

It is frequently impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light.

(H) From subsection (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and existence of confidential investigations.

(I) From subsection (f) because the agency's rules are inapplicable to those portions of the system that are exempt and would place the burden on the agency of either confirming or denying the existence of a record pertaining to a requesting individual might in itself provide an answer to that individual relating to an on-going investigation. The conduct of a successful investigation leading to the indictment of a criminal offender precludes the applicability of established agency rules relating to verification of record, disclosure of the record to that individual, and record amendment procedures for this record system.

(J) From subsection (g) because this system of records should be exempt to the extent that the civil remedies relate to provisions of 5 U.S.C. 552a from which this rule exempts the system.

(iv) *Authority:* (A) Investigative material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

**Note:** When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(B) Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(v) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the

investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the AF will grant access to nonexempt material in the records being maintained. Disclosure will be governed by AF's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

\* \* \* \*

3. Appendix C to section 806b, is amended to remove and reserve paragraph (b)(12).

Dated: January 4, 2002.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 02-681 Filed 1-10-02; 8:45 am]

**BILLING CODE 5001-08-U**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Parts 2 and 7

RIN 1024-AD03

#### Pet Management in Golden Gate National Recreation Area, San Francisco, California

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

**ACTION:** Advanced notice of proposed rulemaking.

**SUMMARY:** The National Park Service seeks public comment on a range of potential management options for addressing appropriate pet management within Golden Gate National Recreation Area, consistent with protecting national park resources and assuring visitor safety.

**DATES:** Written comments and submissions in response to this advanced notice of proposed rulemaking must be received on or before March 12, 2002.

**ADDRESSES:** Comments on this advanced notice of proposed rulemaking should be mailed to: Superintendent, Attention: ANPR, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

**FOR FURTHER INFORMATION CONTACT:** Brian O'Neill, Superintendent, Golden Gate National Recreation Area, on 415-561-4720.

#### SUPPLEMENTARY INFORMATION:

##### Background

##### *NPS Pet Regulation*

Title 36 of the Code of Federal Regulations (CFR) governs the use and management of all national park areas. One regulation, 36 CFR 2.15 (a)(2), requires that all pets, where allowed in national park sites, are to be crated, caged or restrained at all times. All areas within Golden Gate National Recreation Area (GGNRA), where pets are allowed, are subject to the requirement to have pets on leash. Pets currently are not allowed in some areas of the park, including: Alcatraz, China Beach, Crissy Beach tidal marsh and wildlife protection area, East Fort Baker Pier, Kirby Cove, Muir Woods, Stinson Beach, Tennessee Valley, trails and areas not designated for pets, and all areas fenced and/or posted as closed to the public. The latter includes two habitat closure areas at Fort Funston, and mission blue butterfly habitat areas in the Marin Headlands. Pets are not allowed in these areas to reduce possible conflict between users, protect the natural and cultural resources,

ensure public safety, and address public health concerns.

#### *Past Pet Management at GGNRA*

In 1972, the GGNRA Citizens Advisory Commission (the Commission) was established by the Secretary of the Interior. As outlined in its charter,

The purpose of the Commission is to meet with and advise the Secretary of the Interior, or the Secretary's designee, on general policies and specific matters related to planning, administration, and development affecting the recreation area \* \* \* the duties of the Commission are solely advisory.

In 1979, the Commission developed and recommended a pet policy to GGNRA that established guidance for locations and criteria for "voice control" of pets within certain areas of the park. The Commission's policy identified the following "voice control" areas (meaning off leash areas): In the San Francisco area—Fort Funston, Lands End, Fort Miley, North Baker Beach, Crissy Field, Ocean Beach; in Marin County + Rodeo Beach, Muir Beach, 4 Corners tract above Mill Valley, Coast Trail from Golden Gate Bridge to the junction of Wolf Ridge Trail, Loop Trail at Battery Townsley, Wolf Ridge Trail between Coast Trail and Miwok Trail, Miwok Trail between Wolf Ridge Trail and Coast Trail, Oakwood Valley Road to Alta Avenue, and Alta Avenue between Marin City and Oakwood Valley. (February 24, 1979, GGNRA Advisory Commission's Approved Guidelines for a Pet Policy—San Francisco and Marin County).

The Commission's "voice control" policy did not and can not override NPS regulations prohibiting pets off leash. As stated in the charter, the Commission may make recommendations, but these recommendations are advisory in nature. Any recommendation by the Commission must comply with NPS regulations. Nevertheless, the park, in error, implemented the "voice control" policy, in contradiction to Service-wide regulations. For more than 20 years, this unofficial "voice control" policy was in place within GGNRA.

#### *Current Pet Management at GGNRA*

Several recent events have underscored the need for undertaking a public process concerning dog management in the Golden Gate National Recreation Area, including increased visitation to GGNRA, litigation concerning the Fort Funston area of the park, public concern about visitor and pet safety, park resource management issues involving wildlife and vegetation protection, and the review of dog-walking issues by the

Golden Gate National Recreation Area Advisory Commission.

Since 1972, visitation to the park and the population of the Bay Area have both increased. The park has experienced increased use of the area for off leash dogs, and, as a result, there is increased conflict and potential for conflict between other user groups and dogs and their owners, as well as heightened sensitivity on the part of the visiting public.

Underscoring the conflict over the off leash dog use, in March 2000, a lawsuit was filed in federal court by dog walking groups, seeking to prevent a 10-acre habitat closure for threatened and native species at Fort Funston. Prior to March 2000, GGNRA staff had consulted with interested groups, including both environmental and off leash interests, to discuss a slightly larger 12-acre proposed closure and its purposes. The goals and objectives of the closure were to: (1) Provide protection to the new nesting locations of the state-listed (threatened) bank swallow colony at Fort Funston; (2) increase biological diversity by restoring coastal native dune scrub habitat; (3) increase public safety by keeping visitors and their pets away from cliff areas; and (4) protect geologic resources, including bluff top and interior dunes subject to accelerated erosion by humans and pets.

Based on that consultation with the interested groups, the 12-acre closure was reduced to 10 acres, with approximately half of it to be open seasonally. Upon initiation of the 10-acre project, the lawsuit was filed. The Golden Gate Audubon Society intervened in the lawsuit to defend the proposed closure. On February 13, 2001, the Federal District Court held that,

Defendants (NPS) have held public hearings after notice and comment and allowed public input and debate, all before issuing a new and final closure plan for Fort Funston in January 2001 \* \* \* the defendants have now fully complied with 36 CFR Section 1.5 (and) that the need for prompt protective action is genuine \* \* \* Accordingly, GGNRA took prompt action to close the originally proposed 12 acre area, which was effected February 14, 2001.

On January 23, 2001, the GGNRA Citizen's Advisory Commission acknowledged publicly the 1979 "voice control" policy was null and void since it was contrary to NPS regulation. Hundreds of people in favor of off leash dog use attended this meeting and the park has received significant comment in support of off leash dog walking in the park. Also in January 2001, a 32-year-old woman was mauled to death by a dog in San Francisco. Although this

incident occurred outside the park boundaries, it underscored the danger of dogs in the local community to local users. Comments to the park opposing off leash dogs have increased significantly since that time.

The park has received complaints by park visitors, including minorities, seniors and families with small children, alleging that off leash dogs have precluded them from visiting the park for fear of being knocked over, attacked by dogs, or verbally abused by dog owners. Several recent letters involve visitors requesting permission or authorization to carry weapons (stun guns, pepper spray) for personal protection from dog attacks.

These recent events—from increased visitor use to the highly publicized litigation to the potential effects of off leash pets on the public and the park resources—have dramatically changed the climate in which the park had previously allowed off leash pets in certain areas of the park. The GGNRA has no authority to avoid or ignore the regulation disallowing pets off leash, and education efforts are underway to clarify this issue to the public. This regulation has always applied to GGNRA and failure to apply it consistently at GGNRA does not in any way limit its applicability today. In the interest of public safety, and as required by existing regulations, it is essential that the NPS enforce the pet restraint regulations during the ANPR process. Since January 2001, the park has installed additional signs regarding the regulation throughout the park, has continued educational outreach to visitors regarding the regulation, and is working toward consistent enforcement of the leash regulation parkwide.

#### *Pet Management in Other Jurisdictions*

The GGNRA is adjacent to other publicly owned places, including state parks, open space areas, and city parks, each having various rules regarding dog walking. While these agencies are governed by differing agencies with varying mandates, this section provides a regional context to this issue. Several jurisdictions in the Bay Area are moving toward more stringent leash requirements and enforcement, due to the volume of use and negative impacts associated with off-leash use. As of June 2001, the following regulations were in place and/or being considered:

—The California Department of Parks and Recreation requires pets to be on a leash and under the immediate control of a person or confined in a vehicle; in most park units, pets are permitted only in parking lots, picnic areas, some campgrounds, and other

developed areas. Pets are not permitted on state park trails.

- The Marin Municipal Water District requires pets to be leashed.
- The Marin County Open Space District requires dogs on leash, with the exception of fire roads; they are currently reviewing their policy restricting the number of off leash dogs where off leash is permitted, along with limits on commercial dog walking.
- The Midpeninsula Regional Open Space District permits dogs on leash in seven of 24 preserves. Of the seven, there is one preserve that has a 16-acre off leash area. Dogs are not permitted in the remaining 17 preserves.
- San Mateo County Parks prohibits pets to enter or go at large in any County Park or Recreation area, either with or without a keeper.
- East Bay Regional Park District requires pets on leash in developed areas, which are defined as public road, lawn or play field, parking lot, picnic area, campground, concession area, equestrian center, archery facility, gun ranges, paved multi-use Regional Trail, or any other areas designated by the Board; the number of dogs is limited to three. Dogs are prohibited at swimming beaches, pools, wetlands, marshes or designated nature study areas, wildlife protection areas (for listed species at risk), golf courses, public buildings, major fishing piers, stream protection areas, and district lakes.
- The City of San Francisco issued a draft policy on June 12, 2001 that specifies more consistent enforcement of their existing leash law. Off leash use is permitted within 19 designated off-leash parks. The draft policy also identifies areas where dogs are not permitted, which includes significant natural resource areas. The City of San Francisco's Board of Supervisors has passed a resolution expressing interest in having certain lands within GGNRA, formerly owned by the City of San Francisco, returned to the city. Such lands include a portion of Fort Funston, Ocean Beach, Sutro Heights, Lands End and Municipal Pier. Transfer of the lands from NPS to the city would require federal legislation.

Because many of these leash restrictions have occurred over the last ten years, it is suspected that local dog owners who prefer off leash recreational use have moved to GGNRA areas, increasing pressure and impacts on the resources and visitor use conflicts.

### NPS Law, Policy and Other Guidance

Management of the national park system is guided by the Constitution, public laws, proclamations, executive orders, rules, National Park Service regulations, management policies, and the directives of the Secretary of the Interior, Assistant Secretary for Fish, and Wildlife and Parks, and Director of the National Park Service (NPS). The Act of August 25, 1916, otherwise known as the NPS Organic Act, established the NPS and serves as the touchstone for National Park System management, philosophy and policy. The Act created the NPS to promote and regulate national park sites in accordance with the fundamental purpose of said parks, which is:

To conserve the scenery and the natural and historic objects and wild life therein and to provide for enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

(16 U.S.C. sec. 1)

Congress supplemented and clarified the NPS mandate through enactment of the General Authorities Act in 1970, and again through enactment of a 1978 amendment to that law, which states in pertinent part:

Congress declares that the national park system, which began with the establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions; that these areas, though distinct in character, are united through their inter-related purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superlative environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the System and to clarify the authorities applicable to the System. Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined in section 1c of this title, shall be consistent with and founded in the purpose established by section 1 of this title [16 U.S.C. sec. 1], to all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these 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.

(16 U.S.C. sec. 1—a)

### Park Legislation

Golden Gate National Recreation Area (GGNRA) was established on Oct. 27, 1972, for the purpose of preserving:

\* \* \* for public use and enjoyment certain areas of Marin and San Francisco [and San Mateo] Counties, California, possessing outstanding natural, historic, scenic, and recreational values, and in order to provide for the maintenance of needed recreational open space necessary to urban environment and planning \* \* \* In the management of the recreation area, the Secretary of the Interior \* \* \* shall utilize the resources in a manner which will provide for recreation and educational opportunities consistent with sound principles of land use planning and management. In carrying out the provisions of the Act, the Secretary shall preserve the recreation area, as far as possible, in its natural setting, and protect it from development and uses which would destroy the scenic beauty and natural character of the area.

(Pub. L. 92-589, 16 U.S.C. sec. 460bb)

The park includes nearly 75,000 acres located in three counties. The regional population of the San Francisco Bay Area is approximately seven million, and the park-including Fort Point and Muir Woods—supports approximately 17 million visitors annually. Popular Golden Gate National Recreation Area sites include, from north to south: Olema Valley, Stinson Beach, Muir Beach, Marin Headlands, Alcatraz, the Presidio of San Francisco, Fort Mason, Baker Beach, China Beach, Lands End, Cliff House, Ocean Beach, Fort Funston, Sweeney Ridge, Milagra Ridge, and the Phleger Estate. Muir Woods National Monument and Fort Point National Historic Site are separate units of the National Park System that are within the boundaries of and administered by GGNRA.

### NPS 2001 Management Policies

The new 2001 NPS Management Policies provide policy direction for making management decisions in the administration of the National Park System and provide interpretation of the laws governing management the National Park System, including the NPS Organic Act. Adherence to policy is mandatory unless specifically waived or modified by the Secretary, the Assistant Secretary, or the Director. Of primary importance is the NPS obligation to conserve and provide for enjoyment of park resources and values. The 2001 NPS Management Policies explain:

The “fundamental purpose” of the national park system, established by the Organic Act and reaffirmed by the General Authorities Act, as amended, begins with the mandate to

conserve park resources and values. This mandate is independent of the separate prohibition on impairment, and so applies all the time, with respect to all park resources and values, even when there is no risk that any park resources or values may be impaired. NPS managers must always seek ways to avoid, or to minimize to the greatest extent practicable, adverse impacts on park resources and values. However, the laws do give the Service management discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, so long as the impact does not constitute impairment of affected resources and values.

(2001 NPS Management Policies, Section 1.4.3)

The fact that a park use may have an impact does not necessarily mean that it will impair park resources or values for the enjoyment of future generations. Impacts may affect park resources and still be within the limits of the discretionary authority conferred by the Organic Act. However, negative or adverse environmental impacts are never welcome in national parks, even when they fall far short of causing impairment. For this reason, the Service will not knowingly authorize park uses that would cause negative or adverse impacts unless it has been fully evaluated, appropriate public involvement has been obtained, and a compelling management need is present. In those situations, the Service will ensure that any negative or adverse impacts are the minimum necessary, unavoidable, cannot be further mitigated, and do not constitute impairment of park resources and values.

(2001 NPS Management Policies, Section 8.1)

The Management Policies emphasize the Park Service mandate to prevent impairment of natural and cultural resources, to preserve park resources and to limit recreational activities that degrade resources. The policies distinguish that:

Congress, recognizing that the enjoyment of future generations of the national parks can only be ensured if the superb quality of park resources and values is left unimpaired, has provided that when there is a conflict between conserving resources and values and providing for enjoyment of them, conservation is to be predominant. This is how courts have consistently interpreted the Organic Act, in decisions that variously describe it as making "resource protection the primary goal" or "resource protection the overarching concern," or as establishing a "primary mission of resource conservation," a "conservation mandate," "an overriding preservation mandate," "an overarching goal of resource protection," or "but a single purpose, namely, conservation."

(2001 NPS Management Policies, Section 1.4.3)

The impairment of resources and values may not be allowed by the Service unless directly provided for by legislation or by the proclamation establishing the park. The relevant legislation or proclamation must provide explicitly (not by implication or

reference) for the activity, in terms that keep the Service from having authority to manage the activity so as to avoid impairment.

(2001 NPS Management Policies, Section 1.4.4)

GGNRA's enabling legislation does not directly or specifically allow impairment of resources. Therefore, in assessing options for accommodating dog walking in GGNRA, each option must meet NPS mandates as outlined in the 2001 NPS Management Policies.

The 2001 NPS Management Policies also explain that "enjoyment" in the Organic Act has broad meaning:

The fundamental purpose of all parks also includes providing for the enjoyment of park resources and values by the people of the United States. The "enjoyment" that is contemplated by the statute is broad; it is the enjoyment of all the people of the United States, not just those who visit parks, and so includes enjoyment both by people who directly experience parks and by those who appreciate them from afar. It also includes deriving benefit (including scientific knowledge) and inspiration from parks, as well as other forms of enjoyment.

(2001 NPS Management Policies, Section 1.4.3)

Accordingly, NPS seeks broad input in order to consider the wide range of interests of those who appreciate—from both near and afar—the resources of GGNRA.

The 2001 NPS Management Policies also define suitable visitor uses, noting that:

Enjoyment of park resources and values by the people of the United States is part of the fundamental purpose of all parks. The Service is committed to providing appropriate, high quality opportunities for visitors to enjoy the parks, and will maintain within the parks an atmosphere that is open, inviting, and accessible to every segment of American society. However, many forms of recreation enjoyed by the public do not require a national park setting, and are more appropriate to other venues. The Service will therefore:

- Provide opportunities for forms of enjoyment that are uniquely suited and appropriate to the superlative natural and cultural resources found in the parks.
- Defer to local, state, and other federal agencies; private industry; and non-governmental organizations to meet the broader spectrum of recreational needs and demands.

To provide for the enjoyment of the parks, the National Park Service will encourage visitor activities that:

- Are appropriate to the purpose for which the park was established; and
- Are inspirational, educational, healthful, and otherwise appropriate to the park environment; and
- Will foster an understanding of, and appreciation for, park resources and values, or will promote enjoyment through

a direct association with, interaction with, or relation to park resources; and

- Can be sustained without causing unacceptable impacts to park resources or values.

Unless mandated by statute, the Service will not allow visitors to conduct activities that:

- Would impair park resources or values;
- Create an unsafe or unhealthful environment for other visitors or employees;
- Are contrary to the purposes for which the park was established; or
- Unreasonably interfere with:
  - The atmosphere of peace and tranquility, or the natural soundscape maintained in the wilderness and natural, historic, or commemorative locations within the park;
  - NPS interpretive, visitor service, administrative, or other activities;
  - NPS concessioner or contractor operations or services; or
  - Other existing, appropriate park uses

(2001 NPS Management Policies, Section 8.2)

Finally, the Management Policies address the importance of visitor safety,

The saving of all human life will take precedence over all other management actions as the Park Service strives to protect human life and provide for injury-free visits \* \* \* When practicable, and consistent with congressionally designated purposes and mandates, the Service will reduce or remove known hazards and apply other appropriate measures, including closures, guarding, signing, or other forms of education. In doing so, the Service's preferred actions will be those that have the least impact on park resources and values.

(2001 NPS Management Policies, Section 8.2.5.1)

#### *Other NPS Policies and Guidelines*

There are a number of NPS System wide guidelines that address park management requirements and use limitations, and are available at [www.nps.gov/refdesk/DOOrders/](http://www.nps.gov/refdesk/DOOrders/). These include Natural Resource Management Guidelines (NPS 77), and NPS Director's Orders (DO) on Wetland Protection (DO 77-1), Public Health (DO 83), Soundscape Preservation and Noise Management (DO 47), and Conservation Planning, Environmental Impact Analysis, and Decision-Making (DO 12).

#### *Natural Resources*

The lands encompassing GGNRA provide critical habitat for many of the country's and the state's most rare and threatened species. The central coast including the San Francisco Bay Area and GGNRA, is considered one of North America's biodiversity hot spots (*Precious Heritage: the Status of Biodiversity in the United States*, Nature Conservancy). The California Floristic Province is identified as the 8th global

biodiversity hotspot in a list of 25 (*Nature's Place: Population and the Future of Diversity*, 2000 Report by Population Action International). GGNRA was designated a Biosphere Reserve in 1989. The unique Golden Gate Biosphere Reserve, including marine, coastal and upland areas adjacent to a major metropolitan area, is designated as an international biosphere reserve in recognition of its importance to conservation of biodiversity, sustainable development, research and education.

*Wildlife:* There are currently 75 rare or special status wildlife species currently identified as permanent or seasonal residents of the park, or dependent upon parklands for migration. Of these, eleven are listed as federally endangered, thirteen are federally threatened, two are state endangered, three are state threatened, and 32 are state-designated species of special concern. Nearly all of the native birds documented in the park are protected by the Migratory Bird Treaty Act (16 U.S.C. secs. 528–531).

*Vegetation:* Approximately 36 rare or special status plant species are currently identified within GGNRA. Of those species, nine are federally endangered, one is federally threatened, and one is state threatened. The remaining 25 species are plants listed by the California Native Plant Society as rare, threatened, endangered, or of limited distribution.

The NPS has a heightened responsibility to preserve and protect those species and their habitat everywhere they occur within GGNRA, in accordance with its own mandate as well as other laws.

#### *Impacts to Natural Resources*

Scientific studies attribute disturbance, harassment, displacement, injury and direct mortality of wildlife to domestic dogs that accompany recreationists (“Effects of Recreation on Rocky Mountain Wildlife: a Review for Montana.” Committee on Effects of Recreation on Wildlife, Montana Chapter of the Wildlife Society, September 1999, Joslin and Youman coordinators). This study indicates that domestic dogs retain their instincts to hunt or chase. Further, the study indicates that even without chasing, the mere presence of a dog can frighten wildlife away. A dog’s urine and fecal deposits serve as strong territorial markings that are equally alarming to native species long after the dog has departed. Native vegetation may also be destroyed by digging and by chasing behavior.

In recent years, the park has increased its knowledge of park resources, potential wildlife impacts and public safety risks. During the last 10 years, there have been increasing impacts to natural resources related to unrestrained dogs, including digging and trampling of native vegetation including the habitat for the endangered mission blue butterfly as well as endangered plant habitat; bird habitat disturbance; and harassment of wildlife including both birds and marine mammals. Off leash dogs harassing beached sea lions occurs periodically during May/June along the waterline at Ocean Beach, Fort Funston and Rodeo Beach. At Rodeo Lagoon, off leash dogs at the edge of the lagoon and in shallow waters potentially crush tidewater goby burrows; the tidewater goby is an endangered species. Some problems with off leash dogs have also arisen with disturbance of steelhead trout and coho salmon populations at the mouth of Redwood Creek at Muir Beach; behavioral disturbance to the resident fish includes dogs wading and running through the creek mouth and lagoon.

Within GGNRA, Ocean Beach is the longest stretch of sandy beach between Point Reyes National Seashore and Half Moon Bay. The entire length of this beach provides critically important feeding and resting habitat for wintering and migrating shorebirds, gulls and terns. The species found in the highest numbers (hundreds to low thousands depending on time of year) include sanderlings, willets, marbled godwits, elegant and Caspian terns, and various gull species. The gulls and terns roost in large numbers on the beach with their newly fledged young during portions of the year. The federally threatened snowy plover also resides on portions of the beach for 10 months of the year. According to park biologists and protection rangers, shorebirds, gulls and terns are chased by off leash dogs, interrupting feeding and resting that help to build fat reserves for long migrations and breeding. Off leash dogs can also be a threat to sick and injured birds and marine mammals that may beach themselves. During the last several years, fencing has been erected in areas of Fort Funston, Crissy Field and other GGNRA locations, an effort limited to keep off leash dogs out of these most sensitive habitat areas. These closures have negative visual impacts and do not completely protect natural resources from off leash dog use.

According to Dr. Elliot Katz, founder and president of In Defense of Animals:

If a dog has shown a propensity to run after deer or other wildlife in the open spaces,

then that dog should be on a leash. There should be a substantial penalty for chasing wildlife. I don’t think that anyone can control more than three dogs off leash at one time. I know it will anger the dog handlers if I say so, but in numbers dogs do have a pack mentality.

(In the Doghouse, by Michael McCarthy, “Pacific Sun,” June 13 + 19, 2001)

The NPS Management Policies and Director’s Orders require that the park prevent impairment to park resources and minimize adverse impacts, while providing appropriate recreational opportunities.

#### *Impacts to Public Safety*

Dogs biting visitors, aggressive behavior toward other dogs and/or people, dogs falling off cliffs, people going after their dogs that have fallen off cliffs, and visitors being knocked down are the public safety concerns related to off leash dog walking. Public controversy continues to grow over dog issues, increasing the demand by some for stronger enforcement of the leash law by the park.

The GGNRA’s tracking of dog-related incidents during a 3-year period (1998 + 2000) reveals a total of 54 reported dog bites. Between January 1, 2001, and June 16, 2001, there have been 13 reported dog bites. According to protection rangers, these numbers reflect a small fraction of the total occurrences, reported and non-reported. From 1998 + 2000, there have been 890 leash law reports, and another 105 reports of dogs in closed areas. Between 1998 and 2000, protection rangers performed 58 technical rescues of dogs or their owners that had fallen over the side of the cliffs at Fort Funston, a popular off leash area. In calendar year 2000, this resulted in three ranger injuries. Cliff rescues at Fort Funston are a serious threat to public safety and employ a large number of park personnel and equipment, leaving major areas of GGNRA unprotected. In 1998, the number of cliff rescues at Fort Funston was 25; in contrast, there were a total of 11 rescues along the remaining nine miles of San Francisco shoreline from Fort Point to the Cliff House.

A review of animal organizations and web sites show that there are possible impacts to public safety. According to the American Dog Owners Association:

\* \* \* unleashed dogs intimidate \* \* \* unleashed dogs harass, injure and sometimes kills wildlife.

([www.adoa.org](http://www.adoa.org))

And, according to the American Veterinary Medical Foundation Task Force on Canine Aggression:

Although most dog bites occur on the property where the dog lives, unrestrained or free-roaming dogs do pose a substantial threat to the public. Enforcement of restraint laws is, therefore, essential if the incidence of dog bites is to be reduced. ("JAVMA," Vol. 218, No. 11, June 1, 2001, [www.avma.org](http://www.avma.org))

Any alternative to the leash regulation must address these safety concerns, and be consistent with NPS policies and mandates.

#### *Recreational Benefits of Off Leash Dog Walking*

There are recreational benefits to both humans and dogs related to off leash dog use. A review of animal organizations' publications and web sites show that many organizations support the recreational benefits—for both the dog and the human—of off leash dog walking. According to the San Francisco chapter of the Society for the Prevention of Cruelty to Animals (S.F. SPCA), dogs require daily exercise and contact with other dogs in order to remain healthy and well socialized. The S.F. SPCA considers off-leash areas as essential for the health and well being of dogs, and further, that:

\* \* \* dogs socialize with each other through subtle displays of posture and behavior that can only occur when they are not impeded by a leash. A leash limits a dog's natural movement and can even cause some dogs to become territorial, protecting the area to which the leash confines them.

([www.sfspca.org](http://www.sfspca.org))

According to the San Francisco Dog Owners Group, known as SF Dog:

\* \* \* the creation of off-leash recreation space encourages the development of well-socialized dog populations as well as owners who are responsible.

("Managing Off-Leash Recreation in Urban Parks," April 19, 1999, [www.sfdog.org](http://www.sfdog.org))

The SF Dog group also underscores the benefits of dog ownership:

\* \* \* daily exercise routines that dogs demand reduces crimes in parks for the simple reason that people involved in criminal activity do not like to be observed.

([www.sfdog.org](http://www.sfdog.org))

The California Dog Owners Group supports increased understanding of

\* \* \* the natural relationship of open space to humans with dogs and to be vigilant in promoting appropriate rules for shared and continued use.

([www.caldog.org](http://www.caldog.org))

In articles written by dog walkers on the Fort Funston web site ([www.fortfunstonforum.com](http://www.fortfunstonforum.com)), off leash dog use is alleged to be beneficial to the bank swallows, specifically:

It really looked like the birds were using the dogs to flush out insects for them to eat. (Linda Shore, July 21, 2000)

I had first thought they were playing with Scout and then it became clear that they were circling around and flying low to ground to hunt for insects. It seemed to me that they were following Scout and looking for food where he was walking, as though he might be making the insects scurry around so that the swallows could see them.

(Christy Cameron, July 19, 2000)

In an interview with Dr. Nicholas Dodman, of the Tufts University Veterinary Center, "Bark Magazine" quoted him as follows:

The vast majority of dogs do benefit greatly from having exercise periods. And walking dogs on a leash is not sufficient exercise. It's not that they die if they walk on a leash, just as it's not that a human being dies in solitary confinement either. It's just that it is not optimal for their physiological and psychological well-being. \* \* \* It is important for a dog to be provided with natural outlets—to be able to run and exercise and chase things and do as a dog was bred to do

([www.thebark.com/ezine](http://www.thebark.com/ezine))

The benefit to both the dog and human were also noted:

\* \* \* walking with a canine "best friend" increases physical and mental fitness for both the human and the dog, a community of other dog walkers offers positive social interactions, the high density of park users and the presence of dogs offers a level of personal safety.

("Survey of Fort Funston Recreational Use," Karin Hu, Ph.D., September 2000, [www.fortfunston.org](http://www.fortfunston.org))

#### **Options for Evaluation**

This Notice is intended to solicit public comment on a range of potential management options for addressing appropriate pet management within Golden Gate National Recreation Area, consistent with protecting national park resources and assuring visitor safety. This procedure could result in a range of outcomes, from enforcement of the existing regulation, to revisions of the existing regulation that would permit off leash pets within portions of Golden Gate National Recreation Area under specific conditions.

All interested persons are invited to submit to the National Park Service their comments on any aspect of the alternatives described below, including responses regarding:

- Should the leash law regulation remain intact parkwide?
- Should additional areas currently closed to dogs be open to on leash use?
- Should additional areas be closed to dogs?

- Should analysis of any alternatives be measured from the current baseline of no off-leash dog walking, or the long-standing former policy that allowed off-leash dog walking in certain areas?
- Should the regulation be changed to designate former "voice control" areas for off leash dog walking? If so,
  - Which geographical areas should/should not be considered for off leash?
  - Should there be a limit on the number of dogs?
  - Should areas be open to off leash use at certain times of the day or days of the week?
  - Should there be a bond required to cover liability?
  - Should people be required to sign waivers of liability?
  - What are potential environmental impacts of any of the alternatives?
  - What additional mitigating factors should be imposed?
  - What conditions could be required of owners?
  - Should areas be fenced?
  - Should voice control be employed?
  - How should the numbers of dogs be limited?
  - Who should pay for facilities, improvements, and operations?

#### *Specific Options*

In summary, in considering changes to existing regulation, any change must comply with the NPS Organic Act, GGNRA's enabling legislation and Systemwide policies and directives. In order to comply with NPS rules and regulations, including the obligation to minimize adverse impacts on park resources and values and the prohibition on resource impairment, the following areas of the park, in which pets have never been allowed (e.g. there is no history of dog walking use, and/or it has not been an issue) or have been restricted due to sensitivity of resources, are precluded from consideration for off leash uses: Alcatraz, China Beach, Crissy Beach tidal marsh and wildlife protection area, East Fort Baker Pier, coastal dunes and cliff areas of Fort Funston, Kirby Cove, Muir Woods, Phleger Estate, Fort Point historic structure, the beach at Stinson Beach, Tennessee Valley, Rodeo Lagoon, Redwood Creek, all freshwater bodies in the park, and other threatened or endangered species habitat areas in the park. The latter includes areas of endangered mission blue butterfly habitat at Milagra Ridge, Marin Headlands and East Fort Baker, as well as the threatened snowy plover management area at Ocean Beach.

*A. Enforce existing regulation/dogs on leash and on trail:* Enforcement of the existing regulation park wide would reduce visitor conflicts, improve visitor and employee safety, and reduce impacts on natural resources. Continued visitor education would be required to increase understanding of the regulation and reasons for it. On leash dog use in the park could result in removal of fences in some locations at Fort Funston and Crissy Field, and possibly other locations where exclosures have been created in order to protect sensitive species and habitat areas. The following additional areas, where dogs currently are prohibited, could be opened to on leash dogs under appropriate circumstances: East Fort Baker Pier, Phleger Estate, Stinson Beach, and portions of Tennessee Valley. Enforcement of the existing regulation may displace off leash dog use into other jurisdictions within the counties of San Francisco, San Mateo and Marin. This option would not require rulemaking because the leash regulation is already in place. The GGNRA must enforce the leash law unless a regulation is promulgated and adopted allowing off leash dog use; Option B discusses that option. The agency seeks comment on the merit of enforcement of the existing regulation, including specific suggestions on implementation and education regarding its enforcement, as well as suggestions regarding the opening of additional on leash dog areas as described above.

*B. Identify specific locations/ways to address off leash use within the park:* Off leash dog use could be allowed in specific locations within the park, with the remainder of the park subject to enforcement of the existing regulation requiring pets to be leashed where permitted. Any location selected for off leash would carry the requirement that any negative or adverse impacts are the minimum necessary, unavoidable, cannot be further mitigated, and do not constitute impairment of park resources and values. To that end, appropriate environmental compliance would be required to evaluate all potential effects within GGNRA, in accordance with federal laws including National Environmental Policy Act and the National Historic Preservation Act. This option would require rulemaking. Negative effects could include additional park operating financial requirements to remove pet excrement, develop capital improvements and additional enforcement staff to assure conformance with the restrictions related to off leash areas. Off leash dog use, where it does not conflict with

protection of natural resources, can promote exercise and enjoyment of park areas. The agency seeks comment on the merit of permitting off leash use and identification of specific locations and measures to minimize any impacts on visitors and resources.

#### Request for Comments

The National Park Service solicits comment and information from all segments of the public interested in GGNRA and appropriate pet management. All comments received by the Park Service at the address and by the date listed above will be reviewed and analyzed. If rulemaking is determined necessary as a result of this process, such proposed rulemaking would involve additional extensive public review and comment. If rulemaking is not an option chosen by NPS, then the public will be appropriately notified.

If individuals submitting comments request that their name and/or address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently at the beginning of the comments.

The GGNRA will hold two public meetings where public comment on this Advanced Notice of Proposed Rulemaking will be invited. Additional opportunities for public involvement will be announced locally and in the **Federal Register**.

Dated: January 3, 2002.

#### Joseph E. Doddridge,

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 02-568 Filed 1-10-02; 8:45 am]

**BILLING CODE 4310-70-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 50

[FRL-7128-3]

#### National Ambient Air Quality Standards for Ozone: Proposed Response to Remand

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

**ACTION:** Extension of public comment period.

**SUMMARY:** The EPA is announcing a 30-day extension of the public comment period on the proposed response to the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remand of the national ambient air quality standards (NAAQS) for ozone

(O<sub>3</sub>) that was published on November 14, 2001 (66 FR 57268). The proposal responded to the D.C. Circuit remand of the O<sub>3</sub> NAAQS to EPA to consider any beneficial health effects of O<sub>3</sub> pollution in shielding the public from the "harmful effects of the sun's ultraviolet rays." 175 F. 3d 1027 (D.C. Cir. 1999).

**DATES:** Comments on the proposed response to the remand must be received by February 13, 2002.

**ADDRESSES:** Submit written comments (in duplicate if possible) on this proposed response to: Air and Radiation Docket and Information Center (6102), Attn: Docket No. A-95-58, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Electronic comments are encouraged and can be sent directly to EPA at: *A-and-R-Docket@epa.gov*. Comments will also be accepted on disks in WordPerfect in 8.0/9.0 file format. All comments in electronic form must be identified by the docket number, Docket No. A-95-58.

**FOR FURTHER INFORMATION CONTACT:** Susan Lyon Stone, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency (C539-01), Research Triangle Park, NC 27711; e-mail *stone.susan@epa.gov*; telephone (919) 541-1146.

**SUPPLEMENTARY INFORMATION:** The EPA received a request for an extension of the original 60 day comment period. The commenter requested additional time to prepare comments because part of the comment period overlapped with the seasonal holidays. In response to this request, EPA is extending the comment period by 30 days to allow additional time for the public to prepare comments.

#### List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: January 7, 2002.

#### Robert D. Brenner,

*Principal Deputy Assistant Administrator for Air and Radiation.*

[FR Doc. 02-700 Filed 1-10-02; 8:45 am]

**BILLING CODE 6560-50-P**