

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

## Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

## List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); Section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.324 is added to read as follows:

### § 117.324 Rice Creek.

The CSX Railroad Swingbridge, mile 0.8, in Putnam County, shall open on signal from 8 a.m. to 4 p.m., daily. From 4:01 p.m. to 7:59 a.m., daily, the Bridge shall open with a 24-hour advance notice to 1–800–232–0142.

Dated: July 28, 2003.

**F.M. Rosa,**

*Captain, Coast Guard, Acting Commander, Seventh Coast Guard District.*

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BILLING CODE 4910–15–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

### 36 CFR Part 7

RIN 1024–AC87

### Special Regulations, Areas of the National Park System

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

**ACTION:** Proposed rule.

**SUMMARY:** The National Park Service (NPS) proposes to amend its regulations for Canyonlands National Park by prohibiting motor vehicles in Salt Creek Canyon above Peekaboo campsite, in the Needles district. This action implements the selected alternative of the Middle Salt Creek Canyon Access Plan Environmental Assessment (EA).

**DATES:** Written comments will be accepted by mail, fax, or electronic mail through October 10, 2003.

**ADDRESSES:** Comments should be addressed to: Canyonlands National Park, Attn: Salt Creek Rule, 2282 SW Resource Boulevard, Moab, Utah 84532. Fax: (435) 719–2300; Email: [canyaltck@nps.gov](mailto:canyaltck@nps.gov).

**FOR FURTHER INFORMATION CONTACT:** Superintendent, Canyonlands National Park, 2282 SW Resource Boulevard, Moab, Utah 84532; Telephone: (435) 719–2101; Fax: (435) 719–2300; Email: [canyaltck@nps.gov](mailto:canyaltck@nps.gov).

**SUPPLEMENTARY INFORMATION:** Congress created Canyonlands National Park in 1964 in order to preserve its “superlative scenic, scientific, and archeological features for the inspiration, benefit, and use of the public.” 16 U.S.C. 271. The Park is to be administered subject to the 1916 NPS Organic Act as amended, which states in part that the fundamental purpose of parks is “to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.” 16 U.S.C. 1. This provision of the Organic Act was supplemented and clarified through enactment of a 1978 amendment to the 1970 General Authorities Act which stated in part that “the authorization of activities shall be construed and the protection, management, and administration of [Canyonlands] shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purpose for which (the park) was established, except as may have been or shall be directly

and specifically provided by Congress.” 16 U.S.C. 1a–1.

Salt Creek is the most extensive perennial water source and riparian ecosystem in Canyonlands National Park, other than the Green and Colorado Rivers. The Salt Creek “road” is an unpaved and ungraded jeep trail that runs in and out of Salt Creek and, at various locations, the trail’s path is in the creek bed. It requires a 4-wheel drive vehicle to drive, and vehicle use of the trail periodically resulted in vehicles breaking down or becoming stuck and requiring NPS assistance for removal. Salt Creek is also the heart of the Salt Creek Archeological District, the area with the highest recorded density of archeological sites in the Park. A tributary canyon to Salt Creek contains the spectacular Angel Arch. Until 1998, street-legal motor vehicles were permitted to travel along and in the Salt Creek streambed for approximately 7.2 miles above the Peekaboo campsite, and an additional one mile up the Angel Arch tributary canyon. The Salt Creek road does not provide a route for motorized transit through the Park or to any inholdings within the Park.

The previous management plan affecting Salt Creek (the Canyonlands National Park Backcountry Management Plan) was completed in January 1995. This plan, among other things, established a permit system and a daily limit on the number of motor vehicles authorized to use the Salt Creek road above Peekaboo Springs. The Southern Utah Wilderness Alliance (SUWA) filed a broad challenge to the Backcountry Management Plan in Federal district court. Among other things, SUWA alleged that continued vehicular use of Salt Creek would cause impairment of unique park resources and thus would violate the 1916 National Park Service Organic Act (16 U.S.C. 1–4).

In its June 1998 decision, the U.S. District Court for the District of Utah interpreted the Organic Act to unambiguously prohibit activities in national parks that would permanently impair unique park resources, and concluded that the NPS’s decision to allow vehicle travel in Salt Creek would cause significant permanent impairment. The court consequently enjoined the NPS from permitting motor vehicle travel in Salt Creek Canyon above Peekaboo Spring.

Off-highway vehicle groups, interveners in the case, appealed the district court ruling, and in August 2000 the United States Court of Appeals for the Tenth Circuit reversed the district court decision and remanded it for further consideration. The circuit court

ruled that the district court had applied the wrong standard in its interpretation of the Organic Act and should have more fully considered whether the agency's interpretation of the Act, as applied to Salt Creek, was "based on a permissible construction of the statute." The circuit court determined that the administrative record was not clear concerning whether motorized travel in Salt Creek would cause permanent impairment to park resources. The circuit court agreed with the district court that the Organic Act prohibited the NPS from permitting "significant, permanent impairment." However, the circuit court noted that the Organic Act may also prohibit negative impacts that do not rise to the level of "significant, permanent impairment." The circuit court remanded the case to the district court, with instructions to re-examine the record to determine whether the agency's conclusion that there was no significant impact on Salt Creek Canyon from the decision to allow limited vehicular traffic in Salt Creek Canyon was adequately supported. The circuit court also instructed the district court to consider the new NPS Management Policies in regard to "impairment of park resources or values," the central issue in the case, and vacated the district court's injunction on motor vehicle use in Salt Creek Canyon above Peekaboo Spring.

Since the mid-1990s Canyonlands backcountry planning effort, several important changes have occurred. The National Park Service revised its management policies to clarify its interpretation of the statutory provision prohibiting impairment of park resources and values (see <http://www.nps.gov/policy/mp/policies.pdf>, chapter 1). The vehicle prohibition in Middle Salt Creek Canyon that began in 1998 with the district court's injunction has been the only period of significant length without vehicle traffic since the 1964 creation of the Park. This restriction made it possible to gather information on riparian conditions without the effects of vehicles, through the Park's ongoing monitoring program and independent research efforts. In 2001, the U.S. Fish and Wildlife Service designated critical habitat for the threatened Mexican spotted owl, which includes Salt Creek Canyon. In addition, vegetation has returned to the vehicle tracks and water flows have moved sections of the stream channel since motor vehicles were prohibited as a result of the litigation.

To take into account these changes and to address the impairment question following the remand, the NPS initiated an EA process in accordance with the

National Environmental Policy Act (NEPA). The district court subsequently stayed its proceedings until completion of this EA. The EA process took advantage of additional scientific information and applied the newly stated NPS impairment policy to analyze, in more depth than had previously been possible, the impacts of a range of access alternatives for Salt Creek from Peekaboo camp to the vicinity of Angel Arch ("Middle Salt Creek Canyon"). The EA was released for public review and comment in June 2002 and a Finding of No Significant Impact (FONSI) was issued in September 2002.

The EA analyzed three alternatives permitting vehicle access. Each of these alternatives would allow vehicle travel on the Middle Salt Creek Canyon road under the permit system and daily vehicle limits of the 1995 Canyonlands/Orange Cliffs Backcountry Management Plan (BMP). Alternative A would allow motor vehicle access on the current alignment of the road year-round. Alternative B would allow vehicle access on the current alignment of the road each year from October 1 until ice makes the creek impassable, or January 31 of the following year at the latest; vehicles would be prohibited the remainder of the year. Alternative C would realign sections of the road to avoid the streambed and riparian area where feasible, and would allow year-round vehicle access.

The fourth alternative analyzed in the EA, Alternative D, would prohibit motor vehicle access in Middle Salt Creek Canyon year-round. Hiking and pack/saddle stock would continue to be permitted, under the provisions of the backcountry management plan.

Under each of the three vehicle alternatives, the use of motor vehicles was found to cause impairment to park resources and values because of adverse impacts to the Salt Creek riparian/wetland ecosystem. Alternative D, prohibiting vehicle access, was found not to cause impairment to park resources and values. Consequently, Alternative D was selected in the FONSI for implementation.

Because each of the three alternatives for vehicle traffic in Middle Salt Creek Canyon would cause impairment of park resources and values, allowing motor vehicles under any one of these alternatives is not permissible under the NPS Organic Act. Other roads in the Needles District, as well as elsewhere in Canyonlands National Park, remain open to motor vehicles. Salt Creek above Peekaboo remains open to foot and pack/saddle stock travel.

San Juan County and the State of Utah have asserted that they hold a right-of-way over the road pursuant to R.S. 2477. R.S. 2477 is a law passed in 1866 that provides, "the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted." R.S. 2477 was repealed in 1976, subject to valid existing rights. The NPS has sought and examined information relevant to the claim that this route is an R.S. 2477 right-of-way. Based on this review, the NPS concluded that it had not been shown that a valid right-of-way was constructed during the period when the lands were unreserved. Promulgation of this rule will not affect the ability of the County or State to pursue in an appropriate forum the claim that this is a valid R.S. 2477 right-of-way.

The proposed rule would prohibit motorized public use in Salt Creek Canyon above Peekaboo Spring. Although these regulations do not apply to motor vehicle use for administrative purposes, the Park as a matter of policy has previously chosen to forgo all such motorized use unless necessary for emergency rescue purposes.

**Public Participation:** If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Canyonlands National Park, 2282 SW Resource Boulevard, Moab, Utah 84532. You may also comment via the Internet to [canysaltck@nps.gov](mailto:canysaltck@nps.gov). Please include your name and return address in your Internet message. Finally, you may hand-deliver comments to the Park in the previously provided address. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

**Drafting Information:** The principal author of this proposed rule is David Wood, Canyonlands National Park.

## Compliance With Other Laws

### *Regulatory Planning and Review* (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

### *Regulatory Flexibility Act*

The Department of the Interior certifies that this document will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rule are local in nature and negligible in scope. There are several other roads throughout the Park that commercial motor vehicles may continue to use.

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

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule will have no effect on small or large businesses. 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*

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 Department has determined that this rule meets the applicable standards

provided in Section 3(a) and 3(b)(2) of Executive Order 12988.

### *Takings (Executive Order 12630)*

In accordance with Executive Order 12630 and the Attorney General's Guidelines for the evaluation of Risk and Avoidance of Unanticipated Takings, the rule does not have takings implications. The EA/FONSI and the impairment finding with respect to motorized use of the Salt Creek road were made as a direct result of the still pending litigation brought by Southern Utah Wilderness Alliance challenging the permit system which Canyonlands instituted for motor vehicles to use this road. Since this lawsuit was originally filed, state and local entities have asserted that the road constitutes an R.S. 2477 right-of-way, which in this case would be a right-of-way across public lands in favor of the State and local county. As noted previously, the NPS has concluded that the information available to it is not sufficient to demonstrate that a valid right-of-way was created prior to reservation of these lands and that closure to motor vehicles is required to prevent an impermissible impairment to park resources. No evidence exists that either the State or County has ever managed or maintained this road, nor have they commenced administrative or judicial proceedings to lead to a determination whether any such claims are valid. Nevertheless, should it be subsequently determined that the State and County do hold a valid R.S. 2477 right-of-way, the regulation will be revisited to ensure that it is consistent with the property rights that are afforded to the holders of such valid rights-of-way.

### *Federalism (Executive Order 13132)*

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This regulation will not have a substantial direct effect on the states, or on the distribution of power and responsibilities among the various levels of government. The rule addresses the prohibition of motorized use in part of a canyon in Canyonlands National Park. Canyonlands has had proprietary jurisdiction over the canyon since the creation of the Park in 1964. On April 9, 2003, the Department of the Interior and the State of Utah entered into a Memorandum of Understanding to implement "a State and County Road Acknowledgment Process." The Memorandum excludes R.S. 2477 rights-of-way within units of the National Park System in Utah and provides that the "State, Utah counties and the

Department shall work cooperatively to minimize trespass situations on roads" within national parks.

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

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

### *Paperwork Reduction Act*

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83-I is not required.

### *National Environmental Policy Act*

This rule is not a major Federal action significantly affecting the quality of the human environment. Pursuant to the National Environmental Policy Act, 42 U.S.C. § 4332, NPS has prepared an Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI) on the proposed use of Salt Creek Road. The EA and FONSI may be viewed at <http://www.nps.gov/cany> or copies may be obtained by contacting Canyonlands National Park.

### *Government-to-Government Relationship with Tribes*

In accordance with Executive Order 13175 "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249), and the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), and 512 DM 2, we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

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

District of Columbia, National Parks, Reporting and recordkeeping requirements.

36 CFR part 7 is proposed to be amended 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:** 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. Add § 7.44 to read as follows:

**§ 7.44 Canyonlands National Park.**

(a) *Motor Vehicle Use.* Motor vehicles are prohibited in Salt Creek Canyon above Peekaboo campsite.

(b) [Reserved]

Dated: July 18, 2003.

**Paul Hoffman,**

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

[FR Doc. 03-19964 Filed 8-8-03; 8:45 am]

BILLING CODE 4312-DF-P

**POSTAL SERVICE****39 CFR Parts 224, 261 through 268****Release of Information and Records Management Changes**

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service proposes to revise organizational names and titles relating to the policies for the release of information and records management, and revises the fee structure relating to the furnishing of documents and records to members of the public under the Freedom of Information Act (FOIA). We are proposing these changes because organizational names and titles have changed as a result of agency restructuring. The revisions reflect to whom the public should address issues relating to the release of information and records management. In addition, we are proposing a change to fee structure to permit the recovery of current costs incurred in the furnishing of records to the public.

**DATES:** Any interested party may submit written comments on the proposed modification on or before September 22, 2003.

**ADDRESSES:** Mail or deliver written comments on this proposal to the Records Office, United States Postal Service, 475 L'Enfant Plaza, SW., Room 5846, Washington, DC 20260-5846. Copies of all written comments will be available at the address in this section for public inspection and photocopying between 8 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Robert Faruq at 202-268-2608.

**SUPPLEMENTARY INFORMATION:**

**Proposed Changes**

The Postal Service is proposing to modify parts 224 and 261-268 of Title 39, Code of Federal Regulations, to reflect current organizational names and titles, which have changed as a result of agency restructuring. The proposal additionally modifies part 265, revising

the fee structure relating to the furnishing of documents and records to members of the public under the Freedom of Information Act (FOIA).

As a result of agency restructuring, responsibility for Postal Service release of information and records management policy has shifted from Finance to Consumer Affairs. The Chief Privacy Officer (CPO), who reports to the Vice President and Consumer Advocate, has assumed the release of information/records management responsibilities formerly held by the Manager, Administration and FOIA, under the Chief Financial Officer and Executive Vice President.

Under the new organizational structure, the title "Freedom of Information/Privacy Acts Officer" is changed to "Manager, Records Office." The Manager, Records Office, reports to the CPO.

The CPO is responsible for the issuance of policy on the protection of privacy and the release of Postal Service records, with the power to authorize the disclosure of such records, and to delegate or take appropriate action if that policy is not adhered to, or if questions of interpretation or procedure arise. The CPO directs the activities of the Privacy Office and the Records Office.

The Manager, Records Office, is responsible for establishing procedures and guidelines to ensure that record management practices are in compliance with the Privacy Act and FOIA. The Manager, Records Office, may also delegate or take appropriate action if policies are not adhered to, or if questions of interpretation or procedures arise.

This proposal further modifies part 265 to revise the fee structure for providing documents and records to the public under the FOIA. Postal Service FOIA fees have not been updated since 1987, and are substantially below allowable costs.

The proposed FOIA fee structure changes in three ways. First, the fees will be assessed in half-hour increments, as opposed to quarter-hour increments. Second, the fee will increase to \$32 per hour, to reflect the current cost of providing FOIA services. The third change eliminates the "clerical" and "professional/managerial" designations of responders, merging the two groups into one.

The use of half-hour increments is consistent with other agency practices and will allow for simpler administrative implementation. The proposed \$32 per hour fee is based on the weighted average hourly salary with benefits under the Executive and

Administrative Salary (EAS) Schedule, the class of personnel typically involved in providing FOIA services. The existing designations "clerical" and "professional/managerial" are eliminated. Those terms are often not meaningful within this class of employees.

Computer search fees, based on the *Information Services Price List*, have been updated with present costs related to current technology. The list has been replaced with rates to be assessed for computer processing time and personnel costs when information must be retrieved by computer, as follows:

|                                | Price  | Unit          |
|--------------------------------|--------|---------------|
| <b>Computer Processing</b>     |        |               |
| Mainframe usage .....          | \$ .39 | per second    |
| Midrange server usage .....    | .06    | per second    |
| PC usage .....                 | 7.00   | per 15 minute |
| Printing computer output ..... | .14    | per page      |
| Magnetic tape production ..... | 24.00  | per volume    |
| <b>Personnel</b>               |        |               |
| High technical .....           | \$120  | per hour      |
| Medium technical .....         | 70     | per hour      |
| Low technical .....            | 50     | per hour      |

Lastly, the fee for business change-of-address information is eliminated.

**List of Subjects****39 CFR Part 224**

Organization and functions (Government agencies).

**39 CFR Parts 261, 262, and 263**

Archives and records.

**39 CFR Part 264**

Archives and records, Security measures.

**39 CFR Part 265**

Administrative practice and procedure, Courts, Freedom of information, Government employees.

**39 CFR Parts 266 and 268**

Privacy.

**39 CFR Part 267**

Archives and records, Classified information, Privacy, Security measures.

For the reasons stated in the preamble, the Postal Service proposes to amend 39 CFR parts 224, 261, and 262-268 as follows:

**PART 224—[AMENDED]**

1. The authority citation for part 224 continues to read as follows: