

§ 9266.4 Viable coral communities.

(a) Requirement for a permit. No person shall engage in any operation which directly causes damage or injury to a viable coral community that is located on the Outer Continental Shelf without having obtained a permit for said operations.

(b) Penalty. Any person who knowingly and willingly violates the regulations of §9266.4 of this title shall be guilty of a misdemeanor and punishable by a fine of not more than \$2,000 or imprisonment for not more than 6 months or by both such fine and imprisonment. Each day of violation shall be deemed a separate offense.

Subpart 9267—Water Management [Reserved]

Subpart 9268—Recreation Programs

§ 9268.0-3 Authority.

The provisions of this subpart are issued under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733), and other authorities where specifically noted.

§ 9268.1 Cultural resource management. [Reserved]

§ 9268.2 Natural history resource management procedures. [Reserved]

§ 9268.3 Recreation management—procedures.

(a) Off-road vehicles, use of public lands—(1) Applicability. The regulations in this subpart apply to all public lands, roads and trails under administration of the Bureau of Land Management.

(2) Conditions of use—regulations governing use. (i) The operation of off-road vehicles is permitted on those areas and trails designated as open to off-road vehicle use.

(ii) Any person operating an off-road vehicle on those areas and trails designated as limited shall conform to all terms and conditions of the applicable designation orders.

(iii) The operation of off-road vehicles is prohibited on those areas and trails closed to off-road vehicle use.

(iv) It is prohibited to operate an off-road vehicle in violation of State laws and regulations relating to use, standards, registration, operation, and inspection of off-road vehicles. To the extent that State laws and regulations do not exist or are less stringent than the regulations in part 8340 of this title, the regulations in this part are minimum standards and are controlling.

(v) No person may operate an off-road vehicle on public lands without a valid State operator's license or learner's permit. Exceptions are:

(A) A person under the direct supervision of an individual 18 years of age or older who has a valid operator's license and who is responsible for the acts of the person supervised.

(B) A person certified by State government as competent to drive off-road vehicles after successfully completing a State approved operator's training program.

(C) Operation of an off-road vehicle in areas of Alaska designated by the Bureau's State Director for Alaska.

(vi) Any person supervising a non-licensed driver shall be responsible for the operation of the vehicle and shall be responsible for the actions of the driver.

(vii) No person shall operate an off-road vehicle on public lands:

(A) In a reckless, careless, or negligent manner;

(B) In excess of established speed limits;

(C) While under the influence of alcohol, narcotics, or dangerous drugs;

(D) In a manner causing, or likely to cause significant, undue damage to or disturbance of the soil, wildlife, wildlife habitat, improvements, cultural, or vegetative resources or other authorized uses of the public lands; and

(E) During night hours, from a half-hour after sunset to a half-hour before sunrise, without lighted headlights and taillights.

(viii) Drivers of off-road vehicles shall yield the right-of-way to pedestrians, saddle horses, pack trains, and animal-drawn vehicles.

(ix) Any person who operates an off-road vehicle on public lands must comply with the regulations in part 8340 and §8341.2 of this title as applicable,

while operating such vehicle on public lands.

(3) *Vehicle operations—standards.* (i) No off-road vehicle may be operated on public lands unless equipped with brakes in good working condition.

(ii) No off-road vehicle equipped with a muffler cutout, bypass, or similar device, or producing excessive noise exceeding Environmental Protection Agency standards, when established, may be operated on public lands.

(iii) By posting appropriate signs or by marking a map which shall be available for public inspection at local Bureau offices, the authorized officer may indicate those public lands upon which no off-road vehicle may be operated unless equipped with a properly installed spark arrester. The spark arrester must meet either the U.S. Department of Agriculture—Forest Service Standard 5100-1a, or the 80 percent efficiency level standard when determined by the appropriate Society of Automotive Engineers (SAE) Recommended Practices J335 or J350. These standards include, among others, the requirements that:

(A) The spark arrester shall have an efficiency to retain or destroy at least 80 percent of carbon particles for all flow rates, and

(B) The spark arrester has been warranted by its manufacturer as meeting this efficiency requirement for at least 1,000 hours subject to normal use, with maintenance and mounting in accordance with the manufacturer's recommendation. A spark arrester is not required when an off-road vehicle is being operated in an area which has 3 or more inches of snow on the ground.

(iv) Vehicles operating during night hours, from a half-hour after sunset to a half-hour before sunrise, shall comply with the following:

(A) Headlights shall be of sufficient power to illuminate an object at 300 feet at night under normal, clear atmospheric conditions. Two- or three-wheeled vehicles or single-tracked vehicles will have a minimum of one headlight. Vehicles having four or more wheels or more than a single track will have a minimum of two headlights, except double tracked snowmachines with a maximum capacity of two people may have only one headlight.

(B) Red taillights, capable of being seen at a distance of 500 feet from the rear at night under normal, clear atmospheric conditions, are required on vehicles in the same numbers as headlights.

(4) *Penalties.* Any person who violates or fails to comply with the regulations of § 9268.3 of this title is subject to arrest, conviction, and punishment pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than \$1,000 or imprisonment for not longer than 12 months, or both.

(b) *Management areas.* [Reserved]

(c) *Operations—Rules of conduct—(1) Developed sites and areas.* The following rules are adopted to protect public property and to conserve the resources in developed recreation sites for public use and enjoyment. The user shall not:

(i) Intentionally or wantonly destroy, deface or remove any natural feature or plant;

(ii) Intentionally or wantonly destroy, injure, deface, remove, or disturb in any manner any public building, sign, equipment, marker, or other structure or property.

(2) *Undeveloped sites and areas—prohibited activities.* In the use of lands for public outdoor recreation purposes, no one shall:

(i) Intentionally or wantonly destroy, deface, injure, sign, remove or disturb any public building, sign, equipment, marker, or other public property;

(ii) Harvest or remove any vegetative or mineral resources or object of antiquity, historic, or scientific interest unless such removal is in accordance with part 3 or § 8363.2-1 of this title, or is otherwise authorized by law;

(iii) Appropriately mutilate, deface, or destroy any natural feature, object of natural beauty, antiquity, or other public or private property;

(iv) Dig, remove, or destroy any tree or shrub;

(v) Gather or collect renewable or nonrenewable resources for the purpose of sale or barter unless specifically permitted or authorized by law;

(vi) Drive or operate motorized vehicles or otherwise conduct himself in a manner that may result in unnecessary frightening or chasing of people or domestic livestock and wildlife;

(vii) Use motorized mechanical devices or explosives for digging, scraping, or trenching for purposes of collecting.

(3) *Penalties.* Any person who knowingly and willfully violates any rule of conduct described in §9268.3(c) (1) and (2) of this title shall be fined not more than \$1,000 or imprisoned for not more than 12 months, or both.

(d) *Operations—closures—(1) Closure of lands.* In the management of lands to protect the public and assure proper resource utilization, conservation, and protection, public use and travel may be temporarily restricted. For instance, areas may be closed during a period of high fire danger or unsafe conditions, or where use will interfere with or delay mineral development, timber and livestock operations, or other authorized use of the lands. Areas may also be closed temporarily to:

- (i) Protect the public health and safety;
- (ii) Prevent excessive erosion;
- (iii) Prevent unnecessary destruction of plant life and wildlife habitat;
- (iv) Protect the natural environment;
- (v) Preserve areas having cultural or historical value; or
- (vi) Protect scientific studies or preserve scientific values.

(2) *Penalties.* Any person who knowingly and willfully violates any closure order issued under §9268.3(c)(2) of this title shall be fined not more than \$1,000 or imprisoned for not more than 12 months, or both.

(e) *Use authorization—(1) Rules for visitor uses, other than on developed recreation sites—enforcement.* Failure to pay any fee or failure to obtain a permit required by part 2930 of this chapter or operating with a suspended permit shall be punishable pursuant to the Federal Land Policy and Management Act of 1976, the Land and Water Conservation Fund Act, as amended, the Wild and Scenic Rivers Act, the National Trails Act, the Sikes Act, and other laws when applicable [see §9268.3(e)(2)].

(2) *Penalties.* (i) Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733) provides: any person who knowingly and willfully violates any such regulation which is

lawfully issued under this Act shall be fined no more than \$1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of Title 18 of the United States Code.

(ii) Section 2, Land and Water Conservation Fund Act of 1964 (16 U.S.C. 4601-6a), provides that any person violating the rules and regulations issued under section 4601-6e of title 16 U.S.C. shall be punishable by a fine of not more than \$100.

Any person so arrested may be tried and sentenced by any United States magistrate specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in title 18 U.S.C., section 3401, subsections (b), (c), (d), and (e), as amended.

(iii) Section 204(a) of the Sikes Act of 1974 (16 U.S.C. 670g-n), provides that:

(A) Any person who hunts, traps, or fishes on any public land which is subject to a conservation and rehabilitation program implemented under this Act without having on his person a valid public land management area stamp, if the possession of such a stamp is required, shall be fined not more than \$1,000, or imprisoned for not more than 6 months, or both.

(B) Any person who knowingly violates or fails to comply with any regulations prescribed under section 670h(c)(5) of title 16 U.S.C. shall be fined not more than \$500, or imprisoned not more than six months, or both.

(iv) Section 7 of the National Trails Act of 1968 (16 U.S.C. 1241-1249), provides: Any person who violates such regulations issued under section 1246 (i) of title 16 U.S.C., and deemed necessary by the Secretary of the Interior, shall be guilty of a misdemeanor, and may be punished by a fine of not more than \$500, or by imprisonment not exceeding

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6 months, or by both such fine and imprisonment.

[45 FR 31276, May 12, 1980, as amended at 46 FR 46810, Sept. 22, 1981; 67 FR 61745, Oct. 1, 2002]

§ 9268.4 Visual resource management. [Reserved]

§ 9268.5 Wilderness management. [Reserved]

§ 9268.6 Environmental education and protection. [Reserved]

Subpart 9269—Technical Services

§ 9269.0-3 Authority.

(a) The provisions of this subpart are issued under the authority of R.S. 2478; 43 U.S.C. 1201.

(b) In addition to liability for trespass on the public lands, as indicated in parts 9230 and 9260 of this title, persons responsible for such trespass may be prosecuted criminally under any applicable Federal law. Penalties are prescribed by the following statutes:

(1) Timber trespass. 18 U.S.C. 1852, 1953.

(2) Turpentine trespass. 18 U.S.C. 1854.

(3) Coal trespass. 18 U.S.C. 1851, 30 U.S.C. 201(b)(4).

§ 9269.3 Criminal trespass.

§ 9269.3-1 General management. [Reserved]

§ 9269.3-2 Land resource management. [Reserved]

§ 9269.3-3 Minerals management.

(a) *Oil and gas leasing.* [Reserved]

(b) *Geothermal resources leasing.* [Reserved]

(c) *Outer continental shelf leasing.* [Reserved]

(d) *Coal management—(1) Trespass.* Mining operations conducted prior to the effective date of a lease shall constitute an act of trespass and be subject to penalties specified in § 9239.5 of this title.

(2) *Penalty for unauthorized exploration for coal.* (i) Any person who willfully conducts coal exploration for commercial purposes without an exploration license issued under subpart 3410 of this title shall be subject to a fine of

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not more than \$1,000 for each day of violation.

(ii) All data collected by said person on any Federal lands as a result of such violations shall immediately be made available to the Secretary, who shall make the data available to the public as soon as possible.

(iii) No penalty under this section may be assessed unless such person is given notice and opportunity for a hearing with respect to such violation pursuant to part 4 of this title.

(e) *Minerals other than oil, gas and coal.* [Reserved]

(f) *Minerals materials disposal.* [Reserved]

(g) *Multiple use mining.* [Reserved]

(h) *Mining claims under the general mining laws.* [Reserved]

§ 9269.3-4 Range management.

(a) *Grazing administration—exclusive of Alaska—(1) Unlawful enclosures or occupancy.* Section 1 of the Act of February 25, 1885 (43 U.S.C. 1061), declares any enclosure of public lands made or maintained by any party, association, or corporation who “had no claim or color of title made or acquired in good faith, or an asserted right thereto, by or under claim, made in good faith with a view to entry thereof at the proper land office under the general laws of the United States at the time any such enclosure was or shall be made” to be unlawful and prohibits the maintenance or erection thereof. (See § 9269.3-4(a)(2) of this title).

(2) *Penalties.* Under section 4 of the Act of February 25, 1885 (43 U.S.C. 1064), any person violating any of the provisions of this Act, whether as owner, part owner, or agent, or who shall aid, abet, counsel, advise, or assist in any violation hereof, shall be deemed guilty of a misdemeanor and fined a sum not exceeding \$1,000, or be imprisoned not exceeding one year, or both, for each offense.

(b) *Grazing administration; Alaska; livestock.* (1) Grazing livestock upon, allowing livestock to drift and graze on, or driving livestock across lands that are subject to lease or permit under the provisions of part 9230 of this title or within a stock driveway, without a lease or other authorization from the