

## Appendix E

**Law Enforcement****INTRODUCTION**

U.S. Forest Service Law Enforcement and Investigations (LEI) personnel are responsible for protecting the public, employees, natural resources, and other property under the agency's jurisdiction. Additionally, LEI investigates and enforces applicable laws and regulations that affect the National Forest System (NFS) lands, and prevents criminal violations. The new Travel Management Rule is one such regulation.

The Travel Management Rule requires designation of roads, trails, and areas open to motor vehicle use, and the prohibition of cross-country wheeled motorized vehicle travel by the public. This is a considerable change in public motorized access management from previous conditions where most Forests were managed as "open to cross-country travel." The implementation of designated routes and areas for motorized vehicles will be the responsibility of all agency employees, especially in the area of education and enforcement. The law enforcement program is primarily responsible for issuing violations to the Travel Management Rule.

The national LEI budget is funded by appropriated dollars from Congress to provide law enforcement services on the NFS lands. The Travel Management program is one of many Forest programs to benefit from federal law enforcement funding. For the past few years, law enforcement funding has increased and that has translated into an increase in field law enforcement personnel<sup>1</sup>.

To enhance enforcement of the Travel Management Rule, Region 5 Forest Recreation Programs have applied for and received grant dollars (green sticker funding) from the State of California Off-Highway Motor Vehicle Recreation Division Grants Program. These State funds are earmarked specifically for enforcement of off-highway vehicle laws and regulations on the various Forests, and are performed primarily by Forest Protection Officers (FPO). In addition, Law Enforcement Officers (LEOs) support the FPOs as needed, especially if serious violations have occurred. In recent years, State law enforcement grants have ranged from 3-4 million dollars annually with similar funding anticipated for the 2008-2009 grant cycle.

**AUTHORITY AND JURISDICTION**

The Forest Service exercises its law enforcement authority when violation of laws or regulations occurs on NFS lands or when incidents affect the NFS. The existing authorities for enforcement are completely adequate and no new laws will be needed to implement the Travel Management rule.

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<sup>1</sup> Region 5 Law Enforcement budget figures for the past 4 years have increased and the number of law enforcement officers has increased by 65.

Every National Forest has a law enforcement plan that is updated annually. All Forest Service employees have a duty to know and understand their authorities and responsibilities, and to properly enforce laws and regulations relating to the Forest within their authority and capability. LEI and agency personnel provide a regular and recurring presence on vast amounts of public land, roads, trails, and areas, and take appropriate action if illegal activity is discovered. Violations involving motorized vehicles are primarily enforced FPOs, which patrol off-highway use roads, trails, and areas. These include violations such as operating a motor vehicle in violation of federal regulations and California vehicle code, parking improperly, resource damage to soils, vegetation or wildlife, and disorderly or unruly behavior. LEOs have discretion when deciding what type of action to initiate when handling violations to the following federal laws that pertain specifically to motor vehicle use.

- The Act of June 4, 1897 (Title 16 United States Code 551) is the authority for issuing regulations at Title 36 Code of Federal Regulations, Part 261 (36 CFR 261). Specific OHV travel management regulations are in sections 261.9 – Property, 261.13 –Motor Vehicle Use, and 261.15 –Use of Vehicles Off-Road (see Attachment X). These CFR’s cover a wide array of misdemeanor infractions.
- The Act of March 3, 1905 (Title 16 United States Code 559) authorizes all employees of the Forest Service to make arrests for violation of the laws and regulations pertaining to National Forests. Normally, arrest authority is limited to trained law enforcement personnel. (Any employee may take immediate action when necessary to protect life and prevent serious damage to or destruction of property, escape of a suspect, or loss of material evidence when such action can be done with reasonable safety.)

## **COOPERATION**

The Forest Service shares responsibility and cooperates with local, State, and other Federal agencies in the execution of its law enforcement program. The authority for cooperation among agencies, especially as it pertains to Travel Management, is within the following laws:

- The act of August 10, 1971 (Title 16 United States Code 551a) authorizes the Secretary of Agriculture to cooperate with, and provide reimbursement to, any State or political subdivision thereof, for the enforcement of their laws within NFS. This law does not deprive any State or local law enforcement agency from exercising its criminal and civil jurisdiction on lands that are part of the NFS.
- The California Penal Code, Section 830.8 provides that Forest Service law enforcement personnel may exercise State Peace Officer authority where the sheriff of the county wherein the officer works has provided specific written permission for the officer.

- The State vehicle code section 38301 allows State law enforcement officer to enforce any of the Federal CFRs related to motor vehicles on NFS lands.<sup>2</sup>

Each Forest maintains close working relationships with many State and local law enforcement agencies that have law enforcement responsibilities within/and or adjacent to the Forest boundary. Significant cooperating agencies relative to the Travel Management Rule include the local county sheriff departments, the California Department of Fish and Game, California Highway Patrol, California Department of Forestry and Fire Protection, and occasionally one or more Federal agencies depending on the violation. Forest Service law enforcement personnel cooperate fully with these agencies in carrying out their law enforcement responsibilities by providing assistance; liaison, advice, and information.

Forests maintain Cooperative Law Enforcement Agreements with their respective county sheriff's office. In Region 5, the total cost for the 2008 Cooperative Law Enforcement Agreements is \$891,397.<sup>3</sup> These dollars are for performance of duties in addition to the normal activities in which the sheriff's deputies handle crimes against persons and their property that may occur within the NFS boundary. In these agreements, both parties recognize that public use of NFS lands is usually located in areas that are remote or sparsely populated and the enforcement of State and local law is related to the administration and regulation of NFS lands. Within the Cooperative Law Enforcement Agreements, an Operating Plan is developed outlining the supplemental work to be performed by the cooperating agency. Relative to the Travel Management Rule, operating plans may provide:

- Supplemental patrols in areas of high use.
- Supplemental patrols on weekends or during particular months of high use.
- Additional officers for large group gatherings or events (enduros)
- Vehicle checkpoints for vehicle registration spark arrestors, and other miscellaneous items.

## **IMPLEMENTATION AND TRACKING**

Implementation of the Forest Service law enforcement program is continually adapting as law enforcement personnel assess the changing patterns of visitor use and attitudes, and the trends in violations, especially for property and resource damage. One method of assessment is the analysis of Law Enforcement and Investigations Management Attainment Reporting System (LEIMARS) data. LEIMARS tracks all known violations of criminal law or regulation on NFS lands (FSH 5309.11, chapter 40 and FSM 5340). Additionally, imbedded in LEIMARS is the Case Tracking System, which tracks all felony and serious misdemeanor cases. These tracking systems:

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<sup>2</sup> State Vehicle code section 38301. (a) It is unlawful to operate a vehicle in violation of special regulations which have been promulgated by the governmental agency having jurisdiction over public lands, including, but not limited to, regulations governing access, routes of travel, plants, wildlife habitat, water resources and historical sites.

<sup>3</sup> Region 5 Law Enforcement Cooperative Agreement 2008 spreadsheet.

- Capture and record information on location, volume, damages, and type of violations occurring on NFS lands.
- Provide a retrieval system of data on incidents and violations that is responsive to the needs of all organizational levels.
- Provide agency managers with a means to identify and monitor law enforcement activities.
- Specifically identify problem areas and periods of activity.
- Provide a method to record and analyze incidents involving violations or suspected violations on NFS lands.

Trends in violations related to the Travel Management Rule can be analyzed and appropriate action(s) taken, if needed. Appropriate action(s) may involve one or more techniques or adaptive strategies. In the law enforcement community, this is often referred to as the “three E strategy” of engineering, education, and enforcement. With the change in the Travel Management Rule, it is anticipated that the law enforcement program will use a combination of strategies, especially during the first five years of the rule implementation.

#### **IMPLEMENTATION STRATEGY ENGINEERING – EDUCATION - ENFORCEMENT**

The Engineering strategy is designed to prevent or reduce inadvertent violations, resource damage, and crime vulnerability. The strategy’s goal is to remove the opportunity to commit a violation. LEI personnel work with each Forest, particularly the recreation and engineering programs, to implement some or all of the following specific tactics:

- Proper design of improvements and facilities.
- Facility security measures such as installation of barricades, gates, and other natural obstacles.
- Forest signing, both directional and informational, to assist the public to ensure they stay on designated trails, and out of the wilderness and other sensitive areas.
- Physically close and rehabilitate decommissioned roads and trails.

The Educational strategy focuses on specific user groups, school groups, recreation users, and the public. The goal is to develop responsible and concerned public land use attitudes in forest users; it’s violation prevention. Forest LEOs and FPOs make regular contacts in the field informing the users of the regulations and need for the prohibition. The LEI personnel work with each Forest, particularly the recreation and public information programs, to identify and implement some or all of the following specific tactics.

- Have motor vehicle use maps easily available to public.
- Have route numbers visually marked on the ground.
- Distribute maps and brochures promoting responsible use.

- Conduct environmental interpretation activities in local communities, at schools, and with special interest groups.
- Use of all forms of the media (television, radio, and newspapers), especially prior to, and during, the high use periods.
- Ensure all employees understand the Travel Management Rule.
- Utilize high visibility prevention patrols and public information checkpoints, especially during the peak use periods.
- Encourage cooperating law enforcement agencies to make visitor contacts and provide violator information to Forest Officers.
- Ride with other agency officers to demonstrate solidarity to the public.
- Issue news releases of arrests and successful prosecutions, including offender names, criminal penalties, and court ordered restitution.

The Law Enforcement strategy is to affect crime prevention measures that are designed to reduce specific criminal activity, deter potential and repeat offenders, maximize enforcement actions and visibility, and increase prosecutorial successes. All enforcement actions should result in a better understanding of regulations pertaining to the management of NFS lands. LEI personnel work with each Forest, to identify and implement some or all of the following specific tactics:

- Schedule officers to work during the identified problem periods, including holidays and weekends.
- Utilize high profile “saturation patrols” and stationary surveillance posts in the identified problem areas.
- Utilize the most effective and efficient means of patrol, including foot, horseback, all-terrain vehicle, snowmobile, watercraft, and aircraft.
- Aerial over-flights to enforce restriction under Travel Management Rule.
- Enlist the aid of volunteers.
- Initiate an awards program.
- Supplement patrols with cooperating law enforcement agencies in areas of concern.
- Use technical investigative equipment (cameras, monitors, sensors) to assist officers with detecting and monitoring violations at known or suspected violation sites.
- Conduct planned and approved compliance checkpoints.
- Follow-up on complaints to document violations, damages, and identify suspect vehicles or persons.
- Require cooperating law enforcement agencies to assist with reporting and/or enforcing violations within their authority.
- Patrol with other cooperating law enforcement agency officers.
- Conduct unpredictable patrol schedules.
- Conduct special enforcement actions (unmarked vehicle deployment, surveillance, traffic check-points).
- Utilize LEIMARS and Central Violations Bureau databases along with the State motor vehicle data, to identify repeat offenders for enhanced prosecution.

- Pursue court ordered restitution or civil collections for resource and property damages.
- Encourage prosecutorial and judicial support.
- Execute bench warrants related of off-highway vehicle violations.

## ASSUMPTIONS

Based on many years of enforcing off-highway vehicles, implementation of the Travel Management Rule from a law enforcement perspective assumes the following to be true. Additionally, these assumptions are based on several case studies in R5 (see Attachment 1). These assumptions may change in time with analysis of the LEIMARS database.

### Enforcement Assumptions:

- Enforcement of the laws and regulations related to Travel Management will be enforced equally in authority and weight as with all other Federal laws and regulations.
- As with any change in a regulation on NFS lands, there is usually a transitional period for the public to understand the changes. It is anticipated there will be a higher number of violations to the Travel Management Rule the first few years and the number of violations will decline as the users understand and comply with the rules. It is assumed :
  - Users in communities adjacent to the Forest will comply within 1-2 years.
  - Frequent users but further in distant from the Forest will comply within 2-3 years.
  - Infrequent users regardless of distant may take up to 5 years to comply.
- Law enforcement officer and agency personnel's presence and enforcement actions will positively affect OHV users' behaviors and attitudes.
- The Travel Management Rule and associated motor vehicle use map clearly define the designated routes; therefore, making violations to the rule unequivocal.
- Once the motor use vehicle map is published, the implementation of the established dedicated network of roads, trails, and areas with signs, and user education programs, will reduce the number of violations.
- FPOs spend a large percentage of their time on Travel Management issues, and depending on the Forest the estimate range from 30 to 50 percent. LEOs spend approximately 10-20% of their time on enforcement of off-highway vehicle issues.<sup>4</sup>

### Agency Funding Assumptions:

- Appropriated program funding levels and number of law enforcement personnel does not affect enforcement of the Travel Management Rule. All laws and regulations are enforced equally.
- Appropriated funds will remain level or increase slightly in the next five years.

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<sup>4</sup> Barnett, G. 2004-2005 Law Enforcement Workload Analysis.

- The State of California Off-Highway Motor Vehicle Recreation Division Grants Program (green sticker funding) enhances and provides additional law enforcement presence in the field at the Forest level.

#### Public Attitude and Compliance Assumptions:

- Forest users want to do the right thing and will obey the rule<sup>5</sup>, once they understand the rule and motor vehicle use map.
- User compliance<sup>6</sup> is based on the State of California Off-Highway Motor Vehicle Recreation Division data and is anticipated to be:
  - 95% of the users are fully compliant.
  - 2-3% of the users think about and may violate a law.
  - 1-2% of the users will violate the law.

### MEASURE OF SUCCESS

Measuring the success of the Travel Management Rule from a law enforcement perspective will be done using the LEIMARS database. An analysis of the data may alert a Forest to a particular problem area for violations such as a group campsite area that may be surrounded by flat meadow areas inviting riders to potentially violate the regulation. A successful program will see a positive change in the following measures:

- Measure 1: A reduction in the number of off-route travel violations.
- Measure 2: A reduction in the number of resource damage violations

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<sup>5</sup> Tyler, Tom R. *Why People Obey the Law*, Princeton University Press, 2006, p. 320

<sup>6</sup> User compliance was computed by using the State Vehicular Recreation Area Fiscal year 2006/2007 data: 4.2M SVRA visitors divided by the 210,000 citations written, is approximately 5 percent non-compliant, and 95% compliant.