

0022027

**From:** [Philip Selleck](#)  
**To:** [Mike Murray](#)  
**Subject:** Fw: ORV reg flexibility  
**Date:** 09/24/2008 04:31 PM  
**Attachments:** [Enviro-Ped.Principles & criteria.draft3.doc](#)

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Mike,

I am transitioning into a detail as the regs person, as Jerry is finishing up this week before heading on to Bighorn Canyon NRA. I had a few thoughts.

While the regulation calls for designating routes and areas, it also refers back to sec 1.5 and the EO, which leaves open the door for closing areas/routes when damage or potential damage to resources can be articulated.

A possible would be to designate areas, with named the potential routes in them. You could then articulate (would make a detailed rule, but its been done) how routes or portions would be opened in each area, referring back to 1.5 and E.O. 11644 as your authority for doing so. Of course the compliance would have to take that in as one of the alternatives.

This is just a quick brainstorm, and the solicitors may disagree, but I think the existing general regs would support it. Questions, give me a call.

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----- Forwarded by Philip Selleck/DEWA/NPS on 09/24/2008 02:13 PM -----

**Jerry  
Case/WASO/NPS** To: Philip Selleck/DEWA/NPS@NPS  
cc  
09/23/2008 09:34 AM Subject: Fw: ORV reg flexibility

----- Forwarded by Jerry Case/WASO/NPS on 09/23/2008 09:31 AM -----

**Mike  
Murray** To: Sandra Hamilton/DENVER/NPS@NPS  
cc: mike.stevens@sol.doi.gov, jason.waanders@sol.doi.gov,  
Jerry Case/WASO/NPS@NPS  
Subject: ORV reg flexibility  
09/22/2008  
02:22 PM  
EST

**Sandy,**

See attached "green caucus" proposal, which identifies principles and criteria for identifying ORV areas, resource areas, and non-ORV areas. Presumably the exact locations that would be "designated" under this approach could be "flexible" (i.e., not fixed forever on a map). I'm more intrigued by the "principles and criteria" part

of the draft than by the specific sites proposed as ORV or non-ORV in the "application" section. I like the idea of the flexibility such criteria could provide, especially when shoreline change occurs, but I am not sure how to enact such an approach in a regulation, since the regs tend to just fix things on a map (e.g., point A to point B is designated as open to ORV use, etc.). Please think about it during your travel here. I would like to have some brief discussion during the IDT meeting as to whether this approach is "feasible" for NPS to consider, or are we stuck with the traditional approach of locking ourselves in to "from point A to point B"?

**Mike, Jason, or Jerry** - Any thoughts? Would this approach satisfy the E.O.'s and 36 CFR 4.10b, but still provide some flexibility to redesignate locations when the shoreline changes in the future? Can we write a rule that follows this concept?



Enviro-Ped.Principles & criteria.draft3.doc

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