



## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Part 7

[NPS-ASIS-NPS0040355; NPS-2025-0003; PMPSPD1Z.YM0000, PPNEASISS0]

RIN 1024-AE90

#### Assateague Island National Seashore; Oversand Vehicles

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

**ACTION:** Final rule.

**SUMMARY:** The National Park Service (NPS) amends the special regulations for Assateague Island National Seashore to remove certain permit eligibility requirements for motor vehicles that drive on designated beaches and oversand routes. The rule eliminates requirements addressing vehicle weight, ground clearance, and dimensions. These requirements were established in 1976 and are no longer necessary. In addition, the NPS is making several technical, non-substantive changes to the regulations.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** The comments received on the proposed rule are available on <https://www.regulations.gov> in Docket No. NPS-2025-0003.

**FOR FURTHER INFORMATION CONTACT:** Hugh Hawthorne, Superintendent, Assateague Island National Seashore; (410)-629-6080 Ext 6080; [hugh\\_hawthorne@nps.gov](mailto:hugh_hawthorne@nps.gov). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

## **SUPPLEMENTARY INFORMATION:**

### **Background.**

#### *Purpose and significance of Assateague Island National Seashore.*

In 1965, Congress established the Assateague Island National Seashore (Seashore) to protect and develop Assateague Island and certain adjacent waters and small marsh islands for public outdoor recreation use and enjoyment. 16 U.S.C 459f. Congress directed the Secretary of the Interior, acting through the NPS, to administer the Seashore for general purposes of public outdoor recreation, including conservation of natural features contributing to public enjoyment. 16 U.S.C. 459f-5. The NPS manages the Seashore as a unit of the National Park System. In addition to the Seashore that is managed by the NPS, other public lands on the island are managed by the Maryland Department of Natural Resources (Assateague State Park) and the U.S. Fish and Wildlife Service (Chincoteague National Wildlife Refuge).

The dominant feature of the Seashore is Assateague Island, a barrier island that stretches 37 miles along the Atlantic Coast of Maryland and Virginia. The island is a dynamic place, altered daily by powerful wind and waves. It is the largest natural barrier island ecosystem in the mid-Atlantic region that remains predominantly unaffected by human development. Only a couple of miles wide at its broadest point, the island's terrain offers shelter to famed wild horses as well as sika deer, ghost crabs, and migratory birds such as the great blue heron and snowy egret. The Seashore is a three-hour drive from Washington, Baltimore, and Philadelphia. Visitors to the Seashore can explore sandy beaches, salt marshes, maritime forests, and coastal bays. Popular recreational activities include swimming in the ocean, paddling in coastal bays, fishing, hunting, stargazing, and photography.

#### *Authority to promulgate regulations.*

The NPS Organic Act (54 U.S.C. 100101 et seq.) gives the NPS broad authority

to regulate the use of lands and waters under its jurisdiction, including a specific authority to promulgate regulations it considers necessary or proper for the use and management of National Park System units. 54 U.S.C. 100751(a). The enabling act for the Seashore confirms that NPS may use applicable legal authorities, including those provided by the Organic Act, for the conservation and management of natural resources. 16 U.S.C. 459f-5.

Executive Order (E.O.) 11644, “Use of Off-Road Vehicles on the Public Lands,” was issued in 1972 and amended by E.O. 11989 in 1977. E.O. 11644 required Federal agencies to issue regulations designating specific areas and routes on public lands where the use of off-road vehicles may be allowed. The NPS implemented these E.O.s, in part, by promulgating regulations at 36 CFR 4.10 (“Travel on park roads and designated routes”).

Under 36 CFR 4.10, the use of motor vehicles off park roads and parking areas is not permitted unless routes and areas are designated for off-road motor vehicle use by special regulation. Such routes and areas may be designated only in national recreation areas, national seashores, national lakeshores, and national preserves. The existing special regulations for the Seashore in 36 CFR 7.65(b) designate beaches and oversand routes for the use of oversand vehicles (OSVs) in compliance with 36 CFR 4.10 and E.O.s 11644 and 11989.

#### *Use and management of OSVs in the Seashore.*

The use of OSVs for access and recreation is a traditional activity that occurred on Assateague Island prior to the establishment of the Seashore. Oversand driving continues to this day and allows visitors to access locations within the Seashore, including remote areas, for recreational activities such as fishing, crabbing, viewing wildlife, and enjoying coastal scenery.

The NPS formalized management of OSV use with the promulgation of special

regulations in 1974 (39 FR 31633). These regulations established a system of oversand permits to manage the use of OSVs. These regulations designated areas for OSV use, established rules of travel, and authorized the suspension or revocation of a permit for violating the regulations. In 1976 the NPS amended the special regulations (41 FR 15008) to allow the superintendent to establish a system of special recreation permits and fees for OSVs. The revised regulations also authorized OSV use in designated areas; established quantified standards to determine whether an OSV qualifies for a permit; and restricted the use of towed travel trailers. The OSV regulations for the Seashore have not changed since 1976.

Using the superintendent's authority to establish a permit system, the superintendent has established additional management prescriptions for OSVs in the superintendent's compendium (or written compilation) of discretionary actions taken by the superintendent that is required to be made available to the public under 36 CFR 1.7(b). Among other actions, the compendium requires OSVs to have four-wheel or all-wheel drive and limits the number of OSVs that may be used in the Seashore. No more than 145 OSVs are allowed at any one time in designated OSV areas in Maryland. The NPS manages vehicle access on a one-off, one-on basis after this limit has been reached.

In 2021 the NPS issued a record of decision (ROD) finalizing a general management plan (GMP) for the Seashore. The GMP provides a decision-making framework that ensures that management decisions effectively and efficiently carry out the NPS mission at the Seashore into the future. The ROD states that the NPS will manage OSV use for maximum flexibility to respond to changing conditions, protect sensitive resources, and minimize conflicts with other uses of the Seashore. The ROD also states that the NPS will periodically review regulations for OSV use at the Seashore and make changes if conditions render changes necessary.

**Final rule.**

This rule amends the special regulations for the Seashore at 36 CFR 7.65(b) by changing the standards used to determine if a motor vehicle qualifies for a permit that authorizes driving on designated beaches and oversand routes. The rule removes requirements that (1) the gross vehicle weight rating (GVWR) does not exceed 10,000 pounds; (2) the vehicle has at least 7 inches of ground clearance; and (3) the vehicle does not exceed 26 feet in length and 8 feet in width. These requirements were established in 1976 and are no longer necessary. In addition, this rule would make several technical, non-substantive changes to the regulations. All of these changes are discussed in more detail below.

*GVWR requirement.*

Gross vehicle weight is the base curb weight of a vehicle plus actual cargo weight and passengers. Gross vehicle weight is not a limit or specification. It is an actual weight that should never exceed the GVWR for the vehicle. The GVWR is established by the manufacturer and is the total weight the vehicle can safely carry. The National Highway Traffic Safety Administration (NHTSA) requires manufacturers to label the GVWR on all vehicles, which includes passenger cars, trucks, and buses. The label is typically found on the driver's side door jamb or the door itself. While a vehicle's actual weight can fluctuate based on load, the GVWR is a specific figure that does not change.

The current regulations for the Seashore require the GVWR of a vehicle to be less than or equal to 10,000 pounds in order to be eligible for an OSV driving permit. 36 CFR 7.65(b)(2)(ii)(D). The Seashore is the only National Park System unit with an OSV permit system that prescribes a vehicle weight limit.<sup>1</sup> Although the NPS did not explain the need for this specific requirement when it was established in 1976, it was most likely established to help ensure the safe use of two bridges that provided access to and from

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<sup>1</sup> See special regulations for Gulf Island National Seashore (36 CFR 7.12), Gateway National Recreation Area (36 CFR 7.29), Cape Lookout National Seashore (36 CFR 7.49), Cape Hatteras National Seashore (36 CFR 7.58), and Cape Cod National Seashore (36 CFR 7.67).

private land within the boundary of the Seashore. These lands have since reverted to NPS ownership. No private property interests remain within the Seashore. One of the bridges no longer exists and the other is no longer open to motor vehicles.

The NPS does not expect the removal of the GVWR requirement to result in adverse impacts to resources at the Seashore. Soil compaction and self-repair from tide cycles mitigate damage to sand on beaches used by OSVs. The NPS uses vehicles that weigh more than 10,000 pounds for administrative actions (e.g., moving beached whales, repairing boundary fences) that do not result in damage to the sand for those reasons. There are many other requirements in the special regulations for the Seashore that mitigate impacts to natural resources from beach driving, the most important being requirements to stay on designated routes and areas that keep OSVs away from dunes and vegetation. Cutting circles and needlessly defacing the sand also is prohibited.

Several models of trucks meet or exceed the current limit of 10,000 pounds.<sup>2</sup> This rule makes those vehicles eligible to receive OSV driving permits. This will create more opportunities for access and recreation by increasing the pool of applicants that is eligible to receive an OSV driving permit, without any adverse impacts to resources.

#### *Vehicle ground clearance.*

Ground clearance refers to the vertical distance between a vehicle's undercarriage or underside of the chassis and the ground. The current regulations for the Seashore require a vehicle to have a minimum ground clearance of 7 inches in order to be eligible for an OSV driving permit. 36 CFR 7.65(b)(2)(ii)(D). Like the GVWR requirement, the NPS did not explain the need for this specific requirement when it was established in 1976. The NPS assumes that it was established to help prevent vehicles from getting stuck on the sand. Although ground clearance can contribute to whether a vehicle

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<sup>2</sup> Examples include Ford F-250, Ford F-450, GMC Sierra 2500HD, Chevy Silverado 2500HD Work Truck, and Ram 2500 Tradesman. Source: Edmunds.com (last visited December 5, 2024).

becomes stuck, a specific, minimum ground clearance requirement has disadvantages as a management approach, and ground clearance in general is not among the most important factors that cause vehicles to become stuck.

Variation in vehicle design, manufacturing, and owner modifications have made the minimum ground clearance requirement difficult to measure and challenging to enforce. Ground level clearance can vary across the same model of a vehicle due to several factors such as trim levels, suspension types, packages and options, wheel and tire sizes, load and weight, production variations, and owner modifications. Further, the NPS has no documented or observational evidence that 7 inches of ground clearance is a meaningful distance compared to other clearance levels from the ground. Many contemporary sport-utility-vehicles (SUVs) have less than 7 inches of ground clearance.<sup>3</sup> The NPS has no reason to believe that vehicles with less than 7 inches of ground clearance, as a category, are incapable of driving directly over sand.

In general, insufficient vehicle ground clearance rarely causes vehicles to get stuck at the Seashore if other contributing factors are not present. In most cases, vehicles become stuck because the tires have not been properly deflated, which is recommended for all vehicles. In almost all other cases, vehicles become stuck because they are driven into dunes or wet sand, or because they do not have modern vehicle technology that did not exist when the existing regulations were issued in 1976. This technology includes electronic stability control,<sup>4</sup> traction control systems, modern four-wheel drive (4WD), and all-wheel drive (AWD). Tire choice and condition also has a meaningful effect on vehicle traction over sand. Driver judgement, skill, and responsibility are other key factors.

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<sup>3</sup> Examples include Toyota C-HR, Buick Encore, Mini Cooper Countryman, Kia Soul, Hyundai Kona, Ford Escape, Kia Sorento, and Cadillac XTC. Source: <https://motorandwheels.com/suvs-with-lowest-ground-clearance/> (last visited December 6, 2024).

<sup>4</sup> NHTSA required all new passenger vehicles with a GVWR of 10,000 or less to be equipped with electronic stability control beginning in model year 2012. 72 FR 17236 (April 6, 2007).

The NPS offers tips on the Seashore website to help avoid vehicles getting stuck. Examples are (1) spinning a vehicle's tires makes them dig deeper into the sand thereby increasing the chance the vehicle's frame will bottom out; (2) after stopping a vehicle back up several feet before proceeding forward; (3) carry 4 boards (2"x 6"x 36") for placement under each tire when stuck; (4) driving in the tracks of another vehicle is easier than driving through fresh sand; and (5) walk across soft sand first to be sure that it will hold your vehicle. Existing regulations require vehicles to carry a shovel and a tow rope or chain that can help clear vehicles off the sand when they do get stuck. 36 CFR 7.65(b)(2)(ii)(A). The factors described above demonstrate that there are many ways to avoid vehicles getting stuck in the sand that do not require a minimum ground clearance requirement, which is poorly tailored to the problem it is intended to address and difficult to administer and enforce.

*Vehicle length and width.*

The current regulations for the Seashore require a vehicle to be no longer than 26 feet and no wider than 8 feet in order to be eligible for an OSV driving permit. 36 CFR 7.65(b)(2)(ii)(D). Like the GVWR and ground clearance requirements, the NPS did not explain the need for these specific requirements when they were established in 1976. The NPS speculates that they may have been established in reference to the size of military surplus vehicles that were commonly used at the time for off-road driving. In any event, the NPS does not manage vehicle dimensions using the length and width requirements in the regulations anymore. Vehicle width is limited in practice by the size of the gate that provides OSV access to the designated beaches and oversand routes. This limiting factor, together with the requirement in the special regulations that vehicles and towed trailers have no more than 2 axles, has proven to be sufficient to keep vehicles that are too large from entering the designated OSV routes and areas.

*Technical, non-substantive changes.*

In addition to the changes described above, this rule makes several technical, non-substantive changes to the current regulations.

In the existing table codified at 36 CFR 7.65(b)(2)(ii)(D), there is a row entitled “maximum number of wheels (per axle)” but there is no corresponding number in the right-hand column. When the regulations were published in 1976, the table showed “2” as the maximum number of wheels per axle, but then in 1999, a printing error resulted in the omission of that number from the table, where it has not appeared for 25 years. For some time, the NPS has issued permits to OSVs that have up to four wheels per axle without any observed adverse impacts to resources or visitors. In order to eliminate potential confusion about what the CFR requires compared to current management of OSVs, this rule removes the reference to “maximum number of wheels (per axle)” in the regulations.

Because the rule removes all of the quantified standards in the existing table except for the requirement that vehicles and towed trailers have no more than two axles, having a table is no longer necessary. As a result, the rule removes the table and instead locates the no-more-than-two-axle requirement in paragraph (b)(2)(ii)(D), in narrative form.

Revised paragraph (b)(2)(ii)(D) omits an existing reference to four-wheel-drive vehicles that is located in an introductory clause to the table, and the first two sentences in the paragraph immediately following the table that list specific requirements for two-wheel-drive vehicles, instead clarifying that the no-more-than-two-axle requirement applies to all vehicles and to all towed trailers. The specific requirements for two-wheel-drive vehicles are no longer necessary because two-wheel-drive vehicles are no longer used as OSVs at the Seashore, as reflected by the longstanding requirement in the superintendent’s compendium that all OSVs must be 4WD or AWD.

The rule removes the rest of the paragraph immediately following the table, which

provides an exception to the vehicle dimension requirements that is no longer necessary because this rule removes the dimension requirements.

Finally, the rule removes the defined term “dunes crossing” in paragraph (b)(1)(iv), which is not used elsewhere in the special regulations.

### **Summary of public comments.**

The NPS published a proposed rule in the *Federal Register* on January 17, 2025 (90 FR 5786). The NPS accepted public comments for 60 days via the mail, hand delivery, and the Federal eRulemaking Portal at <https://www.regulations.gov>. Comments were accepted through March 18, 2025. The NPS received 66 comments on the proposed rule. Most commenters supported the proposed changes, in particular the removal of the GVWR requirement. After considering public comments and after additional review, the NPS is finalizing the proposed rule without change. A summary of the pertinent issues raised in the comments and NPS responses are provided below:

*1. Comment:* Several commenters expressed concerns about removing the minimum ground clearance requirement. Commenters stated that low-clearance vehicles will damage the ecology of the beach and result in hazardous conditions for other drivers by creating uneven terrain and becoming stuck in soft sand or rutted areas, which will impede the safe passage of properly equipped vehicles.

*NPS Response:* As explained above, there many reasons why OSVs become stuck in the sand that are unrelated to ground clearance, which is a difficult standard to administer. Imposing a strict a ground clearance requirement limits opportunities for access and recreation for visitors who can navigate beach conditions safely with OSVs that do not meet the requirement. NPS staff closely monitor changing beach conditions and communicate essential information to OSV users about hazardous conditions. Designated driving areas on the beach are generally wide enough to allow drivers to navigate around obstacles, including uneven terrain and stuck vehicles, until they are

remediated. Vehicles of any ground clearance are capable of rutting the sand, and needlessly defacing the sand is prohibited by existing regulations at 36 CFR 7.65(b)(4)(i). Most OSV permit holders are skilled oversand drivers with sufficient knowledge and experience to navigate sandy terrains effectively, including how to maintain traction, manage tire pressure, and maneuver around obstacles.

2. *Comment:* Several commenters encouraged the NPS to increase monitoring and enforcement of OSV regulations to ensure that OSVs are permitted, properly equipped, and operated in compliance with speed limits. One commenter stated the NPS should conduct inspections of the required air pressure gauges, boards, tow ropes and shovels before issuing OSV permits.

*NPS Response:* This rule does not change any existing requirements related to permits, equipment, or speed limits. When operators sign permit applications, they accept responsibility for knowing and adhering to all OSV regulations. Failure to comply with these regulations and the terms and conditions of a permit may result in revocation of the OSV permit and other penalties under Federal law. The regulations authorize NPS staff to inspect vehicles prior to issuing a permit for compliance with permit eligibility requirements, including the need to have a shovel, jack, tow rope or chain, board or similar support for the jack, and low-pressure tire gauge. These inspections occur at the North Beach ranger station before operators receive OSVs permits. NPS staff routinely patrol OSV driving areas to promote compliance with applicable regulations, including speed limits. The need for enforcement has declined over time with improved compliance from permit-holders.

3. *Comment:* One commenter expressed concern that removing the GVWR limit will increase traffic at the Seashore.

*NPS Response:* As explained below, although removing the GVWR limit requirement will increase the number of vehicles that are eligible to receive a permit, on

most days the number of vehicles on the beaches during peak season will not increase because the designated beaches and oversand routes will be at maximum capacity early in the morning through late evening. When this occurs, the NPS manages OSV access on a one-on, one-off basis. During the summer season, there can be delays entering the Seashore by vehicle because of the need to collect entrance fees, and traffic within the Seashore is higher compared to off-season. The NPS does not expect the removal of the GVWR limit requirement to have any noticeable increase in entrance delays or the level of traffic within the Seashore. The Seashore has experienced record attendance in recent years, receiving over 2.3 million visitors in 2022. Compared to the total volume of visitation, on average the NPS issues 1,000 OSV permits per year. Even if the NPS issues more OSV permits after this rule, permit holders will still represent a small fraction of total visitation.

*4. Comment:* Several commenters asked the NPS to increase the GVWR limit requirement for permit eligibility. One commenter recommended that the GVWR should not exceed 16,000 pounds in order to exclude medium duty trucks that are not designed for driving on sand.

*NPS Response:* The NPS is not aware of any specific data or research that supports a specific GVWR limit requirement for oversand driving. The NPS routinely drives vehicles that exceed the existing 10,000-pound limit for administrative purposes, with no observed adverse effects to resources for the reasons explained above.

Establishing a GVWR limit of 16,000 would allow most vehicles to qualify for an OSV permit, including SUVs, pickup trucks, full-sized vans, extended bed cargo vans, and small buses. Other vehicles would be excluded, however, most notably RVs which are used for oversand driving.<sup>5</sup>

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<sup>5</sup> See Figure 21. Law Enforcement Vehicle Identification Guide published by the Federal Highway Administration's (FHWA) Office of Operations. Source: [https://ops.fhwa.dot.gov/publications/fhwahop10014/long\\_f21.htm](https://ops.fhwa.dot.gov/publications/fhwahop10014/long_f21.htm) (last visited May 29, 2025).

Establishing a specific GVWR limit might unnecessarily restrict access and recreation by operators and passengers of heavier vehicles that pose no greater risk to resources and visitors than lighter vehicles due to other factors, such as the skill and experience of the driver, on-board equipment, and tire pressure and condition. New vehicle technology that enhances overland driving capability, regardless of a vehicle's GVWR, could render assumptions about potential impacts to resources and visitors based upon vehicle weight obsolete. Some vehicles that are extremely heavy would be excluded for other reasons such as the requirement that vehicles may not have more than two axles, or lack the ability to pass through the gate for entering designated OSV driving areas. Examples include semi-trucks or tractor-trailers that are typically used for transporting freight and can weigh up to 80,000 pounds.<sup>6</sup> The NPS will continue to emphasize responsible use of all permitted OSVs, including compliance with applicable regulations, in a manner that allows for access and recreation while protecting resources and the experience of other visitors.

*5. Comment:* One commenter stated that AWD vehicles should not be eligible for OSV permits because they lack the same capabilities as traditional 4WD vehicles, and result in vehicles on the beach that should not be there, such as sedans and SUVs.

*NPS Response:* Many AWD vehicles operate safely and effectively within designated OSV areas where the terrain is level in most places and does not present steep inclines or rugged obstacles that require maximum power to the front wheels. The differential in AWD vehicles allows the wheels to spin independently, which helps the vehicle maintain stability and grip on soft surfaces. As discussed above, in most cases vehicles become stuck in the sand because the tires are not deflated properly or the vehicle has travelled outside of designated areas and routes. This can occur with vehicles

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<sup>6</sup> See Commercial Vehicle Weight Standards published by the FHWA's Office of Freight Management and Operations. Source: <https://ops.fhwa.dot.gov/freight/sw/overview/index.htm> (last visited May 29, 2025).

that have AWD or 4WD. Requiring OSVs to have 4WD would prohibit a large class of vehicles from oversand driving that have proven in many cases to be capable of such travel.

*6. Comment:* One commenter stated that this rule will incentivize tow trucks to enter the OSV area and wait for low-clearance vehicles to become stranded. These tow trucks would contribute to the vehicle count within the zone, limiting access and recreational by other permit holders in favor of financial gain for private companies.

*NPS Response:* Engaging in or soliciting any business in a National Park System unit is generally prohibited except as specifically authorized in writing or pursuant to special regulations for that System unit. See 36 CFR 5.3. Towing companies must have a commercial use authorization (CUA) in order to provide towing services within the Seashore. The terms and conditions of the CUAs establish when a towing company can enter a designated OSV area to provide towing services for stranded vehicles. Towing companies are not permitted to patrol or wait inside of designated OSV areas if they are not responding to a service call. Tow trucks do not count toward the daily OSV limit for permit holders.

*7. Comment:* Several commenters raised concerns about impacts to wildlife from OSV use and expressed support for protections that ensure ecosystems in the Seashore remain healthy and sustainable for future generations.

*NPS Response:* The NPS agrees that the Seashore contains exceptional natural resources, including wildlife and ecosystems, that must be conserved for the enjoyment of future generations. The Seashore is one of the few coastal environments in the densely populated northeast United States where visitors can experience unspoiled beaches, tranquil bays and marshlands, natural sounds, quiet, dark night skies, and solitude. The NPS will continue to monitor the health of wildlife and ecosystems within, adjacent to, and nearby designated OSV areas and implement mitigation measures, such as seasonal

closures to protect transient wildlife, as appropriate.

### **Compliance with Other Laws, E.O.s and Department Policy.**

#### *Regulatory Planning and Review (E.O.s 12866 and 14192)*

This rule has been determined to be not significant for purposes of E.O 12866.

This rule is an E.O. 14192 deregulatory action.

#### *Regulatory Flexibility Act (5 U.S.C. 601 et seq.).*

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.). No small entities would be directly regulated by this rule, which modifies vehicle requirements for visitors seeking to obtain an OSV permit for driving on designated beaches and oversand routes. OSV permits are non-transferable which means that only those persons who initially receive a permit would be affected by changes to permitting requirements. There is no limit on the number of permits that can be issued. On average, the NPS issues 1,000 OSV permits per year.

In recent years, approximately 10 percent of permit applications have been denied due to vehicles not meeting the GWVR requirement. The NPS has not denied any permit applications for failure to meet the minimum ground clearance requirement or the vehicle dimension requirements because they have not been enforced by the NPS for the reasons explained above.

As discussed above, the NPS expects that the rule will slightly increase the pool of applicants eligible to receive an OSV permit by removing the GVWR requirement. This could lead to an incremental increase of visitor activity at the Seashore. The NPS expects this effect, however, to be mitigated by the fact that on many days in peak season the designated beaches and oversand routes are at maximum capacity for OSVs early in the morning through late evening. When this occurs, although the composition of visitors recreating in the designated OSV areas may be different, the total amount of visitor

activity will remain the same.

In summary, the NPS has considered whether this rule will result in a significant economic impact on a substantial number of small entities. The NPS certifies that this rule will not have a significant economic impact on a substantial number of small business entities. Therefore, a regulatory flexibility analysis is not required.

*Congressional Review Act*

This rule is not a major rule under 5 U.S.C. 804(2). 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. 1501 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 (2 U.S.C. 1531 et seq.) is not required.

*Takings (E.O. 12630)*

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

*Federalism (E.O. 13132)*

Under the criteria in section 1 of E.O. 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact

statement. This rule only affects use of federally administered lands and waters. It has no direct effects on other areas. A federalism summary impact statement is not required.

*Civil Justice Reform (E.O. 12988)*

This rule complies with the requirements of E.O. 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 (E.O. 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 E.O. 13175 and under the Department's Tribal consultation policy and has determined that Tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian Tribes. Nevertheless, in support of the Department of the Interior's and the NPS's commitment to government-to-government consultation, the NPS sent letters of notification to Indian Tribes that are traditionally associated with the land that is now part of the Seashore, including the Accohannock, Pocomoke, Nanticoke, and Assateague peoples. The NPS did not receive a response from any Tribes.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This rule contains existing information collections. All information collections require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 et seq.). We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has reviewed and approved the information

collection requirements associated with this rulemaking and assigned OMB Control Number 1024-0026 (expires March 31, 2027). This rule contains no new information requirements that will affect the currently approved information collection. The NPS will use Recreation.gov to collect information necessary to make the financial transaction required to purchase an OSV permit.

*National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 et seq.)*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. DOI NEPA Handbook, Appendix 2, 12.5 D.4 allows for the following to be categorically excluded: Minor changes in programs and regulations pertaining to visitor activities. This rule makes minor changes to the eligibility requirements for obtaining an OSV permit for the Seashore. The substantial majority of requirements for OSV use at the Seashore will remain the same. The NPS has also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

*Effects on the Energy Supply (E.O. 13211).*

This rule is not a significant energy action under the definition in E.O. 13211; the rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the rule has not otherwise been designated by the Administrator of Office of Information and Regulatory Affairs as a significant energy action. A statement of energy effects is not required.

## **List of Subjects**

### **36 CFR Part 7**

National parks, Reporting and Recordkeeping requirements.

For the reasons stated in the preamble, and under the authority of 54 U.S.C. 100751, the

National Park Service amends 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 § 7.65 by:

a. Removing paragraph (b)(1)(iv); and

b. Revising paragraph (b)(2)(ii)(D) as follows:

**§ 7.65 Assateague Island National Seashore.**

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(b) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(D) Which has more than two axles, or tows a trailer with more than two axles.

\* \* \* \* \*

**Kevin J. Lilly,**  
*Principal Deputy Assistant Secretary,*  
*Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and*  
*Parks.*