

administering the Department's programs and activities.

These proposed priorities and requirements would benefit individual children by supporting the development and enhancement of safe, secure, and healthy school practices that would provide educators and stakeholders with timely and useful information to guide policy and decision making for education facilities.

*Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 3, 2013.

**Deborah S. Delisle,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 2013-10962 Filed 5-8-13; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Part 7

[NPS-CURE-10079; 122PPIMCURES1-PPMPSPD1Z.YM0000]

RIN 1024-AD76

#### Special Regulations of the National Park Service, Curecanti National Recreation Area, Snowmobiles and Off-Road Motor Vehicles

**AGENCY:** National Park Service, Interior.  
**ACTION:** Proposed rule.

**SUMMARY:** The National Park Service proposes to amend its special regulations for Curecanti National Recreation Area, Colorado, to designate routes, water surfaces, and areas where snowmobiles or motor vehicles may be used off park roads. Unless authorized by special regulation, the operation of snowmobiles and the operation of motor vehicles off road within areas of the National Park System are prohibited. The other existing special regulations for Curecanti National Recreation Area would remain in effect.

**DATES:** Comments must be received by July 8, 2013.

**ADDRESSES:** You may submit comments, identified by the Regulation Identifier Number (RIN) 1024-AD76, by any of the following methods:

- *Federal rulemaking portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail or hand delivery to:* Curecanti National Recreation Area, 102 Elk Creek, Gunnison, CO 81230, Attn: Ken Stahlnecker, Chief of Resource Stewardship and Science.

Instructions: All submissions received must include the agency name and RIN for this rulemaking. All comments received will be posted without change to [www.regulations.gov](http://www.regulations.gov), including any personal information provided. For additional information, see Public Participation under **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** Ken Stahlnecker, Chief of Resource Stewardship and Science, Curecanti National Recreation Area, 102 Elk Creek, Gunnison, CO 81230. Phone: (970) 641-2337x225. Email: [ken\\_stahlnecker@nps.gov](mailto:ken_stahlnecker@nps.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

*History of Curecanti National Recreation Area*

The Blue Mesa Dam and Reservoir, Morrow Point Dam and Reservoir, and

Crystal Dam and Reservoir make up the Curecanti Unit, one of the four main units authorized by the Colorado River Storage Project Act of April 11, 1956 (Pub. L. 84-485) (CRSPA). The Curecanti Unit is also known as the Wayne N. Aspinall Storage Unit.

Section 8 of CRSPA directed the Secretary of the Interior (Secretary) "to investigate, plan, construct, operate, and maintain (1) public recreational facilities on lands withdrawn or acquired for the development of [the Colorado River Storage Project] to conserve the scenery, the natural, historic, and archeological objects, and the wildlife on said lands, and to provide for public use and enjoyment of the same and of the water areas created by these projects by such means as are consistent with the primary purposes of said projects. . . ."

Pursuant to that provision, the National Park Service (NPS) began managing natural and cultural resources and recreational uses within Curecanti National Recreation Area (CURE) in 1965 under a Memorandum of Agreement (MOA) with the Bureau of Reclamation. In 1978, Bureau of Reclamation lands in the East Portal area were added to CURE and placed under the management authority of the NPS pursuant to the MOA.

##### *Description and Significance of Curecanti National Recreation Area*

CURE is located in Gunnison and Montrose Counties in southwestern Colorado. The reservoirs and the surrounding lands provide recreational opportunities amidst a variety of natural, cultural, and scenic resources, including recently discovered dinosaur fossils, a 5,000-acre archeological district, and traces of 6,000-year-old dwellings. Approximately one million people visit CURE annually to take advantage of numerous recreational opportunities. Most visitors come during the summer months when temperatures are warmer and water-based activities are more popular.

The recreation area contains water resources, including three reservoirs that provide a variety of recreational opportunities in a spectacular geological setting. Blue Mesa Reservoir is one of the largest high-altitude bodies of water in the United States. It provides an exciting diversity of water recreation opportunities for windsurfers, sail boaters, and water skiers.

##### *Motor Vehicle and Snowmobile Use Off Road at Curecanti National Recreation Area*

Visitors to CURE use motor vehicles to access campsites, fishing spots,

marinas, trailheads, and other destinations throughout the recreation area, both on and off roads. Motor vehicle access is also an important means for disabled or mobility impaired visitors to experience the recreation area.

Motor vehicles have traditionally been used to access certain sites within the recreation area, including areas below the high-water mark (i.e., where the water line would be if the reservoir is at full capacity) of Blue Mesa Reservoir (also known as Blue Mesa Lake). The high-water mark is defined as the point at which the reservoir is at maximum capacity (full pool), an elevation of 7,519 feet. NPS policy at the recreation area has been to allow the operation of motor vehicles between the high-water mark and the water surface of Blue Mesa Reservoir for the purpose of fishing access and boat launching. In addition, the NPS has designated several access roads that service power lines as routes open for motor vehicle access. Access to areas below the high-water mark is primarily from maintained roads. However, routes off established roads also provide access for travel below the high-water mark in a few areas. The most common motor vehicles that access these areas are cars and trucks. During the winter months, snowmobiles are often used to reach popular fishing locations on the frozen surface of Blue Mesa Reservoir. Snowmobiles access the frozen surface from designated access points.

### Authority and Jurisdiction

#### 1916 Organic Act

The NPS manages CURE under the NPS Organic Act of 1916 (Organic Act) (16 U.S.C. 1 *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 to “make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks.”

#### Resource Management

The purpose of the recreation area is to conserve its scenery, natural and cultural resources, and wildlife, and to manage its lands, waters, fish, wildlife, and recreational activities consistent with the MOA, section 8 of CRSPA, and the Federal Water Project Recreation Act (16 U.S.C 460(L)(12–21); Pub. L. 89–72; July 9, 1965 as amended).

#### Off-Road Motor Vehicle and Snowmobile Regulation

Executive Order 11644, Use of Off-Road Vehicles on the Public Lands,

issued in 1972 and amended by Executive Order 11989 in 1977, required federal agencies to issue regulations designating specific areas and routes on public lands where the use of off-road vehicles may be used. NPS has implemented these Executive Orders in 36 CFR 2.18 and 4.10.

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 a 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.” Similarly, under 36 CFR 2.18, the use of snowmobiles is not permitted except on routes and water surfaces used by motor vehicles or motorboats during other seasons; routes and water surfaces must be designated for snowmobile use by special regulation.

The NPS is issuing this proposed rule to designate routes, water surfaces, and areas where motor vehicles and snowmobiles may be used off park roads, in compliance with 36 CFR 2.18 and 4.10 and Executive Orders 11644 and 11989.

#### Motorized Vehicle Access Plan/Environmental Assessment

This proposed rule supports implementation of the preferred alternative (Alternative C) for CURE described in the October 2010 Motor Vehicle Access Plan/Environmental Assessment (EA). The EA was open for public review and comment from November 17, 2010 until January 15, 2011. CURE completed a Finding of No Significant Impact (FONSI) on July 10, 2012, which chose the preferred alternative (Alternative C) as the selected action. The EA and FONSI are available at <http://parkplanning.nps.gov/cure> by clicking the link entitled “Motorized Access Plan/Environmental Assessment” and then clicking the link entitled “Document List.”

Under the selected action (the preferred alternative in the EA), motor vehicle use will be allowed only on routes above the high water mark and in areas below the high water mark of Blue Mesa Reservoir that are designated as open. To better preserve traditional access on routes above the high-water mark, the selected action will amend the 1997 General Management Plan to create a new Semi-Primitive/Motorized zone within and along the designated routes. This zone will include access routes to reservoir shoreline that have traditionally been used by the public.

Desired conditions for routes in the Semi-Primitive/Motorized zone will be the same as those for the adjacent Semi-Primitive/Non-Motorized zone, except public motor vehicles will be allowed. This will result in a predominantly natural-appearing landscape with abundant natural sights and sounds and a limited number of unpaved motorized travel routes.

Visitor activities will be limited in the Semi-Primitive/Motorized zone as no services or recreational facilities will be provided. Encounters with other vehicles and visitors will be possible. This zone will include the power line access road and associated spur routes to the shoreline on the south side of Blue Mesa Reservoir, and certain administrative routes. As a result, there will be approximately 24 miles of traditionally used routes open to public motor vehicle access.

The selected action includes approximately 4.9 miles of routes on lands adjacent to CURE administered by the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS). These lands are identified for future NPS management in the August 2008 Final Resource Protection Study/Environmental Impact Statement (RPS/EIS), available at <http://parkplanning.nps.gov/cure> then clicking on the link entitled “Curecanti Resource Protection Study” and then clicking on the link entitled “Document List.” These routes are currently open to public motor vehicle use under BLM and USFS management plans and connect to access routes within the boundary of CURE. Because the use of motor vehicles on these routes was analyzed by the EA and included in the FONSI, no future compliance under the National Environmental Policy Act of 1969 (NEPA) would be required to designate these areas as open to motor vehicles. However, the NPS cannot designate these routes as open to motor vehicles until it gains administrative jurisdiction over the lands where they are located, which requires Congressional action. Congress is currently considering a bill that would transfer administrative jurisdiction over these lands to the NPS. If this bill is enacted into law prior to publication of the final rule, the NPS would designate these routes as open to motor vehicles in the final rule. Therefore, the NPS invites public comment on this proposed action as part of this rule.

Below the high-water mark of Blue Mesa Reservoir, the NPS will designate a maximum area of approximately 958 acres traditionally used by the public as open to motor vehicle access. The actual number of acres accessible by motor

vehicles at any particular time will depend upon the water level of the reservoir. The remaining area (a maximum area of approximately 7280 acres) below the high-water mark, that has not traditionally been used by motor vehicles due to access limitations caused by terrain or reservoir levels, will not be open to vehicular use in order to protect known and unknown resources, including cultural sites. Pedestrian access will continue to be permitted in these areas, except when and where resource closures may be in effect. The selected action retains traditional access in the recreation area by keeping the most commonly used routes and areas open to public motor vehicle access.

Under the selected action, three new snowmobile access points will be designated in addition to the currently designated access points and routes: one at the Lake Fork Visitor Center boat ramp; one on the southeast shore of Iola Basin near Willow Creek; and one in the McIntyre Gulch area. The selected action meets all objectives of the EA, best retains traditional motor vehicle access, and provides the highest level of protection for known and unknown cultural resources.

### Proposed Rule

This proposed rule would amend the special regulations for CURE at 36 CFR 7.51 to implement the selected action in the FONSI (the preferred alternative in the EA). The rule would designate frozen recreation area water surfaces where snowmobiles may be used, designate new access points, and designate routes from the access points to the frozen surface of the Blue Mesa Reservoir. The rule would also designate routes and areas where motor vehicles may be used off park roads within the recreation area, and access routes at various locations throughout the park. The rule does not address management of snowmobiles on USFS lands identified for future NPS management in the RPS/EIS.

### Snowmobiles

Under this rule, section 7.51(c) would be amended to modify the designated access routes and frozen water surface where snowmobiles may be used. Snowmobiles would continue to be permitted to operate on designated routes and areas within the boundaries of CURE provided their use conforms to the regulations governing the use of snowmobiles in 36 CFR 2.18 and applicable State laws. The rule would retain the frozen surface of Blue Mesa Reservoir as a designated area for snowmobile use and add specific

designated access points and access routes to the reservoir. Routes would be designated for travel by snowmobiles from the access points to the frozen surface of Blue Mesa Reservoir. These access routes would be limited to the most direct route from the access points to the frozen surface. Traveling parallel to the reservoir, before accessing the frozen surface, would be prohibited. Routes may be marked where possible, but changing weather conditions and terrain often make posting routes difficult. The rule also would create three new snowmobile access points: one at the Lake Fork Visitor Center boat ramp; one on the southeast shore of Iola Basin near Willow Creek; and one near McIntyre Gulch. The new access points would reduce environmental impacts by shortening the distance some visitors travel over the frozen surface by snowmobile to fish. A map of the water surfaces and routes open to snowmobile use and designated access points would be available in the office of the Superintendent and on the park Web site.

Snowmobile gross weight would continue to be limited to a maximum of 1,200 pounds (machine and cargo). The snowmobile speed limit would remain 45 mph (36 CFR 2.18(d)(4)).

### Off Road Vehicles

Paragraph 7.51(e) would be added to designate routes and areas where motor vehicles may be used off-road in the recreation area. Under 36 CFR 1.4, the term "motor vehicle" does not include snowmobiles. As a result, paragraph 7.51(e) would not apply to snowmobiles. Under this rule, the frozen surface of Blue Mesa Reservoir and a maximum area of approximately 958 acres of the exposed bed of Blue Mesa Reservoir would be designated areas for motor vehicle use. Approximately 24 miles of off-road routes would be designated open to public motor vehicle use. These routes would provide access to Blue Mesa Reservoir, other CURE lands, and to adjacent public lands. A map of areas and routes open to off-road motor vehicle use would be available in the office of the Superintendent and on the park Web site.

The provisions of 36 CFR Part 4, including state law adopted by 36 CFR 4.1, apply within the recreation area. Unless posted otherwise, the speed limit would be 15 mph for motor vehicles on all designated off-road routes and areas. Speed limits are implemented for visitor safety and to prohibit driving that may damage resources. The 45 mph speed limit for snowmobiles is higher than the 15 mph speed limit for motor vehicles,

even though both would be allowed to travel on the frozen surface of Blue Mesa Reservoir, because snowmobiles are more easily controlled on snow and ice due to vehicle design and a lower center of gravity. As a result, there are less safety and resource concerns with driving snowmobiles in excess of 15 mph. Motor vehicle gross weight would be limited to a maximum of 1,800 pounds (machine and cargo) on the frozen surface of Blue Mesa Reservoir. This vehicle restriction is intended to allow only lightweight all-terrain vehicles (ATV) or utility task vehicles (UTV or sometimes referred to as a side-by-side) onto the frozen surface.

To prevent impacts to areas outside of existing routes, a maximum 8 feet, 6 inches wheel width (track) requirement would be implemented for motor vehicles on all designated routes. The NPS may also recommend, but not require, four-wheel drive and/or high-clearance vehicles on particular routes, based on visitor safety and route conditions.

### Superintendent's Authority

Routes, water surface, areas, or access points designated for snowmobile, personal watercraft, or off-road motor vehicle use would be subject to year-round, seasonal, or temporary site-specific closures, conditions, or restrictions with notice provided pursuant to 36 CFR 1.7. The Superintendent's authority in § 7.51(d)(5), related to personal watercraft use, would be removed because it would be redundant with the Superintendent's authority in paragraph (f) of the proposed rule.

### Economic Analysis

An analysis of the potential costs and benefits of the rule can be found in the report entitled "Summary of Economic Analyses" which is available at <http://parkplanning.nps.gov/cure> then clicking the link entitled "Motorized Access Plan/Environmental Assessment" and then clicking the link entitled "Document List."

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

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

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 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. CURE 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 CURE’s desired future conditions for natural and cultural resources as identified in the EA. 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 CURE. Therefore, within the context of the resources and values of CURE, motor vehicle use on the routes and areas designated by this rule (which are also subject to resource closures and other species management measures that would be implemented under the preferred alternative in the EA) will not cause an unacceptable impact to the natural, aesthetic, or scenic values of CURE.

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 shall 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 (Alternative C) for the EA identifies monitoring and resource protection procedures and periodic review to provide for the ongoing and future evaluation of impacts of motor vehicle use on protected resources. The park Superintendent has the existing authority under both this final rule and 36 CFR 1.5 to close portions of CURE as needed to protect park resources.

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

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. 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. It 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.

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

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on the regulatory flexibility analysis found in the report entitled “Summary of Economic Analyses” which can be viewed on the park’s planning Web site, <http://parkplanning.nps.gov/cure>, then clicking the link entitled “Motorized Access Plan/Environmental Assessment” and then clicking the link entitled “Document List.”

### **Small Business Regulatory Enforcement Fairness Act (SBREFA)**

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

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

### **Unfunded Mandates Reform Act (UMRA)**

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The

rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

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

Under the criteria in section 2 of Executive Order 12630, this rule does not have significant takings implications. 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. This proposed rule only affects use of NPS administered lands and waters. A Federalism summary impact statement is not required.

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

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

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

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

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

This rule does not contain information collection requirements, and a submission under the PRA is not required.

### **National Environmental Policy Act (NEPA)**

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under NEPA is not required because we reached a FONSI. The EA and FONSI are available at <http://parkplanning.nps.gov/cure> then clicking the link entitled “Motorized Access Plan/Environmental Assessment” and then clicking on the link entitled “Document List.”

### **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 Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

However, park staff consulted with representatives from the Southern Ute Indian tribe, Uintah and Ouray Tribal Business Committee, Ute tribe of the Uintah and Ouray Reservation, and the Ute Mountain Ute tribe. The tribes have not commented or identified any concerns to date, though CURE will contact the tribes again when the EA and this proposed rule is published. If issues are identified in the future, section 6 of Executive Order 13175 and Executive Order 13007 permits the park to grant access to areas in CURE, which are otherwise closed, to the public to tribal members that may be affected by any changes developed under the EA.

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

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

#### Clarity of This Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

#### Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may

submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section.

#### Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

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

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR Part 7 as follows:

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

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

**Authority:** 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under 36 U.S.C. 501–511, D.C. Code 10–137 (2001) and D.C. Code 50–2201.07 (2001).

- 2. Amend § 7.51 by revising the introductory text of paragraph (c), revising paragraphs (c)(2) and (c)(3), removing paragraph (d)(5), and adding paragraphs (e) and (f).

The revisions and additions read as follows:

#### § 7.51 Curecanti Recreation Area.

\* \* \* \* \*

(c) *Snowmobiles.* Snowmobiles are permitted to operate within the boundaries of Curecanti National Recreation Area under the following conditions:

\* \* \* \* \*

(2) *Designated water surface and routes.* Snowmobile use is confined to the following water surface and routes:

(i) The frozen surface of Blue Mesa Reservoir; and

(ii) Lake Fork Visitor Center access point, McIntyre Gulch access point, Sapinero Beach access point, Dillon Pinnacles access point, Windsurf Beach access point, Elk Creek Marina, Dry Creek access point, North Willow access point, Old Stevens access point, Iola access point, Willow Creek access point, and the most direct route from each of these access points to the frozen surface of Blue Mesa Reservoir.

(iii) The designated water surface and routes are identified on maps available

at the office of the Superintendent, Elk Creek Visitor Center, Lake Fork Visitor Center, Cimarron Visitor Center, and on the Recreation Area Web site.

(3) *Snowmobile requirements.*

Snowmobiles are limited to a maximum of 1200 pounds gross vehicle weight (GVW), including cargo.

\* \* \* \* \*

(e) *Off-road motor vehicle use.* Motor vehicles are permitted to operate within the boundaries of Curecanti National Recreation Area off park roads under the following conditions:

(1) *Designated areas and routes.*

Motor vehicle use off park roads is confined to the following areas and routes:

(i) Via the access points and routes listed in paragraph (c)(2)(ii) of this section, directly to the frozen surface of Blue Mesa Reservoir;

(ii) A maximum area of approximately 958 acres of the exposed lake bottom of Blue Mesa Reservoir between the high-water mark and the water of the reservoir; and

(iii) Posted access routes through the park.

(iv) These areas and routes are identified on Maps 6a and 6b, dated January 1, 2011, which are available at the office of the Superintendent, Elk Creek Visitor Center, Lake Fork Visitor Center, Cimarron Visitor Center, and on the Recreation Area Web site.

(2) *Vehicle requirements.* Motor vehicles operating off-road must meet the following requirements:

(i) Maximum wheelbase width must not exceed 8 feet, 6 inches.

(ii) Maximum gross vehicle weight for motor vehicle use on the frozen surface of Blue Mesa Reservoir is 1800 pounds GVW. This restricts vehicle use on the frozen surface to all-terrain and utility task vehicles.

(3) *Speed limits.* Unless otherwise posted, motor vehicles may not exceed 15 miles per hour on designated off-road routes and areas.

(f) *Superintendent's authority.* The Superintendent may open or close designated routes, water surfaces, access points, or areas open to snowmobile, PWC, or off-road motor vehicle use, or portions thereof, or impose conditions or restrictions for snowmobile, PWC, or off-road motor vehicle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

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

(2) Violating a closure, condition or restriction is prohibited.

Dated: May 1, 2013.

**Rachel Jacobson,**

*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2013-10979 Filed 5-8-13; 8:45 am]

BILLING CODE 4312-EJ-P

## LIBRARY OF CONGRESS

### U.S. Copyright Office

#### 37 CFR Part 201

[Docket No. 2012-5]

#### Verification of Statements of Account Submitted by Cable Operators and Satellite Carriers

**AGENCY:** U.S. Copyright Office, Library of Congress.

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** On June 14, 2012, the United States Copyright Office published a notice of proposed rulemaking and request for comments concerning a new regulation that will allow copyright owners to audit the Statements of Account and royalty fees that cable operators and satellite carriers deposit with the Copyright Office for secondary transmissions of broadcast programming made pursuant to statutory licenses. The Copyright Office has revised the proposed regulation based on comments that it received from copyright owners, cable operators, and satellite carriers. The Copyright Office seeks comments on the revised proposal before it is adopted as a final rule.

**DATES:** Comments on the revised proposal must be received in the Office of the General Counsel of the Copyright Office no later than 5 p.m. Eastern Daylight Time (EDT) on June 10, 2013. Reply comments must be received in the Office of the General Counsel no later than 5 p.m. EDT on June 24, 2013.

**ADDRESSES:** The Copyright Office strongly prefers that comments be submitted electronically. A comment submission page is posted on the Copyright Office Web site at [www.copyright.gov/docs/soaaudit/comments/submission/](http://www.copyright.gov/docs/soaaudit/comments/submission/). The Web site interface requires submitters to complete a form specifying name and other required information, and to upload comments as an attachment. To meet accessibility standards, all comments must be uploaded in a single file in either the Portable Document Format (PDF) that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a

scanned document). The maximum file size is 6 megabytes (MB). The name of the submitter and organization should appear on both the form and the face of the comments. All comments will be posted publicly on the Copyright Office Web site exactly as they are received, along with names and organizations if provided. If electronic submission of comments is not feasible, please contact the Copyright Office at (202) 707-8380 for special instructions.

**FOR FURTHER INFORMATION CONTACT:** Erik Bertin, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Sections 111 and 119 of the Copyright Act ("Act"), title 17 of the United States Code, allow cable operators and satellite carriers to retransmit the performance or display of works embodied in a primary transmission made by a broadcast station licensed by the Federal Communications Commission. In order to use the statutory licenses, cable operators and satellite carriers are required to file Statements of Account and deposit royalty fees with the Copyright Office ("Office") on a semi-annual basis. The Office invests these royalties in United States Treasury securities pending distribution of the funds to copyright owners who are entitled to receive a share of the royalties.

In 2010, Congress enacted the Satellite Television Extension and Localism Act of 2010 ("STELA"), Public Law 111-175 which, *inter alia*, directed the Register of Copyrights to develop a new procedure for verifying the Statements of Account and royalty fees that cable operators and satellite carriers deposit with the Office. Specifically, section 119(b)(2) directed the Register to "issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under [that] subsection." Similarly, section 111(d)(6) directed the Register to "issue regulations to provide for the confidential verification by copyright owners whose works were embodied in the secondary transmissions of primary transmissions pursuant to [section 111] of the information reported on the semiannual statements of account filed under this subsection for accounting periods beginning on or after January 1, 2010, in order that the auditor designated under subparagraph [111(d)(6)(A)] is able to confirm the

correctness of the calculations and royalty payments reported therein."

On June 14, 2012, the Office published a Notice of Proposed Rulemaking and Request for Comments on a regulation that would implement sections 111(d)(6) and 119(b)(2) of the Copyright Act. See 77 FR 35643, June 14, 2012. The proposed regulation was based on similar regulations that the Office developed for parties that make ephemeral recordings or transmit digital sound recordings under 17 U.S.C. 112(e) and 114(f), respectively, or manufacture, import, and distribute digital audio recording devices under 17 U.S.C. chapter 10. See *id.* at 35644. The Office also considered a Petition for Rulemaking, which offered proposals from a group of copyright owners who are the beneficiaries of the royalties paid under the statutory licenses ("Copyright Owners").<sup>1</sup>

The Office received comments on the proposed regulation from groups representing copyright owners, cable operators,<sup>2</sup> and individual companies that retransmit broadcast programming under section 111 or 119 of the Act, namely, AT&T, Inc., DIRECTV, LLC ("DTV"), and DISH Network L.L.C. ("DISH"). While the parties agreed on the overall framework that the Office proposed for the verification procedure, they strongly disagreed on a number of key issues, such as the procedures for selecting an auditor, for expanding the scope of the audit, and for allocating the cost of the verification procedure.

On August 24, 2012 and again on September 26, 2012, the National Cable & Telecommunications Association ("NCTA"), the Joint Sports Claimants, and the Program Suppliers submitted a joint motion to extend the deadline for submitting reply comments.<sup>3</sup> They

<sup>1</sup> The petition was filed on behalf of Program Suppliers (commercial entertainment programming), Joint Sports Claimants (professional and college sports programming), Commercial Television Claimants (local commercial television programming), Music Claimants (musical works included in television programming), Public Television Claimants (noncommercial television programming), Canadian Claimants (Canadian television programming), National Public Radio (noncommercial radio programming), Broadcaster Claimants Group (U.S. commercial television stations), and Devotional Claimants (religious television programming). A copy of the petition has been posted on the Copyright Office Web site at <http://www.copyright.gov/docs/soaaudit/soa-audit-petition.pdf>.

<sup>2</sup> The National Cable & Telecommunications Association ("NCTA") and the American Cable Association ("ACA") filed comments on behalf of cable operators.

<sup>3</sup> The NCTA is a trade association that represents cable operators. The Joint Sports Claimants represent copyright owners that produce professional and college sports programming. The Program Suppliers represent copyright owners that

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