

§ 655.10

use of property; create an interference with visual or auditory amenities; limit multiple use management programs for an area; cause danger to the health, safety, or welfare of human life; or cause irreparable harm to animal or plant life in an area. Significant beneficial effects also do occur and must be addressed if applicable. (See 40 CFR 1508.27.)

PARTS 652-654—[RESERVED]

PART 655—RADIATION SOURCES ON ARMY LAND

AUTHORITY: 10 U.S.C. 3012.

§ 655.10 Use of radiation sources by non-Army entities on Army land (AR 385-11).

(a) Department of the Army permits are required for use, storage, possession, and disposal of radiation sources by non-Army agencies (including civilian contractors) on an Army installation. Concurrence of the installation commander and approval by Headquarters, Department of the Army is required to obtain a Department of the Army (DA) permit.

(1) If a Nuclear Regulatory Commission (NRC) license already permits use or storage of radioactive sources at unspecified Army installations, the non-Army agency still needs a DA permit. The non-Army requestor will send six (6) copies of DA Form 3337 to the installation commander. The commander will then send four (4) copies of DA Form 3337 to Commander, US Army Materiel Development and Readiness Command, ATTN: DRCSF-P, 5001 Eisenhower Avenue, Alexandria, VA 22333. The non-Army requestor may obtain DA Form 3337 from the local Army installation or by written request to Commander, US Army Materiel Development and Readiness Command, ATTN: DRCSF-P, Alexandria, VA 22333.

(2) A DA permit is not required for temporary one-time use or storage (less than 15 consecutive calendar days) of sealed radioactive sources by users with a proper NRC license or agreement state license, if the local commander determines that adequate safety exists. The request for temporary use or storage authority will be submitted on DA Form 3337 in triplicate to the installation commander. A copy of the user's request and local command-

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er's approval will be sent through command channels to CDR, DARCOM within 3 days of the approval.

(b) In all cases approvals will require users to restore the property to its previous condition.

[45 FR 26958, Apr. 22, 1980]

PART 656—INSTALLATIONS, USE OF OFF-ROAD VEHICLES ON ARMY LAND

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AUTHORITY: 10 U.S.C. 3012.

SOURCE: 42 FR 56326, Oct. 25, 1977, unless otherwise noted.

§ 656.1 Purpose.

The purpose of this regulation is to establish uniform policies, procedures, and criteria for controlling off-road travel by off-road vehicles, and to prescribe appropriate operating conditions for use of such vehicles. This regulation implements DOD Directive 6050.2, August 21, 1974, amended August 10, 1977.

§ 656.2 Applicability.

(a) This regulation applies to all installations and activities in the United States under management and control of the Department of the Army by administrative jurisdiction in accordance with a public lands withdrawal, lease, or similar instrument, under the following conditions of use:

(1) Installations and activities in active use by the Army, those held in an inactive or standby condition for future active use by the Army, and those in an excess category (see AR 405-90, for further guidance with respect to excess properties).

(2) Federally operated installations and activities, or portions thereof, which are in full-time or intermittent use by the National Guard, or which are being held by the Department of

the Army for use by the National Guard.

(3) Installations and activities, or portions thereof, which are in full-time or intermittent use by the Army Reserve or ROTC.

(b) This regulation does not apply to:

(1) Civil Works functions of the Corps of Engineers.

(2) Facilities occupied by Army activities as tenants when real property accountability and control is vested in another military department or government agency, such as the General Services Administration.

§ 656.3 Definitions.

For the purpose of this regulation, the following definitions will apply:

(a) Off-road vehicles (ORV). Any motorized vehicle designed primarily 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 military, fire, ambulance, 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 is authorized by the Secretary of Defense, or his properly designated representative, for official use under a permit, lease, license, or contract.

(b) Official use. Use by an employee, agency, or designated representative of the Department of Defense or one of its contractors in the course of his employment, or agency representation.

§ 656.4 Objectives.

The objectives of this regulation are to insure that:

(a) The national security requirements related to Army lands are not impaired.

(b) The natural resources and environmental values are protected.

(c) Safety and accident prevention is given a paramount consideration.

(d) Conflicts of land use within and adjacent to the facility are minimized by advance planning and by cooperation with local governments wherever necessary.

(e) Year-round outdoor recreational opportunities are maximized.

§ 656.5 Policies.

(a) As a trustee of public lands, the Army has a responsibility under Pub. L. 91-190 and Pub. L. 88-29 to protect and enhance environmental quality, conserve natural resources, and provide opportunities for outdoor recreation. However, it must be recognized that land under Army control was acquired solely for national defense purposes. Other uses are therefore secondary to mission needs.

(b) All land and water areas will be closed to off-road recreational use by ORV's except those areas and trails which are determined suitable and specifically designated for such under the procedures established in this regulation.

(1) In determining suitability of areas and trails for ORV use, each type of motorized vehicle, ORV, shall be considered separately, taking into account its potential environmental impact, the seasonal nature of its use and opportunities for counterseasonal use with other recreational users.

(2) The characteristics of use of one type of motorized recreational vehicle, ORV, shall not affect or govern regulations on the use of an area or trail by another type of ORV use.

(c) When ORV use is permitted, the intensity, timing, and distribution will be carefully regulated to protect the environmental values. In designating suitable sites, equitable treatment should be given to all forms of outdoor recreational activity and where possible, nonconflicting use shall be encouraged on existing trails. Prior to designating such areas or trails for ORV use, the environmental consequences must be assessed and environmental statements prepared and processed when such assessments indicate that the proposed use will create a significant environmental impact or be environmentally controversial (Pub. L. 91-190 and AR 200-1). This procedure applies to all areas, including areas under consideration which previously have been used by ORV's.

(d) If the installation commander or his designee determines that ORV use is causing or will cause considerable

adverse effects on the soil, vegetation, wildlife, wildlife habitat, or cultural or historic resources, he shall immediately prohibit the type of ORV use causing such effects, and if necessary, close such designated sites. Restrictions on ORV use or closure of designated sites shall remain in effect until such adverse effects have been eliminated, including site restoration if necessary, and appropriate measures implemented to prevent any such recurrence.

(e) Persons abusing the ORV use privilege shall be barred, with their vehicles, from access to the Army installation for ORV use. Further action, as appropriate, may be taken under 18 U.S.C. section 1382. Violations of Federal or State laws applicable to Army installations under title 18 U.S.C. (Assimilative Crimes) may be referred to a U.S. Magistrate in accordance with AR 27-40 and AR 190-29.

(f) The limitations imposed by this regulation on off-road travel by ORV's do not apply to official use. It is Army policy to minimize environmental degradation of sensitive portions of facility sites which play a significant ecosystem support role.

§656.6 Responsibilities.

Commanders of Army installations and activities in the United States will:

(a) Develop policy and procedures prescribing operating conditions for ORV's which are designed to protect resource values, preserve public health, safety and welfare, and minimize use conflicts. These procedures will include as a minimum:

(1) Registration—ORV's used both on and off the traffic way will be registered in accordance with AR 190-5 and AR 190-5-1. ORV's operated solely off the traffic way may be registered at the discretion of the installation commander.

(2) Fees—Installation commanders are authorized to impose appropriate fees and charges for ORV activities in accordance with AR 28-1, as an element of the Outdoor Recreation Program. Such fees and charges are accounted for as income to nonappropriated funds in accordance with AR 230-65.

(b) Ensure that lands where off-road vehicle use will be permitted are designated in the natural resources management plan and where appropriate include as a part of the installation's master plan (AR 210-20 and AR 420-74).

(c) Provide opportunities for users to participate in the selection and designation of suitable sites and distribute information which identifies authorized sites and describes the conditions of use. Organized recreational activities involving off-road vehicles are within the scope of the Outdoor Recreation Program of Army Recreation Services and should be so established.

(d) Post appropriate signs at authorized areas and trails.

(e) Provide for the administration, enforcement, and policing of trails and areas to ensure that conditions of use are met on a continuing basis.

(f) Establish appropriate procedures to monitor the effects of the use of ORV's and provide for maintenance of the ORV areas of trails. This monitoring will be the basis for changes to installation policy to ensure adequate control of ORV use, amendment of area and trail designations, or conditions of use which are necessary to protect the environment, insure the public safety, and minimize conflict among users.

(g) Negotiate cooperative agreements, when appropriate, with State or local governments for the enforcement of laws and regulations relating to ORV use.

(h) Coordinate ORV use, projects, activities, designated ORV areas, and all related matters, with the installation environmental committee and environmental office.

§656.7 Environmental considerations.

The environmental and related impacts of ORV use will be assessed in accordance with AR 200-1. Coordination with adjacent private and public landowners and managers will be included in the assessment process.

§656.8 Guidelines and criteria for evaluation and utilization of Army lands for off-road vehicle use.

(a) *Designation.* (1) Army lands may be designated for one or more types of ORV use in response to a demonstrated

need providing there is sufficient suitable area available.

(2) Lands which may not be designated for one or more types of ORV use are:

(i) Areas restricted for security or safety purposes, such as explosive ordnance impact areas.

(ii) Areas containing geological and soil conditions, flora or fauna or other natural characteristics of fragile or unique nature which would be subject to excessive or irreversible damage by use of ORV's

(iii) Areas where the use by a type or types of ORV would cause unequivocal and irreversible damage or destruction as a result of such use; provided, however, that types of ORV not causing such damage or destruction may be permitted to use such areas.

(iv) Areas which are key fish and wildlife habitat as identified under environmental considerations § 656.8(c) (5) of this part.

(v) Areas which contain archeological, historical, petroglyphic, pictographic, or paleontological values; or which constitute de facto wilderness or scenic areas; or in which noise would adversely affect other uses and wildlife resources.

(vi) Areas in or adjacent to outdoor recreation areas where noise or vehicle emissions would be an irritant to users of the outdoor recreation area.

(vii) Noise sensitive areas such as housing, schools, churches or areas where noise or vehicular emissions would be an irritant to inhabitants.

(viii) Areas or trails set aside for horses and their recreational use.

(3) *Site designation.* Before designating such sites, the capabilities of the ecological factors should first be ascertained in order to determine carrying capacities.

(i) *Area designation.* Area designation offers a greater freedom of movement and is probably preferred by users over trail designation. However, area designation may result in greater environmental damage and cause conflicts with other uses. Therefore, great care must be exercised in designating suitable sites for area use.

(ii) *Trail designation.* Restrictions to designated trails probably constitute a compromise for most ORV users. How-

ever, this method is more compatible with the objective of this regulation. Therefore, when it is practicable to designate existing or proposed trails for use of ORV's without environmental despoilment, preference should be given to designating these sites. Trails currently used for hiking, bicycling, or horseback riding will not be designated for concurrent ORV use.

(iii) Use classification.

(A) Areas and trails should be classified as:

(1) Generally open to public with access controlled within manageable quotas, or

(2) Closed to the public.

(B) Where use of ORV's by installation personnel is permitted, exclusions of the public may not be justifiable except under the most compelling conditions.

(b) Zone of use areas and trails shall be located to minimize:

(1) Damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Harassment of wildlife or significant disruption of wildlife habitat.

(3) Conflicts between ORV use and other existing or proposed recreational uses on the same or neighboring lands.

(4) Damage to overhead or underground utility distribution lines.

(c) Environmental Consideration (AR 200-1). Prior to designating areas or trails for use by a type or types of ORV's, consideration will be given to the possible traumatic effects on the environment by each type of ORV. Such considerations should not be limited to the proposed sites to be designated for ORV use. Some factors to consider are the effects of:

(1) Dust from the use of ORV's and emissions from internal combustion engines or air quality.

(2) Siltation in streams or other bodies of water which may result from soil erosion created by ORV's.

(3) Soil erodability and soil compaction.

(4) Impact on native and desirable species of plants with special consideration given to those species listed as threatened or endangered.

(5) Impact on wildlife, their breeding and drumming grounds, winter feeding and yarding area, migration routes,

and nesting areas. Also, the effects of such use on the spawning, migration, and feeding habits of fish and other aquatic organisms, with particular attention given to the effects on fish and wildlife species classified as threatened or endangered.

(6) Excessive noise on humans and wildlife.

(7) Potential despoilment of aesthetic values or visual characteristics of the sites.

(d) *Operating criteria.* (1) Off-road vehicles shall not be operated:

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

(ii) In excess of established speed limits;

(iii) While the operator is under the influence of alcohol, harmful drugs, or narcotics. As a condition for the privilege of operating off-road vehicles on Army lands, owners and operators of such consent to submit to a test of their blood, breath, or urine for the purpose of determining the alcoholic content of their blood if cited or lawfully apprehended for any offense allegedly committed while driving or in actual physical control of an off-road vehicle on the installation while under the influence of intoxicating liquor. Failure to submit to or complete such test will result in revocation of the use permit for a period of 6 months (see AR 190-5).

(iv) In a manner likely to cause excessive damage or disturbance of the land, wildlife, or vegetative resources.

(v) From sunset to sunrise without lighted headlights and taillights.

(2) All off-road vehicles must conform to applicable State laws, including those with respect to pollutant emissions, noise and registration requirements.

(3) No persons may operate an ORV on Army lands without a valid operator's license or learner's permit where required by State or Federal law. Unless contrary to State or Federal law, persons under the age required for li-

censing may operate an ORV on Army lands providing they are at least 10 years of age and are under the direct supervision of an individual 18 years of age or older who has a valid operator's license when required by State or Federal law, and who is responsible for the acts of that person.

(4) No ORV's may operate on Army land unless equipped with brakes in good working condition.

(5) Every ORV shall at all times be equipped with a muffler in good working order which cannot be removed or otherwise altered while the vehicle is being operated on Army lands. To prevent excessive or unusual noise, no person shall use a muffler cutout, bypass, or similar device upon a motor vehicle. A vehicle that produces unusual or excessive noise or visible pollutants is prohibited.

(6) The carrying of firearms or other hunting instruments on any ORV will be in accordance with applicable State or Federal laws and regulations.

(7) All ORV operators and passengers will be encouraged to wear safety helmets with face shields affixed.

(8) ORV's when operating off established road and parking areas not covered by ice, snow or water shall be equipped with a properly installed spark arrester that meets standard 5100-1a of the U.S. Forest Service, Department of Agriculture. This standard includes the requirements that such spark arrester shall have an efficiency to retain or destroy at least 80 percent of carbon particles, for all flow rates, and that such spark arrester has been warranted by its manufacturer as meeting these efficiency requirements for at least 1,000 hours, subject to normal use, with maintenance and mounting in accordance with the manufacturer's recommendations.

[42 FR 56326, Oct. 25, 1977, as amended at 43 FR 1792, Jan. 12, 1978]

PARTS 657-699—[RESERVED]

FINDING AIDS

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