

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR part 165 as follows:

**PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREA**

- 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T01–0002 to read as follows:

**§ 165.T01–0002 Regulated Navigation Area; Kill Van Kull and Newark Bay; Bayonne, NJ, NY Regulated Area.**

(a) *Location.* The following area is a Regulated Navigation Area (RNA): All waters of Bergen Point East and West Reaches in the Kill Van Kull, and all waters of Newark Bay South Reach, bound by the following approximate positions: 40°38'51.93" N., 074°06'47.90" W.; thence to 40°38'41.53" N., 074°07'18.54" W.; thence to 40°38'38.20" N., 074°07'41.30" W.; thence to 40°38'40.47" N., 074°08'01.61" W.; thence to 40°38'34.20" N., 074°08'41.71" W.; thence to 40°38'39.67" N., 074°08'51.86" W.; thence to 40°38'50.20" N., 074°08'55.19" W.; thence to 40°39'17.54" N., 074°08'38.20" W.; thence to 40°39'19.00" N., 074°08'53.09" W.; thence to 40°39'07.94" N., 074°08'59.04" W.; thence to 40°38'46.87" N., 074°09'23.03" W.; thence to 40°38'33.40" N., 074°09'19.87" W.; thence to 40°38'24.86" N., 074°09'02.71" W.; thence to 40°38'23.93" N., 074°08'52.56" W.; thence to 40°38'31.40" N., 074°08'07.56" W.; thence to 40°38'31.80" N., 074°07'55.66" W.; thence to 40°38'30.06" N., 074°07'41.13" W.; thence to 40°38'33.80" N., 074°07'14.86" W.; thence to 40°38'43.93" N., 074°06'45.45" W.; thence to the point of origin (NAD 83).

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.10, 165.11, and 165.13 apply within the RNA.

(2) Any vessel transiting through the RNA must make a direct passage. No vessel may stop, moor, anchor or loiter within the RNA at any time unless they are working on the bridge construction. Movement within the RNA is subject to a "Slow-No Wake" speed limit. All

vessels may not produce a wake and may not attain speeds greater than five (5) knots unless a higher minimum speed is necessary to maintain bare steerageway.

(3) There may be times that the First District Commander or the Captain of the Port (COTP) New York finds it necessary to close the RNA to vessel traffic. All closures will be limited to specific hours of the day. Mariners will be advised of all closure dates and times via Local Notice to Mariners and Broadcast Notice to Mariners in advance of closure times. During such closures, persons and vessels may request permission to enter the RNA by contacting the COTP or the COTP's on-scene representative on VHF–16 or via phone at 718–354–4353 (Sector New York Command Center).

(4) Vessels in the RNA must comply with directions given to them by the COTP or the COTP's on-scene representative. An "on-scene representative" of the COTP is any Coast Guard commissioned, warrant or petty officer who has been designated by the COTP to act on the COTP's behalf. An on-scene representative may be on a Coast Guard vessel; or other designated craft; or on shore and communicating with a Vessel Traffic Service New York Watchstander or vessels via VHF–FM radio or loudhailer. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(5) All other relevant regulations, including but not limited to the Rules of the Road, as codified in 33 CFR Subchapter E, Inland Navigational Rules, remain in effect within the RNA and must be strictly followed at all times.

(c) *Enforcement period.* This regulation will be enforced from 8:00 a.m. on February 1, 2016, until December 31, 2017. This RNA's speed restrictions are enforceable 24 hours a day as long as this RNA is in place. The Coast Guard will enforce waterway closures only when necessary to protect people and vessels from hazards associated with bridge construction.

(d) *Notification.* The Coast Guard will rely on the methods described in 33 CFR 165.7 to notify the public of the time and duration of any closure of the RNA. Violations of this RNA may be reported to the COTP at 718–354–4353 or on VHF–Channel 16.

Dated: August 31, 2015.

**L.L. Fagan,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

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

[NPS–LAMR–18708; PPWONRADE2, PMP00E105.YP0000]

RIN 1024–AD86

**Special Regulations; Areas of the National Park System, Lake Meredith National Recreation Area, Off-Road Motor Vehicles**

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

**ACTION:** Final rule.

**SUMMARY:** The National Park Service is amending its special regulations for Lake Meredith National Recreation Area to require permits to operate motor vehicles off roads, designate areas and routes where motor vehicles may be used off roads, create management zones that will further manage this activity, and establish camping, operational, and vehicle requirements. These changes will allow off-road vehicle use for recreation while reducing associated impacts to resources. Unless authorized by special regulation, operating a motor vehicle off roads within areas of the National Park System is prohibited.

**DATES:** This rule is effective October 15, 2015.

**FOR FURTHER INFORMATION CONTACT:**

Robert Maguire, Superintendent, Lake Meredith National Recreation Area, P.O. Box 1460, Fritch, Texas 79036–1460, by phone at 806–857–3151, or by email at [Robert\\_Maguire@nps.gov](mailto:Robert_Maguire@nps.gov).

**SUPPLEMENTARY INFORMATION:**

**Purpose and Significance of Lake Meredith National Recreation Area**

Congress established Lake Meredith National Recreation Area (LAMR or recreation area) in 1990 "to provide for public outdoor recreation use and enjoyment of the lands and waters associated with Lake Meredith in the State of Texas, and to protect the scenic, scientific, cultural, and other values contributing to the public enjoyment of such lands and waters. . . ." 16 U.S.C. 460eee.

Situated approximately 35 miles north of Amarillo, Texas, within Potter, Moore, Hutchinson, and Carson counties, LAMR is approximately 45,000 acres in size and is the largest public landmass in the Texas Panhandle. LAMR includes a variety of habitats that are uncommon in the region, including aquatic, wetland, and riparian areas, and one of the few areas in the region with trees. The natural and

geologic resources of the area have enabled a continuum of human presence in the area for more than 13,000 years. The exposed geologic features on the walls of the Canadian River valley (*i.e.*, the “breaks”) reveal active geologic processes that are easily visible to an extent not present elsewhere in the region. The recreation area is also home to the Arkansas River shiner (*Notropis girardi*), a fish species that is federally listed as threatened.

#### Authority To Promulgate Regulations

The National Park Service (NPS) manages LAMR under the statute commonly known as the NPS Organic Act of 1916 (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 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).

Executive Order 11644, Use of Off-Road Vehicles on the Public Lands, issued in 1972 and amended by Executive Order 11989 in 1977, requires federal agencies to issue regulations designating specific areas and routes on public lands where the use of off-road vehicles may be used. The NPS implemented these Executive Orders in 36 CFR 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 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.” The rule will designate routes and areas where motor vehicles may be used off roads in compliance with 36 CFR 4.10 and Executive Orders 11644 and 11989. The rule will replace regulations promulgated in 1975 that designate areas for off-road vehicle (ORV) use.

#### Off-Road Motor Vehicle Use at LAMR

##### Designated ORV Use Areas

LAMR provides a variety of visitor experiences, including the use of ORVs. In 1975, the NPS promulgated a special regulation (40 FR 762, January 3, 1975) at 36 CFR 7.57(a) designating two ORV use areas at LAMR: (i) Blue Creek, with 275 acres for ORV use in the creek bottom between the cutbanks; and (ii) Rosita, with approximately 1,740 acres for ORV use below the 3,000-foot elevation line. These two areas remain

the only areas designated for ORV use in the recreational area.

The Blue Creek ORV area is in the Blue Creek riparian area at the northern end of the recreational area that empties into Lake Meredith. ORV use at Blue Creek is allowed only in the creek bottom along both sides from cutbank to cutbank. Cutbanks, also known as river-cut cliffs, are the outside banks of a water channel and are located at the base of the hills at the edges of the creek bed.

The Rosita ORV area is a riparian area of the Canadian River at the southern end of the recreation area. ORV use at Rosita is in the Canadian River bed as well as the surrounding hills, in some cases out to a mile or more. Although the authorized area is below the 3,000-foot elevation line, and ORV use outside the authorized area is prohibited, it is difficult for ORV users to determine the exact location of the 3,000-foot elevation line.

##### Changes in ORV Use at LAMR

ORV use at Blue Creek and Rosita has changed considerably since the areas were designated by special regulation in 1975, both in intensity and the types of vehicles used. ORV use has taken place at Blue Creek and Rosita since at least the 1950s. Throughout the 1960s, ORVs primarily consisted of a small number of “river buggies” crafted from old automobiles to operate in the Canadian River bottom. A few people used dirt bikes, motorcycles, or surplus military vehicles to access the area. Standard four-wheel-drive vehicles were rarely seen.

Today, visitors use a variety of vehicle types, including all-terrain vehicles (ATVs), utility task vehicles (UTVs), dune buggies, rock crawlers, and standard four-wheel-drive vehicles. Regardless of the vehicle type, the majority of ORV use at LAMR has been and continues to be for recreation, rather than transportation. ORV users are both local and from urban areas, especially at Rosita. ORV use is often, but not always, family focused. In February, an annual three-day event called Sand Drags is held just outside the recreation area north of Rosita. This locally sponsored racing event draws approximately 30,000 visitors to the area, including hundreds of motorcycles, four wheelers, sand rails, and river buggies. This event results in the highest annual visitation to the recreation area with a notable increase in recreational ORV use.

Changes in the intensity and type of ORV use at LAMR have impacted natural and cultural resources and raised concerns about visitor

experience, health, and safety. Impacted resources include soils, vegetation, water, soundscapes, wildlife and wildlife habitat, threatened species, and archeological sites. These impacts are described in the January 2015 Final Off-Road Vehicle Management Plan/Environmental Impact Statement (FEIS) that is discussed below.

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

The rule will implement the preferred alternative (Alternative D) for the recreation area described in the FEIS. On June 26, 2015, the Regional Director of the Intermountain Region signed a Record of Decision (ROD) identifying the preferred alternative as the selected action. The FEIS, which describes the purpose and need for taking action, the alternatives considered, the scoping process and public participation, the affected environment and environmental consequences, and consultation and coordination, and the ROD may be viewed on the recreation area’s planning Web site at <http://parkplanning.nps.gov/lamr>, by clicking the link entitled “ORV Management Plan and Regulation” and then clicking “Document List.”

#### Final Rule

##### Fee Permit System

The rule will require a special use permit to operate a motor vehicle off road in the recreation area. With each permit the NPS will issue a decal 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 the recreation area or transported into the recreation area on a trailer. Families may submit a single application for special use permits for multiple vehicles that are registered or titled to members of that family. Annual permits will be valid for the calendar year the permit is issued; three-day and one-day permits will also be available and valid from the date designated on the permit. There will be no limit to the number of annual or other permits issued.

Permits will be issued after the applicant reads educational materials and acknowledges in writing that he or she has read, understood, and agrees to abide by the terms in the permit governing ORV use in the recreation area. The permittee who signs the permit will be the responsible party for all vehicles listed on the permit, and must keep a hard copy of the permit with them on-site when the permittee or another person is operating the vehicle in the recreation area. The permittee is

responsible for the actions of all operators of a permitted vehicle, including compliance with the terms and conditions of the permit. Permit applications (NPS Form 10-933, "Application for Special Use Permit—Vehicle/Watercraft Use") will be available at headquarters (419 E. Broadway, Fitch, TX 79036) and on the recreation area's Web site. Completed permit applications may be submitted in person at headquarters or mailed to the recreation area at Lake Meredith National Recreation Area, P.O. Box 1460, Fritch, TX 79036. The NPS will process completed permit applications and provide a permit, or mail a permit, with instructions and educational materials to the applicant. After the

applicant receives the permit, he or she will sign the permit and submit it to the park or mail it back to the park at the P.O. Box address. After the NPS receives the signed permit, it will provide or send a copy of the signed permit and a decal (to be affixed to the ORV) to the permit-holder. Violating the terms or conditions of any permit or failing to properly display the decal will be prohibited and may result in the suspension or revocation of the permit.

The NPS intends to recover the costs of administering the special use permit program under 54 U.S.C. 103104. In order to obtain a special use permit to operate a motor vehicle off roads in the recreational area, the rule will require applicants to pay a permit fee to allow the NPS to recover these costs. The NPS

will post a fee schedule at the recreation area and on the recreation area's Web site. The initial fee will be \$40.00 per application, no matter how many vehicles are included in the application.

#### *Designated Routes and Areas*

The rule will prohibit ORV use in the recreation area except for designated areas, routes, and access points. These locations will be identified on maps located at headquarters (419 E. Broadway, Fitch, TX 79036) and on the recreation area's Web site, and will be marked on the ground with signs, posts, or cables.

At Blue Creek, the rule will designate the following areas, routes, and access points for ORV use:

	Designated locations for ORV use	Part of a management zone?
Blue Creek .....	Approximately 133.5 acres on the river bottom ..... Approximately one linear mile of routes and access points to the river bottom.	Low Speed Zone (partial overlap). No.

At Rosita, the rule will designate the following areas, routes, and access points for ORV use:

	Designated locations for ORV use	Part of a management zone?
Rosita .....	Approximately 170.2 acres south of the Canadian River (currently denuded of vegetation) at the western border of LAMR where HWY 287 nears the recreation area. Approximately 65.2 acres south of the Canadian River and on the east side of Bull Taco Hill. Approximately 119.3 acres on the river bottom .....  Approximately 15.1 linear miles of routes and access points to the river bottom. Hunting Zone (complete overlap).  Approximately one linear mile of routes south of the Canadian River near HWY 287.	No.  Hunting Zone (complete overlap). Resource Protection Zone (partial overlap). Resource Protection Zone (partial overlap).  Beginner Zone (complete overlap).

#### *Management Zones*

As indicated in the tables above, the rule will also establish management zones at Blue Creek and Rosita. In some locations, the areas, routes, and access points designated for ORV use will enter into one or more of these management

zones. When this occurs, special restrictions will apply to ORV use. These zones are designed to separate types of ORV use in the recreation area to avoid visitor conflict, protect the health and safety of visitors, and minimize impacts to natural and

cultural resources. Zones will be identified on maps located at headquarters (419 E. Broadway, Fitch, TX 79036) and on the recreation area's Web site. The special restrictions for each management zone are described in the table below:

Management zone	Special restrictions	ORV use location
Beginner Zone .....	Speed limit: 20 mph (unless otherwise posted) ..... Routes marked for beginner ORV operators only.	Rosita.
Camping Zone .....	Speed limit: 15 mph (unless otherwise posted). ORVs may only be used to access the campground; recreational use prohibited. ORVs may not be used from 10 p.m.–6 a.m. (unless otherwise posted), except that state-registered vehicles may be used during this time.	Blue Creek. Rosita.
Hunting Zone .....	ORVs may be used only for hunting during the Texas general white-tailed deer season.	Rosita.
Low-Speed Zone .....	Speed limit: 15 mph (unless otherwise posted) .....	Blue Creek.

Management zone	Special restrictions	ORV use location
Resource Protection Zone .....	ORVs with a wheel width greater than 65 inches are prohibited .....	Rosita.

### Camping

In addition to conditions for camping established by the Superintendent in the recreation area's compendium, the rule will establish rules related to camping at Blue Creek and Rosita. Camping will be prohibited in designated ORV areas, routes, and access points and within 100 feet of these locations, except for marked camping zones where camping will be allowed in or next to a motor vehicle, including a tent trailer, RV, or van.

### Operational and Vehicle Requirements

ORV use will be prohibited on vegetation anywhere in the recreation area. Driving through isolated pools of water will be prohibited at Rosita regardless of time or season for the protection of the Arkansas River shiner. Isolated pools of water means water that is not connected to or touching flowing water. ORVs will be allowed to cross flowing river water if they enter and exit the river bottom via designated access points. The decibel limit for all ORVs in the recreation area will be 96 dba. NPS personnel will enforce this rule by stopping and testing the decibel level of any ORV suspected of exceeding the noise limit. Noise level will be measured using the SAE J1287 standard. The rule will require ATVs to have a whip—a pole, rod, or antenna—securely mounted to the vehicle that extends at least eight feet from the surface of the ground with an orange colored safety flag at the top. The rule will define ATVs using the definition currently found in Texas Transportation Code 502.001. The rule will require that ORVs have a functioning muffler system and functioning headlights and taillights if the ORV is operating at night. Operators will be required to use headlights and taillights starting one half hour before sunset and ending one half hour after sunrise. Glass containers (e.g., cups and bottles) will be prohibited in designated areas, routes, and access points, and in camping zones at Blue Creek and Rosita. Except for management zones with a slower speed limit, the speed limit will be 35 mph (unless otherwise posted) on ORV routes and 55 mph (unless otherwise posted) on the river bottom at Blue Creek and Rosita. Speed limits will be implemented for visitor safety and to reduce driving that may damage resources.

The provisions of 36 CFR part 4 (Vehicles and Traffic Safety), including

state laws adopted by 36 CFR 4.2, will continue to apply within the recreation area. Currently, Texas law includes, but is not limited to, the following rules about ORVs:

- ORVs must have an off-highway vehicle (OHV) use decal issued by the State of Texas.
- ATV operators must wear eye protection and helmets approved by the Texas Department of Transportation.
- ATV operators must possess valid safety certificates issued by the State of Texas under Section 663.031 of the Texas Transportation Code.
- ATV operators under the age of 14 must be accompanied by a parent or guardian.
- ATV operators may not carry passengers unless the vehicle is designed by the manufacturer for carrying passengers.

### Superintendent's Discretionary Authority

The rule will allow the superintendent to open or close designated areas, routes, or access points to motor vehicle use, or portions thereof, or impose conditions or restrictions for off-road motor vehicle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives. The superintendent will 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 the proposed rule at 80 FR 11968 (March 5, 2015). The NPS accepted comments through the mail, hand delivery, and through the Federal eRulemaking Portal at <http://www.regulations.gov>. Comments were accepted through May 4, 2015. The NPS received one comment on the proposed rule. A summary of this comment and the NPS responses are provided below. After considering the public comments and after additional review, the NPS did not make any substantive changes to the proposed rule. The final rule contains the following clarifications:

- All designated ORV locations will be marked on the ground by signs, posts, or cables.
- Provides the linear mileage of designated routes in the beginner zone.
- Clarifies that the restrictions in the hunting zone apply during the Texas general white-tailed deer season, rather

than the more general rifle hunting season.

*Comment:* The commenter suggested that, due to the proposed speed limits, the overnight camping zone in Rosita can be used by beginner riders and therefore the beginner zone is unnecessary.

*NPS Response:* For the safety of all campers including children, the NPS determined that recreational ORV use should occur outside of the camping zones. In the camping zones, ORVs will be allowed only to access the campground; recreational ORV use will be prohibited. The beginner zone was requested by the public during the scoping process for the EIS and will be established so that beginners have a safe environment to learn how to drive for recreation without potential collisions with campers who are likely to be outside of their vehicles, or ORVs traveling at fast speeds.

*Comment:* The commenter stated that education on signs and on the recreation area Web site, and the requirement to obtain a permit and decal is better than requiring ORVs to stay on designated trails. This comment also stated that ORVs should be allowed to cross or ride on the river bed at Rosita, especially when the water level is low.

*NPS Response:* There are designated ORV areas in Rosita where ORVs will not have to stay on designated routes or access points. The designated areas will be delineated on the ground by signs, posts or cables. Education through signs, Web sites, written materials, or the permit system is an important tool for informing visitors about the importance of staying on designated routes, access points, and within the designated ORV areas. ORVs will be permitted to enter and exit the river bottom in Rosita only at designated access points. Designated access points are necessary to protect the Arkansas river shiner and shoreline vegetation and to reduce erosion. ORV use within the river bottom, including through flowing water but excluding isolated pools of water, will be permitted because the river bottom is a designated ORV route.

*Comment:* The commenter suggested that, in Rosita, recreational ORVs be allowed in the hunting zone in the afternoon and at night during hunting season when there will no longer be an opportunity to harvest game.

*NPS Response:* Hunters may be using weapons within the hunting zone

throughout the general white-tailed deer season during daylight hours. For visitor protection and to avoid confusion about when ORVs may be used for recreational purposes in the hunting zone, the rule will prohibit recreational ORV use in the hunting zone only during the general white-tailed deer season, but at all times of day or night.

#### **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 or applicable to the nature of the land management unit. LAMR is an area of the National Park System. 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.

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 EIS 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.

#### **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 cost-benefit and regulatory flexibility analyses found in the report entitled “Benefit-Cost Analysis of ORV Use Regulations in Lake Meredith National Recreation Area” that can be viewed online at <http://>

[parkplanning.nps.gov/lamr](http://parkplanning.nps.gov/lamr), by clicking the link entitled “ORV Management Plan and Regulation” and then clicking “Document List.” According to that report, no small entities will be directly regulated by the rule, which will only regulate visitor use of ORVs.

#### **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. 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 affect 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 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.

**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 tribal consultation policy and have determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes.

During scoping for the EIS, recreational area staff sent letters to the Apache Tribe of Oklahoma, Caddo Nation of Oklahoma, Comanche Nation, Cheyenne-Arapaho Tribe of Oklahoma, Delaware Nation of Oklahoma, Fort Sill Apache Tribe of Oklahoma, Jicarilla Apache Nation, Kiowa Indian Tribe of Oklahoma, Mescalero Apache Tribe, Wichita & Affiliated Tribes requesting information on any historic properties of religious or cultural significance to the Tribes that will be affected by the FEIS. The same tribes were contacted when the recreation area released the Off-Road Vehicle Management Plan/Draft Environmental Impact Statement in January 2013. These tribes have not informed NPS staff of any concerns over historic properties of religious or cultural significance.

**Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)**

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OMB has approved the information collection requirements associated with NPS Special Park Use Permits and has assigned OMB Control

Number 1024–0026 (expires 08/31/16). 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 the ROD under the NEPA. The FEIS and ROD are summarized above and available online at <http://www.parkplanning.nps.gov/lamr>, by clicking on the link entitled “ORV Management Plan and Regulation” and then clicking “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. A Statement of Energy Effects is not required.

**Drafting Information**

The primary authors of this regulation are Lindsay Gillham, NPS Environmental Quality Division, and Jay Calhoun, NPS Regulations Program Specialist.

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

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service 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 D.C. Code 50–2201.07.

- 2. In § 7.57, revise paragraph (a) to read as follows:

**§ 7.57 Lake Meredith National Recreation Area.**

(a)(1) *What terms do I need to know?* In addition to the definitions found in § 1.4 of this chapter, the following definition applies to this § 7.57 only.

*All-terrain vehicle or ATV* means a motor vehicle that is:

- (i) Equipped with a seat or seats for the use of the rider and a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;

- (ii) Designed to propel itself with three or more tires in contact with the ground;

- (iii) Designed by the manufacturer for off-highway use;

- (iv) Not designed by the manufacturer primarily for farming or lawn care; and
- (v) Not more than 50 inches wide.

**(2) Off-road motor vehicle use.**

Operating a motor vehicle is allowed within the boundaries of Lake Meredith National Recreation Area off roads under the conditions in this paragraph (a).

(3) *Permit requirement.* (i) A special use permit issued and administered by the superintendent is required to operate a motor vehicle off roads at designated locations in the recreation area. There is no limit to the number of permits that the Superintendent may issue.

- (ii) The NPS charges a fee to recover the costs of administering the special use permits. Permit applicants must pay the fee charged by the NPS in order to obtain a special use permit.

- (iii) Annual permits are valid for the calendar year for which they are issued. Three-day permits are valid on the day designated on the permit and the following two days. One-day permits are valid on the day designated on the permit.

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

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

- (vi) Permits may be requested from the recreation area headquarters in Fritch, Texas, or on the recreation area Web site.

(4) *Designated locations.* (i) The operation of a motor vehicle off roads within the recreation area is prohibited except at the locations designated by this paragraph (a). Designated locations are identified on maps available at the recreation area headquarters and on the recreation area Web site, and are marked on the ground with signs, posts, or cables.

- (ii) Permitted motor vehicles may be used off roads at the following locations at Blue Creek, an area at the northern end of the recreational area that empties into Lake Meredith:

	Designated locations for off-road motor vehicle use	Part of a management zone?
Blue Creek .....	Approximately 133.5 acres on the river bottom ..... Approximately one linear mile of routes and access points to the river bottom.	Low Speed Zone (partial overlap). No.

(iii) Permitted motor vehicles may be used off roads at the following locations at Rosita, an area of the Canadian River at the southern end of the recreation area:

	Designated locations for off-road motor vehicle use	Part of a management zone?
Rosita .....	Approximately 170.2 acres south of the Canadian River (currently denuded of vegetation) at the western border of LAMR where HWY 287 nears the recreation area. Approximately 65.2 acres south of the Canadian River and on the east side of Bull Taco Hill. Approximately 119.3 acres on the river bottom .....  Approximately 15.1 linear miles of routes and access points to the river bottom.  Approximately one linear mile of routes south of the Canadian River near HWY 287.	No.  Hunting Zone (complete overlap).  Resource Protection Zone (partial overlap). Resource Protection Zone (partial overlap). Hunting Zone (complete overlap). Beginner Zone (complete overlap).

(5) *Management zones.* Some of the designated locations for off-road motor vehicle use enter into or abut one or more management zones that further manage this activity. These zones are identified on maps available at headquarters and on the recreation area Web site. Each zone has special restrictions governing off-road motor vehicle use as set forth in the following table:

Zone	Special restrictions	Location
Beginner Zone .....	Speed limit: 20 mph (unless otherwise posted). Routes marked for beginner operators of off-road vehicles only .....	Rosita.
Camping Zone .....	Speed limit: 15 mph (unless otherwise posted). Off-road vehicles may only be used to access the campground; recreational use prohibited. Off-road vehicles that are not registered in a state may not be used from 10 p.m.–6 a.m. (unless otherwise posted).	Rosita. Blue Creek.
Hunting Zone .....	Off-road vehicles may be used only for hunting during the Texas general white-tailed deer season.	Rosita.
Low-Speed Zone .....	Speed limit: 15 mph (unless otherwise posted). Located approximately ½ mile on either side of the FM 1913 bridge	Blue Creek.
Resource Protection Zone .....	Off-road vehicles with a wheel width greater than 65 inches are prohibited.	Rosita.

(6) *Camping at Blue Creek and Rosita.* Camping is prohibited in designated ORV areas, routes, and access points and within 100 feet of these locations, except for marked camping zones where camping is allowed in or next to a motor vehicle, including a tent trailer, RV, or van.

(7) *Operational and vehicle requirements.* The following requirements apply to the use of motor vehicles off roads in the recreation area:

(i) At Rosita, operating a motor vehicle in an isolated pool of water that is not connected to or touching flowing water is prohibited.

(ii) Operating a motor vehicle on vegetation is prohibited.

(iii) Glass containers are prohibited in designated areas, routes, and access points, and in camping zones.

(iv) Operating a motor vehicle in excess of 35 mph (unless otherwise posted) on designated routes and access points at Blue Creek and Rosita is prohibited.

(v) Operating a motor vehicle in excess of the speed limits identified in paragraph (a)(5) (unless otherwise posted) in specific management zones is prohibited.

(vi) Operating a motor vehicle in excess of 55 mph (unless otherwise posted) in the designated areas that are not part of a Low-Speed Zone on the river bottoms at Blue Creek and Rosita is prohibited.

(vii) All ATVs must be equipped with a whip—a pole, rod, or antenna—that is securely mounted on the vehicle and stands upright at least eight feet from the surface of the ground when the vehicle is stopped. This whip must have

a solid red or orange safety flag with a minimum size of six inches by twelve inches that is attached no more than ten inches from the top of the whip. Flags must have a pennant, triangle, square, or rectangular shape.

(viii) A motor vehicle must display lighted headlights and taillights during the period from one-half hour before sunset to one half hour after sunrise.

(ix) Motor vehicles must have a functioning muffler system. Motor vehicles that emit more than 96 decibels of sound (using the SAE J1287 test standard) are prohibited.

(x) Operating a motor vehicle with a wheel width greater than 65 inches in a Resource Protection Zone is prohibited.

(8) *Prohibited acts.* Violating any provision of this paragraph (a), including the special restrictions for

each management zone, or the terms, conditions, or requirements of an off-road vehicle permit is prohibited. A violation may also result in the suspension or revocation of the applicable permit by the superintendent.

(9) *Superintendent's authority.* The superintendent may open or close designated areas, routes, or access points to motor vehicle use, or portions thereof, or impose conditions or restrictions for off-road motor vehicle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives. The superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter. Violating any such closure, condition, or restriction is prohibited.

\* \* \* \* \*

Dated: September 9, 2015.

**Michael Bean,**

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

[FR Doc. 2015-23168 Filed 9-14-15; 8:45 am]

BILLING CODE 4310-EJ-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2015-0270; FRL-9932-78-Region 7]

### Partial Approval and Disapproval of Air Quality State Implementation Plans (SIP); State of Nebraska; Infrastructure SIP Requirements for the 2008 Ozone National Ambient Air Quality Standard (NAAQS)

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to partially approve and disapprove elements of a State Implementation Plan (SIP) submission from the State of Nebraska addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2008 National Ambient Air Quality Standards (NAAQS) for Ozone (O<sub>3</sub>), which requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as "infrastructure" SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management

program are adequate to meet the state's responsibilities under the CAA.

**DATES:** This final rule is effective September 15, 2015.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2015-0270. All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gregory Crable, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219; *telephone number:* (913) 551-7391; *fax number:* (913) 551-7065; *email address:* [crable.gregory@epa.gov](mailto:crable.gregory@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, the terms "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. Background
- II. Summary of SIP Revision
- III. Final Action
- IV. Statutory and Executive Order Review

#### I. Background

On June 19, 2015, (80 FR 35284), EPA published a notice of proposed rulemaking (NPR) for the State of Nebraska. The NPR proposed partial approval and disapproval of Nebraska's submission that provides the basic elements specified in section 110(a)(2) of the CAA, or portions thereof, necessary to implement, maintain, and enforce the 2008 O<sub>3</sub> NAAQS.

#### II. Summary of SIP Revision

On February 11, 2013, EPA received a SIP submission from the state of Nebraska that addressed the infrastructure elements specified in section 110(a)(2) for the 2008 O<sub>3</sub> NAAQS. The submission addressed the following infrastructure elements of section 110(a)(2): (A), (B), (C), (D), (E),

(F), (G), (H), (J), (K), (L), and (M).

Specific requirements of section 110(a)(2) of the CAA and the rationale for EPA's proposed action to approve and disapprove the SIP submissions are explained in the NPR and will not be restated here.

During the public comment period for the NPR one comment was received. The commenter stated that EPA must disapprove 110(a)(2)(C) and (D)(i)(II) (prong 3), unless Nebraska has the PM<sub>2.5</sub> increments approved into its PSD SIP and its PSD program treats NO<sub>x</sub> as a precursor for ozone. The PM<sub>2.5</sub> increments and the inclusion of NO<sub>x</sub> as a precursor to ozone was approved by EPA into the Nebraska SIP on August 4, 2014. See 79 FR 45108, Approval and Promulgation of Implementation Plans; State of Nebraska; Fine Particulate Matter New Source Review Requirements.

#### III. Final Action

EPA is approving Nebraska's February 11, 2013 submission addressing the requirements of the CAA sections 110(a)(1) and (2) as applicable to the 2008 O<sub>3</sub> NAAQS. Specifically, EPA approves the following infrastructure elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II) (prong 3), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) which are necessary to implement, maintain, and enforce the 2008 O<sub>3</sub> NAAQS, as a revision to the Nebraska SIP. As discussed in each applicable section of the NPR, EPA is not taking action on section 110(a)(2)(D)(i)(I) (prongs 1 and 2) and section 110(a)(2)(I), Nonattainment Area Plan or Plan Revisions, under part D. And finally, EPA is disapproving section 110(a)(2)(D)(i)(II) (prong 4) as it relates to the protection of visibility.

#### IV. Statutory and Executive Order Review

Under the CAA the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);