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Subject: reg flex analysis
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Attachments: [Section 4 Small Entity Impact.doc](#)

Hi Sandy and Doug,

I took a stab at the regulatory flexibility analysis, which is attached. I based the discussion on the phone calls we have had, but obviously I am not a lawyer. You all need to be comfortable that the rule really doesn't directly regulate entities. Once the text is finalized, we will incorporate it into the benefit-cost analysis.

Thanks,
Carol

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Small Entity Impact Analysis

The proposed regulation potentially affects the economic welfare of all businesses, organizations, or governmental jurisdictions, large and small. However, small entities may have special problems in complying with such regulations. The Regulatory Flexibility Act (RFA) of 1980, as amended in 1996, requires special consideration be given to these entities during the regulatory process.

In order to fulfill these requirements, agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities (SISNOSE). This section identifies the small businesses potentially affected by the rule, provides a screening-level analysis that assists in determining whether this rule is likely to impose such an impact, and provides an Initial Regulatory Flexibility Analysis (IRFA).

4.1 Identifying Small Entities

NPS found no small entities that were potentially affected by the rule. The proposed rule does not directly regulate any entities. The proposed rule regulates access to the beaches in the Seashore by individuals, including visitors, individuals working for businesses with Special Use Permits allowing them to operate in the Seashore and commercial fishermen. Individuals may change their visitation patterns based on the proposed rule, which will indirectly affect businesses that cater to Seashore visitors. However, NPS is not required to analyze the indirect effects of proposed rules on entities. NPS regulates the actions of businesses that use the Seashore through Special Use Permits issued to businesses and commercial fishermen. NPS does not regulate the actions of these entities through the proposed rule.

4.2 Certification

NPS finds that the proposed rule will not have a significant impact on a substantial number of small entities. No entities, small or large, are directly regulated by the proposed rule. According to the RFA and subsequent court decisions, NPS must assess the impacts on directly regulated

entities, and they are not required to analyze the indirect effects on businesses resulting from rules (see Small Business Administration 2003 for a discussion of indirect versus direct impacts).

References

Small Business Administration. 2003. A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act