

(c) *Regulations.* (1) The general regulations contained in § 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Milwaukee or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant or petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) This safety zone should not adversely effect shipping. However, commercial vessels may request permission from the Captain of the Port Milwaukee to enter or transit the safety zone. Approval will be made on a case-by-case basis. Requests must be in advance and approved by the Captain of the Port Milwaukee before transits will be authorized. The Captain of the Port Milwaukee may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF-FM.

Dated: June 6, 2001.

M.R. DeVries,

Commander, U.S. Coast Guard, Captain of the Port, Milwaukee, Wisconsin.
[FR Doc. 01-16709 Filed 7-2-01; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 51

RIN 1024-AC88

Concession Contracts

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service is amending the language of its concession contracting regulations, promulgated on April 17, 2000 (“Regulations”), to amend those portions of the Regulations that require or may be read as requiring a concessioner to engage in binding arbitration for the final determination of construction costs and the valuation of leasehold surrender interest. The amendment makes binding arbitration optional in the discretion of a concessioner. This amendment assures that the Regulations are in legal conformance with Section 575 of the Administrative Disputes Resolution Act.

DATES: This rule becomes effective July 3, 2001.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, 1849 C

Street, NW., Room 7313, Washington, DC 20240. Phone (202) 565-1212.

SUPPLEMENTARY INFORMATION: The National Park Service has determined that section 575 of the Administrative Disputes Resolution Act, 5 U.S.C. 575, may preclude the agency from enforcing provisions of its Regulations (36 CFR part 51) and Standard Contract which require, or may be read as requiring, a concessioner to enter into binding arbitration with respect to the final determination of construction costs and the valuation of leasehold surrender interest. Accordingly, the language of the Regulations, promulgated in 65 FR 20630 (April 17, 2000), regarding binding arbitration for (a) the final determination of construction costs, 36 CFR 51.56 and 51.57, is amended to clarify that, unless a concessioner chooses to request binding arbitration, the Director’s decision as to construction costs is a final administrative decision; and (b) the valuation of leasehold surrender interest, 36 CFR 51.62, is amended to make binding arbitration as to leasehold surrender interest value an option available only to the concessioner. After the publication of this rule, the National Park Service will amend the language of its Standard Concessions Contract, promulgated in 65 FR 26052 (May 4, 2000) (“Standard Contract”), to reflect these regulatory amendments.

Compliance With Other Laws

Regulatory Planning and Review
(Executive Order 12866)

This document is a significant rule and is subject to review by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Department of the Interior certifies 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.*).

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 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. This rule does not have a significant or unique effect on State, local or tribal governments or the private sector.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications.

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.

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

This rule does not constitute a major Federal action significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with Executive Order 13175 “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249), the President’s memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 22951) and 512 DM 2, we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

Clarity of This Regulation

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 understand 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.)

Administrative Procedure Act

Because this revision of the Regulations and Standard Contract is necessary to assure that the Regulations and Standard Contract are in legal conformance with section 575 of the Administrative Disputes Resolution Act, 5 U.S.C. 575, NPS is publishing this revision as a final rule. In accordance with the requirements of the Administrative Procedure Act, 5 U.S.C. 553, we have determined that publishing a proposed rule would be unnecessary and contrary to the public interest. Publishing a proposed rule is unnecessary because it is clear, as a matter of law, that the Regulations and Standard Contract should be amended to ensure that they are not in conflict with the Administrative Disputes Resolution Act. Publishing a proposed rule is also contrary to the public interest because the public is best served by the swift amendment of the Regulations and Standard Contract to assure compliance with the Administrative Disputes Resolution Act. We believe that publishing this rule 30 days before the rule becoming effective would be unnecessary and contrary to the public interest. Therefore, under the Administrative Procedure Act, 5 U.S.C. 553, we have determined that this final rulemaking is excepted from the 30-day delay in the effective date and will therefore become effective on the date published in the **Federal Register**.

List of Subjects in 36 CFR Part 51

Concessions, Government contracts, National parks, Reporting and recordkeeping requirements.

Accordingly, 36 CFR Part 51 is amended as set forth below:

PART 51—CONCESSION CONTRACTS

1. The authority for part 51 continues to read as follows:

Authority: The Act of August 25, 1916, as amended and supplemented, 16 U.S.C. 1 *et seq.*, particularly 16 U.S.C. 3 and Title IV of the National Parks Omnibus Management Act of 1998 (Pub. L. 105–391).

2. Revise § 51.56 to read as follows:

§ 51.56 How will the construction cost for purposes of leasehold surrender interest value be determined?

After receiving the detailed construction report (and certification, if requested), from the concessioner, the Director will review the report, certification and other information as appropriate to determine that the reported construction cost is consistent with the construction cost approved by the Director in advance of the construction and that all costs included in the construction cost are eligible direct or indirect costs as defined in this part. The construction cost determined by the Director will be the final determination of construction cost for purposes of the leasehold surrender interest value in the related capital improvement unless the concessioner requests arbitration of the construction cost under § 51.57. The Director may at any time review a construction cost determination (subject to arbitration under § 51.57) if the Director has reason to believe that it was based on false, misleading or incomplete information.

3. Revise § 51.57 to read as follows:

§ 51.57 How does a concessioner request arbitration of the construction cost of a capital improvement?

If a concessioner requests arbitration of the construction cost of a capital improvement determined by the Director, the request must be made in writing to the Director within 3 months of the date of the Director's determination of construction cost under § 51.56. The arbitration procedures are described in § 51.51. The decision of the arbitration panel as to the construction cost of the capital improvement will be binding on the concessioner and the Director.

4. Revise § 51.62 to read as follows:

§ 51.62 What is the process to determine the leasehold surrender interest value when the concessioner does not seek or is not awarded a new concession contract?

Leasehold surrender interest concession contracts must contain provisions under which the Director and the concessioner will seek to agree in advance of the expiration or other termination of the concession contract as to what the concessioner's leasehold surrender interest value will be on a unit-by-unit basis as of the date of expiration or termination of the concession contract. In the event that agreement cannot be reached, the provisions of the leasehold surrender interest concession contract must provide for the Director to make a final determination of leasehold surrender interest value unless binding arbitration

as to the value is requested by the concessioner. The arbitration procedures are described in § 51.51. A prior decision as to the construction cost of capital improvements made by the Director or by an arbitration panel in accordance with this part are final and not subject to further arbitration.

Dated: June 11, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–16612 Filed 7–2–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6996–7]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; Chemical Accident Prevention Provisions; Risk Management Plans; New Jersey Department of Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action grants the New Jersey Department of Environmental Protection (NJDEP) the authority to implement and enforce portions of the State of New Jersey's Toxic Catastrophe Prevention Act Program (TCPA), codified at New Jersey Administrative Code (NJAC) 7:31, in place of the Federal Chemical Accident Prevention regulations, promulgated by EPA under section 112(r) of the Clean Air Act (CAA), for all stationary sources with covered processes ("subject sources") under New Jersey's jurisdiction. New Jersey's regulations will be incorporated by reference as "New Jersey's Toxic Catastrophe Prevention Act Program" in the Code of Federal Regulations. Pursuant to section 112(l) of the CAA, NJDEP requested approval to implement and enforce its TCPA rule in place of the Federal Chemical Accident Prevention regulations. NJDEP requested this authority for all subject sources under its jurisdiction except those that are covered only because they contain regulated quantities of LPG gases regulated under the New Jersey Liquefied Petroleum Gas Act of 1950 (NJSA 21:1B). The EPA has reviewed this request and has concluded that it satisfies all of the requirements necessary to qualify for approval under section 112(l). With the exceptions noted in section III of the