

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01-180 to read as follows:

§ 165.T01-180 Safety Zone: Ambassador Construction Fireworks, Hudson River, Anchorage Channel.

(a) *Location.* The following area is a safety zone: All waters of the Hudson River and Anchorage Channel within a 360-yard radius of the fireworks barge in approximate position 40°42'00" N 074°01'17" W (NAD 1983), about 340 yards south of The Battery, Manhattan, New York.

(b) *Effective Period.* This section is effective from 8:30 p.m. to 10 p.m. on December 17, 1999. There is no rain date for this event.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard.

Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: October 21, 1999.

R. E. Bennis,

Captain, U. S. Coast Guard, Captain of the Port, New York.

[FR Doc. 99-28381 Filed 10-28-99; 8:45 am]

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DEPARTMENT OF AGRICULTURE

36 CFR Chapter II

Forest Service

Negotiated Rulemaking Advisory Committee; Fixed Anchors in Wilderness

AGENCY: Forest Service.

ACTION: Notice of intent to establish.

SUMMARY: The Secretary of Agriculture intends to establish an advisory committee to develop recommendations for a proposed rulemaking for the placement, use, and removal of fixed anchors used for recreational rock climbing purposes in congressionally designated wilderness areas administered by the Forest Service. This

committee, called the Fixed Anchors in Wilderness Negotiated Rulemaking Advisory Committee, will be made up of individuals representing a broad cross section of interests with a definable stake in the outcome of the proposed rule. The Committee will be established in accordance with the provisions of the Federal Advisory Committee Act and will be engaged in the process of a negotiated rulemaking pursuant to the provisions of the Negotiated Rulemaking Act.

DATES: Written comments in response to this notice and nominations for membership must be postmarked not later than November 29, 1999.

ADDRESSES: Written comments or nominations should be sent to the Director, Recreation, Heritage and Wilderness Resources Staff, Mail Stop 1125, Forest Service, U.S. Department of Agriculture, P.O. Box 96090, Washington, DC 20090-6090.

Comments may also be telefaxed to the Director at (202) 205-1145 or sent by Internet (anchors/wo@fs.fed.us). All comments received, including names and addresses where provided, are available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: Jerry Stokes, Recreation, Heritage, and Wilderness Resources, (202) 205-0956.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Agriculture is establishing a negotiated rulemaking advisory committee to assist in the development of a proposed rule regarding the placement, use, and removal of fixed anchors used for recreational rock climbing purposes in congressionally designated wilderness areas administered by the Forest Service. The Department invites comment in response to this notice, especially on whether the proposed composition and membership of the Fixed Anchors in Wilderness Negotiated Rulemaking Advisory Committee (Committee) provides sufficient representation of the broad cross section of interests that would be significantly affected by rules governing fixed anchors in wilderness.

Rock Climbing

Recreational rock climbing has occurred on National Forest System lands for many years. The activity occurs within designated wilderness areas as well as on nonwilderness lands administered by the Forest Service. Rock climbers routinely use a piece of equipment known as a "fixed anchor" to assist them in their climb and to help

them navigate dangerous terrain with a modicum of safety. The safest, most common, and most reliable type of fixed anchor is an "expansion bolt," which is a small steel bolt placed into a hole that has been drilled into a rock. Frequently, a "hanger" is used by a climber to link an expansion bolt to the rope or safety system.

Although fixed anchors can be removed, it is difficult and time consuming to do so. As a result, many climbers leave their fixed anchors in a rock even after the completion of their climb. Many rock climbers argue that fixed anchors are an important and necessary device which enables them to engage in a legitimate recreational activity that predates an area's designation as wilderness. Many wilderness enthusiasts, on the other hand, have asserted that fixed anchors are "installations" that are not necessary for the administration of a wilderness area and, therefore, are prohibited by the express terms of the Wilderness Act itself.

Fixed Anchors in Wilderness Negotiated Rulemaking

The Secretary has determined that the best way to resolve this issue in the wilderness areas on National Forest System lands is to proceed with a negotiated rulemaking pursuant to the Negotiated Rulemaking Act, 5 U.S.C. 561 *et seq.* To carry out the rulemaking process, an advisory committee is established which consists of an agency representative and other parties representing a broad cross section of the interests significantly affected by the rulemaking. Through a series of meetings, the members of the advisory committee negotiate in good faith and strive to reach consensus on recommendations for a proposed rule.

As provided for in the Negotiated Rulemaking Act, the Forest Service retained the services of a convener highly experienced in negotiated rulemakings to determine whether such a process would be useful to resolve the fixed-anchor issue. After speaking directly with representatives of many of the parties that would be affected by a fixed anchor in wilderness regulation, the convener issued a convening report to the Forest Service on January 26, 1999, with a recommendation to proceed with a negotiated rulemaking. Among other things, the report noted that with respect to fixed anchors, the following criteria established by the Negotiated Rulemaking Act were satisfied: (1) There is a need for a rule; (2) there is a limited number of identifiable interests that would be significantly affected by the rule; (3)

there is a reasonable likelihood that a committee can be established with a balanced representation of interested parties who would be willing to negotiate in good faith to reach consensus; (4) there is a reasonable likelihood that the committee would be able to reach consensus; (5) the negotiated rulemaking procedure will not unreasonably delay the promulgating of a fixed-anchor rule; (6) the agency has adequate resources to finance the committee operations; and (7) to the extent practicable, the agency will use the consensus of the committee as the basis for a proposed rule.

Having considered the recommendations of the convener in the January 26, 1999, report, the Secretary has decided that the establishment of the committee is in the public interest in connection with the Forest Service's responsibility to administer congressional designated wilderness areas in accordance with the Wilderness Act. The Committee meetings will serve as a forum in which committee members, with input from other interested parties, can discuss issues involved in regulating the use of fixed anchors for recreational climbing purposes in wilderness areas administered by the Forest Service. The Secretary believes that this process will enable the agency to develop and promulgate effective regulations governing the use of these devices within wilderness areas on National Forest System lands.

Key Issues To Be Considered for Negotiation

Among the issues that may be considered by the Committee during the course of their deliberations are the following:

- What type of rock climbing-related equipment should be allowed in wilderness areas and under what circumstances;
- What process should be used to decide whether the insertion or removal of a fixed anchor should take place and who should be party to the decision;
- Who should be responsible for the insertion and removal of fixed anchors; and
- What is the impact on the Forest Service and the climbing industry if the agency assumes an active role in regulating the use, the insertion, and the removal of fixed anchors.

Proposed Committee Membership

The January 26, 1999, convening report identified the interest most likely to be directly affected by a fixed anchor in wilderness regulation as including the following: climbers, outfitters,

education/experience providers; environmental organizations, and conservation organizations. The following parties have been identified as potential participants on the Negotiated Rulemaking Committee: Access Fund; American Alpine Club; American Mountain Guide Association; Idaho Conservation League; National Outdoor Leadership School; National Parks and Conservation Association; Outdoor Recreation Coalition of America; Outward Bound; Recreation Equipment Incorporated; Sierra Club; Wild Wilderness; Wilderness Society; Wilderness Watch; and Steve Wolper, an active climber as well as an advocate for wilderness conservation. The report also mentioned that Native Americans may have concerns about fixed-anchor issues that are different from the concerns of the other interests and, therefore, should be represented on the Committee.

The Forest Service representative, Larry Gadt, Director of Minerals and Geology, will participate in the deliberations and activities of the Committee with the same rights and responsibilities as other Committee members. This official will be authorized to fully represent the agency in the discussions and negotiations of the Committee. Three other Federal land management agencies, the National Park Service, the Bureau of Land Management, and the Fish and Wildlife Service, will have representatives who will serve as consultants to the Forest Service to provide their perspective on the issues. These Federal agencies will not participate as members on the Committee.

The Forest Service will consider nominations for Committee membership from organizations or interests that believe they may be substantially affected by the subject of the negotiations. Each application or nomination for membership or nomination to the Committee should include: (1) The name, address, telephone number(s), and e-mail address(es) of the nominee; (2) the organization the nominee will represent; (3) written documentation from the organization providing evidence that the applicant or nominee is authorized to represent that organization or interest and participate in the negotiated rulemaking process; (4) a promise from the nominee to participate in the negotiated rulemaking proceedings in good faith, and (5) the reasons that the interests or persons specified in this notice do not adequately represent this applicant's interest.

It is not necessary that every concerned organization be represented

on the Committee as long as every significant interest is represented. In addition, the Negotiated Rulemaking Act restrict the total number of representatives on a committee to twenty-five (25). Nonetheless, the Department will carefully consider any and all nominations received from individuals or organizations not included on the Proposed Committee Membership list.

Schedule of Meetings

After the 30-day comment period for this notice ends, the Forest Service will review the comment received on establishment of the committee and the nominations and provide the information to the Secretary. Following appointment of members by the Secretary, the agency will publish a notice announcing the names of the individuals and the interests that represent and give notice of the first meeting's location and time. The agency expects to hold three meetings, with each meeting consisting of two to three 8-hour days for the committee to negotiate the issues raised at the convening stage and other issues relevant to the use of fixed anchors in wilderness. The first meeting is to be held within 60 days of the establishment of the committee and appointment of its membership. The meetings and their agendas will be announced in the **Federal Register**. Administrative staff support for the meetings will be provided by the Forest Service. Assuming that the committee reaches consensus, the agency would attempt to publish a proposed rule in the **Federal Register** reflecting that consensus within six months following submission of the committee's report to the Secretary.

Dated: October 20, 1999.

Sally Thompson,

Acting Assistant Secretary for Administration.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD081-3043b; FRL-6449-4]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Enhanced Inspection & Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.
