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United States Department of the Interior

NATIONAL PARK SERVICE SOUTHEAST REGIONAL OFFICE

75 Spring Street, S.W.
Atlanta, Georgia 30303

IN REPLY REFER TO:
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Memorandum

To: Regional Director, Southeast Region
Through: Associate Regional Director, Operations,
and Operations Assistant, Southeast Region

From: Off-Road Vehicle Task Force Chairperson

Subject: Off-Road Vehicle Task Force Report

The Task Force met on 7/8-9/86 in Charleston. Members of the group were:

1. BICY Superintendent Fred Fagergren
2. CAHA Superintendent Tom Hartman
3. CAHA Chief Ranger Larry Roush
4. CALO Chief Ranger Chuck Harris
5. CUIS Superintendent Ken Morgan
6. GUIS Chief Ranger Carl Christensen
7. SERO Park Ranger Ken Hulick (Chairperson)
8. WASO Park Ranger Andy Ringold

The meeting objectives were to develop statements on the issues, background, alternatives and proposed draft policy related to off-road vehicle use within the Southeast Region. We accomplished these objectives, and the attached paper enumerates our results.

Several general statements need emphasis.

1. Even though snowmobiles are technically ORV's we did not deal with them due to their rarity in this region, consistent management in the one park that permits their use, and the Service trend that seems to separate them from other ORV use.
2. Our paper deals primarily with issues within the Southeast Region, but as we have a significant portion of the Service's ORV use, there is a lot of applicability of this paper to Servicewide programs.
3. The realities of ORV issues argue strongly for a slow, carefully thought-out approach to any changes in actual ORV management practices. The potential for creating controversy where little presently exists is a real one. Major upheavals of public sentiment could result from ill-considered action.

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Off-Road-Vehicle Use
Southeast Region

I. Law, policy and ORV use.

The parks exist in a complex web of legislative acts enacted at the state and Federal level. The Act of 1916 provided us the basic mandate for use and preservation of the park units. Later amendments (1970, 1978) have amplified on this legal mandate, as did the enabling legislation for each park.

States have enacted a variety of laws that deal with the definitions of a road, the use of vehicles on roads, the definition of vehicles, etc.

Due to these legislative acts, each park has a different, unique legal situation within which it must operate.

II. Management

The management of ORV's on Federal lands receives its most specific guidance from E.O. 11644 (Feb. 8, 1972), as amended by E.O. 11989 (May 24, 1977). These two orders place specific requirements on all Federal agencies in terms of establishing zones of use, setting operating requirements, providing public information, and monitoring impacts. Portions of these orders are restated for Interior agencies in 616 DM-1. All of these documents are shown as Enclosure 2.

A key provision of E.O. 11644 allows the designation of ORV areas or trails in areas of the National Park System (and certain other areas) only if (emphasis added) the agency head determines that ORV use will not adversely affect natural, aesthetic, or scenic values.

III. Policy

NPS policy, as enumerated in the 1978 NPS Management Policies document, are clear on the issue of off-road vehicle use. A copy of the pertinent portions of Management Policies is shown as Enclosure #3.

IV. Regulations

The NPS general regulations (36 C.F.R. 4.19) provide that: "The use of motor vehicles off established roads and parking areas is prohibited, except on routes designated as open for that use."

"Routes for the off-road use of motor vehicles shall be promulgated as special regulations in Part 7 of this chapter.... No routes shall be designated except in national recreation areas, national seashores, national preserves, and national lakeshores."

0018903

Special regulations have been promulgated by the Secretary for a number of NPS areas (See Enclosure #1), but several others are in apparent need of such regulations in order to comply with the requirements of 36 C.F.R. 4.19.

V. Influences

Legislation, Executive Orders, policy and regulations are the bases for ORV use or prohibition in Service areas. There are many real world influences that create shades of gray out of the black and white of these documents. These influences can be placed in three major categories: people, resources, and equipment. Some of the major influences are:

A. People-Related Influences.

1. National and local groups.
 - a. ORV users.
 - b. Preservation organizations.
 - c. Concerned citizens.
2. Previous commitments by management officials.
3. Traditional use which often preceded establishment of parks.
4. Aesthetics and degradation of experiences.
5. Safety of users and non-users.
6. Conflicts among park users.
7. Financial liability.
8. Dependence of a compatible park use on ORV's (i.e., surf fishing).
9. Economic use (surf, fishing, hunting in Big Cypress).
10. User pressure as more and more areas are closed to ORV's.
11. Accessibility to park area.
12. Impact of Cape Cod decisions.
13. Impact of Secretary's office's views on SER ORV programs.
14. Consistency of NPS Management (park to park).

0018905

B. Resource-Related Influences.

1. Resource impacts - short and long term.
2. Extent, usability, and adequacy of research.
3. Diversity of habitat and use types in Region (commonalities within SER).
4. ORV-free zones (areas closed to ORV's).

C. Equipment

1. Proliferation of numbers of ORV's.
2. Old style vehicles - 4WD, swamp buggies, tracked vehicles.
3. New technological developments (ATV's, ATC's).

VI. A. Inconsistency of application of controls.

Enclosure 1, the Regulatory Matrix, shows the variety of approaches that have been taken in dealing with the off-road vehicle situation within the region. In addition, representative samples of how parks in other regions are operating are shown.

The primary areas of inconsistency in this region are:

1. Special regulations. Several parks (Cape Lookout, Big Cypress, Cape Hatteras, Gulf Islands, and Cumberland Island) are required by general regulation (36 C.F.R. 4.19(b)) to designate ORV use routes. Only Big Cypress and Gulf Islands have completed these, but regulations are being drafted for Cape Lookout and Cape Hatteras.
2. Limitations on small vehicles. The park requirement that vehicles used off of roads meet state licensing and safety requirements effectively prohibits the use of some smaller vehicles, such as ATC's and ATV's. This is the case at Cape Hatteras.
3. Glades buggies. One area (Everglades) prohibits the operation of glades buggies by a special regulation, even though the general regulations would prohibit their use within the park also. No other park excludes glades buggies. Everglades is in the process of deleting this provision to achieve consistency with other parks.

0018907

4. State law and 36 C.F.R. Part 4 applicability on ORV routes. Cape Hatteras and Gulf Islands use this strategy to require licensing, safety and liability limitations on users.
5. Implementation of Executive Orders. The designation of routes and areas, as required by E.O. 11644, has not been fully accomplished at Big Cypress, Cape Lookout, Cape Hatteras, and Cumberland Island.

B. Philosophy of acceptability and compatibility of use.

During World War II, millions of Americans from Maine to Florida, from Washington to California and all areas in between were introduced to the rugged 4-wheel drive military vehicles, some of which became available as surplus after the war.

The numbers of, and markets for, 4-wheel drive vehicles and other off-road vehicles have proliferated as Americans have become affluent in both leisure time and money. People who desired to travel in remote areas found these vehicles could provide them access to areas heretofore either unreachable or difficult to reach. The vehicles climb steep grades, explore rocky canyons, ford swift streams, and negotiate the sandy areas.

The number of conflicts between people, machines, and natural resources inevitably grew as drivers, through ignorance, carelessness, or disregard, attempted to find out what their machines "could do." How and what the drivers found out became a cause for concern, until on February 8, 1972, President Nixon issued E.O. 11644 which had as its purpose:

"...to establish policies and to provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of these lands."

Consequently the use of ORV's for transportation on established routes upon public land is acceptable and compatible if that use is controlled, and directed so as to protect the resources of those lands, and the use does not jeopardize the safety of all users of those lands.

If ORV use of public lands causes documented resource damage, such that considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat, or cultural or historic resources or trails and the public lands are caused, then such trails or areas shall be closed, and the use declared unacceptable and incompatible

0018909

until such time as it is determined that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence.

- C. With the exception of Big Cypress National Preserve and Cumberland Island National Seashore, no park in the Southeast Region has an ongoing program to monitor the effects of ORV's on resources. Lack of data on the short and long term effects of such use makes it extremely difficult, if not impossible, for a manager to support further restriction or lessening of restriction on ORV use.
- D. Action/management plans.

Within parks in the Southeast Region, there is a general absence of operating or action plans specifically addressing the management of ORV use. This absence of management plans and of the regional review/oversight included in their development have contributed to inconsistencies in policies, management strategies and regulatory controls, and to inconsistent approaches to research and monitoring activities within the region.

VII. Issue Statements.

The degree to which NPS management of ORV's is in compliance with the Executive Orders, NPS policy, and NPS regulations varies from park to park and can present a problem.

Management of ORV use in the Southeast Region is not consistent from park to park. Requirements vary on types of ORV's allowed, whether or not permits are required, whether a fee is charged for permits, etc.

Research on the impacts of ORV's on resources is incomplete and is generally inadequate to provide a basis for supportable management decisions. Research design is inconsistent and results from research in one park are not readily applied to other parks.

VIII. Alternatives

- A. No action.

ORV activity in each area is dissimilar with other areas. Local political practices, traditional use, accessibility and geography of the area, and variation in impacts (aesthetic, environmental, sociological) are some examples. No action allows management to deal with these problems on a local, case-by-case basis in the indicated parks. Confusion does exist when visitors go from park to park and find a different set of regulations in each area. There are also some commonalities between areas where

0018911

standardization is possible. By requiring all motor vehicles to be registered, requiring minimum tire widths, or by requiring that only licensed drivers operate ORV's, we could be more consistent.

B. Total consistency.

If all parks treated ORV use alike, there would be less confusion for users who travel from park to park and the regulatory process would be simplified.

This may not allow for traditional uses, provided by enabling legislation, political realities or differences in impacts, accessibility and geographical considerations. It may hamper the manager's ability to effectively operate the area.

C. Develop regional guidelines.

Regional guidelines may be established to standardize the noncontroversial or universally applicable aspects of ORV operations. Park management would still be able to accommodate special local/regional needs within the limits of regulation.

IX. Recommended actions

A. Research

The Regional Office should initiate action to:

1. Obtain a bibliography of research which has been done by individual park areas.
2. Identify research gaps and areas of research needing updating.
3. Develop a consistent research design.
4. Fund the program.

B. The Regional Director should require the Superintendent of each park where ORV use is allowed to develop a management plan specifically addressing the conditions under which ORV use will take place and the research/monitoring activities that will be conducted. This plan should be developed with full opportunity for public involvement and should be approved by the Regional Director.

C. The Regional Director should assure that the Superintendent of each park where ORV is allowed complies with the requirement to designate ORV routes and areas by special regulation.

0018913

| 36 C.F.R. 7.X | Park Alpha Code | Existing ORV | Spec. Regs.? Legislation Authorizing ORV Use? | ATC/ATV Limitations? Designated Routes Established? Use Permit Required? (NPS-issued) | State License Required? All-Wheel Drive Required? | 2WD or Motorcycle Prohibited? | Prohibited Conveyance, Other | Equipment Requirement? (to be carried) | Other | | | |
|---------------|----------------------|--------------|---|---|---|-------------------------------|------------------------------|--|--------------------------|----------------------|-------------------------------|---|
| 12 | GUIS | Yes | | Yes | Yes | Yes | Non-street legal | Yes | | | | |
| 45 | EVER | Yes | No | Yes | No | N/A | "Glades buggies" | No | | | | |
| 20 | FIIS (Fire Island) | Yes | | Yes | Yes | Yes | 4WD only | Probably | — | No | Limited number of ORV permits | |
| 29 | GATE (Gateway NRA) | Yes | | Yes | Yes | Yes | No | Motorcycle | — | Yes | Limited number of ORV permits | |
| 57 | LAMR (Lake Meredith) | Yes | | No | Yes | No | No mention | No | No | — | — | Helmet required on motorcycle |
| 58 | CAHA | No | No | Not if licensed | Yes | No | Yes | No | No | — | No | Helmet required on motorcycle. (N.C. la |
| 65 | ASIS (Assateague) | Yes | | Yes | Yes | Yes | Yes | No | Motorcycle | — | Yes | |
| 67 | CACO | Yes | | No | Yes | Yes | Yes | No | Motorcycle | — | Yes | Commercial vehicle regulation |
| 75 | PAIS (Padre Islands) | Yes | | No | Yes | No | Yes | No | No | Air cushion vehicles | No | |
| 86 | BICY | Yes | Yes | No | * | Yes | No - Adopted by reference | No | No - prohibited by state | * | Lights | "Open" to ORVs unless "closed" |
| 98 | CALO | No | | No | Yes | Yes | Yes - ORV No - ATC | No | Yes | | No | |
| | CUIS | No | No | No | Yes | No | No | No | No | No | No | |
| | LAME (Lake Mead) | No | No | No | Yes | No | Unknown | No | No | No | No | |

* numerous limitations in time and place of use

0018915

Department of the Interior
DEPARTMENTAL MANUAL

Public LandsPart 515 Use of Off-Road VehiclesChapter 1 Implementation of Ex. Ord. 11544, As Amended

515 DM 1.1

1.1 Purpose. This Chapter prescribes general procedures for implementing Executive Order 11544, as amended by Executive Order 11989. The purpose of Executive Order 11544, as amended, is to ensure that the use of off-road vehicles on all lands under the custody and control of the Department, except Indian lands, will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

1.2 Definitions.

A. An "off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; except, that such term excludes:

- (1) Any registered motorboat;
- (2) Any fire, military, emergency, or law enforcement vehicle when used for emergency purposes, and any combat or combat support vehicle when used for national defense purposes; and
- (3) Any vehicle whose use for non-recreational purposes is expressly authorized by the Secretary, or his designee, under a permit, lease, license, or contract.

B. "Official use" means use by an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his/her employment, agency, or representation.

1.3 Implementation.

A. Each Assistant Secretary, except the Assistant Secretary--Indian Affairs, with authorities and responsibilities for the administration of lands under the custody and control of the Department, or his/her designee, will:

- (1) Exercise continuing review of the policies, procedures, regulations, and administrative instructions governing the use of off-road vehicles on Interior lands under his/her jurisdiction to assure compliance with Executive Order 11544, as amended by Executive Order 11989. This includes the designation, public participation, operating conditions, public information, enforcement, consultation, monitoring, and special protection provisions thereof, and,

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THE PRESIDENT

EXECUTIVE ORDER 11644

Use of Off-Road Vehicles on the Public Lands

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An estimated 5 million off-road recreational vehicles—motorcycles, minibikes, trail bikes, snowmobiles, dune-buggies, all-terrain vehicles, and others—are in use in the United States today, and their popularity continues to increase rapidly. The widespread use of such vehicles on the public lands—often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity—has demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), it is hereby ordered as follows:

SECTION 1. Purpose. It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

SEC. 2. Definitions. As used in this order, the term:

(1) "public lands" means (A) all lands under the custody and control of the Secretary of the Interior and the Secretary of Agriculture, except Indian lands, (B) lands under the custody and control of the Tennessee Valley Authority that are situated in western Kentucky and Tennessee and are designated as "Land Between the Lakes," and (C) lands under the custody and control of the Secretary of Defense;

(2) "respective agency head" means the Secretary of the Interior, the Secretary of Defense, the Secretary of Agriculture, and the Board of Directors of the Tennessee Valley Authority, with respect to public lands under the custody and control of each;

(3) "off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; except that such term excludes (A) any registered motorboat, (B) any military, fire, emergency, or law enforcement vehicle when used for emergency purposes, and (C) any vehicle whose use is expressly authorized by the respective agency head under a permit, lease, license, or contract; and

(4) "official use" means use by an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his employment, agency, or representation.

SEC. 3. Zones of Use. (a) Each respective agency head shall develop and issue regulations and administrative instructions, within six months of the date of this order, to provide for administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted, and set a date by which such designation of all public lands shall be completed. Those regulations shall direct that the designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands. The regulations shall further require that the designation of such areas and trails shall be in accordance with the following—

0018919

THE PRESIDENT

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas 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.

(b) The respective agency head shall ensure adequate opportunity for public participation in the promulgation of such regulations and in the designation of areas and trails under this section.

(c) The limitations on off-road vehicle use imposed under this section shall not apply to official use.

Sec. 4. Operating Conditions. Each respective agency head shall develop and publish, within one year of the date of this order, regulations prescribing operating conditions for off-road vehicles on the public lands. These regulations shall be directed at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts.

Sec. 5. Public Information. The respective agency head shall ensure that areas and trails where off-road vehicle use is permitted are well marked and shall provide for the publication and distribution of information, including maps, describing such areas and trails and explaining the conditions on vehicle use. He shall seek cooperation of relevant State agencies in the dissemination of this information.

Sec. 6. Enforcement. The respective agency head shall, where authorized by law, prescribe appropriate penalties for violation of regulations adopted pursuant to this order, and shall establish procedures for the enforcement of those regulations. To the extent permitted by law, he may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.

Sec. 7. Consultation. Before issuing the regulations or administrative instructions required by this order or designating areas or trails as required by this order and those regulations and administrative instructions, the Secretary of the Interior shall, as appropriate, consult with the Atomic Energy Commission.

Sec. 8. Monitoring of Effects and Review. (a) The respective agency head shall monitor the effects of the use of off-road vehicles on lands under their jurisdiction. On the basis of the information gathered, they shall from time to time amend or rescind designations of areas or other actions taken pursuant to this order as necessary to further the policy of this order.

(b) The Council on Environmental Quality shall maintain a continuing review of the implementation of this order.



THE WHITE HOUSE,
February 8, 1972.

[FR Doc.72-2031 Filed 2-8-72; 12:29 pm]

FEDERAL REGISTER, VOL. 37, NO. 27—WEDNESDAY, FEBRUARY 8, 1972

931

0018921

Off-Road Vehicles on Public Lands

Executive Order 11989. May 24, 1977

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to clarify agency authority to define zones of use by off-road vehicles on public lands, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 432i *et seq.*), Executive Order No. 11644 of February 8, 1972, is hereby amended as follows:

SECTION 1. Clause (B) of Section 2(3) of Executive Order No. 11644, setting forth an exclusion from the definition of off-road vehicles, is amended to read "(B) any fire, military, emergency or law enforcement vehicle when used for emergency purposes, and any combat or combat support vehicle when used for national defense purposes, and".

SEC. 2. Add the following new Section to Executive Order No. 11644:

"SEC. 9. *Special Protection of the Public Lands.* (a) Notwithstanding the provisions of Section 3 of this Order, the respective agency head shall, whenever he determines that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicle causing such effects, until such time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence.

"(b) Each respective agency head is authorized to adopt the policy that portions of the public lands within his jurisdiction shall be closed to use by off-road vehicles except those areas or trails which are suitable and specifically designated as open to such use pursuant to Section 3 of this Order."

JIMMY CARTER

The White House,
May 24, 1977.

[Filed with the Office of the Federal Register, 1:43 p.m.,
May 24, 1977]

0018923

OFF-ROAD USE OF VEHICLES AND MOTORIZED EQUIPMENT

All vehicles used by the public in units of the National Park System shall be confined to designated park roads or other designated overland routes exclusive of foot and bridle trails.

Designated overland routes will be consistent, where applicable, with the provision of Executive Order 11644, "Use of Off-Road Vehicles on the Public Lands," as amended by E.O. 11989. Overland routes will be designated only where it can be demonstrated that they will cause the least adverse effect on plant and animal life, where the protection of historic or archeological resources will

be ensured, and where they are not in conflict with other visitor uses. Such uses may not pose the danger of fire, pollution, or erosion, and noise levels will be controlled.

All vehicles used on designated overland routes shall have, where State law requires, a current State license and safety inspection sticker.

The off-road use of vehicles and motorized equipment for official purposes shall be restricted to that required for emergency search and rescue, and necessary construction, maintenance, and resource protection activities which cannot reasonably be accomplished by other means.

(See Wilderness--Motorized or Mechanical Equipment VI-7, Nontraditional Recreational Uses VII-7.)

SNOWMOBILES

In the coterminous United States, snowmobiles may be permitted in units of the National Park System as a mode of transportation to provide the opportunity for visitors to see, sense, and enjoy the special qualities or features of the park in winter. Snowmobiling shall be consistent with the park's Statement for Management, General Management Plan, EIS, applicable laws, Executive Orders, regulations, and Departmental policy.

Snowmobiles shall not be permitted except where designated by the Service when such is consistent with the parks's natural, cultural, scenic and aesthetic values; safety considerations; park management objectives; and will not disturb the wildlife or damage other park resources.

Where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons.

Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulations in the CFR (Title 36, Part 1, Section 7).

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