Saturday, Sunday and Federal Holidays from 7:20 a.m. to 8:20 p.m. on signal at 20 and 50 minutes after the hour, and on signal at all other times.

* * * * *

Dated: April 21, 2020.

A.J. Tiongson,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2020–08803 Filed 4–29–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1 and 13

[NPS–AKRO–29973; PPAKAKROZ5, PPMPRLE1Y.L00000]

RIN 1024–AE63

National Park Service Jurisdiction in Alaska

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This rule would revise National Park Service regulations to comply with the decision of the U.S. Supreme Court in *Sturgeon* v. *Frost.* In the *Sturgeon* decision, the Court held that National Park Service regulations apply exclusively to public lands (meaning federally owned lands and waters) within the external boundaries of National Park System units in Alaska. Lands which are not federally owned, including submerged lands under navigable waters, are not part of the unit subject to the National Park Service's ordinary regulatory authority.

DATES: Comments on the proposed rule must be received by June 29, 2020.

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024–AE63, by either of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov* and search for ''1024–AE63''. Follow the instructions for submitting comments.

(2) *By hard copy:* Mail or hand deliver to: National Park Service, Regional Director, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501.

Instructions: Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words ''National Park Service'' or ''NPS'' and must include the RIN 1024–AE63 for this rulemaking. Bulk comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted. Comments received may be posted without change to *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov* and search for ''1024–AE63''.

FOR FURTHER INFORMATION CONTACT: Donald Striker, Acting Regional Director, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501. Phone (907) 644–3510. Email: *AKR_Regulations@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

Sturgeon v. *Frost*

In March 2019, the U.S. Supreme Court in *Sturgeon* v. *Frost* (139 S. Ct. 1066, March 26, 2019) unanimously determined the National Park Service's (NPS) ordinary regulatory authority over National Park System units in Alaska only applies to federally owned ''public lands'' (as defined in section 102 of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3102)—and not to State, Native, or private lands—irrespective of unit boundaries on a map. Lands not owned by the federal government, including submerged lands beneath navigable waters, are not deemed to be a part of the unit (slip op. 17). More specifically, the Court held that the NPS could not enforce a System-wide regulation prohibiting the operation of a hovercraft on part of the Nation River that flows through the Yukon-Charley Rivers National Preserve (Preserve). A brief summary of the factual background and Court opinion follow, as they are critical to understanding the purpose of this proposed rule.

The Preserve is a conservation system unit established by the 1980 Alaska National Interest Lands Conservation Act (ANILCA) and administered by the NPS as a unit of the National Park System. The State of Alaska owns the submerged lands underlying the Nation River, a navigable waterway. In late 2007, John Sturgeon was using his hovercraft on the portion of the Nation River that passes through the Preserve. NPS law enforcement officers encountered him and informed him such use was prohibited within the boundaries of the Preserve under 36 CFR 2.17(e), which states that ''[t]he operation or use of a hovercraft is prohibited.'' According to NPS regulations at 36 CFR 1.2(a)(3), this rule applies to persons within ''[w]aters subject to the jurisdiction of the United States located within the boundaries of the National Park System, including navigable waters'' without any regard to ownership of the submerged lands. See 54 U.S.C. 100751(b) (authorizing the Secretary of the Interior to regulate ''boating and other activities on or relating to water located within System units'').

Mr. Sturgeon disputed that NPS regulations could apply to his activities on the Nation River, arguing that the river is not public land and is therefore exempt from NPS rules pursuant to ANILCA section 103(c) (16 U.S.C. 3103(c)), which provides that only the public lands within the boundaries of a System unit are part of the unit, and that State-owned lands are exempt from NPS regulations, including the hovercraft rule. Mr. Sturgeon appealed his case through the federal court system.

In its March 2019 opinion, the Court agreed with Mr. Sturgeon. The questions before the Court were: (1) Whether the Nation River in the Preserve is public land for the purposes of ANILCA, making it indisputably subject to NPS regulation; and (2) if not, whether NPS has an alternative source of authority to regulate Mr. Sturgeon's activities on that portion of the Nation River. The Court answered ''no'' to both questions.

Resolution turned upon several definitions in ANILCA section 102 and the aforementioned section 103(c). Under ANILCA, 16 U.S.C. 3102, ''land'' means ''lands, waters, and interests therein''; ''Federal land'' means ''lands the title to which is in the United States''; and ''public lands'' are ''Federal lands,'' subject to several statutory exclusions that were not at issue in the *Sturgeon* case. As such, the Court found ''public lands'' are ''most but not quite all [lands, waters, and interests therein] that the Federal Government owns'' (slip op. 10). The Court held that the Nation River did not meet the definition of ''public land'' because: (1) ''running waters cannot be owned''; (2) ''Alaska, not the United States, has title to the lands beneath the Nation River''; and, (3) federal reserved water rights (''not the type of property interests to which title can be held'') do not ''give the Government plenary authority over the waterway'' (slip op 12–14).

Regarding the second question, the Court found no alternative basis to support applying NPS regulations to Mr. Sturgeon's activities on the Nation River, concluding that, pursuant to ANILCA section 103(c), ''only the federal property in system units is subject to the Service's authority'' (slip op. 19). As stated by the Court, ''non-federally owned waters and lands inside system units (on a map) are declared outside them (for the law). So those

areas are no longer subject to the Service's power over 'System units' and the 'water located within' them'' (slip op. 18) (quoting 54 U.S.C. 100751(a), (b)).

There are four additional aspects of the *Sturgeon* opinion and ANILCA that inform this rulemaking. First, by incorporating the provisions of the Submerged Lands Act of 1953, the Alaska Statehood Act gave the State ''title to and ownership of the lands beneath navigable waters'' effective as of the date of Statehood. The Court recognized that a State's title to lands beneath navigable waters brings with it regulatory authority over public uses of those waters (slip op. 12–13). While the specific example cited by the Court involved the State of Alaska, the conclusion logically extends to any submerged lands owner. Thus, in cases where the United States holds title to submerged lands within the external boundaries of a System unit, the NPS maintains its ordinary regulatory authority over the waters.

Second, the Court noted but expressly declined to address Ninth Circuit precedent finding that ''public lands'' in ANILCA's subsistence fishing provisions include navigable waters with a reserved water right held by the federal government. The NPS participates in regulating subsistence fisheries as part of the Federal Subsistence Management Program, a joint effort between the Departments of the Interior and Agriculture implementing Title VIII of ANILCA. Applicable regulations can be found at 36 CFR part 242 and 50 CFR part 100 and are unaffected by the *Sturgeon* decision.

Third, the Court acknowledged that NPS maintains its authority to acquire lands, enter into cooperative agreements, and propose needed regulatory action to agencies with jurisdiction over non-federal lands (slip op. 20, 28). Cooperative agreements with the State, for example, could stipulate that certain NPS regulations would apply to activities on the waters and that NPS would have authority to enforce those regulations under the terms of the agreement.

Fourth, ANILCA section 906 (o)(2) contains an administrative exception relative to State and Native corporation land selections, which are excluded from the definition of ''public land'' in section 102. This exemption did not feature in the *Sturgeon* case and would not be affected by this rulemaking.

Proposed Rule

This rule would modify NPS regulations at 36 CFR parts 1 and 13 to conform to the U.S. Supreme Court's decision in *Sturgeon.* In the interest of making the regulations unambiguous, and in response to a petition for rulemaking filed by the State of Alaska, the NPS is proposing a set of targeted amendments to ensure its regulations accurately reflect the outcome of the *Sturgeon* case and provide fair notice of where regulations in 36 CFR Chapter I apply and where they do not in System units in Alaska.

Regulations at 36 CFR 1.2 address the ''Applicability and Scope'' of regulations found in 36 CFR Chapter I, which ''provide for the proper use, management, government, and protection of persons, property, and natural and cultural resources within areas under the jurisdiction of the National Park Service'' (36 CFR 1.1(a)). Section 1.2(a) identifies where the regulations apply unless otherwise stated. In order to reflect the Court's holding in *Sturgeon,* the NPS proposes to amend 36 CFR 1.2(a)(3) to add the words ''except in Alaska'' before ''without regard to the ownership of submerged lands, tidelands, or lowlands.'' This ensures that, consistent with the Court's holding, NPS regulations ''will apply exclusively to public lands (meaning federally owned lands and waters) within system units'' (slip op. 19).

The NPS proposes to add a new 36 CFR 1.2(f) to clarify that, under ANILCA, '''[o]nly the 'public lands' (essentially, the federally owned lands)'' within unit boundaries in Alaska are '''deemed' a part of that unit,'' and non-public lands (including waters) ''may not be regulated as part of the park'' (slip op. 16–17). As stated by the Court, ''[g]eographic inholdings thus become regulatory outholdings, impervious to the Service's ordinary authority'' (slip op. 19). The proposed addition states that, except as otherwise provided, the boundaries of National Park System units in Alaska do not include non-federally owned lands, including submerged lands, irrespective of external unit boundaries. The definition of ''boundary'' in 36 CFR 1.4 has limited operation in Alaska, as NPS published legal descriptions for each unit boundary in 1992 and modifications must be consistent with ANILCA sections 103(b) and 1302(c) and (h).

NPS also proposes changes to its regulations at 36 CFR part 13, which ''are prescribed for the proper use and management of park areas in Alaska'' and as a ''supplement'' to general NPS regulations found elsewhere in Chapter I (36 CFR 13.2(a), (b)). In section 13.1, ''park areas'' is currently defined as ''lands and waters administered by the National Park Service within the State of Alaska.'' NPS proposes to modify this definition, and to add a definition of ''federally owned lands'' (incorporating and relocating the description at 36 CFR 13.2(f)), to reflect ANILCA's limitations on the lands and waters that are administered by the NPS in Alaska, as outlined in the *Sturgeon* decision. As stated above, this would not affect NPS administration under a valid cooperative agreement, which would be governed by the terms of the agreement.

The term ''federally owned lands'' is used instead of ''public lands'' to account for the authority granted by ANILCA section 906(o)(2) over validly selected lands, an exception to the definition of ''public lands'' in ANILCA (16 U.S.C. 3102(3)). As before, selected lands are not considered ''federally owned lands'' once they are subject to a tentative approval or an interim conveyance; title has been transferred although it is not recordable until the lands are surveyed.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. The OIRA has waived review of this proposed rule and, at the final rule stage, will make a separate decision as to whether the rule is a significant regulatory action as defined by Executive Order 12866.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The NPS has developed this rule in a manner consistent with these requirements.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

Enabling regulations are considered deregulatory under guidance implementing E.O. 13771 (M–17–21). This rule would clarify that activities on lands which are not federally owned, including submerged lands under navigable waters, are not subject to the NPS's ordinary regulatory authority.

Regulatory Flexibility Act

This rule 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 proposed rule would modify NPS regulations at 36 CFR parts 1 and 13 to conform to the U.S. Supreme Court's decision in *Sturgeon.* These proposed changes are considered legal in nature with the intent to provide clarification to existing regulations pertinent to the U.S. Supreme Court's decision. The costs and benefits of a regulatory action are measured with respect to its existing baseline conditions. Since this regulatory action is legal in nature, changes are not anticipated compared to baseline conditions. In addition, this action will not impose restrictions on local businesses in the form of fees, training, record keeping, or other measures that would increase costs. Given those findings, this proposed regulatory action will not impose a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2). 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. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. It addresses public use of national park lands and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This rule only affects public use of federally-administered lands. It has no outside effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. This rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Tribal Consultation (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes and Alaska Native corporations through a commitment to consultation and recognition of their right to self-governance and tribal sovereignty. The NPS has evaluated this rule under the criteria in Executive Order 13175 and under the Department's Tribal consultation policy and has determined that consultation is not required because the rule will have no substantial direct effect on federally recognized Tribes or Alaska Native corporations.

Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. The NPS has determined the rule is categorically excluded under 43 CFR 46.210(i) which applies to ''policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.'' This rule is legal in nature. The *Sturgeon* decision has governed how the NPS administers lands and waters in Alaska since it was issued in March 2019. This rule would have no legal effect beyond what was announced by the Court. It would revise NPS regulations to be consistent with the decision and make no additional changes. The NPS has determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects in not required.

List of Subjects

36 CFR Part 1

National parks, Penalties, Reporting and recordkeeping requirements, Signs and symbols.

36 CFR Part 13

Alaska, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR parts 1 and 13 as set forth below:

PART 1—GENERAL PROVISIONS

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

Authority: 54 U.S.C. 100101, 100751, 320102.

■ 2. Amend § 1.2 by revising paragraph (a)(3) and adding paragraph (f) to read as follows:

§ 1.2 Applicability and scope.

(a) * * *

(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, except in Alaska, without regard to the ownership of submerged lands, tidelands, or lowlands;

* * * * *

(f) In Alaska, unless otherwise provided, the boundaries of the National Park System include only federally owned lands, as defined in 36 CFR. 13.1, regardless of external unit boundaries.

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

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

Authority: 16 U.S.C. 3124; 54 U.S.C. 100101, 100751, 320102; Sec. 13.1204 also issued under Sec. 1035, Pub. L. 104–333, 110 Stat. 4240.

■ 4. In § 13.1, add a definition for ''Federally owned lands'' in alphabetical order and revise the definition of ''Park areas'' to read as follows:

§ 13.1 Definitions.

* * * * *

Federally owned lands means lands, waters, and interests therein the title to which is in the United States, and does not include those land interests tentatively approved to the State of Alaska; or conveyed by an interim conveyance to a Native corporation.

* * * * *

Park areas means federally owned lands administered by the National Park Service in Alaska.

* * * * *

§ 13.2 [Amended]

■ 5. In § 13.2, remove paragraph (f).

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2020–09261 Filed 4–29–20; 8:45 am]

BILLING CODE 4312–52–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2018–0647; FRL–10006–15-Region 2]

Approval of Air Quality Implementation Plans; New York; Infrastructure SIP Requirements for the 2012 $PM_{2.5}$ NAAQS; Interstate Transport Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of the New York State Implementation Plan (SIP) submittal regarding infrastructure requirements for interstate transport of pollution with respect to the 2012 annual fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) or standard.

DATES: Written comments must be received on or before June 1, 2020.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R02–OAR–2018–0647 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kenneth Fradkin, Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007–1866, at (212) 637–3702, or by email at *fradkin.kenneth@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Summary of the SIP Revision and the EPA's Analysis
III. The EPA's Proposed Action
IV. Statutory and Executive Order Reviews

I. Background

A. General

The EPA is proposing to approve elements of the 2012 $PM_{2.5}$ infrastructure SIP submission from the State of New York, received on November 30, 2016. Specifically, this rulemaking proposes to approve the portion of the submission addressing the interstate transport provisions for the 2012 $PM_{2.5}$ NAAQS under Clean Air Act (CAA) section 110(a)(2)(D)(i)(I), otherwise known as the ''good neighbor'' provision.

On December 14, 2012 (78 FR 3086), the EPA promulgated a revised primary NAAQS for $PM_{2.5}$ for the annual standard. The revised standard was set at the level of 12 micrograms per cubic meter ($\mu g/m^3$) calculated as an annual average, which is averaged over a three-year period.

B. EPA's Infrastructure Requirements

Whenever the EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to make SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS. This particular type of SIP submission is commonly referred to as an ''infrastructure SIP.'' These submissions must meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of CAA section 110(a)(2), the EPA believes that it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. The EPA has previously provided comprehensive guidance on the application of these provisions through a guidance document for infrastructure SIP submissions and through regional actions on infrastructure submissions.[1] Unless otherwise noted below, we are following that existing approach in acting on this submission. In addition, in the context of acting on such infrastructure

[1] The EPA explains and elaborates on these ambiguities and its approach to address them in its September 13, 2013 Infrastructure SIP Guidance (available at *https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf*), as well as in numerous agency actions, including the EPA's prior action on New York's infrastructure SIPs submitted on April 4, 2013 for 2008 Ozone, October 3, 2013 for 2010 SO_2, and November 30, 2016 for 2012 annual $PM_{2.5}$ NAAQS that addressed the portion of the submissions not germane to transport (84 FR 54502, October 10, 2019).