



Order No. 19-01
USDA Forest Service
Pacific Southwest Region
National Forest System Roads



Pursuant to 16 USC 551 and 36 CFR 261.50(b), and to provide for public safety, the following act is prohibited on National Forest System roads within the State of California. This Order is effective from September 1, 2019, through August 31, 2021.

Possessing or operating a motor vehicle on National Forest System roads under my jurisdiction within the State of California in violation of California Vehicle Code §§ 38010-38604 (Division 16.5, Off-Highway Vehicles), California Vehicle Code §§ 14601-14601.5 (a portion of Division 6, Chapter 4, Violation of License Provisions), California Vehicle Code §§ 12500 (a portion of Division 6, Chapter 1, Driver's Licenses) or California Vehicle Code §§ 16020-16560 (a portion of Division 7, Chapter 1, Financial Responsibility Laws). 36 CFR 261.54(d).

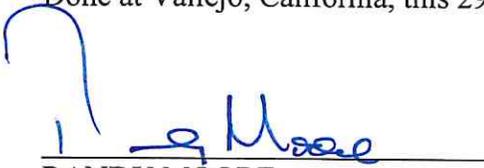
Pursuant to 36 CFR 261.50(e), the following persons are exempt from this Order:

Any Federal, State, or local officer, or member of an organized rescue or fire fighting force in the performance of an official duty.

This prohibition is in addition to the general prohibitions contained in 36 CFR Part 261, Subpart A.

A violation of this prohibition is punishable by a fine of not more than \$5,000 for an individual or \$10,000 for an organization, or imprisonment for not more than 6 months, or both. 16 USC 551 and 18 USC 3559, 3571, and 3581.

Done at Vallejo, California, this 29th day of July 2019.



RANDY MOORE
Regional Forester
Pacific Southwest Region



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Department of
Agriculture

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Date: July 29, 2019

To: File

Subject: Regional Order - Off-Highway Vehicle Use Restriction
(Regional Order 19-01)

From: Randy Moore, Regional Forester

I have decided to reissue a Regional Order to provide for public safety. There are 18 National Forests in California, totaling approximately 20 million acres, with approximately 43,300 miles of roads open to public motor vehicle use. Of these roads, approximately 35,000 miles are open to non-highway legal vehicles. Without this Regional Order, agency personnel may not have the authority to enforce California Vehicle Code, Division 16.5 and a portion of Division 6, Chapter 4 on National Forest System roads.

Specifically, the following act is prohibited by this Order:

Possessing or operating a motor vehicle on National Forest System roads under my jurisdiction within the State of California in violation of California Vehicle Code §§ 38010-38604 (Division 16.5, Off-Highway Vehicles), California Vehicle Code §§ 14601-14601.5 (a portion of Division 6, Chapter 4, Violation of License Provisions), California Vehicle Code §§ 12500 (a portion of Division 6, Chapter 1, Driver's Licenses) or California Vehicle Code §§ 16020-16560 (a portion of Division 7, Chapter 1, Financial Responsibility Laws)

This order will affect all National Forest System roads under my jurisdiction within the State of California and will be in effect from September 1, 2019 through August 31, 2021.

I have concluded that this decision may be categorically excluded from documentation in an Environmental Impact Statement (EIS) or Environmental Assessment (EA) under the National Environmental Policy Act. This action falls within the category identified in 36 CFR 220.6(d)(1) – prohibitions to provide short-term resource protection or to protect public health and safety – and does not require documentation in a decision memo, decision notice, or record of decision. I have determined that there are no extraordinary circumstances associated with this temporary closure. Implementation of the decision may begin immediately.

Historically, Forest Service Law Enforcement personnel have often not had the authority to enforce the California Vehicle Code on National Forest System roads under my jurisdiction within the State of California. These California Vehicle Code sections regulate the possession and operation of Off-Highway Vehicles (OHVs) in California, and contain the licensing requirements for all motor vehicles in California. My decision will enable Forest Service law



enforcement personnel to enforce a portion of the California Vehicle Code to better provide for public safety on National Forest System lands.

The Forest Service exercises its law enforcement authority when violations of law or regulation occur on National Forest System lands, including the National Forest System transportation system. Law enforcement and investigation personnel, which include law enforcement officers and forest protection officers, and other agency personnel provide a regular presence on millions of acres of National Forest System lands and take appropriate action if illegal activity is observed or discovered. In accordance with 36 CFR §212.5(a)(1), traffic on National Forest System roads is subject to state traffic laws where applicable except when in conflict with designations established under 36 CFR Part 212, Subpart B, or with the regulations found at 36 CFR Part 261.

On December 13, 2013, I issued Regional Order No. 13-01, which allows Forest Service officers to enforce Division 16.5 of the California Vehicle Code on National Forest System roads. Since the issuance of this Order, it has become an integral part of our law enforcement effort to provide for public safety.

There are an increased number of unlicensed drivers or drivers with suspended/revoked licenses driving on National Forest System roads today. The California Vehicle Code, legislative findings state, "At any given time, it is estimated by the Department of Motor Vehicles that of some 20 million driver's licenses issued to Californians, 720,000 are suspended or revoked. Furthermore, 1,000,000 persons are estimated to be driving without ever having been licensed at all. Californians who comply with the law are frequently victims of traffic accidents caused by unlicensed drivers. These innocent victims suffer considerable pain and property loss at the hands of people who flaunt the law. The Department of Motor Vehicles estimates that 75 percent of all drivers whose driving privilege has been withdrawn continue to drive regardless of the law." CVC§14607.4(c).

Since the issuance of the OHV-related Executive Orders 11644 and 11989 in the 1970s, major advances in motor vehicle technology along with increases in the number of OHV recreationists have occurred. Completely new classes of vehicles, such as all-terrain vehicles (ATVs), recreation utility vehicles, recreational off highway vehicles and sport utility vehicles are widely used on public lands and are growing in popularity. For example, in 1995 ATV sales numbered 277,800 and increased to 747,581 in 2006 (Off-Highway Vehicle Recreation in the United States and its Regions and States February 2008). This national trend, documented through personal observations and visitor use monitoring, are occurring on National Forest System lands and roads throughout California.

The use of motor vehicles for transportation, recreation access, and as a form of recreation (particularly OHV use) has increased 109 percent since the early 1980s (H. Cordell, 2004, <http://www.srs.fs.usda.gov/trends/or21c.html>). Additionally, there has been an increase in both accidents and fatalities. See <http://www.cpsc.gov/library/atv2005.pdf> and http://www.theeagle.com/stories/060307/health_20070603037.php.

Because of the remote nature of some National Forest System lands and roads in California, emergency response times may be lengthy and access to injured parties may be difficult. In

addition, the California Highway Patrol and various Sheriffs' Departments do not have sufficient resources to respond to all accidents and violations of the California Vehicle Code occurring on these roads. Given these resource issues, the increased use of National Forest System roads, and the documented increase in accidents and fatalities, it is critical that the Forest Service take action to provide this authority to Forest Service law enforcement personnel.

Out of 50 states, California actually ranks 13th in uninsured drivers, with 14.7 percent of all drivers getting behind the wheel without coverage.

Of course, California's relatively high ranking also means the states with the lowest percentages are far removed. For instance, Massachusetts has just 4 percent, Maine and New York are tied with 5 percent, and then Utah and North Dakota are tied with 6 percent.

It is worth noting that percentages don't tell the whole story. States with higher populations naturally may have a larger total of uninsured drivers, regardless of their ranking based on percentages. In that light, California ranks No. 1 overall, with 4.1 million drivers who don't have coverage. The No. 2 spot goes to Florida, with 3.2 million uninsured drivers, (Astryan Law February 17, 2017).

The risk of having an accident with uninsured motorist in California is more probable than not. It is not uncommon for forest visitors to operate uninsured vehicles in the forest that have recently been purchased or working on mechanically and are test driving. When LEOs encounter these situations, they are told by drivers that they didn't think anyone was around or that they would encounter law enforcement in the forest. This is a prevalent mindset, which puts forest visitors at risk of encountering uninsured drivers in the forest.

Scoping was conducted with key stakeholders to help determine whether significant issues or extraordinary circumstances exist associated with an Order that would allow Forest Service law enforcement personnel to enforce the off highway vehicle prohibitions and vehicle driver's license provisions on National Forest System roads under my jurisdiction. Key stakeholder contacts and discussions took place with the California Highway Patrol, California State Parks Off-Highway Motor Vehicle Recreation Division, and former members of the California OHV Stakeholders Roundtable. There were no objections, substantive comments, or extraordinary circumstances identified.