



4310-EJ

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-DEVA-25759; PPWONRADE2, PMP00EI05.YP0000]

RIN 1024-AE48

Special Regulations, Areas of the National Park System, Death Valley National Park; Designation of Airstrip

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to revise the special regulations for Death Valley National Park to designate the Saline Valley Warm Springs Airfield, commonly known as the Chicken Strip, within the Saline Valley Warm Springs area as a location available for the operation of aircraft.

DATES: Comments on the proposed rule must be received by 11:59 PM EDT on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024-AE48, by either of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail to:* Death Valley National Park, P.O. Box 579, Death Valley, CA 92328, Attention: Superintendent.
- *Instructions:* Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words “National Park

Service” or “NPS” and must include the docket number or RIN (1024-AE48) for this rulemaking. Comments received may be posted without change to

<http://www.regulations.gov>, including any personal information provided.

- *Docket*: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Kelly Daigle, National Park Service, Environmental Quality Division, (303) 987-6897, kelly_daigle@nps.gov.

SUPPLEMENTARY INFORMATION:

Background.

Saline Valley is a large desert valley located in the northwest portion of Death Valley National Park (the park). The Saline Valley Warm Springs area is approximately 1,100 acres of backcountry surrounded by wilderness. This area is distinctive, both in the setting of the site and in its geology. Saline Valley is a closed basin, which means that the water does not flow to another body of water. Water in closed basins only leaves the system by evaporation or diversion. The Saline Valley Warm Springs are among the highest-flow springs in the park. The mountain ranges surrounding this valley, Saline Range, Last Chance Range, and Inyo Range, have elevations ranging from 7,000 feet to over 11,000 feet, which result in spectacular views from the Saline Valley Warm Springs.

The Timbisha Shoshone Tribe (the Tribe), whose homelands encompass the entirety of the park, has a deep affinity for the Saline Valley Warm Springs area due to the existence of long-lived historical and ethnographic connections. The Timbisha Shoshone Homeland Act of 2000 (Homeland Act; Public Law 106-423) specified designated special use areas. Saline Valley is part of one of these special use areas. The waters of the warm springs in Saline Valley are a

source of *puha* for the Tribe, a life force energy. Although the development of the area by Euro-Americans degraded *puha* and other ethnographic resources, Tribal leaders still seek these cultural connections from historic times until the present and will continue to do so in the future.

The Saline Valley Warm Springs area has not been formally or systematically developed for use by the NPS but does have a number of user-developed and user-maintained structures and facilities. Visitors enjoy backcountry camping and soaking tubs created by diverting water from natural source springs. Visitors use the Saline Valley Warm Springs area throughout the year but the cooler months, October to May, receive the highest use; holidays are times of especially heavy use. The Lower Spring area is the most developed and includes the following features: Cool Pool, Sunrise Pool, Crystal Pool, Children's Play Tub, communal fire pit, library, shower, bathtub, sink for dishwashing, maintained lawn, settling pond, auto shop, and the camp host site. It is the site of many communal activities, such as group fires, communal dinners, and singing. The site contains heavy burro concentration and use, and invasive species such as palm trees and Bermuda grass.

Chicken Strip Airstrip.

There is a small, unimproved landing strip to the west of Lower Spring, referred to as the Chicken Strip. The formal name of the airstrip is the Saline Valley Warm Springs Airfield. The airstrip is located at latitude N 36° 48.41", longitude W 117° 46.90". In past years, there were up to three landing strips for small planes in this area. The Suicide Strip and the Crosswinds Strip have been decommissioned. Historically, the landing strips were used by miners and prospectors to access Saline Valley. The Chicken Strip is the only remaining active landing strip within the Saline Valley Warm Springs area. It is approximately 1,400 feet long and 35 feet wide. The strip has a tie-down area large enough to accommodate five small planes. Features of the airstrip

include a windsock, painted rocks lining the strip, and two airplane tie-downs. Visitors who fly into the Saline Valley Warm Springs area via the Chicken Strip often camp next to their airplanes.

The Chicken Strip surface is maintained by the community of recreational pilots who use it. The Recreational Aviation Foundation (RAF), an organization of private pilots, is active in the promotion of the continued use of the Chicken Strip. In 2017, the NPS renewed a memorandum of understanding (MOU) with the RAF that allows the RAF to maintain the Chicken Strip at no cost to the NPS. Maintenance activities include leveling the surface, removing stones and debris, and packing the surface.

Based on visitor registration logs at the Chicken Strip, approximately 440 people visited Saline Valley via airplane from 2008 to 2012, averaging 88 visitors per year. Of the aircraft reported, approximately two-thirds were Cessna models. Other types of planes included various models of Pipers, Maules, and Beechcraft. The largest number of people recorded in one aircraft was six. The Chicken Strip is the last backcountry airstrip remaining in the park and provides a unique and challenging aviation experience. Retaining use of the airstrip would benefit visitor use and experience for those visitors who seek this type of recreation or those visitors who enjoy watching the aircraft fly into the Warm Springs area. For some visitors with injuries or disabilities and who have access to small planes, the Chicken Strip airstrip is the only way they can access the Warm Springs area because the drive is too long and harsh for them.

Proposed Rule.

This rule would designate the Chicken Strip airstrip as available for use by aircraft. This action would implement part of the preferred alternative identified in the 2018 Saline Valley Warm Springs Draft Management Plan / Environmental Impact Statement (DEIS). The airstrip

has been in use since before the NPS began managing the Saline Valley Warm Springs area in 1994 and this rule would codify the continued use of the airstrip. National Park Service (NPS) regulations at 36 CFR 2.17(a)(1) prohibit the operation or use of an aircraft on lands or waters other than at locations designated pursuant to a special regulation.

This rule would also remove references to “Death Valley National Monument” and “Monument” in section 2.17 and replace them with references to “Death Valley National Park” and “Park”. This reflects the abolishment of Death Valley National Monument and the establishment of Death Valley National Park in 1994. 16 U.S.C. 410aaaa-1.

Compliance with Other Laws, Executive Orders and Department Policy.

Regulatory Planning and Review(Executive Orders 12866 and 13563).

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs 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. The NPS has developed this rule in a manner consistent with these requirements.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771).

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

Regulatory Flexibility Act.

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information in the report entitled “Benefit-Cost and Regulatory Flexibility Analyses: Cost-Benefit and Regulatory Flexibility Threshold Analyses: Proposed Special Regulations for Designation of Airstrip at Death Valley National Park” which is available online at <http://parkplanning.nps.gov/deva> by clicking on the link entitled “Saline Valley Warm Springs Management Plan EIS” and then clicking on the link entitled “Document List.”

Small Business Regulatory Enforcement Fairness Act.

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. 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 (2 U.S.C. 1531 *et seq.*).

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. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act is not required.

Takings (Executive Order 12630).

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132).

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This proposed rule only affects use of federally-administered lands and waters. It has no outside effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988).

This rule complies with the requirements of Executive Order 12988. 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. The NPS has evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation

policy and has determined that tribal consultation is not required because the rule will not have a substantial direct effect on federally recognized Indian tribes, although consultation under the National Environmental Policy Act and the National Historic Preservation Act was completed. The NPS invited the Tribe to become a cooperating agency on the Draft Management Plan/Environmental Impact Statement (DEIS) on April 3, 2012. The NPS has since conducted formal consultation with the Tribe and invited their participation on issues and alternatives development and internal document review. In addition to formal consultation, the NPS commissioned an assessment of the eligibility of the Saline Valley Warm Springs area as an ethnographic site eligible for listing on the National Register of Historic Places under Criterion A. This assessment was submitted to the State Historic Preservation Office in early 2018.

Paperwork Reduction Act.

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and the public 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 is part of a larger planning process for Saline Valley Warm Springs that constitutes a major Federal action significantly affecting the quality of the human environment. NPS has prepared the DEIS under the NEPA. A copy of the DEIS can be found online at <http://parkplanning.nps.gov/deva>, by clicking on the link entitled “Saline Valley Warm Springs Management Plan EIS” and then clicking on the link entitled “Document List.”

Effects on the Energy Supply (Executive Order 13211).

This rule is not a significant energy action under the definition in Executive Order 13211.

A Statement of Energy Effects is not required.

Clarity of this rule.

The NPS is required by Executive Orders 12866 (section 1(b)(12)) and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule the NPS publishes must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and 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 the NPS has not met these requirements, send the NPS comments by one of the methods listed in the **ADDRESSES** section. To better help the NPS revise the rule, your comments should be as specific as possible. For example, you should identify the numbers of the sections or paragraphs that you find unclear, 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 of this document.

Public availability of comments.

Before including your address, phone number, e-mail 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.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and Recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as set forth below:

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. Amend § 7.26 by:

a. Revising the section heading.

b. In paragraphs (a) and (d), removing the term “Death Valley National Monument” and adding in its place “Death Valley National Park”.

c. In paragraphs (b) and (c), removing the term “Monument” and adding in its place “Park”.

d. Adding paragraph (e)(3).

The revision and addition to read as follows:

§ 7.26 Death Valley National Park.

* * * * *

(e) * * *

(3) Saline Valley Warm Springs Airfield, latitude N 36° 48.41”, longitude W 117° 46.90.

Andrea Travnicek
Principal Deputy Assistant Secretary - Water and Science

Exercising the Authority of the Assistant Secretary
for Fish and Wildlife and Parks.

[FR Doc. 2018-20332 Filed: 9/19/2018 8:45 am; Publication Date: 9/20/2018]