

- d. Load Data for Engineering Studies  
Rating: \_\_\_\_\_
- e. Power Requirements Data Rating: \_\_\_\_\_

**Part IV—Operation and Maintenance Budgets**

For Previous 2 Years:

Normal Operation—Actual \$ \_\_\_\_\_  
Normal Maintenance—Actual \$ \_\_\_\_\_  
Total—Actual \$ \_\_\_\_\_

For Present Year:

Normal Operation  
Budget \$ \_\_\_\_\_  
Staff Hours \_\_\_\_\_  
Normal Maintenance  
Budget \$ \_\_\_\_\_  
Staff Hours \_\_\_\_\_

Total  
Budget \$ \_\_\_\_\_  
Staff Hours \_\_\_\_\_

For Future 3 Years:

Normal Operation  
Budget \$ \_\_\_\_\_  
Staff Hours \_\_\_\_\_  
Normal Maintenance  
Budget \$ \_\_\_\_\_  
Staff Hours \_\_\_\_\_

Additional (Deferred) Maintenance  
Budget \$ \_\_\_\_\_  
Staff Hours \_\_\_\_\_

Total  
Budget \$ \_\_\_\_\_  
Staff Hours \_\_\_\_\_

14. Budgeting

Adequacy of Budgets For Needed Work  
Rating: \_\_\_\_\_

15. Date Discussed with Board of Directors

\_\_\_\_\_

Remarks: \_\_\_\_\_

**Explanatory Notes**

Item No. \_\_\_\_\_  
Comments \_\_\_\_\_  
Rated by \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_  
Reviewed by \_\_\_\_\_  
Manager \_\_\_\_\_  
Date \_\_\_\_\_  
Reviewed by \_\_\_\_\_  
RUS GFR \_\_\_\_\_  
Date \_\_\_\_\_

Dated: April 10, 1997.

**Jill Long Thompson,**

*Under Secretary, Rural Development.*

[FR Doc. 97-9849 Filed 4-15-97; 8:45 am]

BILLING CODE 3410-15-P

**DEPARTMENT OF THE INTERIOR**

**National Park Service**

**36 CFR Part 13**

RIN 1024-AB99

**Glacier Bay National Park, Alaska;  
Commercial Fishing Regulations**

AGENCY: National Park Service, Interior.

**ACTION:** Proposed rule; withdrawal of earlier proposed rule.

**SUMMARY:** The National Park Service (NPS) proposes this rule to provide the legal basis for reinitiating public discussion in order to arrive at a prompt final resolution of the longstanding controversy concerning commercial fishing activities in Glacier Bay National Park (NP) by the end of 1997. In addition to seeking comments, NPS expects during the comment period to continue discussions on the record with interested parties including the State of Alaska.

The proposed rule, intended to provide a framework for enhanced review and comment by all interested parties, would implement fair measures to ensure protection of the values and purposes of Glacier Bay NP, including the preservation, enjoyment, and scientific value of the park's unique marine ecosystem. In general, the proposed rule would prohibit all commercial fishing in Glacier Bay proper but provide certain limited exemptions over a 15 year phase-out period, and authorize established commercial fishing in the park's marine waters outside Glacier Bay proper subject to reexamination at the end of 15 years.

To authorize the specific commercial fishing activities, the proposed rule would provide specific exemptions for Glacier Bay NP from the nationwide prohibition on such activities in units of the National Park System. For the phase-out in Glacier Bay proper, the proposed rule would exempt qualifying commercial fishermen who can demonstrate a reasonable history of participation in a specific fishery to continue fishing for a limited period of time on a seasonal basis. For the marine waters outside Glacier Bay proper, the proposed rule would generally exempt existing commercial fishing activities under a Federal-State cooperative management program consistent with protection of park resource values.

With respect to designated wilderness waters in Glacier Bay NP, since the Wilderness Act prohibits this kind of commercial enterprise in designated wilderness, commercial fishing activities must cease in these areas. However, certain crab fishermen essential to an existing multi-agency research project in the Beardslee Islands area may be authorized to take crab in the locations specified by the research project for the remaining five to seven years of the project pursuant to a "research project" special use permit. NPS has previously determined that this research project is consistent with, and

is likely to produce significant benefits for, wilderness resource management.

The proposed rule would not address legislatively authorized commercial fishing and related activities in the Dry Bay area of Glacier Bay National Preserve.

This proposed rule supersedes and withdraws a previously proposed rulemaking on this subject published on August 5, 1991 (56 FR 37262).

**DATES:** Written comments postmarked on or before October 15, 1997, will be accepted. For information on public meetings and discussion sessions, see Public Participation at the end of

**SUPPLEMENTARY INFORMATION:**

**ADDRESSES:** Comments should be directed to James M. Brady, Superintendent, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska 99826.

**FOR FURTHER INFORMATION CONTACT:** James M. Brady, Superintendent, National Park Service, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska, 99827, telephone: (907) 697-2230.

**SUPPLEMENTARY INFORMATION:**

**Background**

*Establishment of Glacier Bay National Park and Preserve*

Glacier Bay National Monument was established by presidential proclamation dated February 26, 1925, 43 Stat. 1988. The monument was established to protect a number of tidewater and other glaciers, and a variety of post glacial forest and other vegetative covering, and also to provide opportunities for scientific study of glacial activity and post glacial biological succession. The early monument included marine waters within Glacier Bay north of a line running approximately from Geikie Inlet on the west side of the bay to the northern extent of the Beardslee Islands on the east side of the bay. The monument was expanded by a second presidential proclamation on April 18, 1939, 53 Stat. 2534. The expanded monument included additional lands and marine waters consisting of all of Glacier Bay; portions of Cross Sound, North Inian Pass, North Passage, Icy Passage, and Excursion Inlet; and Pacific coastal waters to a distance of three miles seaward between Cape Spencer to the south and Sea Otter Creek, north of Cape Fairweather.

Glacier Bay National Monument was redesignated as Glacier Bay National Park and Preserve and enlarged in 1980 by the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C.

410hh-1; see Sen. Rep. No. 413, 96th Cong., 1st Sess. 163 (1979). The legislative history of ANILCA indicates that certain NPS units in Alaska, including Glacier Bay National Park, “\* \* \* are intended to be large sanctuaries where fish and wildlife may roam freely, developing their social structures and evolving over long periods of time as nearly as possible without the changes that extensive human activities would cause.” *Id.* at 137; see \_\_\_ Cong. Rec. H10532 (1980). Congress described the park as including the marine waters, and depicted the park accordingly on the official maps.

In addition, ANILCA designated several areas containing marine waters within and near Glacier Bay proper as additions to the National Wilderness Preservation System. 16 U.S.C. 1132 note. These areas include upper Dundas Bay, Adams Inlet, the Hugh Miller Inlet complex, and waters in and around the Beardslee Islands.

As a result of the above actions, Glacier Bay National Park contains the largest protected marine ecosystem on the Pacific Coast of North America. It provides valuable opportunities to study and enjoy marine flora and fauna in an unimpaired state, and to educate the public about the biological richness of this marine system and its dynamic interaction with glacial and terrestrial systems.

#### *Management of Glacier Bay National Park and Preserve*

In addition to the national monument proclamations and relevant ANILCA provisions, the management of Glacier Bay National Park and Preserve is governed by the NPS Organic Act, 16 U.S.C. Section 1, *et seq.* The NPS Organic Act authorizes the Secretary of the Interior 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 same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.” *Id.* Section 1. This act further directs that “[t]he 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.” *Id.* Section 1a-1.

The NPS Organic Act authorizes the Secretary 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.” *Id.* Section 3. The Secretary has additional specific authority to “promulgate 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 \* \* \*.” *Id.* Section 1a-2(h).

The designated wilderness areas within Glacier Bay NP, including the marine areas, are additionally governed by the Wilderness Act, *id.* section § 1131, *et seq.*, which defines wilderness “as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain.” The Wilderness Act requires that wilderness be “administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness.” *Id.* Section 1131(a). Among other things, the Wilderness Act prohibits “commercial enterprise \* \* \* within any wilderness area \* \* \* except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act \* \* \*.” *Id.* Section 1133(c).

#### *Commercial Fishing History*

The marine waters of Glacier Bay National Park have been fished commercially since prior to the establishment of Glacier Bay National Monument. Commercial fishing continued under federal regulation after the national monument’s establishment in 1925 and its subsequent enlargement in 1939. Since 1966, however, regulation and legislation have prohibited commercial fishing in Glacier Bay National Monument and Glacier Bay National Park. Nonetheless, commercial fishing is still occurring in Glacier Bay National Park.

The Act of June 6, 1934, 43 Stat. 464, authorized the Secretary of Commerce to “set apart and reserve fishing areas in any of the waters of Alaska \* \* \* and within such areas \* \* \* establish closed seasons during which fishing may be limited or prohibited \* \* \*.” The first Alaska Fishery Regulations of the Bureau of Fisheries, promulgated

between 1937 and 1939, addressed fisheries in an area designated as the Icy Strait district including Glacier Bay National Monument. See 2 FR 305 (February 12, 1937); 4 FR 927 (February 15, 1939). Those regulations, and regulations promulgated by the U.S. Fish and Wildlife Service (FWS) between 1941 and 1959, set allowances for and restrictions on commercial fisheries in areas within the boundaries of Glacier Bay National Monument. See 6 FR 1252 (March 4, 1941), 50 CFR Part 222; 16 FR 2158 (1951), 50 CFR Part 117; 24 FR 2153 (March 19, 1959), 50 CFR Part 115.

Early NPS fishing regulations prohibited any type of fishing “with nets, seines, traps, or by the use of drugs or explosives, or for merchandise or profit, or in any other way than with hook and line, the rod or line being held in the hand \* \* \*.” 6 FR 1627 (March 26, 1941), 36 CFR 2.4. However, in conjunction with the aforementioned FWS regulations, the 1941 NPS regulations also stated that “commercial fishing in the waters of Fort Jefferson and Glacier Bay National Monuments is permitted under special regulations.” *Id.* NPS regulations continued to allow commercial fishing in Glacier Bay National Monument through 1966 in accordance with special regulations approved by the Secretary. See 20 FR 618 (1955), 36 CFR 1.4; 27 FR 6281 (July 3, 1962).

In 1966, NPS revised its fishing regulations so as to prohibit commercial fishing activities in Glacier Bay National Monument. Although the 1966 NPS regulations, unlike previous versions, only prohibited fishing “for merchandise and profit” in fresh park waters, these same regulations generally prohibited unauthorized commercial activities, including commercial fishing, in all NPS areas. See 31 FR 16653, 16661 (December 29, 1966), 36 CFR §§ 2.13(j)(2), 5.3. In contrast to earlier NPS regulations, the 1966 regulations did not contain specific authorization for commercial fishing in Glacier Bay National Monument.

The 1978 NPS “Management Policies” reiterated that “[c]ommercial fishing is permitted only where authorized by law.” Furthermore, in 1978, the Department of the Interior directed FWS to convene an Ad Hoc Fisheries Task Force to review NPS fisheries management. See 45 FR 12304 (February 25, 1980). The task force concluded that the extraction of fish for commercial purposes was a nonconforming use of park resources which should be phased out.

As already noted, in 1980, ANILCA redesignated Glacier Bay National

Monument to Glacier Bay National Park and Preserve, enlarged the area, and designated wilderness that included marine waters within the park. 16 U.S.C. 410hh-1, 1132 note. ANILCA specifically authorized certain park areas where commercial fishing and related activities could continue, including the Dry Bay area of Glacier Bay National Preserve but not any area of Glacier Bay National Park. *Id.* section 410hh-4.

The 1983 revision of the NPS general regulations, still applicable, included a prohibition on commercial fishing throughout marine and fresh waters within park areas systemwide, unless specifically authorized by law. 48 FR 30252, 30283; 36 CFR 2.3(d)(4). The 1988 version of NPS "Management Policies," still current, reiterates this approach.

However, certain NPS documents during the 1980's suggested that some commercial fishing would continue in Glacier Bay. For example, the 1980 and 1985 Glacier Bay whale protection regulations implicitly acknowledged commercial fishing operations in Glacier Bay proper. 36 CFR 13.65(b). Also, the park's 1984 General Management Plan stated the following:

Traditional commercial fishing practices will continue to be allowed throughout most park and preserve waters. However, no new (nontraditional) fishery will be allowed by the National Park Service. Halibut and salmon fishing and crabbing will not be prohibited by the Park Service.

Commercial fishing will be prohibited in wilderness waters in accordance with ANILCA and the Wilderness Act.

The General Management Plan defined "traditional commercial fishing practices" to include "trolling, long lining and pot fishing for crab, and seining (Excursion Inlet only) in park waters \* \* \*." General Management Plan at 51. Finally, the 1988 Final Environmental Impact Statement concerning wilderness recommendations for Glacier Bay National Park referred to the continuation of commercial fishing in nonwilderness park waters.

#### *Events Leading to This Proposed Rulemaking*

NPS regulations have prohibited commercial fishing in Glacier Bay National Park (and the predecessor National Monument) since 1966, and the Wilderness Act has prohibited commercial fishing in the wilderness waters within Glacier Bay NP since 1980, yet commercial fishing activities have continued in both wilderness and non-wilderness areas of the park. Since 1990, there have been attempts to

resolve this situation through litigation, an earlier proposed rulemaking, and proposed legislation.

In 1990, the Alaska Wildlife Alliance and American Wildlands filed a lawsuit challenging the NPS's failure to bar commercial fishing activities from Glacier Bay NP. *Alaska Wildlife Alliance v. Jensen*, No. A90-0345-CV (D. Ak.). In 1994, the district court concluded that "there is no statutory ban on commercial fishing in Glacier Bay National Park provided, however, that commercial fishing is prohibited in that portion of Glacier Bay National Park designated as wilderness area." An appeal of the district court's ruling is currently pending before the U.S. Court of Appeals for the Ninth Circuit. *Alaska Wildlife Alliance v. Brady*, Nos. 95-25151 and 95-35188 (9th Cir.).

Close to the time that the plaintiffs in the above litigation embarked on a judicial approach to resolution of the commercial fishing issues, the State of Alaska's Citizens Advisory Commission on Federal Areas hosted a series of public meetings in local communities to discuss the issues. After participating in these meetings, the NPS decided to draft a regulatory approach to resolving the issues.

NPS published its proposed rule on August 5, 1991 (56 FR 37262). In essence, the proposed rule would have (a) clarified the prohibition on commercial fishing in designated wilderness waters, and (b) exempted commercial fishing in other park waters from the nationwide regulatory prohibition for a "phase out" period of seven years. NPS held ten public meetings on the proposed rule, received over 300 comments, and prepared drafts of a final rule. At the State's request, however, the Department of the Interior refrained from issuing a final rule in 1993, and instead agreed to discuss with State and Congressional staff the possibility of resolving the issues through a legislative approach.

In 1992, Congress had considered but not enacted proposed legislation on commercial fishing in Glacier Bay NP. During the 1993-1994 discussions about legislative and regulatory possibilities, the participants enhanced their understanding of the facts, interests, options, and potential obstacles relevant to any final solution. Although the discussions did not lead to a legislative proposal, they have influenced the Department of the Interior's approach to this proposed rulemaking.

Between Fall 1995 and Spring 1996, officials from Glacier Bay NP and the Alaska Department of Fish and Game co-hosted several meetings in southeast Alaska involving selected

"stakeholders" interested in trying to resolve the commercial fishing controversy.

Meanwhile during 1995 and 1996, NPS revised its management of vessels at Glacier Bay National Park through issuance of a plan and regulations. See 61 FR 27008 (May 30, 1996). Although the vessel management rule exempted commercial fishing vessels (engaged in fishing and properly licensed) from entry limits established for other motorized vessels, the rule's closure of certain designated park waters to motorized uses created the potential to affect certain commercial fishermen. See 36 CFR § 13.65(b)(3)(vii). In response to comments in that rulemaking, NPS noted its separate efforts to address the future of commercial fishing in Glacier Bay NP. 61 FR at 27013, 27015 (May 30, 1996).

#### **Proposed Action on Commercial Fishing**

Circumstances are now ripe to go forward with this new proposed rulemaking effort, taking advantage of the momentum toward a solution described above. This action authorizes full public participation, and will serve to facilitate constructive discussion, and to craft a comprehensive resolution to the controversy before the 1998 summer visitor season at Glacier Bay NP. Toward these ends, NPS is today proposing a rule that is, indeed, a *proposal* which can serve to structure the anticipated public discussion.

The district court's decision in *Alaska Wildlife Alliance v. Jensen*, above, upholding the NPS's interpretation of the NPS Organic Act and the Wilderness Act, demonstrates that rulemaking action is necessary. A rulemaking action can determine what commercial fishing activities are appropriate in Glacier Bay NP's waters consistent with the park's conservation and other objectives established by statute and proclamation. Indeed, the currently applicable regulatory prohibition on commercial fishing activities in all Glacier Bay NP waters necessitates a rulemaking to authorize *any* commercial fishing activities in the nonwilderness waters, even for purposes of "phasing out" the activities over a specified time.

NPS has several objectives for this rulemaking. First, NPS seeks to ensure fulfillment of the "fundamental" statutory purpose of the park, *i.e.*, preservation of park resources and values, which in Glacier Bay NP includes protecting the park's marine ecosystem. Second, NPS seeks to provide for the visitors' enjoyment of these resources and values and to minimize conflicts among visitors

pursuing different yet appropriate park experiences. Third, NPS seeks to provide unique opportunities for scientific study that will benefit the public and enhance resource management. Balancing these objectives, NPS also seeks to act fairly toward individual commercial fishermen with a history of participation in park fisheries, to recognize the important cultural ties that the Hoonah Tlingit people have with respect to Glacier Bay, and to develop an effective partnership with the State of Alaska through the cooperative management program for Glacier Bay NP fisheries.

The proposed rule described below differs from the rule that NPS would have proposed even a few years ago. Several factors have influenced the shape of today's proposed rule, including the passage of many years with the continuation of unauthorized commercial fishing prohibitions in Glacier Bay; potential socioeconomic harm from approaches that would mandate immediate implementation of prohibitions throughout park waters; related equitable considerations for certain fishermen with an historical pattern of use in park waters; the existence of an exciting research project already underway in Glacier Bay proper that can piggyback this rulemaking to expand scientific understanding of the fishery resources and natural processes to everyone's benefit. As participants in the 1995-1996 Alaska-based discussions may perceive, the proposed rule borrows in large measure from the consensus building process in which they were engaged, but provides notice and encourages comment from all interested parties in formulating the optimal solution for Glacier Bay NP, a widely cherished unit of the National Park System.

### Overview of Proposed Rule

The proposed rule would prohibit all commercial fishing activities in Glacier Bay proper consistent with existing NPS regulation and policy. This prohibition would bar all such activities during the primary visitor use season beginning in 1998. NPS would offer a 15 year exemption from the prohibition outside the primary visitor use season, however, to accommodate a phase out for fishermen who can demonstrate historical reliance on a specific Glacier Bay fishery. Qualifying criteria for this exemption would include verified participation in the fishery during six of the last ten years. Subject to the availability of funds for this purpose, NPS (or a third party) could offer to purchase and retire the 15 year

exemption permits from fishermen willing to sell them.

With respect to designated wilderness waters in Glacier Bay NP, commercial fishing activities must cease in these areas in compliance with the language and intent of the Wilderness Act as recently confirmed in *Alaska Wildlife Alliance v. Jensen*, above. However, certain crab fishermen who have been part of the existing multi-agency research project in the Beardslee Islands area may be authorized to take crab in the locations specified by the research project for the remaining five to seven years of the project subject to a special use permit.

The proposed rule would generally authorize commercial fishing to continue in the marine waters outside Glacier Bay proper (the "outer waters") by exempting such fishing from the otherwise applicable National Park System-wide prohibition on commercial fishing. This exemption would be subject to re-examination to allow consideration of new scientific and other relevant information at the end of 15 years. The proposed rule would restrict commercial fishing activities in the outer waters to well established fisheries and gear types. Commercial fishing activities in the outer waters, as well as those in Glacier Bay proper during the phase out period, would be governed by a cooperative fisheries management plan developed with the State of Alaska and implemented through the Alaska Board of Fisheries subject to the Secretary of the Interior's authority to protect park resource values. The Secretary, through NPS, would cooperatively ensure adherence to the plan under the provisions of 36 CFR 2.3(a) and 13.21(b).

Although the proposed rule as drafted does not contain a provision requiring additional limitations on, or a phase out of, commercial fishing in certain bays in the outer waters, NPS seeks comments on the inclusion of such protections in special cases, particularly for Lituya Bay on the Outer Coast and Dundas Bay in Icy Strait. These bays are rich in biological resources and scenic beauty, and offer exceptional opportunities for park visitors.

### Glacier Bay

This proposed rule would prohibit commercial fishing in the nonwilderness waters of Glacier Bay proper, but would provide a seasonal exemption from that prohibition for 15 years for fishermen who demonstrate a reasonable history of participation in a specific Glacier Bay fishery.

### Commercial Fishing Prohibition

The proposed rule would end commercial fishing in Glacier Bay proper within 15 years. This action would bring Glacier Bay into conformance not only with the general policy and rule applicable to units of the National Park System, but also with the particular objectives underlying the establishment of Glacier Bay National Park and its predecessor Glacier Bay National Monument. The value of Glacier Bay as a protected marine ecosystem, rich in biological resources and special in its dynamic interactions with glacial and terrestrial systems, has never been higher. Protected marine ecosystems are scarce commodities. Examples of overfishing and overuse of marine waters have become increasingly common. The commercial fishing ban in Glacier Bay will enhance the protection of the park's ecological resources, while also reducing a variety of use conflicts with visitors seeking the kinds of recreational and inspirational experiences intended to be provided by national parks.

### Limited Exemption From Prohibition

The proposed rule would offer a limited exemption from the prohibition on commercial fishing in Glacier Bay proper for purposes of equitably phasing out the activities of fishermen who have developed an historical reliance on a specific affected fishery. The key terms of this limited exemption include the following:

(a) *Fifteen Years.* The exemption, and all commercial fishing in Glacier Bay proper, would terminate in 15 years. This period of time should allow fishermen reasonable opportunity, where necessary, to adjust their fishing activities to areas outside Glacier Bay proper, amortize their current investment in fishing vessels and gear, or in many cases, continue fishing until retirement. In the 1991 proposed rule, NPS offered a seven year exemption to phase out commercial fishing in Glacier Bay NP, and the Department of the Interior recommended a three to five year phase out of Glacier Bay proper during the 1993-1994 discussions. The 15-year phase out proposed in this rule responds to comments made by fishermen concerning the perceived inadequacy of the seven year phase out proposed in the 1991 NPS proposed rule. It also reflects a position that was emerging in the 1995-1996 Alaska-based discussions. NPS welcomes comment on the appropriate length of the exemption period.

(b) *Outside the Primary Visitor Use Season.* The exemption would be

available throughout the 15 years only from October 1 to April 30, *i.e.*, outside the primary visitor use season in Glacier Bay proper. Accordingly, beginning on May 1, 1998, commercial fishing would be prohibited in Glacier Bay NP during the primary visitor season, May 1 through September 30, to achieve substantial reduction in resource impacts and visitor use conflicts. NPS believes that the fishermen who would likely be eligible to qualify for the exemption in Glacier Bay proper (*see* criteria below) would generally be able to adjust their fishing to the October through April time frame during the 15-year phase out.

Glacier Bay National Park is truly a world-class park, with spectacular resources and a rich cultural history. The park is one of Alaska's premier visitor attractions, contributing significantly to the tourism economy of local communities and Southeast Alaska. Park visitation has doubled within the past ten years to over 300,000 visitors in 1996, a reflection of increasing visitor interest in the park and Alaska. Visitor use, formerly concentrated in a few short summer months, now encompasses an expanding visitor use season stretching from April through September.

Commercial fishing vessels are currently the only motorized vessels that are not expressly subject to entry limits and certain other restrictions in Glacier Bay proper. Since NPS vessel regulations were published for Glacier Bay in 1985 (50 FR 19886), the number of motorized vessels allowed in Glacier Bay during the summer months, including cruise ships, tour boats, charter vessels, and private boats, has been closely regulated. The park's recently completed Vessel Management Plan (1996) further refined the management of vessel traffic within Glacier Bay, provided increased opportunities for visitor access, enhanced protection of park resources (*e.g.*, marine mammals and sea birds), and facilitated a range of high quality recreational opportunities for park visitors. All motorized vessels, with the sole exception of commercial fishing vessels, have been limited to daily and seasonal entry caps. Park regulations have also exempted commercial fishing vessels from certain vessel maneuvering requirements designed to minimize disturbance of endangered humpback whales within Glacier Bay. In these respects, unauthorized and unregulated commercial fishing vessel activity within Glacier Bay during the summer visitor use season has been inconsistent with NPS vessel regulations designed to protect park resources, provide for

equitable public use of the park, and enhance the quality of the visitor experience at Glacier Bay.

This visitor use season prohibition on commercial fishing activities would minimize conflicts with other visitor activities, including competition for—and, in some cases, gear conflicts within—limited anchorages. Commercial fishing in Glacier Bay proper has disturbed visitors seeking opportunities to experience nature, quiet, solitude, or an escape from the indicia of modern civilization. This visitor use season prohibition would also reduce the effect of unlimited numbers of commercial fishing vessels on sensitive park resources, and would improve the background conditions for critical studies required by the Vessel Management Plan.

The visitor use season closure of Glacier Bay to commercial fishing would almost exclusively affect Dungeness crab (June 15—August 15) and halibut fisheries (March 15—November 15) under current State and International Pacific Halibut Commission (IPHC) regulations. However, federal and State fisheries regulations do permit fishing opportunities for halibut and Dungeness crab during the October 1—April 30 exemption period. Halibut, for example, would still be available for harvest in Glacier Bay for three months under this proposed rule (March 15—April 30, and October 1—November 15); Dungeness crab for two months (October 1—November 30). Halibut fishermen, in particular, would have ample opportunity to fish outside Glacier Bay during the proposed May 1—September 30 prohibition period. Under the IPHC management system, fishermen have eight months to fish within a large management area (of which Glacier Bay is but a portion) to catch their allotted Individual Fishing Quota (IFQ), *i.e.*, pounds of halibut that may be harvested each year. Very little trolling activity for salmon occurs in Glacier Bay during the summer months under current fishing practices and State regulations, and the proposed visitor use season prohibition would be expected to have minimal impact on the activities of troll fishermen.

Although the proposed rule would bracket the visitor use season from May 1 through September 30, NPS solicits comments on the use of a different visitor use season during which all commercial fishing in Glacier Bay proper would be prohibited beginning in 1998. In previous comments and discussions, fishermen have suggested a shorter season (June 1 through August 31), and others have suggested a

“middle” position of May 15 through September 15.

(c) *Grandfathered (i.e., Qualifying) Fishermen.* The fifteen year exemption would be available to individual owners of valid fishing permits who can demonstrate a history of consistent participation in the specific Glacier Bay fishery for which an exemption is sought. The primary criteria would be documented participation in a given fishery in Glacier Bay proper for at least six of the last ten years (1987–1996), as supported by an affidavit, verified by a minimum number of reported landings from within Glacier Bay each of the six years, and perhaps corroborated by other supporting information. The minimum number of landings required would vary by fishery. For halibut, salmon, and tanner crab, the minimum number of landings in each qualifying year would be one. Ten landings of Dungeness crab would be required in each qualifying year. With these criteria, NPS would hope to identify those fishermen with a consistent (not intermittent or long past) reliance on a Glacier Bay fishery. NPS would also seek the assistance of the State of Alaska, the International Pacific Halibut Commission, and other knowledgeable sources in identifying valid permit owners who meet the historical reliance criteria.

NPS would require those fishermen qualifying for the exemption from the commercial fishing prohibition in Glacier Bay proper to obtain a non-transferable (except for purposes of permit retirement) special use permit from the Superintendent of Glacier Bay NP within two years following the effective date of a final rule. The existing procedures governing permit applications for activities in Alaska national park areas would apply. *See* 36 CFR § 13.31. Commercial fishing in Glacier Bay proper without an NPS special use permit would be prohibited during the 15-year exemption period. At the end of the 15-year exemption, all special use permits would expire and all commercial fishing within Glacier Bay proper would cease.

NPS welcomes comment on the proposed “grandfathering” criteria and process.

(d) *Exempted fisheries and gear types.* Commercial fisheries eligible for the 15-year exemption in Glacier Bay proper would include trolling for salmon, long lining for halibut, and pot or ring net fishing for Dungeness and tanner crab. These are the fisheries that have consistently occurred within Glacier Bay for decades. All other fisheries and gear types would be prohibited. Since 1985, NPS regulations

have expressly prohibited commercial fishing for shrimp, herring and whale prey species, and trawling in Glacier Bay. The exempted fisheries would be governed under a cooperative fisheries management plan developed by NPS and the State consistent with federal and non-conflicting State regulations. The plan would be implemented through the Alaska Board of Fisheries, with the Secretary retaining the authority to protect park purposes and values under applicable law.

(e). *Safe Harborage*. Nothing in this proposed rulemaking, or existing NPS regulations, would affect the ability of fishermen or other vessel operators to seek safe harbor within Glacier Bay under hazardous weather or sea conditions, when experiencing mechanical problems, or in other exigent circumstances.

(f). *Opportunity for "Buy Out."* Commercial fishermen who qualify for and obtain a special use permit for the 15-year exemption as outlined above might be willing to sell the permit to the NPS or a third party for the sole purpose of retiring the permit. Subject to the availability of funds for this purpose, NPS might be willing to buy these permits, especially early in the 15-year exemption period, to enable and encourage the fishermen who wish to pursue alternatives to fishing in Glacier Bay proper. Any such "buy out" would require, at a minimum, a willing seller, a willing buyer, and available funds.

### Wilderness

This rulemaking reflects the Wilderness Act's statutory prohibition on commercial fishing within designated wilderness. Within Glacier Bay National Park, the wilderness waters of Dundas Bay, Rendu Inlet, Adams Inlet, the Hugh Miller Inlet complex, and the Beardslee Islands would continue to be closed to commercial fishing, a commercial enterprise incompatible with the requirements of the Wilderness Act of 1964.

### Outer Waters

#### *Exemption from current NPS prohibition on commercial fishing*

This proposed rule would provide an exemption from the existing regulatory prohibition on commercial fishing in the nonwilderness waters of the Park located outside Glacier Bay proper. Authorized fisheries would be allowed to continue under a cooperative fisheries management plan developed by the NPS and State of Alaska and implemented through the Alaska Board of Fisheries. The NPS recognizes the

fisheries management expertise of the Board of Fisheries, and would like to incorporate the use of this established regulatory and public involvement process familiar to the fishing community. NPS management objectives for the outer waters would be incorporated within this plan and include limits on the significant expansion of ongoing fisheries; protection of resident and sensitive fish species, including salmonid populations that spawn within the park; protection of other park wildlife and resources; and, minimization of conflicts with visitor use. A cooperative fisheries management plan would be regularly reviewed and evaluated with respect to achievement of State and NPS management objectives, and modified as necessary. Where NPS management objectives are not met under cooperative State/federal management, the Secretary could move to close or modify ongoing fisheries to protect park purposes and values following appropriate procedures, including notice and hearing in the local area. Continued cooperative management would be reevaluated at the end of 15 years.

The proposed fifteen year exemption from the existing prohibition on commercial fishing in national park waters, with a re-examination of scientific and other information at that time, differs in significant respects from the seven-year exemption proposed by NPS in 1991, which would have presumptively closed park waters to commercial fishing at the end of the seven year exemption. This proposed rule responds to concerns from the fishing community and State regarding the long-term viability and importance of fisheries in the outer waters, particularly the troll fishery for salmon, which—according to comments received on the 1991 proposed rule—is of special importance and concern. NPS invites comment on the duration and terms of the proposed exemption for the "outer waters."

#### *Gear Types*

Fisheries authorized under this proposed rule would be delineated in the cooperative management plan, and would be limited to those species and gear types that have historically occurred and have provided commercially viable fisheries. New fisheries and gear types, or the expansion into the park of relatively new fisheries developing in Southeast Alaska (e.g., sea urchins, sea cucumbers) and other species not previously fished in the park, would be precluded. Gear types would be limited to those that have been historically prevalent in the

outer waters: troll, long line, pots and ring nets, and purse seine (Excursion Inlet only).

#### *Lituya and Dundas Bays*

Two bays in outer waters merit special consideration: Lituya Bay on the Outer Coast and Dundas Bay in Icy Strait. These bays are arguably unique among outside waters. Both are geologically, culturally, and historically rich. Both provide sheltered habitat for marine life as well as outstanding opportunities for recreation. NPS specifically solicits public comment on whether these two special bays should be afforded additional protection through limitations on commercial fishing, including the possibility of a phase-out similar in approach to that proposed for Glacier Bay proper.

#### *Safe Harborage*

This proposed rule would not affect the use of protected bays along the park's outer waters for safe harborage. Safe harborage has always been allowed and will be continued for any vessel.

### Research

The continued closure of certain areas of Glacier Bay National Park to commercial fishing as contemplated under this proposed rule presents unique and extremely valuable opportunities for science. The opportunity to pursue scientific endeavors about natural resources and processes was a primary reason Glacier Bay was established as a national monument in 1925. Indeed, Glacier Bay National Park has a distinguished scientific history.

NPS intends to work closely with the State, the scientific community, other fisheries, protected area managers, and the public to evaluate opportunities for carefully considered and designed cooperative studies presented by the proposal under consideration. A cooperative State and NPS fisheries management plan would, in part, identify cooperative research needs and opportunities that can benefit conservation of resources in the Park, and contribute toward models for sustainable fisheries and economies throughout Alaska and elsewhere.

#### *Dungeness Crab Study*

The ongoing MADS (Multi-Agency Dungeness Studies) is a cooperative project initiated in 1992 by the National Marine Fisheries Service, University of Alaska, Fairbanks, and the Biological Resources Division (BRD) of the U. S. Geological Service (USGS) (formerly National Biological Service). Phase I of the MADS study gathered data

characterizing the size and structure of the Dungeness crab population at selected sites in Glacier Bay. Phase II of the study (five to seven years) requires both closed and open fishing areas for Dungeness crab within the Beardslee Islands study area, including Bartlett Cove; population parameters in the fished sites will be compared to sites closed to fishing. The information established by this study will provide an invaluable baseline for monitoring these areas with different fishing histories over time.

NPS had previously determined that the aspect of this scientific research that requires limited harvesting within the Beardslee Island wilderness comports with the restrictive criteria applicable to approving scientific research in a wilderness area, including the following: the project is of minimal impact and duration, its information is likely to be of great value for resource protection and protected area management purposes, and alternative locations are not available. Controlled experiments testing the impact of human exploitation on the population structure of harvested marine species are rare. Typically, areas that have been fished in the past are not available to study as "unfished" areas until the fishery has "crashed," *i.e.*, been depleted. Comparison of the crab population structure in fished and non-fished areas in Glacier Bay NP during this transitional period will markedly enhance the information base available to NPS managers in evaluating the relationship between fishing activities and the protection of park/wilderness resources, and will also be valuable in quantifying the recovery of wilderness waters to an unexploited state. Furthermore, such information should prove valuable to all agencies involved in fisheries management in Alaska and elsewhere.

A small number of fishermen with an extensive knowledge of the Beardslee Islands Dungeness fishery may be authorized to participate in the study under a "research project" special use permit from the NPS. For the stability of the study and principles of equitable selection, participation in the study would be limited to those fishermen who meet the criteria for fishing in Glacier Bay during the fifteen year exemptive period, and have a personal history of Dungeness crab fishing within the Beardslee Islands. Additional criteria may be considered if the number of eligible participants exceeds study needs. Fishing activities during the study would continue consistent with applicable State regulations, including the summer Dungeness fishery,

currently June 15—August 15. The participation in this research project does not preclude the fishermen from qualifying separately to fish in nonwilderness waters outside the study area.

The proposed rule would close Bartlett Cove (defined as that area of the cove enclosed by a line drawn between Halibut and Lester Points) and a portion of the Beardslee Island waters to all fishing for Dungeness crab (including sport and personal use) for the purposes and duration of study through December 31, 2002. Maps and charts would be available from the Superintendent delineating the closure area. The closure would not affect fishing opportunities for other species, as otherwise allowed under federal and non-conflicting State regulations.

#### *Halibut Study Proposal*

The NPS is specifically seeking public comment at this time on a halibut study that would measure the effects of commercial harvest on halibut in Glacier Bay proper. Since 1992, research on Pacific halibut in Glacier Bay has concentrated on the many unanswered questions about the basic life history and ecological relationships of the species. New knowledge about the behavior of halibut, including their use of small home ranges, site fidelity, and the retention of reproductive individuals in Glacier Bay throughout the year, combined with the species' slow maturation and highly age-dependent reproduction, indicates that halibut have a high potential to experience local depletion through fishing. Thus, this species is a good candidate for additional protection and for examining the effects of commercial fishing by comparing open and closed areas. Through experimental closures, an understanding can be gained of the effects of fishing on halibut population size and structure, as well as any cascade effects on prey species.

The halibut study would require the closure of Glacier Bay above Strawberry Island within the next few years, and would compare catch per unit effort and size structure of the halibut in the closed area to a similar study site in Icy Strait where commercial halibut fishing would continue. Although this experimental closure, as proposed for review and comment, would substantially reduce the area available within Glacier Bay for commercial halibut fishing during the 15-year exemption period, it would not be expected to have an equivalent impact on harvest. Available harvest data indicates a majority (> 50%) of halibut harvested in Glacier Bay are taken from

the area of Glacier Bay which would remain open to fishing under this study proposal.

Available biological data correlates with the harvest data, indicating highest numbers of halibut in the lower reaches of Glacier Bay and very few in the upper reaches. Under this study proposal, fishermen would continue to have access to the most productive area in Glacier Bay to harvest their IFQ shares of halibut.

The halibut study outlined above would allow fisheries managers an unparalleled opportunity to measure the effects of commercial fishing on halibut. This information is extremely important to the management and protection of halibut fisheries in and out of the Park, and serves to illustrate the potential benefits Glacier Bay National Park holds for science and the long-term conservation of fisheries resources.

#### **Hoonah Tlingit Cultural Fishery**

NPS and the Hoonah Indian Association (HIA), a federally recognized tribal entity, signed a Memorandum of Understanding in 1996, committing to work cooperatively to protect the cultural heritage of the Hoonah Tlingit, explore ways to recognize and honor the Tlingit's cultural connection to Glacier Bay, and allow for—and preserve—cultural activities compatible with park objectives. Toward that end, NPS will work with HIA to develop a cultural fishery program designed to preserve and pass on traditional native fishing methods. The State of Alaska's educational fishery program may serve as a vehicle for developing such a program.

#### **Pending Environmental Assessment: Alternatives under Consideration**

A forthcoming Environmental Assessment on commercial fishing within Glacier Bay National Park will more fully describe and analyze the potential effects of a range of alternative actions under consideration by the NPS. Brief descriptions of the draft alternatives under consideration follow and are offered to solicit preliminary public review and comment. A public review and comment period will be provided for the Environmental Assessment and the proposed rule together. NPS will hold public meetings on the proposal and the alternatives and publish a schedule of times, dates and locations in the **Federal Register**. NPS has not made any final decisions regarding any proposals described herein. No final decisions will be reached until all applicable legal

requirements have been met, including environmental review requirements.

#### *Alternative A (No Action)*

This alternative would leave in place the current regulations prohibiting commercial fishing activities within Glacier Bay National Park. Enforcement of the regulation would result in the cessation of all commercial fisheries in Park waters. NPS would explore possible mitigation mechanisms for affected fishermen. In addition, the NPS, in cooperation with the State of Alaska, the Biological Research Division, and other research entities, would explore opportunities to facilitate fishery research. This alternative would not require regulatory or legislative action.

#### *Alternative B*

This alternative would provide short-term, year round commercial fishing opportunities through a five-year exemption from the existing NPS regulatory prohibition on commercial fishing in Glacier Bay proper and a longer, fifteen year exemption in waters of the Park located outside Glacier Bay. The statutory prohibition on commercial fishing in designated wilderness areas would be reflected in the regulations. Fishing may be continued in specific locations in the Beardslee Islands as part of an ongoing scientific study of Dungeness crabs for a period of five years.

The five-year exemption in Glacier Bay would be available only to individual fishing vessel/permit owners who can demonstrate a history of consistent participation in each specific Glacier Bay fishery. The primary criteria would be documented participation in a given fishery for at least six of the last ten years (1987–1996), as verified by a minimum number of reported Glacier Bay fish landings and ownership of the appropriate fisheries permit(s), effective 1996. Fishermen not meeting criteria demonstrating consistent participation in fisheries, who have used the Bay only intermittently or in recent years, would not be allowed to fish in Glacier Bay.

Fisheries located outside Glacier Bay proper would be allowed to continue under a cooperative fisheries management plan developed with the State of Alaska and implemented through the Alaska Board of Fisheries for 15 years. During the 15-year period studies and research regarding the relationship of commercial fishing uses to park resources and values would be conducted. If data from such studies indicate that certain levels and/or types of commercial fishing can compatibly coexist with conserving park resources

in an unimpaired state, then the NPS may allow closely monitored commercial fisheries at prescribed levels after the 15-year period.

#### *Alternative C (Proposed Action)*

Alternative C would allow continued fishing in the Park's marine waters outside Glacier Bay proper, subject to achievement of NPS management objectives as would be defined in a cooperative management plan developed with the State. The regulations will reflect the statutory prohibition against commercial fishing in designated wilderness waters. Fishermen with a consistent history of participation would continue to fish within Glacier Bay for halibut, Dungeness and tanner crab, and salmon during a 15-year exemption period. Glacier Bay would close to commercial fishing during the visitor use season, May 1—September 30, to minimize conflicts with visitor use and Vessel Management Plan objectives. A research study on Dungeness crab would occur in the Beardslee Islands requiring closure of part of the Beardslee Islands, and Bartlett Cove, to all Dungeness crab fishing for a five-year study period; an additional research opportunity for halibut is suggested for public comment.

#### *Alternative D (Continued Fishing)*

Alternative D would allow continued fisheries harvest at the highest possible level while protecting park resources. This alternative, to the extent possible, would seek to allow local individuals to continue a traditional fishing lifestyle, promote and sustain fishing culture and maintain the economic viability of small business interests in Glacier Bay National Park and adjacent communities. With the exception of some fisheries, most would be authorized to continue throughout Glacier Bay National Park. This alternative would prohibit fisheries for those species vulnerable to over harvest (i.e., all king crab species, all rockfish species and ling cod), fisheries causing unacceptable habitat degradation (i.e., weathervane scallop dredge fishery), and trawling. The statutory prohibition on commercial fishing in Wilderness would be reflected in the regulations. This alternative would require a fisheries research and management program to obtain new information and assemble existing fisheries data for periodic evaluation regarding continued viability of fisheries. Periodic review would be accomplished by the NPS in consultation with appropriate fisheries management agencies. Alternative D would also require regulatory action to

authorize commercial fisheries in park waters.

#### **Section-by-Section Analysis**

Paragraph (a)(1) would provide an exception, for the non-wilderness marine waters of Glacier Bay National Park, from the general NPS prohibition on commercial fishing; subparagraph (i) clarifies that wilderness waters remain statutorily closed.

Subparagraph (ii)(A) would require an NPS issued permit to conduct commercial fishing activities in Glacier Bay proper; (ii)(B) would establish eligibility and application requirements for commercial fishing in the Bay; (ii)(C) would establish an October 1 through April 30, non-renewable 15-year exemption period for commercial fishing in the Bay; commercial species and methods of take that would be allowed within the Bay are proposed in (ii)(D).

Subparagraph (iii)(A)–(B) would authorize the existing, prevalent commercial fishing operations in the other marine waters of the Park for a period of 15 years under a cooperative Federal/State management plan; (iii)(C) would require reexamination of continued commercial fishing under the cooperative agreement, based on the best scientific information and in consideration of park values and purposes, in the outer waters of the park at the end of the 15-year period.

Paragraph (a)(2) prohibits fishing for Dungeness crab within Beardslee Island study area, including Bartlett Cove, until December 31, 2002, except as authorized by a research permit. This will allow NPS/USGS BRD to complete the Multi-Agency Dungeness Studies initiated in 1992 by National Marine Fisheries Service and the University of Alaska, Fairbanks. The closure would not effect fishing opportunities for other species.

Paragraphs (b)(5)–(6) that prohibit both commercial harvest of species identified as whale prey and methods that remove these species are proposed to be withdrawn and reserved; paragraph (a)(1)(ii)(D) would replace them.

Drafting Information: The primary authors of this rule are Molly N. Ross, Office of the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, Washington, D.C., Randy L. King, Chief Ranger, Glacier Bay National Park and Preserve, and Russel J. Wilson, Alaska Desk Officer, National Park Service, Washington, D.C. Other contributing National Park Service employees include: John W. Hiscock, Marvin Jensen, Mary Beth Moss, and Chad Soiseth.

### 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 proposed rule to the address noted at the beginning of this rulemaking. The NPS will review all comments and consider making changes to the rule based upon a thorough analysis of the comments. NPS will schedule and provide specific notice of public meetings and discussion sessions in various locations during the comment period.

### Paperwork Reduction Act

The collection of information contained in section 13.65 (a)(1)(ii)(B) this rule is for the purpose of issuing a permit to allow a continuation of commercial fishing in Glacier Bay National Park based upon historical justification. The information collected will be used to determine who qualifies for the issuance of a permit. The obligation to respond is required to obtain a permit.

Specifically, the NPS needs the following information to issue a permit:

- (1) Applicants name, address and date of birth.
- (2) Vessel name, registration, ADF&G license numbers and description.
- (3) Alaska Limited Entry/Interim Use Permit Card Number.
- (4) Halibut Commission license number.
- (5) Fishery description/gear type.
- (6) Documented fish landings (1987–1996).

NPS has submitted the necessary documentation to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*, requesting approval for the collection of this information for all areas covered by this rule. A document will be published in the **Federal Register** establishing an effective date for § 13.65(a)(1)(ii)(B) when that approval is received from OMB.

The public reporting burden for the collection of this information is estimated to average less than two hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden of these information collection requests, to

Information Collection Officer, National Park Service, 800 North Capitol Street, Washington, D.C. 20001; and the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for Department of the Interior (1024–0125), Washington, D.C. 20503.

### Compliance With Other Laws

This rule was reviewed by the Office of Management and Budget under Executive Order 12866. The Department of the Interior determined that the proposed rule is not major.

The Department of the Interior determined that this proposed 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 revision mainly clarifies previously existing statutory and regulatory prohibitions. The expected redistribution of commercial fishing efforts to areas outside of the park is not expected to significantly effect a substantial number of small businessmen.

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

Pursuant to the National Environmental Policy Act, 42 U.S.C. 4332, NPS is preparing an environmental assessment (EA) on the proposed action and alternatives that are outlined in this rule. The Service will complete the EA and publish a notice of availability in the **Federal Register** during the comment period provided for in this rule so that interested parties can comment contemporaneously on both documents.

### List of Subjects in 36 CFR Part 13

Alaska, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, NPS proposes to amend 36 CFR part 13 as follows:

### PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

1. The authority citation for Part 13 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; § 13.65 also issued under 16 U.S.C. 1a–2(h), 20, 1361, 1531, 3197.

2. Section 13.65 is amended by adding paragraph (a) and removing and reserving paragraphs (b)(5) and (b)(6) to read as follows:

### § 13.65 Glacier Bay National Park and Preserve.

(a) *Fishing.*—(1) Commercial fishing. During the time frames that follow, specified commercial fisheries in listed salt waters of Glacier Bay National Park are exempt from the commercial fishing prohibition contained in this chapter:

(i) Commercial fishing and associated buying and processing operations within designated wilderness areas are prohibited. Maps and charts showing designated wilderness areas are available from the Superintendent.

(ii) Glacier Bay. (A) A non-transferable special use permit issued by the Superintendent is required to conduct commercial fishing within Glacier Bay during the exemptive period. Commercial fishing without a special use permit is prohibited.

(B) Eligibility requirements to obtain a special use permit for each fishery include a current, valid State and/or federal commercial fishing permit(s) for Glacier Bay waters; participation in the fishery within Glacier Bay a minimum of six years during the period 1987–1996, as verified by affidavit and documentation of at least one landing in each year from Glacier Bay for halibut, salmon, or tanner crab; for Dungeness crab, ten landings are required in each of the six qualifying years. Application for a special use permit must be made within two years from [effective date of the final regulation].

(C) October 1 through April 30, commercial fishing and associated buying and processing operations are authorized in all non-wilderness waters of Glacier Bay north of a line from Point Carolus to Point Gustavus for a period of 15 years from the effective date of this regulation. At the end of the exemptive periods, all commercial fishing and associated buying and processing operations shall end, and the prohibition contained in this chapter shall apply.

(D) Commercial fishing for other than the following species, or by other than the following methods is prohibited: trolling for salmon, long lining for halibut, pot or ring net fishing for Dungeness and tanner crab.

(iii) Outer waters. (A) Commercial fishing and associated buying and processing operations are authorized in all marine waters within park boundaries not listed in paragraph (a)(1)(ii)(B) of this section, pursuant to a cooperative federal and State of Alaska management plan for a period of 15 years from [effective date of the final regulation].

(B) Commercial fishing by other than the following methods is prohibited: trolling, long lining, pot and ring net

fishing for Dungeness and tanner crab, and purse seining in Excursion Inlet.

(C) At the end of the 15-year exemptive period, the Secretary will reexamine and reevaluate continued commercial fishing in the outer waters, based on the best available scientific information and in consideration of park values and purposes.

(2) Fishing for Dungeness crab within the Beardslee Island study area, including the area enclosed within Bartlett Cove by an imaginary line drawn between Lester and Halibut Points, is prohibited until December 31, 2002, except as authorized by a NPS research permit. Maps and charts showing the Beardslee Island study area are available from the Superintendent.

(b) \* \* \*

(5) [Reserved]

(6) [Reserved]

\* \* \* \* \*

Dated: February 13, 1997.

**George T. Frampton, Jr.,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 97-9800 Filed 4-15-97; 8:45 am]

BILLING CODE 4310-70-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[OH106-1b; FRL-5808-6]

#### Approval and Promulgation of Implementation Plans; Ohio

**AGENCY:** Environmental Protection Agency (USEPA).

**ACTION:** Proposed rule.

**SUMMARY:** On November 12, 1996, USEPA received a State Implementation Plan (SIP) revision request from the Ohio Environmental Protection Agency (Ohio EPA). This revision request was in the form of an amendment to the Ohio Administrative Code (OAC) which added an additional exemption from organic compound emission controls for qualifying new sources. In this action, USEPA is proposing to approve the State's SIP revision request. In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse

comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives substantive adverse comments not previously addressed by the State or USEPA, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

**DATES:** Comments on this proposed rule must be received on or before May 16, 1997.

**ADDRESSES:** Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:**

Randolph O. Cano, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6036.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: April 1, 1997.

**Michelle D. Jordan,**

*Acting Regional Administrator.*

[FR Doc. 97-9751 Filed 4-15-97; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[IN73-1b; FRL-5808-1]

#### Approval and Promulgation of Implementation Plan; Indiana

**AGENCY:** Environmental Protection Agency (USEPA).

**ACTION:** Proposed rule.

**SUMMARY:** The USEPA is proposing to approve the State Implementation Plan (SIP) revision request submitted by the Indiana Department of Environmental Maintenance (IDEM) on October 2, 1996. In the October 2 submittal, IDEM requested a SIP revision to eliminate references to total suspended particulates (TSP) while maintaining the existing opacity requirements. In the final rules section of this **Federal Register**, USEPA is approving the State's SIP revision as a direct final rule without prior proposal because the agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by May 16, 1997.

**ADDRESSES:** Copies of the revision request are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Ryan Bahr, Environmental Engineer, at (312) 353-4366 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Ryan Bahr, at (312) 353-4366.

**SUPPLEMENTARY INFORMATION:** See the information provided in the direct final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: March 28, 1997.

**Valdas V. Adamkus,**

*Regional Administrator.*

[FR Doc. 97-9792 Filed 4-15-97; 8:45 am]

BILLING CODE 6560-50-P