

(1) *Classified information in every Army system of records.* This exemption is not limited to the systems listed in paragraph (d) of this section. Before denying as individual access to classified information, the Access and Amendment Refusal Authority must make sure that it was properly classified under the standards of Executive Orders 11652, 12065, or 12958 and that it must remain so in the interest of national defense of foreign policy. (5 U.S.C. 552a(k)(1)).

* * * * *

9. Part 701 is amended by revising '12356' to read '12958' in the following sections:

a. Section 701.113 paragraphs (d) and (g)(1).

b. Section 701.117.

c. Section 701.118, paragraphs (a) *Reasons*; (m) *Reasons*; (p) *Reasons*.

d. Section 701.119, paragraph (b) *Reasons*.

10. Appendix C to Part 806b, paragraph (b)(1)(i), is amended by revising '12356' to read '12958'.

Dated: December 4, 1995.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 1

RIN 1024-AC06

Penalty Provisions

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) is amending the existing penalty provisions for convictions of violating NPS regulations to conform with the Criminal Fine Improvements Act of 1987 (Pub. L. 100-185; 18 U.S.C. 3571). This Act changed the maximum fine levels for all petty offenses, including those of a regulatory nature, to \$5,000 for individuals and \$10,000 for organizations.

EFFECTIVE DATE: This rule is effective January 30, 1996.

ADDRESSES: Comments should be addressed to Dennis Burnett, National Park Service, Ranger Activities Division, P.O. Box 37127, Washington, DC 20013-7127.

FOR FURTHER INFORMATION CONTACT:

Dennis Burnett, Ranger Activities Division, at the above address. Phone: 202-208-4874.

SUPPLEMENTARY INFORMATION:

Background

The current NPS penalty provisions are found in 36 CFR 1.3. Under these provisions, four levels of penalties are delineated under different penalty authorities. First, in § 1.3(a), a person convicted of violating applicable NPS regulations in 36 CFR Chapter 1 "shall be punished by a fine not exceeding \$500 or by imprisonment not exceeding 6 months, or both", as authorized by 16 U.S.C. 3. Second, § 1.3(b) applies to certain military parks, battlefield sites, national monuments, or other memorials originally under the jurisdiction of the Secretary of the Army. In these areas the fine and penalty are currently set, pursuant to the Act of March 2, 1933 (47 Stat. 1420), at "not more than \$100, or by imprisonment for not more than 3 months, or by both" for persons who "knowingly and willfully" violate applicable regulations. Third, at § 1.3(c), persons convicted of violating applicable regulations in park areas established by the Act of August 21, 1935 (79 Stat. 971) "shall be punished by a fine of not more than \$500". Last, at § 1.3(d), a person convicted of violating 36 CFR 2.23 relating to recreation fees, pursuant to Pub. L. No. 92-347 (86 Stat. 459) "shall be punished by a fine of not more than \$100".

This rule will revise the penalty language at 36 CFR 1.3 (a), (b), (c) and (d) to reflect the revised statutory fine provisions of the Criminal Fine Improvements Act of 1987 (18 U.S.C. 3571).

Fines: On January 1, 1985, the Criminal Fine Enforcement Act of 1984 (Pub. L. No. 98-596) became effective, in which the definition of "petty offense" was changed to include an offense in which the maximum fine level was \$5,000 for an individual and \$10,000 for an organization. However, this Act did not change the actual fine levels themselves for petty offenses. This was accomplished by the Criminal Fine Improvements Act of 1987 (Pub. L. No. 100-185). This latter Act specifically established the maximum fine levels for petty offenses to be \$5,000 for individuals and \$10,000 for organizations (18 U.S.C. 3571). Petty offenses were also defined to mean any Class B or C misdemeanor, or an infraction, as defined in 18 U.S.C. 3559. Additionally, Chapter 227 of Title 18, which became effective on November 1, 1987, states:

Except as otherwise specifically provided, a defendant who has been found guilty of an offense described in *any Federal statute*, other than an Act of Congress applicable exclusively in the District of Columbia or the Uniform Code of Military Justice, shall be sentenced in accordance with the provisions of this chapter. (18 U.S.C. 3551(a); emphasis added).

Therefore, this rule will reflect the change in law, making the fine levels as stated in 18 U.S.C. 3571 apply to NPS regulations.

Applicability: Section 3 of the Act of August 25, 1916 (NPS Organic Act), as amended by § 5 of the Act of June 2, 1920 (41 Stat. 732), provides the Secretary of the Interior with the authority to "make and publish such 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, and any violation of any of the rules and regulations authorized by this section and sections 1, 2, and 4 of this title shall be punished by a fine of not more than \$500 or imprisonment for not exceeding six months, or both, and be adjudged to pay all cost of the proceedings." (16 U.S.C. 3).

The NPS is adopting this final rule pursuant to the "agency procedure" exception of the Administrative Procedures Act (5 U.S.C. 553(b)(A)) from general notice and comment rulemaking. The NPS believes that this exception from rulemaking procedures is warranted because it is merely conforming the penalty language found at 36 CFR 1.3 (a), (b), (c) and (d) to reflect the revised statutory fine provisions of the Criminal Fine Improvements Act of 1987 (18 U.S.C. 3571). The NPS finds that notice and comment are unnecessary and contrary to the public interest for this final rule.

The NPS has also determined, in accordance with the Administrative Procedures Act (5 U.S.C. 553(d)(3)), that the publishing of this final rule 30 days prior to the rule becoming effective would be counterproductive and unnecessary for the reasons discussed above. A 30-day delay would be contrary to the public interest and the interest of the agency. Therefore, under the "good cause" exception of the Administrative Procedure Act (5 U.S.C. 553(b)(3)), it has been determined that this rulemaking is excepted from the 30-day delay in the effective date and shall therefore become effective on the date published in the Federal Register.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to

afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this final rule to the address noted at the beginning of this rulemaking.

Drafting Information

The primary authors of this regulation are Tony Sisto, Superintendent, Fort Vancouver NHS; Dennis Burnett, Washington Office of Ranger Activities, NPS; and Michael Tiernan, Division of Conservation and Wildlife, Office of the Solicitor, Department of the Interior, Washington, D.C.

Paperwork Reduction Act

This rulemaking 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 determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

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 compromise the nature and character of the area or causing 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 regulation 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 in 36 CFR Part 1

National parks, Penalties, Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I is amended 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, 460 1-6a(e), 469(k); D.C. Code 8-137, 40-721 (1981).

2. Section 1.3 is revised to read as follows:

§ 1.3 Penalties

(a) A person convicted of violating a provision of the regulations contained in Parts 1 through 7, 12 and 13 of this chapter, within a park area not covered in paragraphs (b) or (c) of this section, shall be punished by a fine as provided by law, or by imprisonment not exceeding 6 months, or both, and shall be adjudged to pay all costs of the proceedings.

(b) A person who knowingly and willfully violates any provision of the regulations contained in parts 1 through 5, 7 and 12 of this chapter, within any national military park, battlefield site, national monument, or miscellaneous memorial transferred to the jurisdiction of the Secretary of the Interior from that of the Secretary of War by Executive Order No. 6166, June 10, 1933, and enumerated in Executive Order No. 6228, July 28, 1933, shall be punished by a fine as provided by law, or by imprisonment for not more than 3 months, or by both.

Note: These park areas are enumerated in a note under 5 U.S.C. 901.

(c) A person convicted of violating any provision of the regulations contained in parts 1 through 7 of this chapter, within a park area established pursuant to the Act of August 21, 1935, 49 Stat. 666, shall be punished by a fine as provided by law and shall be adjudged to pay all costs of the proceedings. 16 U.S.C. 462.

(d) Notwithstanding the provisions of paragraphs (a), (b) and (c) of this section, a person convicted of violating § 2.23 of this chapter shall be punished by a fine as provided by law. 16 U.S.C. 460.

Dated: October 20, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[FRL-5321-4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Massachusetts; Change in National Policy Regarding Applicability of Conformity Requirements to Redesignation Requests

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On December 12, 1994, the Massachusetts Department of Environmental Protection (MA DEP) submitted a request to redesignate the Boston metropolitan area, including the communities of Boston, Cambridge, Chelsea, Everett, Malden, Medford, Quincy, Revere, and Somerville, from nonattainment to attainment for carbon monoxide (CO). Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if sufficient data is available to warrant such revisions. In this action, EPA is approving the Massachusetts request because it meets the redesignation requirements set forth in the CAA.

In addition, EPA is approving two related State Implementation Plan (SIP) submissions by Massachusetts DEP. On November 15, 1993, Massachusetts DEP submitted a final 1990 base year emission inventory for CO emissions, which includes emissions data for all sources of CO in Massachusetts' CO nonattainment areas, as well as CO emissions for the entire state. On October 29, 1993, Massachusetts DEP submitted an oxygenated gasoline program for the Boston consolidated metropolitan statistical area (CMSA). In this action, EPA is approving the CO emissions inventory and oxygenated fuels SIP submissions.

DATES: This final rule will be effective April 1, 1996 unless critical or adverse comments are received by February 29, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be sent to Susan Studlien, Acting Director of the Air, Pesticides and Toxics Management Division, at the EPA Regional Office listed below. Copies of the redesignation request and the State of Massachusetts' submittal are available for public review during normal business hours at the addresses listed below.