:45 am]

BILLING CODE 4310-70-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-5527-2]

### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of deletion of the Martin Marietta Aluminum Company site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA), Region 10, announces the deletion of the Martin Marietta Aluminum Company site from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). EPA and the State of Oregon Department of Environmental Quality (DEQ) have determined that no further cleanup under CERCLA is appropriate and that the selected remedy has been protective of human health and the environment.

**EFFECTIVE DATE:** July 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** Howard Orlean, U.S. EPA Region 10, 1200 Sixth Avenue, Mail Stop: ECL-113, Seattle, Washington 98101, (206) 553-6903.

**SUPPLEMENTARY INFORMATION:** The site to be deleted from the NPL is:

Martin Marietta Aluminum Company, The Dalles, Oregon.

A Notice of Intent to Delete for this site was published on May 13, 1996, (61 FR 22006). The closing date for comments on the Notice of Intent to Delete was June 12, 1996. EPA received no comments.

EPA identifies sites which appear to present a significant risk to human health, welfare or the environment, and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substances Response Trust Fund-financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425 of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or

impede Agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 14, 1996.

Chuck Clarke,

*Regional Administrator, Region 10.*

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

### PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

### Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the Martin Marietta Aluminum Company Site, The Dalles, Oregon.

[FR Doc. 96-17021 Filed 7-3-96; 8:45 am]

BILLING CODE 6560-50-P

### 40 CFR Part 300

[FRL-5530-3]

### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Deletion of the Arsenic Trioxide Site from the National Priorities List (NPL).

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) announces the deletion of the Arsenic Trioxide Superfund Site (Site) in North Dakota, from the National Priorities List (NPL). The NPL is Appendix B of Title 40 of the Code of Federal Regulations (40 CFR) part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of North Dakota have determined that the Site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA