



November, 2012

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Doubling the ISDRA Fees Without Justification

The BLM prepared their last Imperial Sand Dunes Recreation Area (ISDRA) Business Plan (BP) nearly 10 years ago in 2003. According to the BLM, business plans are to be used in determining the appropriateness and level of fees.

The **aSa** working through the Desert Advisory Council (DAC) and ISDRA DAC Subgroup (DSG) members has, without success, endeavored to acquire the information to make a comprehensive and informed review of the BLM ISDRA fee program. One year ago, on December 3, 2011 the DAC passed a resolution requesting that the BLM provide information that would assist the ISDRA visitors in responding to the "Public Participation" provisions of the Federal Lands Recreation Enhancement Act (FLREA). **One year later BLM has yet to respond to this DAC request.** On October 18, 2012 the BLM EI Centro Field Office released a draft BP for the ISDRA and asked for public comments to be in by November 5, 2012. This would have only given people seventeen days to prepare their comments. After **aSa's** persistence at the DSG meeting, BLM extended the comment period to November 30, 2012. This is a mere 45 days for the public to review and comment on the BLM draft ISDRA BP and the proposed doubling of ISDRA fees.

The 2012 draft of the ISDRA BP is not supported by information or the rationale required for effective public review as required by FLREA. BLM's desire

to expedite the ISDRA BP is premised on the need to deal with the eminent July 2013 termination of the contract for fee collection that siphons off 30-40% of the fees.

On pages 4-7 of the proposed 2012 BP, BLM outlines 27 ideas that were offered by DSG members at an August 28, 2012 meeting. Nearly two-thirds of these suggestions were rejected with little or no explanation or valid rationale. The BLM's rejection was supported, in most cases, by the following statement "**eliminated due to the increased complexity and high cost to administer.**"

Based on the lack of comprehensive justification and BLM's failure to comply with the FLREA's public participation provisions, aSa is unable to recommend to its members that they support the ISDRA fee increase.

The ASA has engaged McClure Consulting of Phoenix, AZ to prepare a "Constructive" critique of the ISDRA draft BP. The McClure "Opinion Letter" will be complete in time for a presentation on December 1, 2012 to the CA Desert District Advisory Council (DAC) meeting that will be held in El Centro, CA.

aSa members, ISDRA users and the local businesses are encouraged to attend this meeting to voice their concern about the lack of solid justification to implement a fee increase.

It is important that members provide the BLM with their comments. Please note that your comments need to be meaningful and include logical and well thought out reasons for your suggestions. Comments may be sent to the BLM DSG [here](#). We would appreciate your copying our [Executive Director](#) as well.

EcoLogic Partners Win CEQA Lawsuit Against State Parks - Truckhaven Trails Stay Open

After nearly 18 months of hard-fought litigation, EcoLogic Partners, Inc. ("EcoLogic") has prevailed in its CEQA lawsuit against the California Department of

Parks and Recreation ("State Parks") over the closure of recreational vehicle routes in Truckhaven (also known as the "Freeman Property"). On October 16, 2012, Judge Jeffrey Jones of the Imperial County Superior Court issues his final judgement in the action, finding that State Parks violated CEQA when it approved a "boundary signage and fencing" project without first analyzing whether and to what extent the project would have adverse impacts on natural and recreational resources. As a result of the Court's ruling, State Parks' decision to approve the boundary signage and fencing project has been set aside.

State Parks first approved the project on February 8, 2011, claiming it was "categorically exempt" from CEQA because it only involved the installation of signs and fences. EcoLogic brought suit alleging that the project had the obvious, if not intended, effect of closing pre-existing recreational vehicle routes - a discretionary action for which no CEQA exemption exists. Both parties submitted extensive briefing to the Court, which held two hearings on the merits of the case. Ultimately, the Court ruled in EcoLogic's favor:

"As is acknowledged by respondent [State Parks], a major component of the project is the closure, or opening, of roads to vehicular travel... It is beyond argument that the determination of where roads are is a determination likely to have a significant effect on the environment.

Respondent's implicit determination that designation of traversable roads and trails is categorically exempt from CEQA review is unsupported by any evidence in the record.

For the foregoing reasons, the petition is GRANTED."

Later, the Court is expected to execute the Writ of Mandate setting aside State Parks' decision to approve the boundary signage and fencing project. The practical effect of the Writ is to reopen those trails which were either closed or slated for closure as part of State Parks' decision from February 2011. As the prevailing party in the litigation, EcoLogic will now seek an order from the Court directing State Parks to pay EcoLogic's attorneys fees and costs.

The mission of EcoLogic Partners, Inc. is to advance land use policies that conserve natural resources while providing responsible outdoor recreation for American families. EcoLogic is made up of partners from the American Sand Association, American Motorcyclists Association District 37, Off-Road Business Association and San Diego Off-Road Coalition.

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Specifics About the New SxS Law

Recreational Off-Highway Vehicles (ROV) have been defined and regulated per California

Legislation AB 1595 and AB 1266. Major changes include:

Effective January 1, 2013

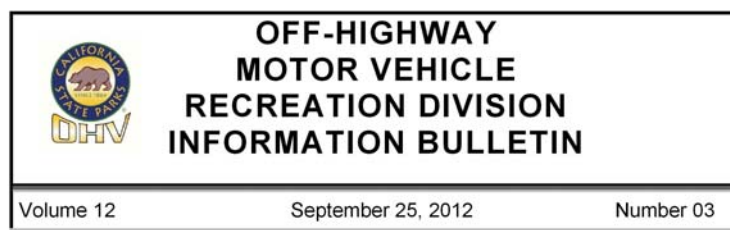
- **ROV Operators shall be at least 16 years old or be directly supervised** in the vehicle by a parent or guardian.
- **Safety helmets are required** for operator and all passengers.
- **Seat/Shoulder belt or Safety Harness is required** when in motion.
- Passengers are **required** to be able to **grasp the handhold** while properly restrained with back against the seat back.

Effective July 1, 2013

- Passengers must be seated in a location designed and provided by manufacturer.

The **aSa** is currently working with legislators on supplemental legislation to grandfather ROVs that already have installed seats that weren't designed and provided by the manufacturer. We will continue to INFORM our membership as soon as more information becomes available.

Click on the flyer below for a complete list of information pertaining to the new laws.



**Assembly Bill 1595 & Assembly Bill 1266
Recreational Off-Highway Vehicles**

What are they?

Assembly Bill 1595 (Cook) was approved by Governor Edmund G. Brown on July 24, 2012. This law will add a definition for Recreational Off-Highway Vehicle (ROV) to the California Vehicle Code (CVC). This law will also provide rules regulating the operation of ROVs. AB 1595 is a manufacturer association sponsored bill designed to address concerns for the safe operation of ROVs. The law will become effective on January 1st, 2013.

Assembly Bill 1266 (Nielsen and Cook) was approved by Governor Brown on September 25, 2012. This law will amend two specific laws as introduced by AB 1595.

What do the bills do?

AB 1595 Defines an ROV as meeting the following criteria; CVC Section 500:

- Designed by the manufacturer for operation primarily off of the highway.
- Has a steering wheel for control.
- Has non-straddle seating provided by the manufacturer for the operator and all passengers.
- (1) Has a maximum speed capability of greater than 30 miles per hour.
(2) A vehicle designed by the manufacturer with a maximum speed capability of 30 miles per hour or less, but is modified so that it has a maximum speed capability of greater than 30 miles per hour is an ROV.
- Has an engine displacement equal to or less than 1,000cc (61 ci).

AB 1595 further provides for Operational and Safety Requirements; Division 16.5, CVC Sections:

- 38600: Operator of a ROV shall be at least 16 years of age, or be directly supervised in the vehicle by a parent or guardian or adult authorized by the parent or guardian.
- 38601: Safety helmet required for operator and passengers of ROV (reference 27802)
- 38602: Seat/shoulder belt or safety harness required to be worn when ROV is in motion.
- 38603: Operator of ROV shall not allow passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.
CVC Section 38603 was amended by AB 1266. CVC Section 38603 will become effective July 1, 2013.
- 38604: Operator of ROV shall not allow a passenger unless the passenger is seated upright with back against seatback and can grasp the occupant handhold with the seatbelt/ safety harness properly fastened.
CVC Section 38604 was amended by AB 1266. The requirement of a passenger to have his/her feet flat on the floorboard was removed.

Comments, suggested improvements to the bill and concerns may be sent to: ohvinfo@parks.ca.gov with a subject line of AB 1595. The Off-highway Motor Vehicle recreation Division will respond to all inquiries.

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2013 aSa Calendars Make Great Stocking Stuffers!

Do you need an inexpensive gift for the holidays? Purchase next year's ASA calendar through our online store. Quantities are limited, so purchase your calendar today! We would like to thank all of the businesses who help contribute towards the printing of this calendar. Without their help, this project would not be possible. [Click here](#) for details.



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