prosecution. It is impossible to determine in advance what information collected during an investigation will be important or crucial to the investigation and the apprehension of fugitives. In the interests of effective law enforcement, it is necessary to retain such information in this system of records because it can aid in establishing patterns of criminal activity and can provide valuable leads for federal and other law enforcement agencies. This consideration applies equally to information acquired from, or collated or analyzed for, both law enforcement agencies and agencies of the U.S. foreign intelligence community and military community.

(7) From subsection (e)(2) because in a criminal investigation, prosecution, or proceeding, the requirement that information be collected to the greatest extent practicable from the subject individual would present a serious impediment to law enforcement because the subject of the investigation, prosecution, or proceeding would be placed on notice as to the existence and nature of the investigation, prosecution, and proceeding and would therefore be able to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Moreover, thorough and effective investigation and prosecution may require seeking information from a number of different sources.

(8) From subsection (e)(3) because the requirement that individuals supplying information be provided a form stating the requirements of subsection (e)(3) would constitute a serious impediment to criminal law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants and endanger their lives, health, and physical safety. The individual could seriously interfere with undercover investigative techniques and could take appropriate steps to evade the investigation or flee a specific area.

(9) From subsections (e)(4)(G) and (H) because this system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act, and from subsection (e)(4)(I) to preclude any claims that the Department must provide more detail regarding the record sources for this system than the Department publishes in the system of records notice for this system. Exemption from providing any additional details about sources is necessary to preserve the security of sensitive law enforcement and intelligence information and to protect the privacy and safety of witnesses and informants and others who provide information to the DEA; and further, greater specificity of properly classified records could compromise national security.

(10) From subsection (e)(5) because the acquisition, collation, and analysis of information for criminal law enforcement purposes from various agencies does not permit a determination in advance or a prediction of what information will be matched with other information and thus whether it is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can often only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators, intelligence analysts, and government attorneys to exercise their judgment in collating and analyzing information and would impede the development of criminal or other intelligence necessary for effective law enforcement.

(11) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to criminal law enforcement by revealing investigative techniques, procedures, evidence, or interest, and by interfering with the ability to issue warrants or subpoenas; could give persons sufficient warning to evade investigative efforts; and would pose an impossible administrative burden on the maintenance of these records and the conduct of the underlying investigations.

(12) From subsections (f) and (g) because these subsections are inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act.

(13) From subsection (h) when application of this provision could impede or compromise an ongoing criminal investigation, interfere with a law enforcement activity, reveal an investigatory technique or confidential source, invade the privacy of a person who provides information for an investigation, or endanger law enforcement personnel.

Dated: February 28, 2013.

Joo Y. Chung,

Acting Chief Privacy and Civil Liberties Officer, United States Department of Justice.

[FR Doc. 2013–05146 Filed 3–6–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–NCR–10414] [PPNCNAMA00, PPMPSPD1Z.YM0000]

RIN 1024–AD89

Special Regulation; Areas of the National Park System, National Capital Region, Demonstrations and Special Events

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: We, the National Park Service, are amending the regulations on demonstrations and special events for the National Capital Region. This rule revises the definition of ''demonstration,'' lifts the prior regulatory ban on soliciting money or funds but requires a permit for the in-person solicitation of money or funds on Federal park land, and revises an introductory sentence prohibiting demonstrations or special events in designated memorial areas. This rule also changes the name of the permit office to the Division of Permits Management.

DATES: *Effective Date:* April 8, 2013.

FOR FURTHER INFORMATION CONTACT: Marisa Richardson, Acting Chief, Division of Permits Management, 900 Ohio Drive SW., Washington, DC 20024, Telephone: 202–245–4715.

SUPPLEMENTARY INFORMATION:

Introduction and Background

We published a proposed rule in the **Federal Register** on January 3, 2011 (76 FR 57) and provided a 60-day period for public review and comment that closed on March 4, 2011. In this rule we proposed to:

- Revise the definition of ''demonstration'' at 36 CFR 7.96(g)(1)(i) by replacing the phrase ''intent or propensity'' with the phrase ''reasonably likely.'' This change was based upon the court's decision in *Boardley* v. *U.S. Department of the Interior,* 605 F. Supp. 2d 8 (D.D.C. 2009), holding that the prior phrase granted overly broad discretion to NPS personnel in the permit process, which may result in an impermissible regulation of speech protected by the First Amendment.
- Amend 36 CFR 7.96(h) to allow solicitation of gifts, money, goods, or services funds as part of a permit issued for a demonstration or special event, to be consistent with the United States Court of Appeals for the District of

Columbia decision in *ISKCON of Potomac* v. *Kennedy,* 61 F.3d 949 (DC Cir. 1995).

• Amend the introductory sentence to 36 CFR 7.96(g)(3)(ii) to more clearly indicate that demonstrations or special events are not allowed in certain designated memorial areas.

Analysis of Comments

We received a total of 12 timely written comments on the proposed rule. Six comments came from individuals associated with Stanford Law School; five comments came from members of the general public; and one comment came from the American Civil Liberties Union (ACLU) of the National Capital Area. We have reviewed the comments and decided to publish the proposed regulation as a final regulation with one change.

In response to comments, we are revising the final rule to center more narrowly on in-person solicitation for money or funds for donation on Federal park lands as part of a permit issued for a demonstration or special event. Besides reaffirming the explanations found in our earlier rulemaking, we offer the following responses to the various issues raised by the comments.

Revised Definition of Demonstration—36 CFR 7.96(g)(1)

As detailed in the proposed rule, the revised definition of demonstration at 36 CFR 7.96(g)(1)(i) eliminates the term ''intent or propensity'' and replaces it with the term ''reasonably likely.'' In *Boardley,* the District Court commented that this part of the current regulatory definition could raise problems, because it allowed NPS officials to restrict speech based on their determination that a person intended to draw a crowd with his or her conduct. The Court reasoned that this determination could rest on impermissible grounds, such as an official's perception that certain expression is controversial or inappropriate, which would be a content-based decision and therefore impermissible under the First Amendment. This portion of the District Court's decision was not appealed. While we have not applied the regulation in such an impermissible manner and have since issued a clarifying memorandum to preclude such a determination, this revised definition of ''demonstration'' will minimize the possibility of a decision being based on impermissible grounds.

Some comments focused on our revised narrowed definition of a demonstration. Two comments favored the change, noting that it would encourage, among other things, greater transparency and consistency within the NPS. The ACLU also supported the definitional change, finding it to be more objective and not lending itself to a subjective, and perhaps biased, judgment.

Other commenters expressed concern that the narrowed definition was still insufficient, believing that it contained an impermissible content-based regulation of speech. These comments stated that park personnel may be likely to refer to the content of speech when determining whether conduct is ''reasonably likely'' to draw a crowd. As a remedy, some commenters suggested that the definition use the term ''has the effect or express intent of drawing a crowd,'' while others suggested including a mandate that directs park officials not to consider the content of speech when determining whether a permit is required.

We believe that our narrowed definition addresses the District Court's concerns in *Boardley,* and is designed to be applied by park personnel in an objective, fair, and even-handed manner, regardless of the identity or cause of demonstrators. We believe that the use of the ''reasonably likely'' standard ensures the necessary objectivity in the regulatory process, while negating the possibility of a permit being granted or rejected on impermissible grounds. In addition, we consider the ''reasonably likely'' standard to be easily and consistently understood, thus preventing us from regulating First Amendment activities more than necessary to further our legitimate interests.

We also expect that park officials will continue to comply with NPS policies that already specifically prohibit impermissible content-based discrimination of First Amendment activities. See NPS Management Policies § 8.6.3 (2006) (''No group wishing to assemble lawfully may be discriminated against or denied the right of assembly provided that all permit conditions are met''); NPS Director's Order 53 § 9.1 (2010) (''Note that it is the conduct associated with the exercise of these [First Amendment] rights that is regulated, and never the content of the message.''); NPS RM–53 Appendix 3, Page A3–1 (April 2000) (''It should be noted that it is the conduct associated with the exercise of these [First Amendment] rights that is regulated, and never the content of the message'') (emphasis in original).

Finally, one commenter expressed concerns that the ''casual park use'' exclusion found in the definition was vague and may not include a visitor who merely had ''a strange haircut'' or wore ''a controversial T-shirt.'' We believe that the ''casual park use'' exclusion is not vague, is well understood, and would not result in discrimination. As we earlier explained in our rulemaking for the same demonstration definition found in 36 CFR 2.51(a):

> Application of the NPS's narrowed definition of a demonstration thus excludes visitors who merely have tattoos or are wearing baseball caps, T-shirts, or other articles of clothing that convey a message; or visitors whose vehicles merely display bumper stickers. By limiting the definition of what constitutes a demonstration, and by explicitly excluding casual park use by visitors or tourists which is not reasonably likely to attract a crowd or onlookers * * * the NPS believes that the rule comports with the First Amendment and is narrowly tailored to serve significant government interests.

75 FR 64150 October 19, 2010.

Revised Solicitation Regulation—36 CFR 7.96(h)

The proposed regulation would have allowed in-person soliciting or demanding of gifts, money, goods, or services, if it occurs as part of a permit issued for a demonstration or special event. The proposed regulation also provided that persons permitted to solicit must not give false or misleading information regarding their purposes or affiliations or give false or misleading information regarding whether any item is available without donation.

No commenters objected to the regulation's prohibition of giving false or misleading information regarding a solicitor's purposes or affiliations or giving false or misleading information regarding whether any item is available without donation. However, three comments expressed concerns with the permit requirement. After review, we have narrowed the text of the final solicitation regulation so that it clearly centers on prohibiting the ''in-person soliciting or demanding of money or funds for contemporaneous donation on Federal park land * * * unless it occurs as part of a permit issued for a demonstration or special event.'' We believe that this revised and narrowed regulation, which centers on in-person solicitation of money or funds for donations on Federal park land as part of a permit issued for a demonstration or special event, is not a content-based regulation of speech.

By focusing on in-person solicitation for the receipt of money or funds on Federal park land, we believe that we have a narrowly tailored regulation of conduct that is not broader than necessary, and that addresses the risks

and problems caused by the in-person request for the receipt of money or funds on Federal park land. We believe that this type of solicitation creates well-recognized risks and problems that other NPS regulations do not address, including fraud and duress, questionable solicitation practices including the targeting of vulnerable and easily coerced persons, and even outright theft. We also believe that requiring a permit will help ensure that unregulated solicitation activities that have the potential to be disruptive and intrusive will not interfere with other visitors' enjoyment of the park. Our narrowly focused final solicitation regulation thus centers on in-person soliciting or demanding of money or funds for receipt on Federal park land as part of a permit issued for a demonstration or special event, described in the prefatory statement as ''in-person solicitation for immediate funds'' (76 FR 57, January 3, 2011). Courts have recognized the risks and problems posed by in-person solicitation for funds.

The term ''funds'' includes monetary funds obtained through the use of credit cards or other electronic payment methods. One commenter suggested that an immediate credit card or electronic commitment of funds should be allowed for later processing. We have not accepted that suggestion, however, because these kinds of solicitations pose an even greater risk of later theft and fraud than an in-person, immediate exchange of funds. The Federal Trade Commission states that credit and charge card fraud costs cardholders and issuers hundreds of millions of dollars each year, and can occur when an unauthorized person uses another person's card number.

This rule prohibits in-person solicitation for immediate funds on Federal park land; it does not prohibit other forms of communication that allow the person to obtain the funds later off park land, such as soliciting funds that would be sent at a later time by mail or through the internet, or distributing literature describing where funds could be sent. The rule does not address persons seeking signatures for petitions or donations for food or clothing drives; these activities can be addressed under the Park Service demonstration or special event regulations.

One commenter stated that the solicitation regulation would encourage an impermissible content-based regulation of speech because solicitation, itself, is the form of expression being regulated. We disagree, because we believe that the narrowed regulation is consistent with the Court of Appeal's decision in *ISKCON,* which found that the earlier NPS solicitation regulation's focus on the in-person solicitation of donations on Federal park land was not content based. The Court found that the earlier regulation did not prohibit any particular expression or message based on content but merely regulated the manner in which the message is conveyed, although the earlier NPS solicitation prohibition failed because it was not ''narrowly tailored.'' *ISKCON,* 61 F.3d at 955–956.

We believe that this new and revised final solicitation regulation is narrowly tailored because this rule focuses on persons who seek to engage in the in-person solicitation for the receipt of money or funds on Federal park land and does not include goods or services as originally proposed. We believe that it is not broader than necessary to address the particular problems and risks posed by such in-person solicitation and does not ''sweep in'' expressive activities that do not contribute to those problems. ''A narrowly tailored permitting scheme—one that reasonably identifies particular expressive conduct for which a permit is required—is an entirely appropriate tool.'' *Community For Creative Non-Violence* v. *Turner,* 893 F.2d 1387, 1393 (D.C. Cir. 1990).

This NPS solicitation regulation requires that in-person solicitation for funds on Federal park land may only occur under a permit that designates well-defined areas for the activity. The rule is thus fully consistent with the Court of Appeals decision in *ISKCON.* The Court of Appeals observed that a future NPS solicitation regulation could require a permit, so ''[t]he effects of solicitation will be confined to the permit area, and those who wish to escape them may simply steer clear of the authorized demonstration or special event.'' 61 F.3d at 956. The Court of Appeals in *ISKCON* also made clear that its ''holding allows only those individuals or groups participating in an authorized demonstration or special event to solicit donations in the confines of a restricted permit area . * * * It does not require the Park Service to let rampant panhandling go unchecked.'' *Id.*

The NPS solicitation regulation controls the in-person solicitation for funds on Federal park land; it does not regulate sales. An attempt to sell items or offer items for sale, whether directly or by the use of deceit, is still governed by the NPS sales regulation at 36 CFR 7.96(k), which limits items to be sold to books, newspapers, leaflets, pamphlets, buttons, and bumper stickers. As we explained in the prefatory statement to the sales regulation, at 60 FR 17648 (April 7, 1995), ''restricted merchandise cannot be 'given away' and a 'donation accepted' or one item 'given away' in return for the purchase of another item; such transactions amount to sales.''

The ACLU supported our amendment of the solicitation regulation ''to provide that donations or contributions may be solicited within an area that is covered by a permit for a demonstration or a special event.'' Earlier the ACLU had asked, and our National Capital Region confirmed, that buskers may, consistent with NPS regulations, be able to conduct their activities by obtaining a demonstration or a special event permit. (The ACLU defined buskers as ''individuals who play music or entertain in public parks, streets and other places and seek voluntary contributions.'')

Focusing on buskers, however, the ACLU expressed concern about the proposed regulatory requirement for a permit if the activity involves a group of less than 25 people who would otherwise qualify under the existing ''small group exception'' for demonstrations at 36 CFR 7.96 (g)(2)(i). Using the example of a lone person who plays his guitar and asks for donations, the ACLU thought that requiring a permit for a single individual busker was an ''unnecessary burden'' on First Amendment rights. Instead, the ACLU suggested that we modify the regulation such that either (1) no permit is needed for a single busker who solicits donations or contributions with his or her performance, or (2) the regulation would authorize a U.S. Park Police officer to issue an on-the-spot permit, after checking with the permit office to be sure that the busker's location does not conflict with any existing permit.

We have carefully considered the ACLU's views on this matter and its two suggested modifications, but we believe that requiring a permit when an in-person solicitation of funds occurs is warranted. For the reasons stated herein, we believe that the solicitation regulation is not an unnecessary burden on First Amendment rights but rather is a proper time, place, and manner restriction. Moreover, we believe that it is not appropriate to require or ask U.S. Park Police officers to issue an ''on the spot'' permit when a lone busker is engaged in in-person solicitation for immediate funds.

The NPS regulatory ''small group exception'' has applied only to demonstrations, and was the product of rulemaking after discussions with the ACLU as detailed at 45 FR 29858 (May 6, 1980) and 46 FR 55959 (November 13,

1981). Whether a busker's activity qualifies as a demonstration or is characterized as a special event will ultimately depend on the facts of the activity; special events have always required a permit, while most ''small group'' demonstrations do not require a permit under 36 CFR 7.96(g)(2)(i). Regardless of whether the activity qualifies as a demonstration or is characterized as a special event, we believe that the risks and potential problems posed by the in-person solicitation for funds justify and support a permit requirement for solicitation.

Moreover, we believe that the problems and risks of in-person solicitation for funds on Federal park land occur regardless of whether the number of persons engaged in the solicitation activity is one, 24, 26, or 1,000, or whether the person is or is not a busker. As one busker readily acknowledged, busking for cash does create the risk of theft. He also wrote that buskers may need to move around to multiple locations, given that there may be busker competition at ''popular, centralized areas where the crowds gather''; that one needs to ''[m]ake sure your audience knows you're looking for cash''; and that one needs to ''[w]atch for thieves.'' Jacob Bear ''Making the Scene: Busking Can Pay for Travel in Europe,'' Transitions Abroad Magazine (March/April 2004).

Accordingly, we believe that it is the solicitation for funds that generates risks and potential problems, rather than the size of the group involved in such activities. Similar risks and problems exist when 24 people together engage in-person solicitation for funds, when compared to 24 people who separately engage in such solicitation activities. By requiring a permit for all who engage in the in-person solicitation for funds regardless of the number of participants, we are able to minimize the risks and problems of theft, fraud, and duress.

Requiring a permit protects both the public and the permit holder. If a visitor complains that theft, fraud, or duress occurred, the U.S. Park Police will be able to investigate the incident because they will know the identity of, and contact information for, the permit holder. Knowing where and when in-person solicitation is authorized under permit also allows the U.S. Park Police to monitor and protect the permit holder from theft, as well as to ensure public safety, the orderly movement of park visitors, and the avoidance of conflicts among permit holders.

Accordingly, we believe that the problems and risks posed by in-person solicitation of funds on Federal park land by individuals and groups under 25 in number should require a permit. If a permit was not required, then people engaged in in-person solicitation for funds on Federal park land could simply follow the park visitor, preventing the visitor from avoiding them, a result that the Court of Appeals in *ISKCON* specifically rejected.

The ACLU's other suggestion is to authorize U.S. Park Police officers to issue on-site written permits for buskers. After review, we believe this approach is not workable, since it exceeds the expertise and proper role of law enforcement officers and is inconsistent with our centralized regulatory process, whereby a staff park ranger reviews applications and coordinates permit issuance. The ACLU suggestion would be impractical because it would rely on a U.S. Park Police officer who encounters a busker to successfully do all of the following:

- Recognize and assess the situation;
- Obtain on-site information as to who, where, and when they want to engage in their activities;
- Know where and when other First Amendment or other activities have been permitted; and
- Decide whether to issue a written permit based upon the NPS regulations.

U.S. Park Police officers are limited in number and their activities are focused on performing a wide array of law enforcement functions in extensive areas that constitute Federal park land within the National Capital Region. In the District of Columbia, these park areas include the National Mall, Lafayette Park, DuPont Circle, and Rock Creek Park, as well as scores of large and small park areas located throughout the city. The National Mall alone covers approximately 684 acres and receives approximately 22 million visits per year. It is therefore unrealistic to expect that officers could regularly chance upon people engaged in solicitation activity and issue them a permit.

We also believe that the ACLU suggestion runs counter to our centralized permit system, where applications are submitted to the permit office in advance of any proposed demonstration or special event and under which only the NPS Regional Director or, in certain circumstances, a supervisory U.S. Park Police officer may revoke a permit. To have U.S. Park Police officers issue ''on-site permits'' deviates from a generally successful NPS regulatory permit process. The current permit process relies upon a limited number of park rangers who are trained and knowledgeable about NPS regulations and who:

- Evaluate the application:
- Review other pending or issued permits;
- Consult with other park officials;
- Determine whether a permit should be issued; and
- If a permit is issued, determine the appropriate permit conditions.

Finally, two other comments cited the Court of Appeals decision in *Boardley* v. *Department of the Interior,* 615 F.3d 508 (D.C. Cir. 2010), and contended that requiring a permit for small groups who engage in the in-person solicitation for immediate funds is an unnecessary burden on First Amendment rights. We respectfully disagree and believe that problems and risks posed by in-person solicitation for funds on Federal park land justify a permit requirement because they differ from the likely effects of small group demonstrations that do not involve solicitation activities. We further believe that the problems and risks posed by solicitations were recognized by the Court of Appeals in *ISKCON* when it concluded that we may regulate solicitation of funds through a permit system. The basis for our solicitation regulation is also significantly different than what the Court of Appeals considered in *Boardley.* By focusing on the problems and risks posed by in-person solicitation for funds on park land, we believe that the solicitation regulation is narrowly tailored, no broader than necessary, and does not sweep into expressive activities that don't contribute to these problems and risks.

Revised Introductory Sentence—36 CFR 7.96(g)(3)(ii)

The ACLU submitted the only comment regarding our proposed amendment of the introductory sentence to 36 CFR 7.96(g)(3)(ii), which was intended to more clearly indicate that demonstrations or special events are not allowed in restricted areas of designated memorials. It has been our longstanding reading of our regulations that demonstrations and special events, whether under permit or not, are not allowed in the restricted areas identified at 36 CFR 7.96(g)(3)(ii). This was a natural reading that was recently accepted by the Court of Appeals in *Oberwetter* v. *Hilliard,* 639 F.3d 545, 551 (D.C. Cir. 2011). The ACLU comment also concluded that this was their understanding of our regulations, but that they ''are not opposed to greater clarity.'' This revision provides greater clarity that demonstrations and special events, either with or without a permit, are not allowed in restricted areas of designated memorials.

Change of Name—Permit Office

Recently the name of the permit office, which had been called the ''Division of Park Programs,'' was administratively changed to the ''Division of Permits Management.'' While this name change was not included in the proposed rule, the name change at 36 CFR 7.96(g)(3) is an internal administrative matter that has no substantive implications and, therefore, does not require public review and comment.

Compliance With Other Laws and Executive Orders

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA)

The rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). The rule expands opportunities for individuals and organizations to solicit funds, associated with a demonstration or special event for which a permit has been issued. Other organizations with interest in the rule will not be effected economically.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

a. Does not have 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.

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.

Unfunded Mandates Reform Act (UMRA)

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. A statement containing the information required by the UMRA, (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630

Under the criteria in section 2 of Executive Order12630, this rule does not have significant takings implications. It pertains specifically to operation and management of locations within the NPS—National Capital Region. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian tribes (Executive Order 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required. The rule only applies to management and operation of NPS areas within the National Capital Region.

Paperwork Reduction Act (PRA)

The Office of Management and Budget (OMB) has approved the information collection requirements in this rule and assigned control number 1024–0021 (expires 02/28/2014). We estimate the burden associated with this information collection to be 30 minutes. The information collection activities are necessary for the public to obtain benefits in the form of special park use permits. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required because the rule is covered by a categorical exclusion. We have determined that the rule is categorically excluded under 516 DM 12.5 A (10), insofar as it is a modification of existing NPS regulations that does not increase public use to the extent of compromising the nature and character of the area or causing physical damage to it. Further, the rule will not result in the introduction of incompatible uses which might compromise the nature and characteristics of the area or cause physical damage to it. Finally, the rule will not cause conflict with adjacent ownerships or land uses, or cause a nuisance to adjacent owners or occupants. We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under the NEPA.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

List of Subjects in 36 CFR Part 7

District of Columbia, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the NPS amends 36 CFR Part 7 as set forth below:

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

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

Authority: 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under 36 U.S.C. 501–511, DC Code 10–137 (2001) and DC Code 50–2201 (2001).

■ 2. In § 7.96:
■ A. Revise paragraph (g)(1)(i);
■ B. Revise the heading and first two sentences of paragraph (g)(3);
■ C. Revise the introductory text of paragraph (g)(3)(ii);
■ D. Revise paragraph (g)(3)(ii)(D);
■ E. Add paragraph (g)(3)(ii)(E) and maps;
■ F. Remove maps following paragraph (g)(7); and
■ G. Revise paragraph (h).

The revisions and addition read as follows:

§ 7.96 National Capital Region.

* * * * *

(g) * * *

(1) * * *

(i) The term ''demonstration'' includes demonstrations, picketing, speechmaking, marching, holding vigils or religious services and all other like forms of conduct that involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which is reasonably likely to draw a crowd or onlookers. This term does not include casual park use by visitors or tourists that is not reasonably likely to attract a crowd or onlookers.

* * * * *

(3) *Permit applications.* Permit applications may be obtained at the Division of Permits Management, National Mall and Memorial Parks, 900 Ohio Drive SW., Washington DC 20024. Applicants shall submit permit applications in writing on a form provided by the National Park Service so as to be received by the Regional Director at the Division of Permits Management at least 48 hours in advance of any proposed demonstration or special event. * * *

* * * * *

(ii) *Other park areas.* Demonstrations and special events are not allowed in the following other park areas:

* * * * *

(D) The Vietnam Veterans Memorial, except for official annual Memorial Day and Veterans Day commemorative ceremonies.

(E) Maps of the park areas designated in this paragraph are as follows. The darkened portions of the diagrams show the areas where demonstrations or special events are prohibited.

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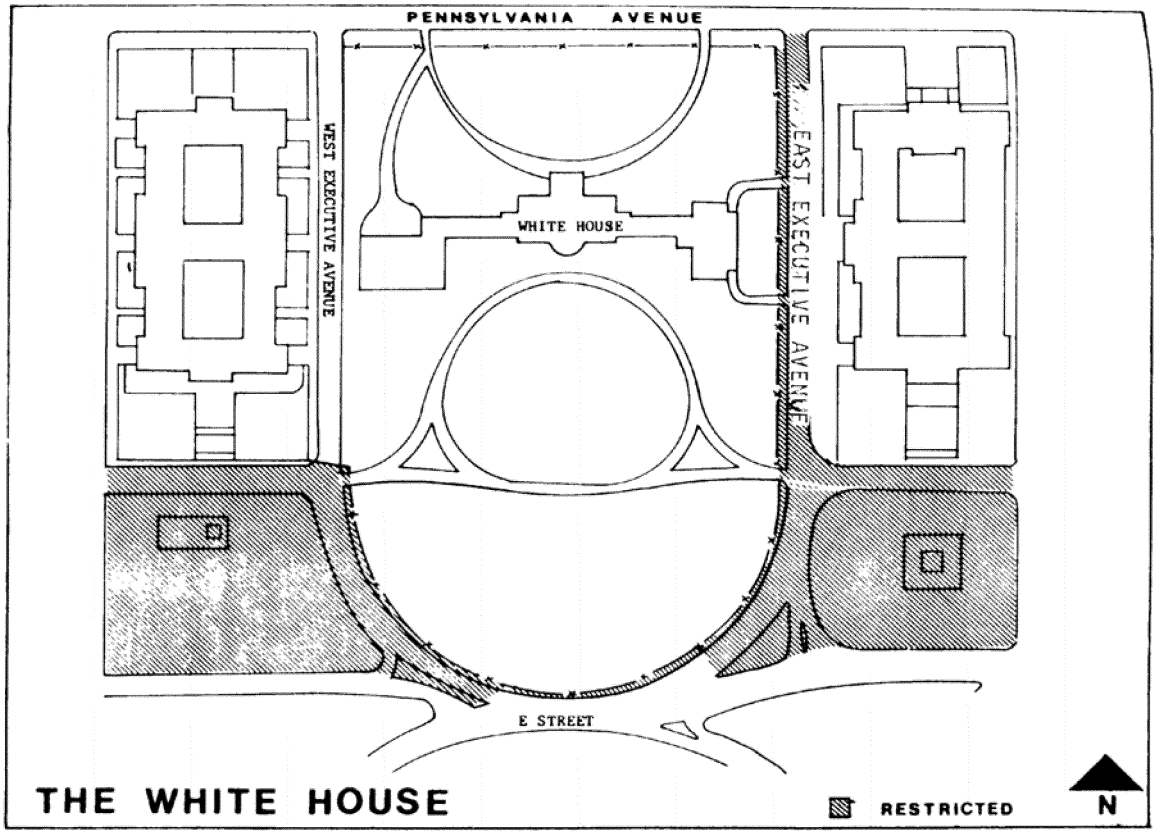
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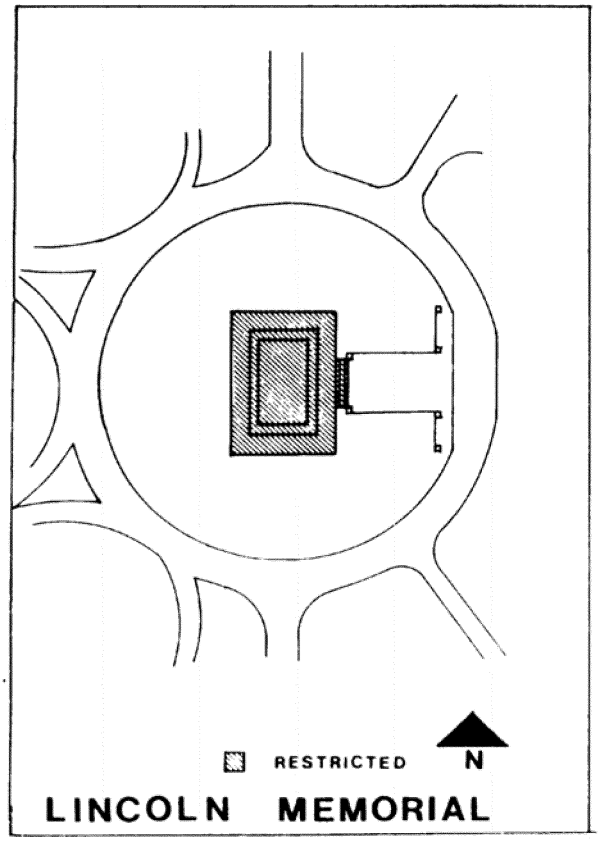
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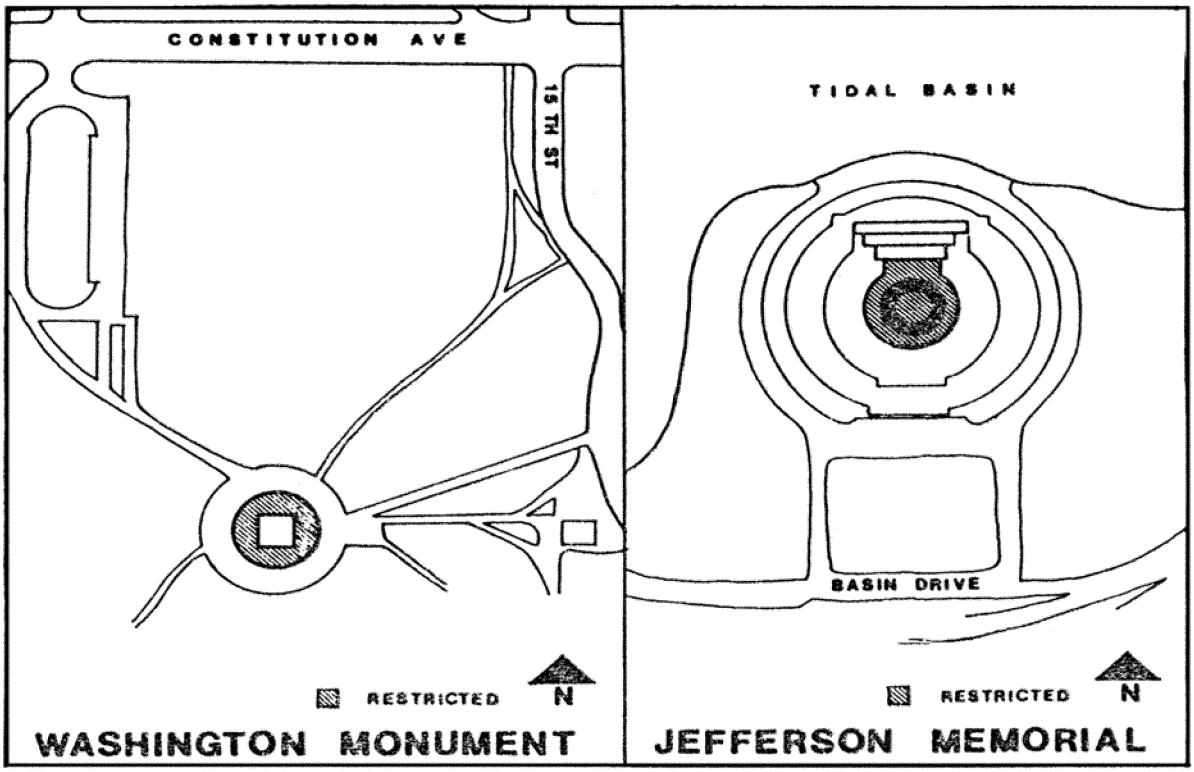

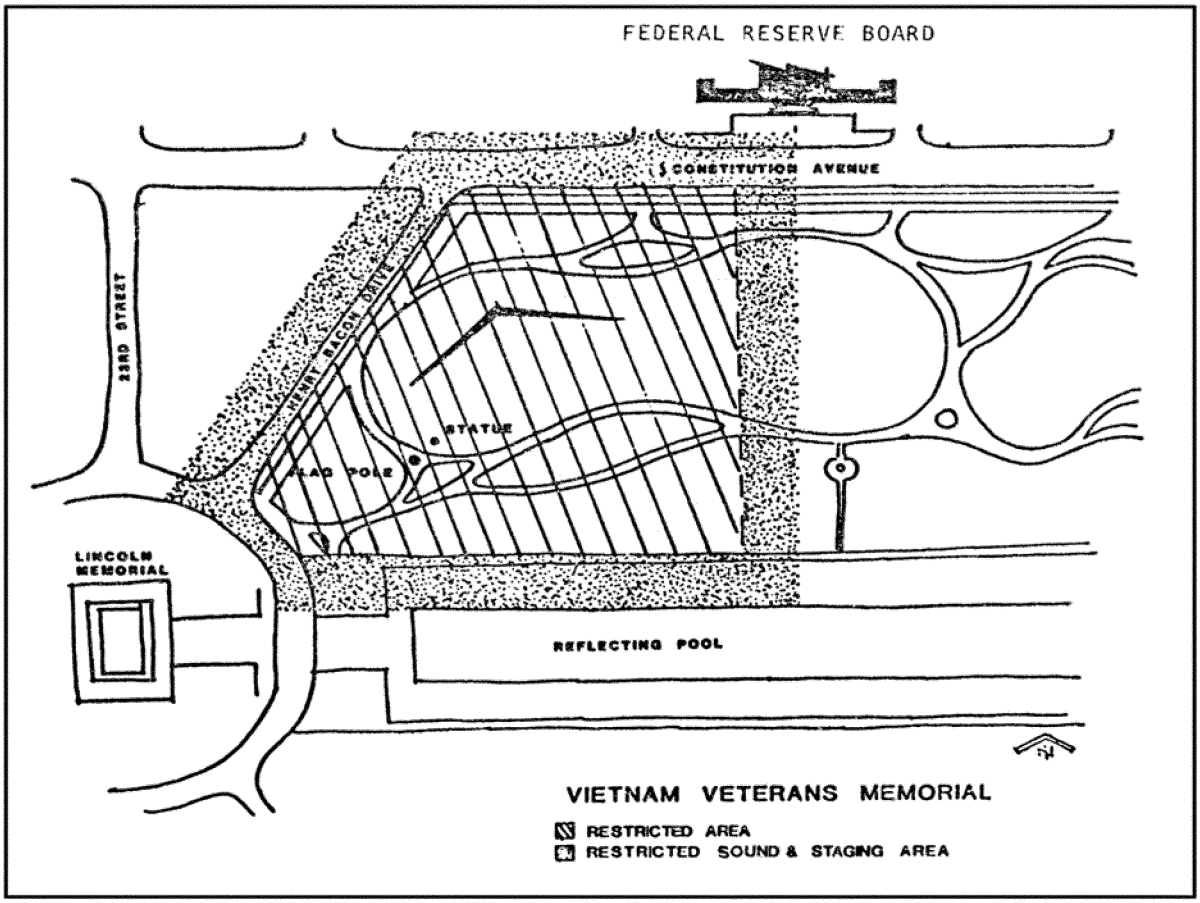

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* * * * *

(h) *Soliciting.* (1) The in-person soliciting or demanding of money or funds for donation on Federal park land is prohibited, unless it occurs as part of

a permit issued for a demonstration or special event.

(2) Persons permitted to solicit must not:

(i) Give false or misleading information regarding their purposes or affiliations;

(ii) Give false or misleading information as to whether any item is available without donation.

* * * * *

Dated: January 25, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–05249 Filed 3–6–13; 8:45 am]

BILLING CODE 4312–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0700; FRL–9788–6]

Approval and Promulgation of Implementation Plans; Kentucky; 110(a)(1) and (2) Infrastructure Requirements for the 2008 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve in part, conditionally approve in part, and disapprove in part, the July 17, 2012, State Implementation Plan (SIP) submission provided by the Commonwealth of Kentucky, through the Division of Air Quality (DAQ) of the Kentucky Energy and Environment Cabinet. Kentucky DAQ submitted the July 17, 2012, SIP submission as a replacement to its original September 8, 2009, SIP submission. Specifically, this final rulemaking pertains to the Clean Air Act (CAA or Act) requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS) infrastructure SIP. The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. Kentucky DAQ made a SIP submission demonstrating that the Kentucky SIP contains provisions that ensure the 2008 8-hour ozone NAAQS are implemented, enforced, and maintained in the Commonwealth (hereafter referred to as ''infrastructure submission''). EPA is now taking final action on three related actions on Kentucky DAQ's infrastructure SIP submission. First, EPA is taking action to approve Kentucky DAQ's infrastructure submission provided to EPA on July 17, 2012, as meeting certain required infrastructure elements for the 2008 8-hour ozone NAAQS. Second, with respect to the infrastructure elements related to specific prevention of significant deterioration (PSD) requirements, EPA is taking final action to approve, in part and conditionally approve in part, the infrastructure SIP submission based on a December 19, 2012, commitment from Kentucky DAQ to submit specific enforceable measures for approval into the SIP to address specific PSD program deficiencies. Third, EPA is taking final action to disapprove Kentucky DAQ's infrastructure SIP submission with respect to certain interstate transport requirements for the 2008 8-hour ozone NAAQS because the submission does not address the statutory provisions with respect to the relevant NAAQS and thus does not satisfy the criteria for approval. The CAA requires EPA to act on this portion of the SIP submission even though under a recent court decision, Kentucky DAQ was not yet required to submit a SIP submission to address these interstate transport requirements. Moreover, under that same court decision, this disapproval does not trigger an obligation for EPA to promulgate a Federal Implementation Plan (FIP) to address these interstate transport requirements.

DATES: This rule will be effective April 8, 2013.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0700. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can be reached via electronic mail at *ward.nacosta@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. Background

Upon promulgation of a new or revised NAAQS, sections 110(a)(1) and (2) of the CAA require states to address basic structural SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance for that new NAAQS.

Section 110(a) of the CAA generally requires states to make a SIP submission to meet applicable requirements in order to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. These SIP submissions are commonly referred to as ''infrastructure'' SIP submissions. Section 110(a) imposes the obligation upon states to make an infrastructure SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the infrastructure SIP for a new or revised NAAQS affect the content of the submission. The contents of such infrastructure SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 2008 8-hour ozone NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous ozone NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly