

§3.15

(b) The superintendent may waive the requirements of paragraph (a) of this section or prohibit removal of the vessel, equipment, or cargo upon a written determination that:

(1) The removal would constitute an unacceptable risk to human life;

(2) The removal would result in extensive resource damage; or

(3) The removal is impracticable or impossible.

§3.15 What is the maximum noise level for the operation of a vessel?

(a) A person may not operate a vessel at a noise level exceeding:

(1) 75dB(A) measured utilizing test procedures applicable to vessels underway (Society of Automotive Engineers SAE—J1970); or

(2) 88dB(A) measured utilizing test procedures applicable to stationary vessels (Society of Automotive Engineers SAE—J2005).

(b) An authorized person who has reason to believe that a vessel is being operated in excess of the noise levels established in paragraph (a) of this section may direct the operator of the vessel to submit the vessel to an on-site test to measure the noise level.

§3.16 May I swim or wade in park waters?

Swimming or wading is allowed in waters, subject to closures or restrictions designated by the superintendent in accordance with §§1.5 and 1.7 of this chapter.

§3.17 What regulations apply to swimming areas and beaches?

(a) The superintendent may designate areas as swimming areas or swimming beaches in accordance with §§1.5 and 1.7 of this chapter.

(b) Within designated swimming areas, the use of a surfboard or similar rigid device is prohibited.

(c) The superintendent may prohibit the use or possession of flotation devices, glass containers, kites, or incompatible activities in swimming areas or swimming beaches in accordance with §§1.5 and 1.7 of this chapter.

36 CFR Ch. I (7–1–14 Edition)

§3.18 May I snorkel or underwater dive in park waters?

(a) Snorkeling and underwater diving is allowed in park waters, subject to closures or restrictions designated by the superintendent in accordance with §§1.5 and 1.7 of this chapter.

(b) In waters open to the use of vessels, a diver must prominently display a dive flag during dive operations. A dive flag must not be displayed unless dive operations are ongoing.

(c) The dive flag must be illuminated when dive operations take place between sunset and sunrise. The dive flag illumination may not consist of lights that may be confused with navigation lights or aids to navigation lights.

(d) While on the surface, submerging or surfacing the diver must remain within a 100 feet horizontal radius of the diver flag.

(e) If State laws or regulations exist concerning snorkeling activities, those provisions of State law or regulation are adopted.

§3.19 May I operate a submersible within park waters?

The use of manned or unmanned submersibles may only occur in accordance with a permit issued by the superintendent under §1.6 of this chapter.

PART 4—VEHICLES AND TRAFFIC SAFETY

Sec.

4.1 Applicability and scope.

4.2 State law applicable.

4.3 Authorized emergency vehicles.

4.4 Report of motor vehicle accident.

4.10 Travel on park roads and designated routes.

4.11 Load, weight and size limits.

4.12 Traffic control devices.

4.13 Obstructing traffic.

4.14 Open container of alcoholic beverage.

4.15 Safety belts.

4.20 Right of way.

4.21 Speed limits.

4.22 Unsafe operation.

4.23 Operating under the influence of alcohol or drugs.

4.30 Bicycles.

4.31 Hitchhiking.

AUTHORITY: 16 U.S.C. 1, 3, 9a, 462(k).

SOURCE: 52 FR 10683, Apr. 2, 1987, unless otherwise noted.

National Park Service, Interior

§ 4.11

§ 4.1 Applicability and scope.

The applicability of the regulations in this part is described in § 1.2 of this chapter. The regulations in this part also apply, regardless of land ownership, on all roadways and parking areas within a park area that are open to public traffic and that are under the legislative jurisdiction of the United States.

§ 4.2 State law applicable.

(a) Unless specifically addressed by regulations in this chapter, traffic and the use of vehicles within a park area are governed by State law. State law that is now or may later be in effect is adopted and made a part of the regulations in this part.

(b) Violating a provision of State law is prohibited.

§ 4.3 Authorized emergency vehicles.

(a) The operator of an authorized emergency vehicle, when responding to an emergency or when pursuing or apprehending an actual or suspected violator of the law, may:

- (1) Disregard traffic control devices;
- (2) Exceed the speed limit; and
- (3) Obstruct traffic.

(b) The provisions of paragraph (a) of this section do not relieve the operator from the duty to operate with due regard for the safety of persons and property.

§ 4.4 Report of motor vehicle accident.

(a) The operator of a motor vehicle involved in an accident resulting in property damage, personal injury or death shall report the accident to the superintendent as soon as practicable, but within 24 hours of the accident. If the operator is physically incapable of reporting the accident, an occupant of the vehicle shall report the accident to the superintendent.

(b) A person shall not tow or move a vehicle that has been involved in an accident without first notifying the superintendent unless the position of the vehicle constitutes a hazard or prior notification is not practicable, in which case notification shall be made before the vehicle is removed from the park area.

(c) Failure to comply with a reporting requirement specified in paragraph (a) or (b) of this section is prohibited.

(d) The notification requirements imposed by this section do not relieve the operator and occupants of a motor vehicle involved in an accident of the responsibility to satisfy reporting requirements imposed by State law.

§ 4.10 Travel on park roads and designated routes.

(a) Operating a motor vehicle is prohibited except on park roads, in parking areas and on routes and areas designated for off-road motor vehicle use.

(b) Routes and areas designated for off-road motor vehicle use shall be promulgated as special regulations. The designation of routes and areas shall comply with § 1.5 of this chapter and E.O. 11644 (37 FR 2887). Routes and areas may be designated only in national recreation areas, national seashores, national lakeshores and national preserves.

(c) The following are prohibited:

(1) Operating a motor vehicle not equipped with pneumatic tires, except that a track-laying motor vehicle or a motor vehicle equipped with a similar traction device may be operated on a route designated for these vehicles by the superintendent.

(2) Operating a motor vehicle in a manner that causes unreasonable damage to the surface of a park road or route.

(3) Operating a motor vehicle on a route or area designated for off-road motor vehicle use, from ½ hour after sunset to ½ hour before sunrise, without activated headlights and taillights that meet the requirements of State law for operation on a State highway.

§ 4.11 Load, weight and size limits.

(a) Vehicle load, weight and size limits established by State law apply to a vehicle operated on a park road. However, the superintendent may designate more restrictive limits when appropriate for traffic safety or protection of the road surface. The superintendent may require a permit and establish conditions for the operation of a vehicle exceeding designated limits.

(b) The following are prohibited:

§4.12

(1) Operating a vehicle that exceeds a load, weight or size limit designated by the superintendent.

(2) Failing to obtain a permit when required.

(3) Violating a term or condition of a permit.

(4) Operating a motor vehicle with an auxiliary detachable side mirror that extends more than 10 inches beyond the side fender line except when the motor vehicle is towing a second vehicle.

(c) Violating a term or condition of a permit may also result in the suspension or revocation of the permit by the superintendent.

§4.12 Traffic control devices.

Failure to comply with the directions of a traffic control device is prohibited unless otherwise directed by the superintendent.

§4.13 Obstructing traffic.

The following are prohibited:

(a) Stopping or parking a vehicle upon a park road, except as authorized by the superintendent, or in the event of an accident or other condition beyond the control of the operator.

(b) Operating a vehicle so slowly as to interfere with the normal flow of traffic.

§4.14 Open container of alcoholic beverage.

(a) Each person within a motor vehicle is responsible for complying with the provisions of this section that pertain to carrying an open container. The operator of a motor vehicle is the person responsible for complying with the provisions of this section that pertain to the storage of an open container.

(b) Carrying or storing a bottle, can or other receptacle containing an alcoholic beverage that is open, or has been opened, or whose seal is broken or the contents of which have been partially removed, within a motor vehicle in a park area is prohibited.

(c) This section does not apply to:

(1) An open container stored in the trunk of a motor vehicle or, if a motor vehicle is not equipped with a trunk, to an open container stored in some other portion of the motor vehicle designed for the storage of luggage and not nor-

36 CFR Ch. I (7-1-14 Edition)

mally occupied by or readily accessible to the operator or passengers; or

(2) An open container stored in the living quarters of a motor home or camper; or

(3) Unless otherwise prohibited, an open container carried or stored in a motor vehicle parked at an authorized campsite where the motor vehicle's occupant(s) are camping.

(d) For the purpose of paragraph (c)(1) of this section, a utility compartment or glove compartment is deemed to be readily accessible to the operator and passengers of a motor vehicle.

§4.15 Safety belts.

(a) Each operator and passenger occupying any seating position of a motor vehicle in a park area will have the safety belt or child restraint system properly fastened at all times when the vehicle is in motion. The safety belt and child restraint system will conform to applicable United States Department of Transportation standards.

(b) This section does not apply to an occupant in a seat that was not originally equipped by the manufacturer with a safety belt nor does it apply to a person who can demonstrate that a medical condition prevents restraint by a safety belt or other occupant restraining device.

[62 FR 61633, Nov. 19, 1997]

§4.20 Right of way.

An operator of a motor vehicle shall yield the right of way to pedestrians, saddle and pack animals and vehicles drawn by animals. Failure to yield the right of way is prohibited.

§4.21 Speed limits.

(a) Park area speed limits are as follows:

(1) 15 miles per hour: within all school zones, campgrounds, picnic areas, parking areas, utility areas, business or residential areas, other places of public assemblage and at emergency scenes.

(2) 25 miles per hour: upon sections of park road under repair or construction.

(3) 45 miles per hour: upon all other park roads.

(b) The superintendent may designate a different speed limit upon any

park road when a speed limit set forth in paragraph (a) of this section is determined to be unreasonable, unsafe or inconsistent with the purposes for which the park area was established. Speed limits shall be posted by using standard traffic control devices.

(c) Operating a vehicle at a speed in excess of the speed limit is prohibited.

(d) An authorized person may utilize radiomicrowaves or other electrical devices to determine the speed of a vehicle on a park road. Signs indicating that vehicle speed is determined by the use of radiomicrowaves or other electrical devices are not required.

§ 4.22 Unsafe operation.

(a) The elements of this section constitute offenses that are less serious than reckless driving. The offense of reckless driving is defined by State law and violations are prosecuted pursuant to the provisions of section 4.2 of this chapter.

(b) The following are prohibited:

(1) Operating a motor vehicle without due care or at a speed greater than that which is reasonable and prudent considering wildlife, traffic, weather, road and light conditions and road character.

(2) Operating a motor vehicle in a manner which unnecessarily causes its tires to squeal, skid or break free of the road surface.

(3) Failing to maintain that degree of control of a motor vehicle necessary to avoid danger to persons, property or wildlife.

(4) Operating a motor vehicle while allowing a person to ride:

(i) On or within any vehicle, trailer or other mode of conveyance towed behind the motor vehicle unless specifically designed for carrying passengers while being towed; or

(ii) On any exterior portion of the motor vehicle not designed or intended for the use of a passenger. This restriction does not apply to a person seated on the floor of a truck bed equipped with sides, unless prohibited by State law.

§ 4.23 Operating under the influence of alcohol or drugs.

(a) Operating or being in actual physical control of a motor vehicle is prohibited while:

(1) Under the influence of alcohol, or a drug, or drugs, or any combination thereof, to a degree that renders the operator incapable of safe operation; or

(2) The alcohol concentration in the operator's blood or breath is 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams or more of alcohol per 210 liters of breath. Provided however, that if State law that applies to operating a motor vehicle while under the influence of alcohol establishes more restrictive limits of alcohol concentration in the operator's blood or breath, those limits supersede the limits specified in this paragraph.

(b) The provisions of paragraph (a) of this section also apply to an operator who is or has been legally entitled to use alcohol or another drug.

(c) *Tests.* (1) At the request or direction of an authorized person who has probable cause to believe that an operator of a motor vehicle within a park area has violated a provision of paragraph (a) of this section, the operator shall submit to one or more tests of the blood, breath, saliva or urine for the purpose of determining blood alcohol and drug content.

(2) Refusal by an operator to submit to a test is prohibited and proof of refusal may be admissible in any related judicial proceeding.

(3) Any test or tests for the presence of alcohol and drugs shall be determined by and administered at the direction of an authorized person.

(4) Any test shall be conducted by using accepted scientific methods and equipment of proven accuracy and reliability operated by personnel certified in its use.

(d) *Presumptive levels.* (1) The results of chemical or other quantitative tests are intended to supplement the elements of probable cause used as the basis for the arrest of an operator charged with a violation of paragraph (a)(1) of this section. If the alcohol concentration in the operator's blood or breath at the time of testing is less than alcohol concentrations specified in paragraph (a)(2) of this section, this

§ 4.30

36 CFR Ch. I (7–1–14 Edition)

fact does not give rise to any presumption that the operator is or is not under the influence of alcohol.

(2) The provisions of paragraph (d)(1) of this section are not intended to limit the introduction of any other competent evidence bearing upon the question of whether the operator, at the time of the alleged violation, was under the influence of alcohol, or a drug, or drugs, or any combination thereof.

[52 FR 10683, Apr. 2, 1987, as amended at 68 FR 46479, Aug. 6, 2003]

§ 4.30 Bicycles.

(a) *Park roads.* The use of a bicycle is permitted on park roads and in parking areas that are otherwise open for motor vehicle use by the general public.

(b) *Administrative roads.* Administrative roads are roads that are closed to motor vehicle use by the public, but open to motor vehicle use for administrative purposes. The superintendent may authorize bicycle use on an administrative road. Before authorizing bicycle use on an administrative road the superintendent must:

(1) Make a written determination that such bicycle use is consistent with protection of the park area's natural, scenic and aesthetic values, safety considerations and management objectives, and will not disturb wildlife or park resources; and

(2) Notify the public through one or more methods listed in § 1.7(a) of this chapter.

(c) [Reserved]

(d) *Existing trails.* The superintendent may authorize by designation bicycle use on a hiking or horse trail that currently exists on the ground and does not require any construction or significant modification to accommodate bicycles. Before doing so, the superintendent must ensure that all of the following requirements have been satisfied:

(1) The superintendent must complete a park planning document that addresses bicycle use on the specific trail and that includes an evaluation of:

(i) The suitability of the trail surface and soil conditions for accommodating bicycle use. The evaluation must in-

clude any maintenance, minor rehabilitation or armoring that is necessary to upgrade the trail to sustainable condition; and

(ii) Life cycle maintenance costs, safety considerations, methods to prevent or minimize user conflict, methods to protect natural and cultural resources and mitigate impacts, and integration with commercial services and alternative transportation systems (if applicable).

(2) The superintendent must complete either an environmental assessment (EA) or an environmental impact statement (EIS) evaluating the effects of bicycle use in the park and on the specific trail. The superintendent must provide the public with notice of the availability of the EA and at least 30 days to review and comment on an EA completed under this section.

(3) The superintendent must complete a written determination stating that the addition of bicycle use on the existing hiking or horse trail is consistent with the protection of the park area's natural, scenic and aesthetic values, safety considerations and management objectives, and will not disturb wildlife or park resources.

(4)(i) If under paragraph (d)(2) of this section, the resulting Finding of No Significant Impact, Record of Decision (ROD), or an amended ROD concludes that bicycle use on the specific trail will have no significant impacts, the superintendent must publish a notice in the FEDERAL REGISTER providing the public at least 30 days to review and comment on the written determination required by paragraph (d)(3) of this section. After consideration of the comments submitted, the superintendent must obtain the Regional Director's written approval of the determination required by paragraph (d)(3) of this section; or

(ii) If under paragraph (d)(2) of this section, the conclusion is that bicycle use on the specific trail may have a significant impact, the superintendent with the concurrence of the Regional Director must complete a concise written statement for inclusion in the project files that bicycle use cannot be authorized on the specific trail.

(e) *New trails.* This paragraph applies to new trails that do not exist on the

ground and therefore would require trail construction activities (such as clearing brush, cutting trees, excavation, or surface treatment). New trails shall be developed and constructed in accordance with appropriate NPS sustainable trail design principles and guidelines. The superintendent may develop, construct, and authorize new trails for bicycle use after:

(1) In a developed area, the superintendent completes the requirements in paragraphs (d)(1) through (d)(3) of this section, publishes a notice in the FEDERAL REGISTER providing the public at least 30 days to review and comment on the written determination required by paragraph (d)(3) of this section, and after consideration of the comments submitted, obtains the Regional Director's written approval of the determination required by paragraph (d)(3) of this section; or

(2) Outside of a developed area, the superintendent completes the requirements in paragraphs (d)(1), (2), and (3) of this section; obtains the Regional Director's written approval of the determination required by paragraph (d)(3) of this section; and promulgates a special regulation authorizing the bicycle use.

(f) *Closures and other use restrictions.* A superintendent may limit or restrict or impose conditions on bicycle use or may close any park road, parking area, administrative road, trail, or portion thereof to bicycle use, or terminate such condition, closure, limit or restriction after:

(1) Taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives; and

(2) Notifying the public through one or more methods listed in §1.7(a) of this chapter.

(g) *Other requirements.* (1) A person operating a bicycle on any park road, parking area, administrative road or designated trail is subject to all sections of this part that apply to an operator of a motor vehicle, except §§4.4, 4.10, 4.11, 4.14, and 4.15.

(2) Unless specifically addressed by regulations in this chapter, the use of a bicycle within a park area is governed by State law. State law concerning bi-

cycle use that is now or may later be in effect is adopted and made a part of this section.

(h) *Prohibited acts.* The following are prohibited: (1) Bicycle riding off of park roads and parking areas, except on administrative roads and trails that have been authorized for bicycle use.

(2) Possessing a bicycle in a wilderness area established by Federal statute.

(3) Operating a bicycle during periods of low visibility, or while traveling through a tunnel, or between sunset and sunrise, without exhibiting on the operator or bicycle a white light or reflector that is visible from a distance of at least 500 feet to the front and with a red light or reflector that is visible from at least 200 feet to the rear.

(4) Operating a bicycle abreast of another bicycle except where authorized by the superintendent.

(5) Operating a bicycle while consuming an alcoholic beverage or carrying in hand an open container of an alcoholic beverage.

(6) Any violation of State law adopted by this section.

[77 FR 39937, July 6, 2012]

§ 4.31 Hitchhiking.

Hitchhiking or soliciting transportation is prohibited except in designated areas and under conditions established by the superintendent.

PART 5—COMMERCIAL AND PRIVATE OPERATIONS

Sec.

5.1 Advertisements.

5.2 Alcoholic beverages; sale of intoxicants.

5.3 Business operations.

5.4 Commercial passenger-carrying motor vehicles.

5.5 Commercial filming, still photography, and audio recording.

5.6 Commercial vehicles.

5.7 Construction of buildings or other facilities.

5.8 Discrimination in employment practices.

5.9 Discrimination in furnishing public accommodations and transportation services.

5.10 Eating, drinking, or lodging establishments.

5.11–5.12 [Reserved]

5.13 Nuisances.