

described in "FHWA Traffic Noise Model" Report No. FHWA-PD-96-010, including Revision No. 1, dated April 14, 2004, or any other model determined by the FHWA to be consistent with the methodology of the FHWA TNM. These publications are incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and are on file at the National Archives and Record Administration (NARA). For information on the availability of this material at NARA call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). These documents are available for copying and inspection at the Federal Highway Administration, 400 Seventh Street, SW., Room 3240, Washington, DC 20590, as provided in 49 CFR part 7. These documents are also available on the FHWA's Traffic Noise Model Web site at the following URL: <http://www.trafficnoisemodel.org/main.html>.

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[FR Doc. 05-6514 Filed 3-31-05; 8:45 am]

BILLING CODE 4910-22-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[TD 9195]

RIN 1545-BA89

#### Designated IRS Officer or Employee Under Section 7602(a)(2) of the Internal Revenue Code

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations relating to administrative summonses under section 7602(a) of the Internal Revenue Code. The regulations adopt the rules of the temporary regulations, which confirm that officers and employees of the Office of Chief Counsel may be included as persons designated to receive summoned books, papers, records, or other data and to take summoned testimony under oath.

**DATES:** *Effective Dates:* These regulations are effective April 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Rawlins at (202) 622-3630 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains final regulations amending 26 CFR part 301 under section 7602 of the Internal Revenue Code of 1986. The final regulations define officers or employees of the Office of Chief Counsel as persons who may be designated to receive summoned books, papers, records, or other data or to take testimony under oath. The final regulations also provide that more than one person may be designated to receive summoned information and testimony. Additionally, the final regulations clarify that a summons need not show the designation of the specific officer or employee who is authorized to take testimony and receive summoned materials.

On September 10, 2002, temporary regulations (TD 9015; 67 FR 57330) and a notice of proposed rulemaking (REG-134026-02; 67 FR 57354) containing these regulatory provisions were published in the **Federal Register**. No written comments were received on the temporary and proposed regulations; no public hearing was requested, and none was scheduled or held. Accordingly, the final regulations adopt the rules of the temporary regulations without change.

### Explanation of Provisions

This document contains final regulations amending the Procedure and Administration Regulations (26 CFR part 301) under section 7602 of the Internal Revenue Code of 1986. The final regulations make permanent three changes established in the temporary regulations regarding the persons who may be designated to receive summoned books, papers, records, or other data or to take testimony under oath. Although IRS examiners will continue to be responsible for developing and conducting examinations, these changes will allow, among other things, officers and employees of the Office of Chief Counsel to participate fully along with an IRS employee or officer in a summoned interview.

For purposes of identifying persons who may receive summoned information or take testimony under oath, the final regulations define an officer or employee of the IRS to include all persons who administer and enforce the internal revenue laws or any other laws administered by the IRS and who are appointed or employed by, or subject to the directions, instructions, or orders of the Secretary of the Treasury or the Secretary's delegate. This amendment clarifies that officers and employees of the Office of Chief Counsel may be designated as persons

authorized to take testimony under oath and to receive summoned books, papers, records, or other data.

The final regulations also expressly provide that more than one person may be designated to receive summoned information or to take testimony under oath during a summoned interview. Finally, the final regulations clarify the existing regulations by providing that a summons document need not designate the specific officer or employee who is authorized to take testimony under oath and to receive and examine books, papers, records, or other data.

### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f), the preceding temporary regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

### Drafting Information

The principal author of this regulation is Elizabeth Rawlins of the Office of the Associate Chief Counsel (Procedure and Administration), Collection, Bankruptcy and Summonses Division.

### List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 301 is amended as follows:

#### PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** In § 301.7602-1, paragraphs (b) and (d) are revised to read as follows:

#### § 301.7602-1 Examination of books and witnesses.

\* \* \* \* \*

(b) *Summons*—(1) *In general.* For the purposes described in § 301.7602–1(a), the Commissioner is authorized to summon the person liable for tax or required to perform the act, or any officer or employee of such person or any person having possession, custody, or care of books of accounts containing entries relating to the business of the person liable for tax or required to perform the act, or any other person deemed proper, to appear before one or more officers or employees of the Internal Revenue Service at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry. This summons power may be used in an investigation of either civil or criminal tax-related liability. The Commissioner may designate one or more officers or employees of the IRS as the individuals before whom a person summoned pursuant to section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 shall appear. Any such officer or employee is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records, or other data produced in compliance with the summons.

(2) *Officer or employee of the IRS.* For purposes of this paragraph (b), officer or employee of the IRS means all officers and employees of the United States, who are engaged in the administration and enforcement of the internal revenue laws or any other laws administered by the IRS, and who are appointed or employed by, or subject to the directions, instructions, or orders of the Secretary of the Treasury or the Secretary's delegate. An officer or employee of the IRS, for purposes of this paragraph (b), shall include an officer or employee of the Office of Chief Counsel.

\* \* \* \* \*

(d) *Effective dates.* This section is applicable after September 3, 1982, except for paragraph (b), which is applicable on and after April 1, 2005. For rules under paragraph (b) that are applicable to summonses issued on or after September 10, 2002, see 26 CFR 301.7602–1T. For rules applicable on or before September 3, 1982, see 26 CFR 301.7602–1 (revised as of April 1, 1984).

#### § 301.7602–1T [Removed]

■ **Par. 3.** Section 301.7602–1T is removed.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: February 15, 2005.

**Eric Solomon,**

*Acting Deputy Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 05–6407 Filed 3–31–05; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Part 7

RIN 1024–AD26

#### **Apostle Islands National Lakeshore; Designation of Snowmobile and Off-Road Motor Vehicle Areas, and Use of Portable Ice Augers or Power Engines**

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

**ACTION:** Final rule.

**SUMMARY:** The National Park Service (NPS) is adopting this final rule to designate areas on Lake Superior and the mainland unit for use by snowmobiles, off-road motor vehicles, and ice augers or power engines within Apostle Islands National Lakeshore. Unless otherwise provided for by special regulation, the operation of snowmobiles and off-road motor vehicles within areas of the National Park System is prohibited under existing regulations. The intended effect of the special regulations is to designate the routes, areas and frozen water surfaces identified herein and remove the requirement for a permit to operate an ice auger or power engine. All other portions of the existing regulations, governing use, safety, and operating requirements would remain in effect.

**DATES:** Effective April 1, 2005.

**ADDRESSES:** Mail inquiries to Superintendent, Apostle Islands National Seashore, Route 1, Box 4, Bayfield, Wisconsin 54814. Telephone: (715) 779–3398. E-mail: [APIS\\_Winter\\_Use@nps.gov](mailto:APIS_Winter_Use@nps.gov).

**FOR FURTHER INFORMATION CONTACT:** Jerry Case, Regulations Program Manager, National Park Service, 1849 C Street, NW., Room 7241, Washington, DC 20240. Phone: (202) 208–4206. E-mail: [Jerry\\_Case@nps.gov](mailto:Jerry_Case@nps.gov).

**SUPPLEMENTARY INFORMATION:**

## Background

This rule designates areas on the frozen surface of Lake Superior and a route on the mainland unit for use by snowmobiles, off-road motor vehicles, and ice augers or power engines within the established boundaries of Apostle Islands National Lakeshore. The areas designated are the frozen surface of Lake Superior surrounding every island from the shoreline out to the Lakeshore's ¼ mile boundary, and the frozen surface of Lake Superior from Sand Point to the mainland unit's eastern boundary. Motorized access will end at the shoreline of the islands. The route designated is the ¼ mile section of the Big Sand Bay Road that passes through the mainland unit to non-NPS property.

The enabling legislation for Apostle Islands National Lakeshore (16 U.S.C.; 460w–460w–7), specifically authorizes recreational use of the Lakeshore by the public. It further includes provisions for hunting, fishing, and trapping on the lands and waters within the boundaries, with certain limitations allowed for public safety administration, fish or wildlife management, or public use and enjoyment.

The Lakeshore comprises 21 islands and a 12-mile strip of mainland shoreline lying at the northern end of the Bayfield peninsula in Northern Wisconsin. Jurisdiction by the National Park Service extends for a distance of one-quarter mile offshore on the waters of Lake Superior surrounding each island and along the mainland coast. During the winter months, safe access up to shoreline areas and traditional hunting, fishing, and trapping areas frequently requires over ice travel by snowmobile and various forms of off-road motor vehicle transportation within the quarter-mile jurisdiction.

The Apostle Islands archipelago is roughly 287,000 acres in size, including all of the water between the islands. Of this 287,000 acres, less than 40,000 acres are contained within the park's islands, and an additional 27,500 acres are water, leaving over 210,000 acres of water within the archipelago that lie outside the jurisdiction of the NPS. In other words, the NPS has jurisdiction over only 15% of the waters between all of the islands.

The use of snowmobiles, off-road motor vehicles, and ice augers or power engines was common prior to the establishment of the Lakeshore and continues through the present day. The use of ice augers or power engines is necessary to provide access to the water through the ice for authorized fishing activities. Ice augers are typically operated only once a day at the