

**DEPARTMENT OF THE INTERIOR****National Park Service****36 CFR Part 7**

[Docket ID: NPS-2018-0001; NPS-GLCA-27587; PPIMGLCAS1; PPMPAS1Z.YP0000]

RIN 1024-AD93

**Glen Canyon National Recreation Area; Motor Vehicles****AGENCY:** National Park Service, Interior.**ACTION:** Final rule.

**SUMMARY:** The National Park Service amends its special regulations for Glen Canyon National Recreation Area to manage the use of motor vehicles on and off park roads. The rule requires a permit to operate a motor vehicle off roads in selected locations, designates routes and areas where motor vehicles may be used off roads, and allows the superintendent to establish closures and restrictions based upon specific criteria. The rule also allows certain types of off-road vehicles on some paved and unpaved roads in the recreation area. Unless provided for by special regulation, operating a motor vehicle off roads within areas of the National Park System is prohibited.

**DATES:** This rule is effective on February 16, 2021 except for the provisions in § 7.70(f)(2) and the permit requirements in Table 1 to § 7.70(f)(3)(ii) which are effective April 15, 2021.

**ADDRESSES:** The comments received on the proposed rule and an economic analysis are available on [www.regulations.gov](http://www.regulations.gov) in Docket ID: NPS-2018-0001.

**FOR FURTHER INFORMATION CONTACT:** William Shott, Superintendent, Glen Canyon National Recreation Area, P.O. Box 1507, Page, Arizona 86040, by phone at 928-608-6205, or by email at [GLCA\\_Superintendent@nps.gov](mailto:GLCA_Superintendent@nps.gov).

**SUPPLEMENTARY INFORMATION:****Purpose and Significance of Glen Canyon National Recreation Area**

Congress established Glen Canyon National Recreation Area (the recreation area) in 1972 “to provide for the public outdoor recreation use and enjoyment of Lake Powell and lands adjacent thereto in the states of Arizona and Utah and to preserve the scenic, scientific, and historic features contributing to the public enjoyment of the area.” 16 U.S.C. 460dd.

The recreation area encompasses 1,254,117 acres in northern Arizona and southeastern Utah and constitutes a substantial part of the outstanding public lands of the Colorado Plateau.

The recreation area offers a natural diversity of rugged water- and wind-carved canyons, buttes, mesas, and other outstanding physiographic features. The recreation area allows for a variety of recreational opportunities, including on- and off-road motor vehicle use and contains Lake Powell, the second-largest human-made lake in North America, which provides the opportunity to recreate in a natural environment and access remote backcountry areas. Evidence of 11,000 years of human occupation and use of resources in the recreation area provides a continuing story of the prehistoric, historic, and present-day affiliation of humans and their environment.

**Authority To Promulgate Regulations**

The National Park Service (NPS) manages the recreation area under the NPS Organic Act (54 U.S.C. 100101 *et seq.*), which gives the NPS broad authority to regulate the use of the park areas under its jurisdiction. The Organic Act authorizes the Secretary of the Interior, acting through the NPS, to “prescribe such regulations as the Secretary considers necessary or proper for the use and management of [National Park] System units.” 54 U.S.C. 100751(a). In the recreation area’s enabling act, Congress directed the Secretary of the Interior to “administer, protect, and develop the recreation area in accordance with the [Organic Act], and with any other statutory authority available to him for the conservation and management of natural resources.” 16 U.S.C. 460dd-3.

Executive Order 11644, Use of Off-Road Vehicles on the Public Lands, was issued in 1972 and amended by Executive Order 11989 in 1977. Executive Order 11644 required federal agencies to issue regulations designating specific areas and routes on public lands where the use of off-road vehicles (ORVs) may be allowed. The NPS implemented these Executive Orders by promulgating a regulation at 36 CFR 4.10 (Travel on park roads and designated routes). Under 36 CFR 4.10, the use of motor vehicles off established roads is not permitted unless routes and areas are designated for off-road motor vehicle use by special regulation. Under 36 CFR 4.10(b), such routes and areas “may be designated only in national recreation areas, national seashores, national lakeshores and national preserves.” This final rule designates routes where motor vehicles may be used off roads in the recreation area in compliance with 36 CFR 4.10 and Executive Orders 11644 and 11989.

**Current Motor Vehicle Use in the Recreation Area***Off-Road Motor Vehicles*

The use of motor vehicles to reach off-road destinations in Glen Canyon predates the establishment of the recreation area in 1972. After Lake Powell began to fill behind the Glen Canyon Dam in 1963, the public began driving off road to access the new lake for recreational activities. ORV use continued following the establishment of the recreation area in 1972. ORV use is currently occurring in four general locations within the recreation area:

- *Lone Rock Beach* is open to conventional motor vehicles, off-highway vehicles, and street-legal all-terrain vehicles. The speed limit at Lone Rock Beach is 15 mph.

- *Lone Rock Beach Play Area* is located on a hill above and to the southwest of Lone Rock Beach. This 180-acre area is enclosed by a fence and open to unrestricted, high-intensity ORV use. This area is a place where ORV operators can challenge themselves, develop riding skills, operate at high speeds, and perform jumps and hill climbs. There is no speed limit in the play area.

- *Accessible Shoreline Areas* provide public access by conventional motor vehicles to the Lake Powell shoreline for the purposes of recreation (fishing, swimming, boating, etc.). The public is allowed to depart the road and drive to the shoreline and park in designated ORV areas. There are 13 accessible shoreline areas (Blue Notch, Bullfrog North and South, Copper Canyon, Crosby Canyon, Dirty Devil, Farley Canyon, Neskahi, Paiute Canyon, Red Canyon, Stanton Creek, Warm Creek, White Canyon, and Hite Boat Ramp). Three shoreline areas (Bullfrog North and South, Crosby Canyon, and Warm Creek) are closed to ORVs in the superintendent’s compendium. ORVs are not allowed at Nokai Canyon and Paiute Farms, but these areas are accessed occasionally by ORVs.

- *Ferry Swale* is an area in the Arizona portion of the recreation area with approximately 54 miles of unauthorized routes that have been created by users over time.

*On-Road Motor Vehicle Use*

A comprehensive planning process begun by the NPS after the establishment of the recreation area resulted in a General Management Plan (GMP) that was published in 1979. The GMP designated a system of paved and unpaved roads open to vehicle travel and closed several existing unpaved roads in the backcountry. The paved

and unpaved network of roads identified in the GMP is open to motor vehicle travel, subject to restrictions on the types of vehicles that are allowed on specific roads. These roads are referred to in the rule as “GMP roads.” Driving a motor vehicle off any paved or unpaved GMP road is considered off-road motor vehicle use and is prohibited except on designated routes and in designated areas. All other user-created routes and linear disturbances within the recreation area are closed to public motor vehicle travel.

The Orange Cliffs Special Management Unit is located in the northeast portion of the recreation area. This Unit adjoins Canyonlands National Park, is similar in physiography, and has many of the same management issues as the Canyonlands Maze District. The Canyonlands National Park and Orange Cliffs Unit of Glen Canyon National Recreation Area Backcountry Management Plan (NPS 1995) and the accompanying environmental assessment (NPS 1993) consist of an inter-park management plan developed to increase consistency and protection for visitors to both the Maze District of Canyonlands and the Orange Cliffs in Glen Canyon. The backcountry management plan was predicated on the GMP, which states that the Orange Cliffs Special Management Unit is to be “maintained as a critical backdrop for Canyonlands National Park and as a major vantage point for spectacular views into the park.” The Orange Cliffs Special Management Unit is managed “to maintain a relatively primitive, undeveloped atmosphere” and to provide “year-round access to Panorama Point” (NPS 1979).

#### **Off-Road Vehicle Management Plan/ Final Environmental Impact Statement**

The NPS has been managing ORV use in the recreation area for several decades. Although the NPS had implemented ORV management plans for various parts of the recreation area in 1981 (for Lone Rock Beach) and 1988 (for 20 accessible shoreline areas on Lake Powell), past planning efforts did not comply with the NPS regulation at 36 CFR 4.10 that requires a special regulation to designate routes and areas for ORV use. In 2005, the NPS was challenged in federal court over its compliance with Executive Orders 11644 and 11989, and 36 CFR 4.10(b) (*Friends of the Earth, Bluewater Network Division v. United States Department of the Interior*, Case 1:05-cv-02302–RCL). Under the terms of the 2008 settlement agreement between the parties to that litigation, the NPS prepared an Off-Road Vehicle

Management Plan/Draft Environmental Impact Statement (DEIS). In compliance with the settlement agreement, the NPS also developed interim ORV plans for the accessible shoreline areas, Lone Rock Beach, and Lone Rock Play Area. In January 2017, the NPS completed an Off-Road Vehicle Management Plan/Final Environmental Impact Statement (FEIS). On August 15, 2018, the Regional Director for the Intermountain Region signed a Record of Decision (ROD) identifying the preferred alternative in the FEIS (Alternative E: Mixed Use) as the selected alternative. The FEIS and the ROD have superseded all previous ORV management plans for the recreation area.

A detailed history of prior NPS management of on- and off-road vehicle use can be found in the FEIS, which can be viewed together with the ROD at <https://parkplanning.nps.gov/glca-orvplan> by clicking on the link entitled “Document List”. The FEIS analyzes the issues and environmental impacts of five alternatives for the management of on- and off-road motor vehicle use in the recreation area. Major issues analyzed in the FEIS include social and economic issues, human health and safety, wildlife, natural soundscapes, wilderness, and visitor use and experience. Impacts associated with each of the alternatives are described in the FEIS.

#### **Final Rule**

This rule establishes a special regulation pursuant to 36 CFR 4.10(b) to manage ORV use in the recreation area. The rule implements the selected alternative (Alternative E: Mixed Use) for the recreation area identified in the ROD. The selected alternative provides the largest range of experiences for visitors and enhances experiences of different user groups, such as motor vehicle users and those who seek a more primitive camping experience. The selected alternative is designed to protect resources while enhancing the visitor experience by identifying and designating specific areas capable of ORV use while prohibiting ORV use in areas where resources and values may be at risk.

#### *Types of Motor Vehicles*

In order to effectively manage the use of motor vehicles in the recreation area, the rule creates definitions to distinguish among a range of vehicle types. Under Executive Order 11644, an ORV means any motor vehicle designed for or capable of cross-country travel on or immediately over natural terrain. Under this broad definition, an ORV may be a truck, an all-terrain vehicle

(ATV), a sedan, a dirt bike, or any other motor vehicle that is capable of off-road travel. Among ORVs, the rule distinguishes between conventional motor vehicles, off-highway vehicles (OHVs), and street-legal ATVs, as follows:

- *Conventional motor vehicle* means any motor vehicle that is designed primarily for operation on streets and highways, and that is licensed and registered for interstate travel. Automobiles, vans, highway motorcycles (including a dual-sports motorcycle licensed for use on a highway), sport utility vehicles (SUVs), recreational vehicles (RVs), pickup trucks, and buses are examples of conventional motor vehicles.
- *OHV* means any motor vehicle—excluding snowmobiles and hovercraft—that is designed primarily for off-road travel and is not licensed and registered for interstate travel. ATVs (excluding street legal ATVs, as defined below), dirt bikes, sand rails, side-by-sides, and dune buggies are examples of OHVs.
- *Street-legal ATV* means an ATV that qualifies under Arizona or Utah motor vehicle and traffic code to be operated on state roads and highways. Under current Arizona and Utah law, dune buggies, sand rails, go-karts, and rock crawlers cannot be licensed as street legal.

Under these definitions, conventional motor vehicles do not include OHVs or street-legal ATVs. The rule allows certain types of ORVs (conventional motor vehicles, OHVs, or street-legal ATVs) to operate in designated ORV areas, on designated ORV routes, and on paved and unpaved roads identified in the GMP.

#### *Adoption of Non-Conflicting State Motor Vehicle Laws*

Existing NPS regulations at 36 CFR 4.2 adopt state traffic and vehicle laws to manage the use of motor vehicles within NPS-administered areas, unless specifically addressed by NPS regulations. The rule implements specific regulations governing the use of ORVs in the recreation area, and allows the superintendent to impose additional closures, restrictions, or conditions to resolve visitor safety or resource protection concerns that are not addressed by state law. All other issues (e.g. license, registration, vehicle requirements, inspection, insurance) related to the use of motor vehicles in the recreation area will continue to be governed by the adopted laws and

regulations of Arizona or Utah.<sup>1</sup> Operators of conventional motor vehicles, OHVs, and street-legal ATVs will continue to be responsible for complying with all applicable Utah and Arizona statutes and regulations pertaining to the lawful operation of those vehicles. This rule allows OHVs to operate on most unpaved GMP roads. Because OHVs are not licensed or registered for operation on roads in Utah and Arizona in the same manner as street-legal ATVs or conventional motor vehicles, they are not subject to state licensing, registration, insurance, and equipment requirements that apply to street-legal vehicles when operated on GMP roads. Operators of OHVs on GMP roads must comply, however, with all applicable state and federal traffic requirements (e.g., speed limits, rules of the road) that apply to street-legal vehicles. The FEIS lists OHV operator and vehicle requirements for Arizona and Utah, as of January 13, 2017. These requirements are subject to change and the FEIS may not include all requirements.

#### *Permit Program*

The rule requires a special use permit to operate a motor vehicle off GMP roads in the recreation area. The permit requirement will not begin until 90 days after the effective date of the rule. This will give the NPS sufficient time to use public outreach and education to help establish the details of the permit program so that NPS staff and visitors are prepared for its implementation. Permits will be required for all designated ORV locations except for designated routes in Middle Moody Canyon, East Gypsum Canyon, Imperial Valley, and Gunsight Springs. The NPS will issue a decal with each permit that must be affixed to each vehicle in a manner and location determined by the superintendent. Decals will be required for each ORV operating in a designated ORV area or on a designated ORV route in the recreation area where a permit is required. Families will be able submit a single application for permits for multiple vehicles that are registered to members of that family. Annual permits

<sup>1</sup> The NPS adopts non-conflicting state traffic and vehicle laws. See 36 CFR 4.2. This includes state requirements that apply to ORVs. The responses to public comments 4 and 6 discuss the interplay between this rule and state law. This rule imposes one requirement that is not present under current Utah law—that motor vehicles must not exceed 96 dBA at the tailpipe. This limit is consistent with industry recommendations (all vehicles are currently manufactured to meet that limit), the laws of several states including Arizona, Colorado and California, and requirements on U.S. Forest Service lands that adopt those state noise emission standards (see 36 CFR 261.15(d)).

will be valid for one calendar year from the date of issuance; shorter term permits will also be available and valid from the date of issuance for the stated duration of the permit.

Permit applications (NPS Form 10–933, “Application for Special Use Permit—Vehicle/Watercraft Use”) will be available on the recreation area’s website and at headquarters (691 Scenic View Drive, Page, AZ 86040), recreation area visitor centers, and at other locations designated by the superintendent to facilitate compliance with the program and for the convenience of the visitor. The permit and decal will be issued after the applicant reads educational materials and acknowledges that he or she has read, understood, and agrees to abide by the rules governing ORV use in the recreation area and the terms and conditions of the permit. Visitors will be able to submit permit applications online through the recreation area’s website; through the mail to the following address: Glen Canyon National Recreation Area, P.O. Box 1507, Page, AZ 86040–1507; or in person at headquarters or an entrance station. After the NPS processes completed permit applications, it will mail or provide in person a permit to the applicant with instructions and educational materials, including a decal to be affixed to each permitted ORV. Violating the terms or conditions of any permit will be prohibited and may result in the suspension or revocation of the permit and the denial of future permits.

To the extent practicable, the NPS intends to recover the costs of administering this permit program under 54 U.S.C. 103104 (Recovery of costs associated with special use permits). In order to obtain a special use permit to operate a motor vehicle off roads in the recreational area, the NPS may require operators to pay a fee to allow the NPS to recover these costs. The NPS may also offset costs with revenues from fees collected under the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801–6814). The NPS will develop the details about fee collection during the 90-day delayed implementation period for the permit requirement. This will be a transparent process involving the public so that all stakeholders understand how the NPS will use fees to offset the costs of administering the permit program.

#### *Designated ORV Routes and Areas*

The rule prohibits ORV use other than on GMP roads in the recreation area, except on NPS-designated ORV routes and areas. The rule designates Lone

Rock Beach and Lone Rock Play Area, 21 miles of ORV routes in Ferry Swale, and 14 accessible shoreline ORV areas. One of the 13 shoreline areas identified in the interim ORV plans will be closed (Warm Creek) and two new shoreline areas will be opened (Nokai Canyon and Paiute Farms). The rule contains management prescriptions for each location, including seasons when ORVs are allowed, speed limits, quiet hours, and the types of ORVs that are allowed. These locations will be identified on maps located at headquarters (691 Scenic View Drive, Page, AZ 86040), visitor contact stations, and on the recreation area’s website. Certain locations within some designated ORV areas are designated as vehicle-free zones to provide a different camping experience for those who prefer to be separated from motor vehicle use. All locations designated for ORV use will be posted with appropriate signs that include applicable rules and regulations. The lakeside boundary of accessible shoreline areas that are designated for ORV use will fluctuate with the level of Lake Powell, but the remaining (land-side) boundary of such areas will remain fixed.

#### *Operational and Vehicle Requirements*

To provide for the safety of ORV operators at the Lone Rock Beach Play Area, the rule requires the display of a solid red or orange safety flag that is a minimum of six by 12 inches in size and that is attached to either:

- The ORV so that the safety flag is at least eight feet above the surface level of the ground, or
- The protective headgear of the operator of a motorcycle or dirt bike so that the safety flag is at least 18 inches above the top of the operator’s head.

To reduce the degree and geographic extent of impacts from vehicle noise on soundscapes in the recreation area, the rule implements a 96 dBA noise limit on all vehicles. Noise level will be measured by NPS staff using the SAE J1287 standard. Enforcement of this standard may include courtesy checks, checkpoints, and individual contacts. Measurements will be taken using certified equipment and protocols as is done with traffic radar. The rule requires motor vehicles to have a functioning muffler system. These requirements are in addition to state motor vehicle and operator requirements that are adopted by 36 CFR 4.2.

#### *Travel on GMP Roads*

The rule will continue to allow conventional motor vehicles on all paved and unpaved GMP roads in the

recreation area. Street-legal ATVs are allowed to operate on paved GMP roads except for roads in the Lees Ferry Developed Area, including the Lees Ferry Access Road. OHVs and street-legal ATVs are allowed to operate on most unpaved GMP roads. OHVs and street-legal ATVs are allowed on approximately 8 miles of the Poison Spring Loop in the Orange Cliffs Special Management Unit. The Superintendent may allow OHVs and street-legal ATVs on the upper portion of the Flint Trail (another unpaved GMP road), subject to further evaluation and compliance with applicable laws (as explained below). OHVs and street-legal ATVs are prohibited on all other unpaved GMP roads in the Orange Cliffs Special Management Unit. The speed limit on unpaved GMP roads is 25 mph or as posted. The speed limits on paved GMP roads will not change and will remain as currently posted. GMP roads will be designated and posted with road numbers. Signs will indicate the status of a road segment as open or closed to OHV and street-legal ATV use and will delineate the designated travel routes. Signs indicating that a GMP road is closed to OHVs or street-legal ATVs will remain in place or will be posted as needed.

#### *Superintendent's Discretionary Authority*

Independent from the authority in 36 CFR 1.5, the rule allows the superintendent to close or reopen designated areas or routes to motor vehicle use, or impose conditions or restrictions on the use of off-road motor vehicles after taking into consideration public health and safety, natural and cultural resource protection, lake levels, and other management activities and objectives. The superintendent must provide public notice of all such actions through one or more of the methods listed in 36 CFR 1.7.

#### **Summary of Public Comments**

The NPS published a proposed rule in the **Federal Register** on February 28, 2018 (83 FR 8640). The NPS accepted comments on the rule through the mail, by hand delivery, and through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). The comment period closed on April 30, 2018. A summary of the pertinent issues raised in the comments and NPS responses are provided below. Many comments on the proposed rule addressed the NPS's evaluation of the environmental impacts of the preferred and other alternatives in the FEIS. Other comments addressed the range of alternatives considered in the FEIS. These comments are not

addressed in this final rule because they raise environmental issues that were already considered by the NPS in the NEPA process. The NPS evaluated the environmental impacts of each alternative in the FEIS and explained the reasons for selecting Alternative E: Mixed Use in the ROD. The NPS did not identify any new significant environmental issues in the public comments on the proposed rule.

After considering public comments and after additional review, the NPS made the following changes in the final rule. No other substantive changes were made in the final rule.

1. The NPS clarified the definitions of "GMP road" (by stating that there are no park roads in the recreation area other than GMP roads), "off-highway vehicle" (by stating that OHVs are by definition not licensed and registered for interstate travel), and "Street-legal all-terrain vehicle (ATV)" (by stating that these vehicles by definition must qualify under Arizona or Utah motor vehicle traffic code to operate on state roads and highways).

2. The NPS clarified the requirement that vehicles be equipped at all times with noise suppression devices, including a working exhaust muffler in constant operation.

3. The NPS changed certain management prescriptions in Table 1 to § 7.70(f)(3)(ii) to reflect that street-legal ATVs are allowed in eight shoreline areas (Blue Notch, Bullfrog North and South Crosby Canyon Dirty Devil, Farley Canyon, Red Canyon, Stanton Creek, and White Canyon) from March 2–October 31. These are the dates identified in the FEIS and ROD.

4. The NPS changed the column headings in Table 2 to § 7.70(f)(4)(i) for ease of reading and to reflect that there are no paved roads within the Orange Cliffs Special Management Unit.

5. The NPS clarified that the 8-mile portion of the Poison Spring Loop where street-legal ATVs and OHVs are allowed is located on Route 633 proceeding north to Route 730.

6. The NPS removed references to "posted" quiet hours in paragraphs (f)(5)(vi) and (v) to avoid an interpretation that quiet hours must be posted in order for them to be enforceable.

7. The NPS added references to "dirt bikes" to clarify that the requirement to display a safety flag on the headgear of a motorcycle operator also applies to the operator of a dirt bike.

8. The NPS added a 25 mph speed limit (unless otherwise posted) for the use of unpaved GMP roads. The NPS referred to this speed limit in the

**SUPPLEMENTARY INFORMATION** section of the proposed rule and in the FEIS.

9. The NPS added a requirement that OHV operators under the age of 18 wear a helmet. This requirement was stated in the FEIS.

10. In addition to annual permits, the proposed rule stated that the NPS would issue two-week permits valid from the date of issuance. Instead of specifying two weeks, the final rule says the NPS will make shorter term permits available. This will give the NPS flexibility to determine the duration of shorter-term permits based upon the conditions at the recreation area and experience from implementation of the ORV permit program.

11. The NPS clarified that motor vehicles may be used in designated ORV areas during quiet areas for purposes of entering or exiting a campsite.

12. The NPS added a statement in the final rule that the Superintendent may determine whether to allow street-legal ATVs or OHVs on the upper portion of the Flint Trail within the Orange Cliffs Special Management Unit. The NPS explains this change below in the response to Comment 2.

13. The NPS inserted language delaying implementation of the permit requirement until 90 days after the effective date of the rule. This will allow the NPS to work with the public to develop the permit program (including a fee structure to offset administrative costs) so that visitors to the recreation area are prepared for its implementation.

#### *Travel on GMP Roads*

1. *Comment:* Several commenters disagreed with the proposal to allow conventional motor vehicles on unpaved GMP roads in the Orange Cliffs Special Management Unit. These commenters stated that conventional motor vehicles are not designed to travel on roads in this area and that modifications needed to make the roads passable for them would degrade the GMP requirement to maintain a primitive and undeveloped atmosphere in the Unit. These commenters stated that allowing conventional motor vehicles on these unpaved roads would substantially increase the burden of maintaining the roads so that they can be used safely. If the roads are not upgraded and maintained, these commenters stated that conventional motor vehicles would not be able to travel these roads safely and access popular locations within the Unit, such as Panorama Point. These commenters stated that this outcome would increase the cost of search and rescue activities

and place visitors and first responders at risk.

*NPS Response:* Conventional motor vehicle use in the Orange Cliffs area predates the establishment of the recreation area in 1972 and is an existing use today. Allowing visitors to use conventional motor vehicles on these roads helps the NPS achieve a primary objective in the GMP to allow year-round access to Panorama Point and other backcountry areas with spectacular views into Canyonlands National Park. The use of conventional motor vehicles in the Orange Cliffs Special Management Unit was reaffirmed in the 1995 Backcountry Management Plan for this area. The NPS and local counties perform maintenance on unpaved GMP roads in the Unit approximately 1–2 times per year in a manner that protects the relatively primitive, undeveloped atmosphere of the Unit. This regular maintenance allows conventional motor vehicles to use the roads, provided the vehicles have a high clearance and are 4-wheel drive capable. The NPS does not expect an increase in the use of these roads by conventional vehicles because this use is already allowed. The NPS also does not expect the continued use of conventional motor vehicles on these roads to increase the burden of maintaining the roads or to increase the cost of search and rescue (SAR) activities, which are jointly managed by the NPS and local counties, associated with such use. The NPS recommends that visitors use 4-wheel drive high clearance vehicles, although they are not required. Since 2012, the Glen Canyon Interagency Dispatch Center dispatch records show only one motor vehicle incident within the Unit and it did not involve a search and rescue.

*2. Comment:* Several commenters requested that the NPS allow OHVs and street-legal ATVs on all unpaved GMP roads in the Orange Cliffs Special Management Unit. These commenters stated that OHVs and street-legal ATVs are better suited for travel on these roads that require high clearance vehicles. These commenters stated that OHVs and street-legal ATVs would allow visitors to safely recreate and access popular locations within the Unit, such as Panorama Point, without needing to upgrade and further develop the existing roads. These commenters stated that this outcome would better maintain a relatively primitive and undeveloped atmosphere as required by the GMP.

*NPS Response:* This rule allows OHVs and street-legal ATVs to travel on an 8-mile section of the Poison Spring Loop within the Orange Cliffs Special

Management Unit. Expanding this use to allow OHVs and street-legal ATVs on all GMP roads in the Unit would increase day-use traffic and noise disturbances in a manner that would make it more difficult to maintain a relatively primitive and undeveloped atmosphere. The FEIS contains a more detailed analysis of the potential impacts from OHVs and street-legal ATVs within the Unit. The 1995 Backcountry Management Plan does not explicitly prohibit the use of OHVs and street-legal ATVs within the Unit, but directs the NPS to manage the Unit in the same manner as the Maze District of Canyonlands National Park, which prohibits the use of OHVs and street-legal ATVs, to increase consistency in visitor use and resource protection in the area. The prohibition of OHVs and street-legal ATVs in most of the Orange Cliffs Special Management Unit helps the NPS achieve this goal.

In response to comments raised on this issue, the NPS intends to evaluate whether OHVs or street-legal ATVs would be appropriate on a 15–20 mile upper portion of the Flint Trail, which—along with the Poison Spring Loop—is one of many unpaved GMP roads within the Orange Cliffs Special Management Unit. As part of this evaluation, the NPS will consider potential impacts to resources, visitor experience, and the specific management prescriptions for this area. The selected alternative in the ROD closes the Flint Trail to OHVs and street-legal ATVs, which is how this trail is currently managed and will continue to be managed by the Superintendent until and unless a different management decision is made. As part of this evaluation, the NPS will consider the potential impacts to the environment from opening a portion of this trail to OHVs and street-legal ATVs under NEPA and other applicable laws. In a change from the proposed rule in order to reflect the NPS's intent to evaluate more access on this trail, the final rule states that the Superintendent may determine whether to allow street-legal ATVs or OHVs on the upper portion of the Flint Trail within the Orange Cliffs Special Management Unit. If the Superintendent determines that, based on further analysis, OHVs or street-legal ATVs are appropriate on this portion of the Flint Trail, he or she will provide notice to the public prior to allowing such use. No additional changes to the regulations governing motor vehicle use at the recreation area will be required for the Superintendent to take this action. Consistent with the proposed rule, OHVs and street-legal

ATVs are prohibited on all other unpaved GMP roads in the Orange Cliffs Special Management Unit.

*3. Comment:* Several commenters objected to allowing OHVs and street legal ATVs on the Poison Spring Loop because it would compromise the resources, significance, and purpose of the Orange Cliffs Special Management Unit, which the GMP states should be managed to maintain a relatively primitive and undeveloped atmosphere.

*NPS Response:* This rule allows OHVs and street legal ATVs to travel on 8-miles of the Poison Spring Loop (Route 633 proceeding north to Route 730) in order to complete a 100-mile loop used by recreational OHV users, most of which is located within BLM-administered areas. BLM was a cooperating agency in the preparation of the FEIS and the NPS consulted with BLM specifically about allowing OHVs and ATVs on the 8-mile section of the Poison Springs Loop. Allowing OHVs and street-legal ATVs on this portion of the Poison Spring Loop would not interfere with the management objective to maintain a primitive and undeveloped atmosphere because this area is surrounded by cattle grazing and does not contain the outstanding scenic values found elsewhere in the Orange Cliffs Special Management Unit.

*4. Comment:* Several commenters objected to the proposal to allow non-street legal OHVs on unpaved GMP roads. These commenters stated that OHVs are not required to have the same safety equipment as street-legal vehicles and may be operated by uninsured and unlicensed drivers. These commenters stated that the NPS is proposing to manage unpaved GMP roads as de facto ORV routes by allowing non-street legal OHVs to use them even though they are not designated under 36 CFR 4.10. These commenters stated that in order to be consistent with Utah law, the NPS should require operators of motor vehicles on all GMP roads to have a valid driver's license.

*NPS Response:* State laws in Arizona and Utah allow OHVs to be operated on public roads that are open to their use by the controlling federal agency. ARS 28–1174.B; Utah Code Ann. 41–22.10.1. This rule allows OHVs on some unpaved GMP roads within the recreation area, which means the use of OHVs on these roads is allowed under state law. The NPS adopts non-conflicting state laws and regulations governing traffic and the operation of motor vehicles with NPS units. 36 CFR 4.2. As stated above, because OHVs are not licensed or registered for operation on roads in Utah and Arizona in the same manner as street-legal ATVs or

conventional motor vehicles, they are not subject to state licensing, registration, insurance, and equipment requirements that apply to street-legal vehicles when operated on GMP roads. Operators of OHVs on GMP roads must comply, however, with all applicable state and federal traffic requirements (e.g., speed limits, rules of the road) that apply to street-legal ATVs and conventional motor vehicles. 36 CFR 4.2; ARS 28–621; Utah Code 41–22.10.6. Operators of OHVs must also comply with state laws that govern the use of OHVs that are not considered street-legal. In Utah, OHV operators over the age of 16 must possess a valid state driver's license or education certificate and operators ages 8–15 must possess an education certificate. Utah Code Ann. 41–22–30. Arizona requires operators of any vehicle on any road open to 2-wheel drive conventional motor vehicles to have a driver's license. ARS 28–3151. This requirement applies within the recreation area because GMP roads are open to 2-wheel drive conventional motor vehicles. Unpaved GMP roads where 4-wheel drive is recommended, but not required, are located in Utah. The FEIS analyzed the safety of OHV use on unpaved GMP roads and determined that there could be an increased risk of accidents. Adverse impacts to safety are not expected to be significant, however, because of several actions the NPS is taking to mitigate safety risks. The NPS is reducing the speed limit on unpaved GMP roads to 25 mph (unless otherwise posted) for all vehicle types and is requiring all OHV operators under the age of 18 to wear a helmet. The NPS will also require OHV users to complete an educational component about operational safety prior to obtaining an ORV permit from the NPS.

*5. Comment:* Several commenters rejected the NPS's authority to restrict travel on roads to which the State of Utah has a claim under Revised Statute 2477 (RS 2477), including the Burr Trail Road and Flint Trail/Roost Road.

*NPS Response:* Claims by the State of Utah under RS 2477 within the recreation area, including the Burr Trail Road and Flint Trail/Roost Road, have not been adjudicated. The NPS will evaluate the legal effects of any future court decisions regarding RS 2477 claims at the appropriate time.

*6. Comment:* One commenter objected to the proposal to allow street-legal ATVs on paved GMP roads, stating that mixing street-legal ATVs with conventional motor vehicles will increase traffic injuries and fatalities.

*NPS Response:* Street-legal ATV use on GMP roads is subject to

nonconflicting state traffic laws under 36 CFR 4.2. The NPS defers to the expertise of state authorities regarding traffic laws, licensing, and equipment requirements that the state authorities consider necessary to ensure the safe operation of street-legal ATVs alongside conventional motor vehicles on paved GMP roads.

#### *Designated ORV Routes and Areas*

*7. Comment:* One commenter requested that OHVs be allowed in Farley Canyon and Blue Notch because they are low-use areas and would provide an opportunity for OHV users to access the water as a side trip when using nearby trail systems in San Juan County.

*NPS Response:* Farley Canyon and Blue Notch are geographically removed from developed areas within the recreation area and provide visitors with an opportunity for a more quiet and secluded experience. The FEIS identifies 20 dBA as the level of ambient sound at the recreation area. Noise from OHVs and street-legal ATVs increases ambient sound to 23 dBA at 8,020 feet from the noise source. Conventional motor vehicle noise levels drop to ambient sound levels (20 dBA) only 2,900 feet from the noise source. This rule allows street-legal ATVs at Farley Canyon and Blue Notch from March 2—October 31. OHVs are not allowed in these locations at any time during the year. These restrictions will reduce noise impacts by lowering the number of non-conventional motor vehicles in the area during certain times of the year and by eliminating noise from non-conventional motor vehicles at other times. This will help maintain a more quiet and secluded experience for visitors.

*8. Comment:* Several commenters requested that the NPS designate a historic route in the Rincon Area leading to Lake Powell as open to motor vehicles. These commenters stated that this route has a precedent of motor vehicle use and is identified on several area maps as the only method of accessing the lake from the Hole in the Rock trail.

*NPS Response:* The Rincon Road is located within a proposed wilderness area. The Wilderness Act prohibits the use of motor vehicles in wilderness areas. 16 U.S.C. 1133(c). The NPS manages proposed wilderness areas in a manner that preserves the wilderness character and will not diminish the eligibility of such areas for designation.

*9. Comment:* One commenter suggested that all motor vehicles should be allowed on Warm Creek Road between Big Water and the Cowboy

Corral on the way to Kelly Grade and Smoky Mountain. This commenter stated that staging at Big Water is more convenient than trailering ATVs 11 miles down the road to Cowboy Corral. This commenter also suggested opening Crosby Canyon to OHVs because it is often washed out and impassible for conventional motor vehicles.

*NPS Response:* Conventional motor vehicles, street-legal ATVs, and OHVs are allowed on Warm Creek Road. As a result, OHV and street-legal ATVs users may stage at Big Water and are not required to trailer to Cowboy Corral.

OHVs and street-legal ATVs are allowed on Crosby Canyon Road to the end of the GMP road. Street-legal ATVs may access the shoreline at Crosby Canyon from March 2–October 31. The purpose of the accessible shoreline areas is to provide point-to-point travel from the end of the GMP road to the shoreline of Lake Powell when lake levels are below the end of the GMP roads. These areas are not intended to be ORV play areas. During the open season, street-legal ATVs may choose a point-to-point route in the accessible shoreline areas to avoid locations that may be impassible by conventional motor vehicles.

*10. Comment:* One commenter identified several trails in the Bullfrog shoreline area (three Ticaboo Mesa Overlook routes, and two routes leading out from the Bullfrog South Campground) and encouraged NPS to designate them as ORV routes, open to OHVs year-round.

This commenter stated that the overlook routes would allow land-based visitors to better appreciate the stunning scenery of the recreation area, while also granting simpler access to visitors who desire to canyoneer and hike along the rim of the canyons. This commenter stated that the routes from the campground are important because they create a non-paved connection to the routes north of Bullfrog, allowing visitors to experience hundreds of miles of routes which lay just outside of the recreation area.

*NPS Response:* This rule does not designate additional ORV routes near the Bullfrog North and South accessible shoreline area because conventional motor vehicles, OHVs, and street-legal ATVs may access the shoreline area on the unpaved GMP road which leads from adjacent BLM lands and connects to BLM roads and routes. This GMP road also connects to the Bullfrog North and South Campgrounds. Designating GMP roads as the primary means of accessing shoreline destinations, points of interest, and ORV routes and roads on adjacent lands allows the NPS to restore duplicative and social routes that are

neither GMP roads nor designated ORV routes. ORV routes and areas outside the recreation area may be accessed from other non-NPS lands which are not affected by this rule.

#### *Accessibility for Certain Groups of People*

11. *Comment:* One commenter stated that seniors, individuals with disabilities, and veterans should be exempt from the rule. Another commenter suggested that if the purpose of allowing OHVs and street-legal ATVs on unpaved GMP roads is to allow “traditionally associated people” to conduct cultural activities, then the NPS should allow these activities to continue under a special use permit or memorandum of understanding, rather than opening unpaved GMP roads to OHV and street-legal ATV use by the general public.

*NPS Response:* The NPS welcomes visitors of all ages to the recreation area, including seniors, individuals with disabilities, and military veterans. This rule allows these groups to use motor vehicles within the recreation area in the same manner as other visitors. The NPS does not believe any groups should be exempt from rules that are designed to provide a variety of recreational opportunities while at the same time helping to maintain visitor safety and protect resources.

A primary purpose of this rule is to provide a variety of recreational opportunities to all types of visitors to the recreation area. Allowing OHVs and street-legal ATVs on unpaved GMP roads allows access to different locations within the recreation area for activities such as sightseeing, fishing, canyoneering, and hiking. A special use permit or memorandum of understanding that addresses particular groups and specific activities would not be appropriate for a management action that is intended to provide opportunities for access and recreation to all members of the visiting public.

#### *Coordination With State and Local Governments*

12. *Comment:* Several commenters stated that the NPS created an adversarial relationship and failed in its duty to coordinate with state and local governments in the development of the proposed rule. Specifically, these commenters suggested that the NPS disregarded their viewpoint that favored motorized recreation within the recreation area.

*NPS Response:* The NPS valued the cooperating agency relationship it shared with Kane, Garfield, San Juan, and Wayne Counties during the

development of the FEIS. The NPS sent letters to the counties with information about the plan and held public open houses and cooperating agency meetings throughout the process. At the request of the counties, the NPS extended the deadline to review and comment on the DEIS twice. The NPS considered the recommendations of the state and local governments when drafting this rule and incorporated some of those recommendations. The NPS removed permit requirements on two small ORV route segments in San Juan County. The NPS conducted site visits with the counties to the Orange Cliffs Special Management Unit that resulted in the decision to allow OHVs on 8 miles of the Poison Spring Loop where OHVs had been prohibited. These are only two examples of changes made to the FEIS and the rule as a result of input received from the counties. In addition, based upon public comments on the proposed rule, the NPS intends to further evaluate the use of street-legal ATVs and OHVs on the upper portion of the Flint Trail. Collectively, these actions demonstrate that the NPS considered input from state and local governments and did not disregard any particular viewpoint on the FEIS or the proposed rule.

#### *Permit Program*

13. *Comment:* One commenter supported the NPS recovering all of the costs of administering the ORV permit program, including costs for start-up, monitoring, education, partnerships, and permit administration. This commenter requested that the NPS disclose the expected permit fee and demonstrate how fee revenues will offset the costs of administering the program. Another commenter objected to the permit fee requirement.

*NPS Response:* The NPS will use a permit fee to recover costs associated with administering the ORV program. The fee will be used to offset the costs of permit processing, education, resource protection, and law enforcement activities related to the ORV program. Appendix B of the FEIS identifies expected business and administrative costs that the NPS would incur by implementing the selected action in the ROD. These include the costs of administering the ORV permit program. The NPS is allowed by law to recover all costs of providing necessary services associated with permits. 54 U.S.C. 103104. The NPS may also offset some of the costs of administering the permit program with revenues from fees collected under the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801–6814). The NPS will announce the amount of the fees prior to the start of

the permit requirement that will begin 90 days after the effective date of the rule. Fee amounts will be based on the costs that are incurred by the NPS for the administration of the program. The NPS does not expect the permitting system to recover the full costs associated with managing an ORV program.

14. *Comment:* Several commenters supported the establishment of a permit program conditioned upon how revenues are utilized. One commenter advocated funds be invested in enhanced OHV opportunities and road improvements, another commenter recommended hiring rangers to repair areas damaged from increased use, and more than one commenter requested the NPS hire additional law enforcement officers.

*NPS Response:* The NPS will use fees to recover costs from administering the ORV program. Fee revenue could be used to maintain facilities at ORV areas, recover personnel costs associated with enforcing ORV rules, or to monitor and restore resources in ORV areas. The NPS will spend fee revenues on a case-by-case basis given the particular management priorities at that time. The NPS will share more information about the fee structure during the 90-day delayed implementation period prior to the start of the permit requirement.

#### *Motor Vehicle Requirements*

15. *Comment:* One commenter asked the NPS to prohibit the use of vehicles with electric motors due to the risk of fire.

*NPS Response:* The NPS has not identified a risk of fire from electric engines that is greater than the risk of fire from traditional combustion engines.

16. *Comment:* Several commenters questioned the basis for implementing a 96 dBA noise limit (using the SAE J1287 test standard) instead of using the standard that applies to motor vehicles in other NPS units. This other standard is set forth in 36 CFR 2.12, which prohibits operating a motor vehicle in a manner that exceeds 60 decibels measured on the A-weighted scale at 50 feet. One commenter stated that the 96 dBA standard would diminish the experience of non-motorized visitors and potentially cause hearing damage.

*NPS Response:* Special regulations may relax a System-wide standard where appropriate for the uses and resources in a specific System unit. 36 CFR 1.2(c). The 96 dBA noise limit is an established industry standard with a well-defined measuring protocol (SAE J1287) and is a practicable limit that has been used by other NPS units with

similar resource concerns, including Lake Meredith National Recreation Area. This limit is used by the State of California for their ORV programs and is consistent with OHV noise limits in Arizona. ARS 28–1179(A)(3). The 96-dBA limit is consistent with requirements set by federal and state agencies that manage lands adjacent to the recreation area, including the United States Forest Service. Adopting this standard for the recreation area will avoid regulations that are inconsistent or incompatible across jurisdictional boundaries. As identified in the FEIS, only 36.5% of the recreation area will be impacted by noise related to ORV activity. This leaves ample opportunities for visitors to have an experience free from noise from OHVs and street-legal ATVs and to avoid areas where they may have concerns about hearing damage. In addition, several of the accessible shoreline areas will be closed seasonally to OHVs and street-legal ATVs.

17. *Comment:* One commenter objected to using the SAE J1287 test standard, which measures vehicle exhaust noise at 20 inches from the exhaust of a stationary vehicle operating at half throttle. This commenter stated that this test will not capture the actual noise of motor vehicles in use at the recreation area, the majority of which will be operated above half-throttle, generating more than 96 dBA of noise. One commenter stated that the SAE J1287 test will be difficult to implement in the field due to variable conditions, making the 96 dBA noise requirement difficult to enforce, even if law enforcement officers are properly trained and equipped with noise monitoring equipment.

*NPS Response:* SAE J1287 should be adequate to assess the volume of the primary noise source. SAE J1287 is a well-defined measurement protocol and is widely used to enforce noise regulations in many jurisdictions. Close (short distance) measurement of stationary vehicle noise is recommended for the safety of law enforcement officers, which allows them to give instructions to the vehicle operator and measure noise output while maintaining detainment or arrest of a suspect. Close measurements also allow law enforcement officers to measure noise without needing to move into undisturbed areas to collect noise from a distance.

18. *Comment:* One commenter suggested that the NPS prohibit the modification of a vehicle in any manner that will amplify and otherwise increase total noise emissions to a level greater

than that emitted by the motor vehicle as originally constructed.

*NPS Response:* The practical application of the decibel restriction will result in the inability to modify most street-legal ATVs, OHVs, and conventional motor vehicles and still meet that restriction. The NPS is not concerned with the modification of vehicles that increase total noise emissions as long as they remain below the 96 dBA limit.

#### **Compliance With Other Laws, Executive Orders, and Department Policy**

##### **Use of Off-Road Vehicles on the Public Lands (Executive Orders 11644 and 11989)**

Executive Order 11644, as amended by Executive Order 11989, was adopted to address impacts on public lands from ORV use. The Executive Order applies to ORV use on federal public lands that is not authorized under a valid lease, permit, contract, or license. Section 3(a)(4) of Executive Order 11644 provides that ORV “[a]reas and trails shall be located in areas of the National Park System, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.” Since the Executive Order clearly was not intended to prohibit all ORV use everywhere in these units, the term “adversely affect” does not have the same meaning as the somewhat similar terms “adverse impact” and “adverse effect” used in the National Environmental Policy Act of 1969 (NEPA). In analyses under NEPA, a procedural statute that provides for the study of environmental impacts, the term “adverse effect” includes minor or negligible effects.

Section 3(a)(4) of the Executive Order, by contrast, concerns substantive management decisions and must be read in the context of the authorities applicable to such decisions. Glen Canyon National Recreation Area is an area of the National Park System. Therefore, NPS interprets the Executive Order term “adversely affect” consistent with its NPS Management Policies 2006. Those policies require that the NPS only allow “appropriate use” of parks and avoid “unacceptable impacts.”

This rule is consistent with those requirements. It will not impede attainment of the recreation area’s desired future conditions for natural and cultural resources as identified in the FEIS. NPS has determined that this rule will not unreasonably interfere

with the atmosphere of peace and tranquility or the natural soundscape maintained in natural locations within the recreation area. Therefore, within the context of the resources and values of the recreation area, motor vehicle use on the routes and areas designated by this rule will not cause an unacceptable impact to the natural, aesthetic, or scenic values of the recreation area. The Executive Order does not prohibit the NPS from managing categories of “off-road vehicles” differently in order to best protect park resources and values. The selected alternative in the ROD, as implemented by this rule, does this by distinguishing between conventional motor vehicles, OHVs, and street-legal ATVs, all of which fall under the definition of “off-road vehicle” in the Executive Order.

Section 8(a) of the Executive Order requires agency heads to monitor the effects of ORV use on lands under their jurisdictions. On the basis of information gathered, agency heads may from time to time amend or rescind designations of areas or other actions as necessary to further the policy of the Executive Order. The preferred alternative in the FEIS includes monitoring and resource protection procedures and periodic review to provide for the ongoing evaluation of impacts of motor vehicle use on protected resources. The superintendent has authority to take appropriate action as needed to protect the resources of the recreation area.

#### **Regulatory Planning and Review (Executive Orders 12866 and 13563)**

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

Executive Order 13563 reaffirms the principles of Executive Order 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. Executive Order 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.

#### **Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)**

Enabling regulations are considered deregulatory under guidance implementing Executive Order 13771 (M-17-21). This rule authorizes the Superintendent to allow a recreational activity for the public to enjoy and experience certain areas within the National Park System that would otherwise be prohibited.

#### **Regulatory Flexibility Act (RFA)**

The agency certifies that this rule will not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on the cost-benefit and regulatory flexibility analyses found in the report entitled “Cost-Benefit and Regulatory Flexibility Analyses: Special Regulations of Off-Road Motor Vehicles at Glen Canyon National Recreation Area” that can be viewed online at on [www.regulations.gov](http://www.regulations.gov) in Docket ID: NPS-2018-0001. As stated in the Regulatory Flexibility Analysis section of the report, the FEIS and rule were developed to maintain a diversity of recreational opportunities throughout the recreation area. Several small businesses catering to non-motorized recreational opportunities currently operate in the Orange Cliffs Unit. Because the majority of the Orange Cliffs Unit will remain closed to ORVs, impacts to these businesses are not anticipated. Similarly, the NPS does not anticipate impacts to small businesses in other areas of the recreation area due to the incremental nature of the changes to baseline conditions in those locations. Given these findings, the NPS certifies that there will not be a significant economic impact on a substantial number of small entities. The certification made by the NPS under the RFA also relies on the associated cost-benefit analysis, which concludes that the rule will likely generate positive net benefits.

#### **Congressional Review Act (CRA)**

This rule is not a major rule under 5 U.S.C. 804(2), the CRA. 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. The designated ORV routes and areas are located entirely within the recreation area, and will not result in direct expenditure by state, local, or tribal governments. This rule addresses public use of NPS lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

#### **Takings (Executive Order 12630)**

This rule does not effect a taking of private property or otherwise have taking implications under Executive Order 12630. Access to private property adjacent to the recreation area will not be affected by this rule. A takings implication assessment is not required.

#### **Federalism (Executive Order 13132)**

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. The rule is limited in effect to federal lands managed by the NPS and will not have a substantial direct effect on state and local government. A Federalism summary impact statement is not required.

#### **Civil Justice Reform (Executive Order 12988)**

This rule complies with the requirements of E.O. 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 and Department Policy)**

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 criteria in Executive Order 13175 and under the Department’s consultation policy and have determined that tribal consultation on the rule is not required because the rule will have no substantial direct effect on federally recognized Indian tribes. In support of the Department of Interior and NPS commitment for government-to-government consultation with the 19 Native American tribes and bands associated with the recreation area, however, and as a reflection of the shared boundary of the recreation area and the Navajo Nation, the NPS has engaged in a continuing process of consultation with these tribes and bands. This consultation has taken the form of correspondence, phone conversations, and meetings during the preparation of the FEIS.

#### **Paperwork Reduction Act (PRA)**

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the PRA. OMB has approved the information collection requirements associated with NPS Form 10-933, “Application for Special Park Use Permit-Vehicle/Watercraft Use” and has assigned OMB Control Number 1024-0026 (expires 11/30/20 and in accordance with 5 CFR 1320.10, the agency may continue to conduct or sponsor this collection of information while the submission is pending at OMB). We estimate the annual burden associated with Forms 10-933 under this information collection to be 12,998 hours per year. An 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 of 1969 (NEPA)**

This rule constitutes a major Federal action significantly affecting the quality of the human environment. We have prepared the FEIS and ROD under the NEPA. The FEIS and ROD are available online at <http://parkplanning.nps.gov/glca-orvplan>, and then clicking on the link entitled “Document List”.

#### **Effects on the Energy Supply (Executive Order 13211)**

This rule is not a significant energy action under the definition in Executive Order 13211; the rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the rule has not otherwise been designated by the Administrator of

OIRA as a significant energy action. A Statement of Energy Effects is not required.

**List of Subjects in 36 CFR Part 7**

National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the NPS amends 36 CFR part 7 as follows:

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

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

**Authority:** 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10–137 and DC Code 50–2201.07.

■ 2. In § 7.70, add paragraph (f) to read as follows:

**§ 7.70 Glen Canyon National Recreation Area.**

\* \* \* \* \*

(f) *Motor vehicle use.* Operating a motor vehicle is allowed within the boundaries of Glen Canyon National Recreation Area under the conditions in this paragraph (f).

(1) *What terms do I need to know?* In addition to the definitions found in § 1.4 of this chapter, the following definitions apply to this paragraph (f) only:

*Conventional motor vehicle* means any motor vehicle that is designed primarily for operation on streets and highways, and that is licensed and registered for interstate travel. Automobiles, vans, highway motorcycles (including dual-sports motorcycles licensed for use on a highway), sport utility vehicles (SUVs), recreational vehicles (RVs), pickup

trucks, and buses are examples of conventional motor vehicles.

*GMP road* means a paved or unpaved park road that is identified in the Glen Canyon 1979 General Management Plan as open to motor vehicle travel. There are no park roads within the recreation area other than GMP roads.

*Off-highway vehicle (OHV)* means any motor vehicle designed primarily for off-road travel that is not licensed and registered for interstate travel. ATVs (excluding street legal ATVs, as defined below), dirt bikes, sand rails, side-by-sides, and dune buggies are examples of OHVs.

*Orange Cliffs Special Management Unit* means the area identified as the Orange Cliffs Special Management Unit in the Canyonlands National Park and Orange Cliffs Unit of Glen Canyon National Recreation Area Backcountry Management Plan (NPS 1995).

*Street-legal all-terrain vehicle (ATV)* means an ATV that qualifies under Arizona or Utah motor vehicle and traffic code to be operated on state roads and highways.

(2) *Off-road motor vehicle permit requirement.* (i) The provisions in this paragraph (f)(2) are effective beginning on April 15, 2021.

(ii) A special use permit issued and administered by the superintendent is required to operate a motor vehicle off GMP roads at designated locations in the recreation area. Operating a motor vehicle off GMP roads in the recreation area without a permit is prohibited except for designated ORV routes that do not require a permit as indicated in Table 1 to paragraph (f)(3)(ii).

(iii) Annual permits are valid for one calendar year from the day they are issued. Shorter-term permits are valid

from the day issued for the stated duration of the permit.

(iv) A permit applicant must acknowledge that he or she understands and agrees to abide by the rules governing off-road vehicle use in the recreation area.

(v) Each motor vehicle permitted to operate off GMP roads must display an NPS decal issued by the superintendent and affixed to the vehicle in a manner and location specified by the superintendent.

(vi) Permits may be requested at recreation area headquarters, recreation area visitor centers, on the recreation area’s website, or at other locations designated by the superintendent.

(vii) Violating any term, condition, or requirement of an off-road vehicle permit is prohibited and may result in the suspension or revocation of the permit and the denial of future permits, in addition to the penalties provided by § 1.3 of this chapter.

(3) *Designated off-road motor vehicle locations.* (i) The operation of a motor vehicle off GMP roads within the recreation area is prohibited except at the locations designated by this paragraph (f). Designated locations and vehicle-free zones are identified on maps available at the recreation area headquarters, visitor contact stations, and on the recreation area’s website.

(ii) Motor vehicles may be used off GMP roads at the locations and subject to the management prescriptions in Table 1 to paragraph (f)(3)(ii), except for vehicle-free zones where off-road vehicle use is prohibited. Permit requirements in Table 1 to paragraph (f)(3)(ii) are effective beginning on April 15, 2021.

TABLE 1 TO PARAGRAPH (f)(3)(ii)

Designated area or route for off-road motor vehicle use	Approximate size	Management prescriptions
Lone Rock Beach .....	250 acres .....	<ul style="list-style-type: none"> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Vehicle-free zone as posted.</li> <li>• Conventional motor vehicles, street-legal ATVs, and OHVs allowed with ORV permit.</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Lone Rock Beach Play Area ....	180 acres .....	<ul style="list-style-type: none"> <li>• Conventional motor vehicles, street-legal ATVs, and OHVs allowed with ORV permit.</li> <li>• OHVs required to display a red or orange safety flag at least six by 12 inches in size that is located at least eight feet off the ground, or at least 18 inches above the top of the protective headgear of a motorcycle or dirt bike operator.</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Blue Notch .....	325 acres .....	<ul style="list-style-type: none"> <li>• Street-legal ATVs allowed with ORV permit from March 2–October 31.</li> <li>• Conventional motor vehicles allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Bullfrog North and South .....	2,250 acres ....	<ul style="list-style-type: none"> <li>• Street-legal ATVs allowed with ORV permit from March 2–October 31.</li> <li>• Conventional motor vehicles allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> <li>• Vehicle-free zone as posted.</li> </ul>
Copper Canyon .....	30 acres .....	<ul style="list-style-type: none"> <li>• Conventional motor vehicles and street-legal ATVs allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>

TABLE 1 TO PARAGRAPH (f)(3)(ii)—Continued

Designated area or route for off-road motor vehicle use	Approximate size	Management prescriptions
Crosby Canyon .....	450 acres .....	<ul style="list-style-type: none"> <li>• Street-legal ATVs allowed with ORV permit from March 2–October 31.</li> <li>• Conventional motor vehicles allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Dirty Devil .....	75 acres .....	<ul style="list-style-type: none"> <li>• Street-legal ATVs allowed with ORV permit from March 2–October 31.</li> <li>• Conventional motor vehicles allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Farley Canyon .....	275 acres .....	<ul style="list-style-type: none"> <li>• Street-legal ATVs allowed with ORV permit from March 2–October 31.</li> <li>• Conventional motor vehicles allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Hite Boat Ramp .....	50 acres .....	<ul style="list-style-type: none"> <li>• Conventional motor vehicles and street-legal ATVs allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Neskahi .....	15 acres .....	<ul style="list-style-type: none"> <li>• Conventional motor vehicles and street-legal ATVs allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Nokai Canyon .....	275 acres .....	<ul style="list-style-type: none"> <li>• Conventional motor vehicles and street-legal ATVs allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Paiute Canyon .....	100 acres .....	<ul style="list-style-type: none"> <li>• Conventional motor vehicles and street-legal ATVs allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Paiute Farms .....	1,000 acres ....	<ul style="list-style-type: none"> <li>• Conventional motor vehicles and street-legal ATVs allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Red Canyon .....	50 acres .....	<ul style="list-style-type: none"> <li>• Street-legal ATVs allowed with ORV permit from March 2–October 31.</li> <li>• Conventional motor vehicles allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Stanton Creek .....	675 acres .....	<ul style="list-style-type: none"> <li>• Street-legal ATVs allowed with ORV permit from March 2–October 31.</li> <li>• Conventional motor vehicles allowed with ORV permit year-round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
White Canyon .....	325 acres .....	<ul style="list-style-type: none"> <li>• Street-legal ATVs allowed with ORV permit from March 2–October 31.</li> <li>• Conventional motor vehicles allowed with ORV permit year round.</li> <li>• 15 mph speed limit (unless otherwise posted).</li> <li>• Quiet hours between 10 pm and 6 am or as designated by superintendent.</li> </ul>
Ferry Swale .....	16 miles .....	<ul style="list-style-type: none"> <li>• Conventional motor vehicles, street-legal ATVs and OHVs allowed with ORV permit year-round.</li> <li>• 25 mph speed limit (unless otherwise posted).</li> <li>• Conventional motor vehicles, street-legal ATVs and OHVs allowed year-round.</li> </ul>
Middle Moody Canyon Trail-head.	2 miles .....	<ul style="list-style-type: none"> <li>• ORV permit not required.</li> <li>• 25 mph speed limit (unless otherwise posted).</li> <li>• Conventional motor vehicles, street-legal ATVs and OHVs allowed year-round.</li> </ul>
East Gypsum Canyon Overlook	1.2 miles .....	<ul style="list-style-type: none"> <li>• Conventional motor vehicles, street-legal ATVs and OHVs allowed year-round.</li> <li>• ORV permit not required.</li> <li>• 25 mph speed limit (unless otherwise posted).</li> </ul>
Imperial Valley .....	0.75 miles .....	<ul style="list-style-type: none"> <li>• Conventional motor vehicles, street-legal ATVs and OHVs allowed year-round.</li> <li>• ORV permit not required.</li> <li>• 25 mph speed limit (unless otherwise posted).</li> </ul>
Gunsight Springs Trailhead .....	1 mile .....	<ul style="list-style-type: none"> <li>• Conventional motor vehicles, street-legal ATVs and OHVs allowed year-round.</li> <li>• ORV permit not required.</li> <li>• 25 mph speed limit (unless otherwise posted).</li> </ul>

(4) *On-road motor vehicle use.* (i) The operation of a motor vehicle on GMP roads is prohibited except as set forth in Table 2 to paragraph (f)(4)(i):

TABLE 2 TO PARAGRAPH (f)(4)(i)

Type of motor vehicle	Allowed on paved GMP roads	Allowed on unpaved GMP roads outside the Orange Cliffs Special Management Unit	Allowed on unpaved GMP roads within the Orange Cliffs Special Management Unit
Conventional motor vehicle	Yes .....	Yes .....	Yes.

TABLE 2 TO PARAGRAPH (f)(4)(i)—Continued

Type of motor vehicle	Allowed on paved GMP roads	Allowed on unpaved GMP roads outside the Orange Cliffs Special Management Unit	Allowed on unpaved GMP roads within the Orange Cliffs Special Management Unit
Street-legal ATV .....	Yes (except for the Lees Ferry Developed Area).	Yes .....	Yes, on Route 633 proceeding north to Route 730, an 8-mile portion of the Poison Spring Loop and on the upper portion of the Flint Trail if designated by the Superintendent under paragraph (4)(ii) below.
OHV .....	No .....	Yes .....	Yes, on Route 633 proceeding north to Route 730, an 8-mile portion of the Poison Spring Loop and on the upper portion of the Flint Trail if designated by the Superintendent under paragraph (4)(ii) below.

(ii) The Superintendent may determine whether street-legal ATVs or OHVs are allowed on a 15–20 mile section of an unpaved GMP road known as the upper portion of the Flint Trail within the Orange Cliffs Special Management Unit pursuant to paragraph (f)(6) of this section. Except on the portion of the Poison Spring Loop identified in Table 2 to paragraph (f)(4)(i) and as may be allowed by the Superintendent on the upper portion of the Flint Trail, street-legal ATVs and OHVs are prohibited on unpaved GMP roads in the Orange Cliffs Special Management Unit.

(5) *Motor vehicle and operator requirements.* (i) Motor vehicles must be equipped at all times with noise-suppression devices, including an exhaust muffler in good working order and in constant operation. Operating a motor vehicle that emits more than 96 decibels of sound (using the SAE J1287 test standard) is prohibited. Creating or sustaining unreasonable noise considering the nature and purpose of the actor’s conduct, impact on park users, location, and other factors that would govern the conduct of a reasonably prudent person is prohibited.

(ii) All motor vehicles operating in Lone Rock Beach Play Area must be equipped with a solid red or orange safety flag that is a minimum of six by 12 inches in size and that is attached to the vehicle so that the safety flag is at least eight feet above the surface of the level ground, or attached to the protective headgear of a person operating a motorcycle or dirt bike so that the safety flag is at least 18 inches above the top of the person’s headgear. Operating a motor vehicle without a safety flag at Lone Rock Beach Play Area is prohibited.

(iii) Operating a motor vehicle in excess of 15 mph (unless otherwise posted) at the following off-road motor vehicle locations—Lone Rock Beach, Blue Notch, Bullfrog North and South, Copper Canyon, Crosby Canyon, Dirty

Devil, Farley Canyon, Hite Boat Ramp, Neskahi, Nokai Canyon, Paiute Canyon, Paiute Farms, Red Canyon, Stanton Creek, and White Canyon—is prohibited.

(iv) Operating a motor vehicle in excess of 25 mph (unless otherwise posted) on unpaved GMP roads and on off-road motor vehicle routes in Ferry Swale, Middle Moody Canyon Trailhead, East Gypsum Canyon Overlook, Imperial Valley, and Gunsight Springs Trailhead is prohibited.

(v) Operating a motor vehicle within a designated off-road motor vehicle area during quiet hours with the exception of entering and exiting a campsite is prohibited.

(vi) Operating a generator or audio device, such as a radio, deck or compact disc player, within a designated off-road motor vehicle area during quiet hours is prohibited. During the hours of permitted operation, generators must be adequately muffled and not create excessive noise as defined in 36 CFR 2.12(a)(1).

(vii) Operating a motor vehicle within a posted “vehicle-free” zone is prohibited.

(viii) Operating an OHV under the age of 18 without a helmet is prohibited.

(6) *Superintendent’s authority.* (i) The superintendent may close or reopen designated areas or routes to motor vehicle use, or impose conditions or restrictions on the use of off-road motor vehicles after taking into consideration public health and safety, natural and cultural resource protection, lake levels, and other management activities and objectives.

(ii) The superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter.

(iii) Violating any such closure, condition, or restriction is prohibited.

(iv) The superintendent may suspend or revoke an existing permit, and may deny future applications for an off-road motor vehicle permit, based upon

violations of any such closure, condition, or restriction.

**George Wallace,**  
*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2020–28464 Filed 1–14–21; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

**37 CFR Part 1**

[Docket No. PTO–P–2019–0009]

**RIN 0651–AD33**

**Small Entity Government Use License Exception**

**Correction**

In rule document C1–2020–27049 appearing on page 2542 in the issue of Wednesday, January 13, 2021, the correction is withdrawn.

[FR Doc. C2–2020–27049 Filed 1–14–21; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

**37 CFR Part 42**

[Docket No. PTO–P–2019–0011]

**RIN 0651–AD34**

**Rules of Practice To Allocate the Burden of Persuasion on Motions To Amend in Trial Proceedings Before the Patent Trial and Appeal Board**

**Correction**

In rule document C1–2020–28159 appearing on page 2542 in the issue of Wednesday, January 13, 2021, the correction is withdrawn.

[FR Doc. C2–2020–28159 Filed 1–14–21; 8:45 am]

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