

§7.26

36 CFR Ch. I (7-1-13 Edition)

Thruston Lava Tube, nor the maintained trail down and across Kilauea Iki pit crater.

[34 FR 9338, June 13, 1969, as amended at 48 FR 30295, June 30, 1983]

§7.26 Death Valley National Monument.

(a) *Mining.* Mining in Death Valley National Monument is subject to the following regulations, which are prescribed to govern the surface use of claims therein:

(1) The claim shall be occupied and used exclusively for mineral exploration and development and for no other purpose except that upon written permission of an authorized officer or employee of the National Park Service the surface of the claim may be used for other specified purposes, the use to be on such conditions and for such period as may be prescribed when permission is granted.

(2) The owner of the claim and all persons holding under him shall conform to all rules and regulations governing occupancy of the lands within the National Monument.

(3) The use and occupancy of the surface of mining claims as prescribed in paragraphs (a) (1) and (2) of this section shall apply to all such claims located after the date of the act of June 13, 1933 (48 Stat. 139; 16 U.S.C. 447), within the limits of the National Monument as fixed by Proclamation No. 2028 of February 11, 1933, and enlarged by Proclamation No. 2228 of March 26, 1937, and to all mining claims on lands hereafter included in the National Monument, located after such inclusion, so long as such claims are within the boundaries of said Monument.

(4) Prospectors or miners shall not open or construct roads or vehicle trails without first obtaining written permission from an authorized officer or employee of the National Park Service. Applications for permits shall be accompanied by a map or sketch showing the location of the mining property to be served and the location of the proposed road or vehicle trail. The permit may be conditioned upon the permittee's maintaining the road or trail in a passable condition as long as it is used by the permittee or his successors.

(5) From and after the date of publication of this section, no construction, development, or dumping upon any location or entry, lying wholly or partly within the areas set forth in paragraphs (a)(5) (i) to (iii) of this section, shall be undertaken until the plans for such construction, development, and dumping, insofar as the surface is affected thereby, shall have been first submitted to and approved in writing by an authorized officer or employee of the National Park Service:

(i) All land within 200 feet of the center-line of any public road.

(ii) All land within the smallest legal subdivision of the public land surveys containing a spring or water hole, or within one quarter of a mile thereof on unsurveyed public land.

(iii) All land within any site developed or approved for development by the National Park Service as a residential, administrative, or public campground site. Such sites shall include all land within the exterior boundaries thereof as conspicuously posted by the placing of an appropriate sign disclosing that the boundaries of the developed site are designated on a map of the site which will be available for inspection in the office of the Superintendent. If not so posted, such sites shall include all land within 1,000 feet of any Federally owned buildings, water and sewer systems, road loops, and camp tables and fireplaces set at designated camp sites.

(b) *Use of water.* No works or water system of any kind for the diversion, impoundment, appropriation, transmission, or other use of water shall be constructed on or across Monument lands, including mining claims, without a permit approved by an authorized officer or employee of the National Park Service. Application for such permit shall be accompanied by plans of the proposed construction. The permit shall contain the following conditions: (1) No diversion and use of the water shall conflict with the paramount general public need for such water; (2) such water systems shall include taps or spigots at points to be prescribed by the Superintendent, for the convenience of the public; and (3) all appropriations of water, in compliance with the State water laws, shall be made for

National Park Service, Interior

§ 7.27

public use in the name of the United States and in accordance with instructions to be supplied by an authorized officer or employee of the National Park Service.

(c) *Permits*. Application for any permit required by this section shall be made through the Superintendent of the Monument.

(d) *Filing of copies of mining locations*. From and after the publication of this paragraph, in order to facilitate the administration of the regulations in this part, copies of all mining locations filed in the Office of the County Recorder shall be furnished to the office of the Superintendent, Death Valley National Monument, by the person filing the mining location in his own behalf or on behalf of any other person.

(e) *Aircraft*. The following are designated as locations where the operation of aircraft is allowed:

(1) Death Valley Airport, latitude 36°27'50" N., longitude 116°52'50" W.

(2) Stovepipe Wells Airport, latitude 36°36'15" N., longitude 117°09'30" W.

[24 FR 11044, Dec. 30, 1959, as amended at 49 FR 18450, Apr. 30, 1984]

§ 7.27 Dry Tortugas National Park.

(a) *What terms do I need to know?* The following definitions apply to this section only:

(1) *Bait fish* means any of the following:

(i) Ballyhoo (family *Exocoetidae* and genus *Hemiramphus*), other genus may be included in this family;

(ii) Minnow (families *Cyprinodontidae*, *Peciliidae*, or *Atherinidae*);

(iii) Mojarra (family *Gerreidae*);

(iv) Mullet (family *Mugilidae*);

(v) Pilchard (family *Clupeidae*); or

(vi) Pinfish (family *Sparidae*, genus *Lagodon*).

(2) *Cast net* means a type of circular falling net, weighted on its periphery, which is thrown and retrieved by hand, measuring 14 feet or less stretched length (stretched length is defined as the distance from the horn at the center of the net with the net gathered and pulled taut, to the lead line).

(3) *Designated anchorage* means any area of sand within one nautical mile of the Fort Jefferson Harbor Light.

(4) *Dip net* means a hand held device for obtaining bait, the netting of which is fastened in a frame. A dip net may not exceed 3 feet at its widest point.

(5) *Finfish* means a member of subclasses Agnatha, Chondrichthyes, or Osteichthyes.

(6) *Flat wake speed* means the minimum required speed to leave a flat wave disturbance close astern a moving vessel yet maintain steerageway, but in no case in excess of 5 statute miles per hour.

(7) *Guide operations* means the activity of a person, partnership, firm, corporation, or other entity to provide services for hire to visitors of the park. This includes, but is not limited to, fishing, diving, snorkeling, and wildlife viewing.

(8) *Live rock* means any living marine organism or assemblage thereof attached to a hard substrate, including dead coral or rock but not individual mollusk shells.

(9) *Lobster* means any of the following:

(i) Shovel nosed or Spanish Lobster (*Scyllarides aequinocti*);

(ii) Slipper lobster (*Parribacus antarcticus*);

(iii) Caribbean spiny lobster (*Panulirus argus*); or

(iv) Spotted spiny lobster (*Panulirus guttatus*).

(10) *Marine life* means:

(i) Sponges, sea anenomes, corals, jellyfish, sea cucumbers, starfish, sea urchins, octopus, crabs, shrimp, barnacles, worms, conch; and

(ii) Other animals belonging to the Phyla Porifera, Cnidaria, Echinodermata, Mollusca, Bryozoa, Brachiopoda, Arthropoda, Platyhelminthes, and Annelida.

(11) *Not available for immediate use* means not readily accessible for immediate use (e.g., by being stowed unbaited in a cabin, locker, rod holder, or similar storage area, or being securely covered and lashed to a deck or bulkhead).

(12) *Ornamental tropical fish* means a brightly colored fish, often used for aquarium purposes and which lives in close relationship to coral communities, belonging to the families Syngathidae, Apogonidae, Pomacentridae, Scaridae, Blennidae,