

## Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedure; and related management system practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

A final “Environmental Analysis Check List” and “Categorical Exclusion Determination” are available in the docket where indicated under

## ADDRESSES.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–119 is added as follows:

### § 165.T09–119 Safety zone; Schoenith Family Foundation Fireworks, Detroit River, Detroit, MI.

(a) *Location.* The following area is a temporary safety zone: All waters of the Detroit River, Detroit, MI, within a two hundred ten foot radius of the fireworks launch site located at position 42°21.2' N; 82°58.4' W. (DATUM: NAD 83). This position is located in the Detroit River directly in front of the Roostertail restaurant at 100 Marquette in Detroit, MI.

(b) *Enforcement period.* This regulation will be enforced from 7:30 p.m. to 9 p.m. on September 23, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit or his on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his on-scene representative.

(3) The “on-scene representative” of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

(5) Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Detroit or his on-scene representative.

Dated: September 5, 2007.

**P.W. Brennan,**

*Captain, U.S. Coast Guard, Captain of the Port Detroit.*

[FR Doc. E7–19059 Filed 9–26–07; 8:45 am]

**BILLING CODE 4910–15–P**

**ACTION:** Final rule.

**SUMMARY:** The National Park Service (NPS) is adding a regulation governing parking violations. The addition is needed to address situations in which the vehicle’s operator is absent when the vehicle is illegally parked. The amendment provides that a parking citation is subject to fine, allows the citation to name the registered owner if the operator is not present, and creates a rebuttable prima facie presumption that the registered owner of the illegally parked vehicle was the person who committed the violation. This rule is similar to provisions in the parking laws of the District of Columbia, Virginia, and Maryland.

**DATES:** This regulation becomes effective October 29, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Lee, Special Assistant, 1849 C. St., NW., Room 3319, Washington, DC 20240, [jennifer\\_lee@nps.gov](mailto:jennifer_lee@nps.gov), 202–219–1689.

## SUPPLEMENTARY INFORMATION:

### Background

Parking violations on Federal parkland administered by the NPS in the National Capital Region are regulated by 36 CFR 4.12 (traffic control devices). This section provides that “Failure to comply with the directions of a traffic control device is prohibited unless otherwise directed by the superintendent.” Prohibitions included within 36 CFR 4.12 are violations of handicapped parking signs, no parking, parking times limitations, and parking outside of marked parking spaces. This regulation is routinely used by United States Park Police officers and National Park Service law enforcement commissioned rangers. When a citation is issued and the operator is not identified on the notice, it results in the violation being dismissed if the registered owner fails to appear at trial and the court declines to proceed.

Parking spaces on parkland are limited in number and are intended to provide visitors with safe, convenient, and legal areas to park while they visit the parks. In urbanized areas of parks in the National Capital Region, violation notices have been dismissed because the operator has not been identified. This is a concern as the U.S. Park Police have documented instances of operators repeatedly parking illegally without consequence, which denies others the ability to legally use the parking places.

### Description of Rulemaking

In response to this problem, the National Park Service is amending the

## DEPARTMENT OF THE INTERIOR

### National Park Service

### 36 CFR Part 7

**RIN 1024–AD40**

### Special Regulations; Areas of the National Park System, National Capital Region

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

National Capital Region special regulations to establish an enforcement process for parking violation notices issued under 36 CFR 4.12. The rule:

1. Provides that a parking violation notice is subject only to a fine;
2. Provides that the violation notice will name the registered owner if the operator is not present; and
3. Creates a prima facie presumption that the registered owner of the illegally parked vehicle was the person who committed the violation.

The prima facie presumption, however, remains rebuttable if the owner comes forward with evidence that someone else was operating the vehicle. This rule is similar to provisions that already exist in the parking laws of many jurisdictions, including the District of Columbia, Virginia, and Maryland (DC Code Ann. § 50-2303.03(c)(2004); Va. Code Ann. § 46.2-1220 (2004); Md. Trans. Code Ann. § 26-302(b)(2002)).

Prima facie presumption is a reasonable and standard provision found in parking codes of many jurisdictions. The connection between the registered owner of an automobile and its operation is a natural one. Indeed, courts have noted, not only the practical impossibility of a police agency to keep a watch over all parked vehicles to ascertain who in fact operates them, but that a traffic regulation's prima facie presumption of responsibility on the registered owner is reasonable, and places neither too great an inconvenience nor an unreasonable hardship if the owner desires to make an explanation. This presumption has been generally upheld by the courts if, as the Park Service proposes here, it also allows the owner to come forward with evidence that someone else was operating the vehicle in order to rebut the inference that the registered owner was responsible. Such parking regulation presumptions have also been upheld as consistent with due process.

The National Park Service is amending 36 CFR 7.96 by adding a new paragraph (f)(5), that provides that a violation of a traffic control device regulating parking under 36 CFR 4.12 is punishable by a fine. Proof that the described vehicle was parked in violation, together with proof that the defendant was at the time the registered owner of the vehicle, shall constitute a prima facie presumption that the registered owner of the vehicle was the person who committed the violation. This presumption allows the owner to come forward with evidence that someone else was operating the vehicle in order to rebut the presumption that the registered owner was responsible.

#### *Notice of Proposed Rulemaking*

On March 21, 2007 the National Park Service published a Notice of Proposed Rulemaking (NPRM) governing parking violations in the National Capital Region (72 FR 13224). The comment period was open for 60 days. No public comments were received.

#### **Compliance With Other Laws**

##### *Regulatory Planning and Review (Executive Order 12866)*

In accordance with the criteria in Executive Order 12866, the Office of Management and Budget makes the final determination as to the significance of this regulatory action and it has determined that this document is not a significant rule and is not subject to review by the Office of Management and Budget.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule will only affect those drivers who park illegally in areas administered by the National Park Service in the National Capital Region, and are issued a citation as a result. Based upon the number of parking violation citations currently being issued, and the nominal fine associated with a citation, there will not be an annual economic effect of \$100 million or more. This rule will not adversely affect an economic sector, productivity, jobs, the environment, or other units of government since the rule will have no impact at all for those drivers parking legally in these areas.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule will result in establishing consistency with other agencies' actions, since it is similar to provisions already existing in the parking laws of many jurisdictions, including District of Columbia, Virginia, and Maryland law.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule has no effect on entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(4) This rule does not raise novel legal or policy issues. The rule provides that a parking citation is subject only to a fine, that the citation will name the registered owner if the operator is not present, as well as create a prima facie presumption that the registered owner of the illegally parked vehicle was the

person who committed the violation. The prima facie presumption, however, remains rebuttable if the owner comes forward with evidence that someone else was operating the vehicle. Since the prima facie presumption is both a reasonable and standard provision found in the parking codes of many jurisdictions, this rule will not raise novel legal or policy issues.

##### *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.*). The primary purpose of this rule is to establish consistency between the parking laws already existing in the local jurisdictions, and the parking laws in adjoining parklands administered by the National Park Service in the National Capital Region. There will not be a significant economic effect on a substantial number of small entities, since the rule will only affect those drivers who park illegally in areas administered by the National Park Service in the National Capital Region, and are issued a citation as a result. All parties have the ability to completely avoid any economic effect simply by parking legally in these areas.

##### *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. This rule will only affect those drivers who park illegally in areas administered by the National Park Service in the National Capital Region, and are issued a violation notice as a result. Based upon the number of parking violation notices currently being issued, and the nominal fine associated with a violation, there will not be 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. No costs will be incurred by any parties unless a parking violation is issued for parking illegally in areas administered by the National Park Service in the National Capital Region. All parties have the ability to completely avoid any increase in cost simply by parking legally in these areas.

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. The primary purpose of this rule is to establish consistency between the parking laws already existing in the local jurisdictions, and the parking laws in adjoining parklands administered by the National Park Service in the National Capital Region. This rule will not change the ability of United States based enterprises to compete in any way.

#### *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. This rule does not impose any unfunded mandate on industry, state, local or tribal governments, or the private sector. This rule applies only to Federal parkland administered by the National Park Service in the National Capital Region, and no costs will be incurred by any parties unless a parking violation notice is issued for parking illegally in these areas. This rule will establish consistency between the parking laws already existing in the local jurisdictions, and the parking laws in adjoining lands administered by the National Park Service in the National Capital Region. As a result, there will not be any "significant or unique" affect 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. Since this rule does not apply to private property, or cause a compensable taking, there are no 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. The provisions of this rule apply to land under the jurisdiction of the United States. This rule does not relate to the structure and role of the States, nor will it have direct, substantial, and significant effects on States. This rule imposes no requirements on any governmental entity other than the National Park Service.

#### *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*

We have analyzed the rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. It does not constitute a major Federal action significantly affecting the quality of the human environment, and can be Categorically Excluded under NPS exclusion 3.4 A (8) "Modifications or revisions to existing regulations, or the promulgation of new regulations for NPS-administered areas, provided the modifications, revisions, or new regulations do not:

(a) Increase public use to the extent of compromising the nature and character of the area or cause physical damage to it.

(b) Introduce non-compatible uses that might compromise the nature and characteristics of the area or cause physical damage to it.

(c) Conflict with adjacent ownerships or land uses.

(d) Cause a nuisance to adjacent owners or occupants."

#### *Government-to-Government Relationship With Tribes*

In accordance with 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. As this rule only applies to parkland administered by the National Park Service in the National Capital Region, there will not be any effect on Federally recognized Indian tribes.

#### *Clarity of Rule*

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 read if it were divided into more, but shorter sections? (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240.

*Drafting Information:* The primary authors of this regulation were Sean Doyle, Park Ranger, National Park Service, National Capital Region, and Jerry Case and Jennifer Lee, Regulations Program, WASO.

#### **List of Subjects in 36 CFR Part 7**

District of Columbia, National parks.

■ For reasons stated in the preamble, the National Park Service amends 36 CFR part 7 as follows:

#### **PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM**

■ 1. The authority citation for part 7 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137(1981) and D.C. Code 40–721 (1981).

■ 2. Add new paragraph (f)(5) to § 7.96 to read as follows:

#### **§ 7.96 National Capital Region.**

\* \* \* \* \*

(f) \* \* \*

(5) *Parking.* Violation of a traffic control device regulating parking is punishable by fine. In any violation of a traffic control device regulating parking, proof that the described vehicle was parked in violation, together with proof that the defendant was at the time the registered owner of the vehicle, shall constitute a prima facie presumption that the registered owner of the vehicle was the person who committed the violation.

\* \* \* \* \*

Dated: September 7, 2007.

**David M. Verhey,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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**BILLING CODE 4312–JK–P**