



National Park Service
U.S. Department of the Interior

Scotts Bluff
National Monument

190276 Old Oregon Trail
PO Box 27
Gering, NE 69341

Superintendent's Compendium
Of Designations, Closures, Permit
Requirements and Other Restrictions
Imposed Under Discretionary Authority.

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Approved:

Date: 4/1/16

Tom Schaff, Acting Superintendent

A. INTRODUCTION

1. Superintendent's Compendium Described

The Superintendent's Compendium is the summary of park specific rules implemented under 36 Code of Federal Regulations (36 CFR). It serves as public notice, identifies areas closed for public use, provides a list of activities requiring either a special use permit or reservation, and elaborates on public use and resource protection regulations pertaining specifically to the administration of the park. The Superintendent's Compendium does not repeat regulations found in 36 CFR and other United States Code and CFR Titles, which are enforced without further elaboration at the park level.

The regulations contained in 36 CFR, Parts 1-7, are the basic mechanism used by the National Park Service (NPS) to preserve and protect the natural and cultural resources of the park and to protect visitors and property within the park. Parts 1 through 6 are general regulations applicable to all areas of the National Park system, and Part 7 contains special regulations specific to individual parks. Each of these Parts has many sections and subsections articulating specific provisions. Within some of these Part 1-7 sections and subsections, the Superintendent is granted discretionary authority to develop local rules to be responsive to the needs of a specific park resource or activity, park plan, program, and/or special needs of the general public.

As an example, 36 CFR 1.5(a) *Closures and Public Use Limits* provides the Superintendent certain discretion in allowing or disallowing certain activities. The authority granted by the Section, however, requires the Superintendent to comply with the Administrative Procedures Act (6 USC Section 551), which requires public notice on actions with major impact on visitor use patterns, park resources or those that are highly controversial in nature.

Another example is 36 CFR 1.6 *Permits*, which allows the Superintendent to require a permit for certain uses and activities in the park. This Section, however, requires that a list of activities needing a permit (and a fee schedule for the various types of permits) be maintained by the park.

A final example is 36 CFR 2.1(c) (1) *Preservation of Natural, Cultural and Archeological Resources*, which provides the Superintendent the authority to designate certain fruits, nuts, berries or unoccupied seashells which may be gathered by hand for personal use or consumption. This activity can occur, however, only if a written determination shows that the allowed activity does not adversely affect park wildlife, the reproductive potential of a plant species, or otherwise adversely affect park resources.

This Compendium should be used in conjunction with Title 36 CFR, Parts 1-7, to more fully

understand the regulations governing the use and enjoyment of all the areas of the national Park System.

A copy of Title 36, CFR, can be purchased from the U.S. Government Printing Office at:

Superintendent of Documents
P.O. Box 371954
Pittsburgh, PA 15250-7954

The CFR is also available on the Internet at:

http://www.access.gpo.gov/nara/cfr/waisidx_05/36cfrv1_05.html

2. Laws and Policies Allowing the Superintendent to Develop This Compendium

The National Park Service (NPS) is granted broad statutory authority under 16 United States Code (U.S.C.) Section 1 *et seq.* (Organic Act of 1916, as amended) to "...regulate the use of the Federal areas known as national parks, monuments, and reservations...by such means and measures as conform to the fundamental purposes of the said parks...which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment for future generations" (16 U.S.C. Section 1). In addition, the NPS Organic Act allows the NPS, through the Secretary of the Interior, to "make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service" (16 U.S.C. Section 3).

In 1970, Congress amended the NPS Organic Act to clarify its intentions as to the overall mission of the NPS. Through the General Authorities Act of 1970 (16 U.S.C. Sections 1a1-1a8), Congress brought all areas administered by the NPS into one National Park System and directed the NPS to manage all areas under its administration consistent with the Organic Act of 1916.

In 1978, Congress amended the General Authorities Act of 1970 and reasserted System-wide the high standard of protection defined in the original Organic Act by stating "Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined by Section 1 of this Title, shall be consistent with and founded in the purpose established by Section 1 of this Title, to the common benefit of all people of the United States."

16 U.S.C. Section 1c defines the National Park System as "...any areas of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes."

In addition to the above statutory authority, the Superintendent is guided by established NPS policy as found in the *NPS Management Policies* (2006). The Superintendent is also guided by more specific policies promulgated by the Director, National Park Service, in the form of Director's Orders. As stated in the Management Policies, the primary responsibility of the NPS is to protect and preserve our national natural and cultural resources while providing for the enjoyment of these resources by visitor and other users, as long as use does not impair specific park resources or overall visitor experience. The appropriateness of any particular visitor use or recreational experience is resource-based and will vary from park to park; therefore, a use or activity that is appropriate in one park area may not be appropriate in another. The Superintendent is directed to analyze overall park use and determine if any particular use is appropriate. Where conflict arises between use and resource protection, where the Superintendent has a reasonable basis to believe a resource is or would become

impaired, than that Superintendent is obliged to place limitations on public use.

3. Consistency of This Compendium with Applicable Federal Law and Requirements

The Superintendent's Compendium is not considered a significant rule requiring review by the Office of Management and Budget under Executive Order 12866. In addition, this Compendium will not have a significant economic effect on a number of small entities nor impose a significant cost on any local, state or tribal government or private organization, and therefore does not fall under the requirements of either the Regulatory Flexibility Act or the Unfunded Mandates Reform Act.

The actions and requirements described in this Compendium are found to be categorically excluded from further compliance with the procedural requirements of the National Environmental Policy Act (NEPA) in Department of the Interior (DOI) Guidelines 516 DM 6 and as such, an Environmental Assessment will not be prepared.

4. Development of the Requirements of the Superintendent's Compendium

As outlined above, the NPS has broad authority and responsibility to determine what types of uses and activities are appropriate in any particular National Park System area. The requirements of the Superintendent's Compendium are developed through an analysis and determination process. The decision criteria used during this process are:

- Is the use or activity consistent with the NPS Organic Act and NPS policy?
- Is the use or activity consistent and compatible with the park's enabling legislation, management objectives, and corresponding management plans?
- Will the use or activity damage the park's protected natural and cultural resources and other protected values?
- Will the use or activity disturb or be in conflict with wildlife, vegetation, and environmental protection actions and values?
- Will the use or activity conflict with or be incompatible with traditional park uses and activities?
- Will the use or activity compromise employee or public safety?

5. Applicability of the Compendium

The rules contained in this Compendium apply to all persons entering, using, visiting or otherwise present on Federally owned lands, including submerged lands, and waters administered by the NPS within the legislative boundaries of the park. This includes all waters subject to the jurisdiction of the United States, including all navigable waters.

6. Enforcement of Compendium Requirements

NPS Law Enforcement Park Rangers enforce the requirements of the United States Code, 36 CFR, and this Superintendent's Compendium.

7. Penalties for Not Adhering to the Compendium Requirements

A person who violates any provision of the regulations found in 36 CFR, Parts 1-7, or provisions of this Compendium, is subject to a fine as provided by law (18 U.S.C. 3571) up to \$5,000 for individuals and \$10,000 for organizations, or by imprisonment not exceeding six months (18 U.S.C. 3559), or both, and shall be adjudged to pay all court costs associated with any court proceedings. You may receive a list of fines associated with any particular provision by contacting the Chief Ranger at the park address found below.

8. Comments on the Compendium

The Compendium is reviewed annually and revised as necessary. The park welcomes comments about its program and activities at any time.

Written comments on the Compendium may be submitted to:

**Superintendent
Scotts Bluff National Monument
PO Box 27
Gering, NE 69341**

9. Effective Date of the Superintendent Compendium

The Superintendent's Compendium is effective on the approval date listed on the first page of this document, and remains in effect until revised for a period up to one year.

10. Additional Information

Some of the terms used in this Compendium may have specific meaning defined in 36 CFR 1.4 *Definitions*.

11. Availability

Copies of the Compendium are available at 190276 Old Oregon Trail, Gering, NE. It may also be found at www.nps.gov/scbl.

B. SUPERINTENDENT'S COMPENDIUM

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations ("36 CFR"), Chapter 1, Parts 1-7, authorized by Title 16 United States Code, Section 3, the following provisions apply to all lands and waters administered by the National Park Service, within the boundaries of Scotts Bluff National Monument. Unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in 36 CFR, Chapter 1, Parts 1-7.

Written determinations, which explain the reasoning behind the Superintendent's use of discretionary authority, as required by Section 1.5(c), appear in this document identified by italicized print.

I. 36 CFR §1.5 – VISITING HOURS, PUBLIC USE LIMITS, CLOSURES, AND AREA DESIGNATIONS FOR SPECIFIC USE OR ACTIVITIES

(a)(1) The following visiting hours and public use limits are established for all or for the listed portions of the park, and the following closures are established for all or a portion of the park to all public use or to a certain use or activity:

Visiting Hours:

- Operating hours for vehicular traffic on the Summit Road and visitor center vary seasonally with hours posted at the visitor center and entrance station. During the summer season, the park visitor center is open from 9:00 a.m. – 6:00 p.m. and Summit Road open from 9:00 a.m. – 5:30 p.m. The visitor center is open in the winter season from 9:00 a.m. – 5:00 p.m. and Summit Road open from 9:00 a.m. – 4:30 p.m.
- The Scotts Bluff National Monument Visitor Center and Summit Road are closed on all Federal holidays between November and February.

Public Use Limits:

- All Park grounds and facilities are closed from sunset to sunrise.

Reason for Determination: Safety is a main concern at Scotts Bluff National Monument. After dark, the lack of light might foster an unsafe environment due to vertical exposure and unstable cliff faces and the nocturnal activity of prairie rattlesnakes.

- The Summit Road is closed from the visitor center to the Summit Parking Lot for motor vehicle drawn trailers and recreational vehicles longer than 25 feet and/or taller than 11 feet 7 inches.

Reason for determination: The United States Department of Transportation, National Park Service and the Nebraska Department of Roads have established road restrictions that apply to the Summit Road which prohibits motor drawn trailers and recreational vehicles longer than 25 feet or higher than 11 feet 7 inches from driving the road. The Summit Road access is restricted due to low clearance and curved tunnels, narrow traffic lanes and having no road shoulder.

- Commercial and non-commercial buses longer than 25 feet and/or taller than 11 feet 7 inches are required to be escorted by national park service personnel to and from the summit.

Reason for determination: Under the discretion of the National Park Service, commercial and non-commercial buses may be allowed to drive to the summit provided the road is closed to vehicular traffic, the bus drives through the middle of all three tunnels and the bus is escorted by a park employee up and down the Summit Road.

- Segways

Segways® and motorized scooters, as defined by 36 CFR 1.4 are motor vehicles. Pursuant to 36 CFR 1.5(e) and 4.10(a), the park has imposed a restriction on all use of Segways and motorized scooters from all areas within the park including all park roads, trails, and sidewalks and walkways.

However, any park visitor with a disability is permitted to use a Segway® or motorized scooter in the park, on sidewalks and paved walkways, when such devices are used for the sole purpose of mobility assistance. Use of any mobility assistive devices, as outlined above, must also adhere to the following:

- The visitor center and administration building are not handicap accessible and not recommended for Segway® use; the monument has wheelchairs available upon request.
- No person under 16 years of age may operate Segway®.
- A person shall operate any mobility assistive device in a safe and responsible manner; maximum speed will not exceed more than 8 mph (Segway sidewalk/intermediate key), so as not to endanger one's self or any other park visitor.
- A person operating any mobility assistive device upon and along a sidewalk or walkway while crossing a roadway in a crosswalk, or on any other surface shall have all the rights and duties applicable to a pedestrian under the same circumstances, except that the mobility assistive device operator must always yield to pedestrians.

Reason for determination: Segways® provide a reasonable mobility alternative for those who would otherwise be unable to visit the monument, or find it difficult to visit the monument due to personal mobility limitations.

- Food and beverages are not allowed in the visitor center and museum.

Reason for determination: The decision to not allow food and beverages in the visitor center and museum has been made to reduce the risk of damage to exhibits, government property and prevent the risk of attracting insects and animals.

Closures:

- It is prohibited to travel off the developed trail system on the summit top.

Reason for determination: The safety concerns of an unstable and exposed walking surface; rattlesnakes, protection of the fragile vegetation, and prevention of accelerated erosion are the basis for the restriction to stay on the summit trails.

- It is prohibited to walk on or climb the following formations: Dome Rock, Eagle Rock, Sentinel Rock, Saddle Rock and Crown Rock.

The unstable, sedimentary rock composition of Dome Rock, Eagle Rock, Sentinel Rock Saddle Rock and Crown Rock prohibits the rocks to be climbed.

- Motor vehicle traffic and bicycles are prohibited from traveling on the canal roads.

Reason for determination: The canal roads are privately owned by the local canal companies and will need their permission for use.

- Launching, landing, or operating an unmanned aircraft from or on lands and waters administered by the National Park Service within the boundaries of Scotts Bluff National Monument is prohibited except as approved in writing by the superintendent.

Definition: The term "unmanned aircraft" means a device that is used or intended to be used for flight in the air without the possibility of direct human intervention from within or on the device, and the associated operational elements and components that are required for the pilot or system operator in command to operate or control the device (such as cameras, sensors, communication links.) This term includes all types of devices that meet this definition (e.g. model airplanes, quadcopters, drones) that are used for any purpose, including for recreation or commerce.

Reason for determination: Closure is necessary to maintain public safety, protect the park's natural, aesthetic, scenic and historic values. The use of these devices creates excessive noise which conflicts with the historic purpose of the park and also has the potential to disrupt wild life by interrupting migration, nesting, mating, and hunting activities.

(a)(2) The following areas have been designated for a specific use or activity, under the conditions and/or restrictions as noted:

The following restrictions and/or conditions are in effect for the specific uses or activities noted:

Passenger Carrying Buses:

- Idling of any engine that produces exhaust in the summit or visitor center parking lot is restricted to loading and unloading passengers.
- Engine warm-up or idling prior to loading or unloading of passengers is limited to 10 minutes.

Reason for determination: The idling of bus engines adds unnecessary exhaust fumes into the air and diminishes the enjoyment by visitors of the peace and tranquility of the park.

II. 36 CFR §1.6 – ACTIVITIES THAT REQUIRE A PERMIT

(f) The following is a compilation of those activities for which a permit from the superintendent is required:

- §1.5(d) The following activities related to Public Use Limits:
 - After hour visits and/or activities at the monument.
 - Vehicle traffic on Summit Road after closure.
 - Hiking or walking off trail on the summit.
 - Hiking or walking on the following formations: Eagle Rock, Saddle Rock, Sentinel Rock, Crown Rock or Dome Rock.

- §2.5(a) Specimen Collection (legal taking of plant, fish, wildlife, rocks or minerals)
- §2.10(a) Camping in association with a special event or public gathering for which a permit has been issued pursuant to §2.50 or §2.51
- §2.50(a) Special Events such as conducting a sports event, public spectator attraction, entertainment, ceremony or similar events
- §2.51(a) Public assemblies, meetings, gatherings, demonstrations, parades and other public expression of views involving more than 25 people.
- §2.52(c) Sale or distribution of printed matter involving more than 25 people.
- §2.62 Memorialization:
 - Scattering of ashes from human cremation
 - Erection of monuments requires approval from regional director.

- §5.1 Commercial notices or Advertisement display.
- §5.5 Commercial Photography/Filming:
 - Commercial filming of motion pictures or television involving the use of professional casts, settings or crews. Other than a bonafide newsreel or news television.
 - Still photography of vehicles, or other articles of commerce or models for the purpose of commercial advertising.

III. GENERAL REGULATIONS

36 CFR §2.1 – PRESERVATION OF NATURAL, CULTURAL AND ARCHEOLOGICAL RESOURCES

(c)(1) The gathering of currant berries will be limited to gathering by hand for personal use or consumption. No other berries or plants can be gathered.

Reason for determination: Currant berry bushes are found in the public use area of the monument, headquarters, residence buildings and on the Oregon Trail Pathway, when ripe the berries are used by the monument park rangers as a tool for interpretive programs. Collections amounting to an individual's daily use of berries would be sufficient for the monument's need and the general public. No other collection of plan, animal or mineral is allowed within the monument.

(c)(2)(i) The quantity of currant berries gathered shall not exceed the daily use of the individual or family

36 CFR §2.2 - WILDLIFE PROTECTION

(e) The viewing of wildlife with an artificial light is prohibited on Federal lands within the boundaries of Scotts Bluff National Monument.:

Reason for determination: The monument is closed for public use at dark (except by special use permit) and the use of a spotlight, automotive headlight, or other artificial light to spot, observe, locate or take any animal on the monument is prohibited. Any of the prohibited acts may also cause a safety hazard due to the traffic flow through the monument.

36 CFR §2.3 – FISHING

(a) Fishing shall be in accordance with laws and regulations of the state of Nebraska.

36 CFR §2.10 – CAMPING and FOOD STORAGE

There are no designated camping sites or areas within the boundaries of Scotts Bluff National Monument. A permit system has been established for certain camping activities, and conditions for camping and camping activities are authorized only under a Special Use Permit.

Reason for determination: The monument is closed for public use at sunset (unless under a special use permit) and there are no designated camping sites or areas within the boundaries of the monument.

36 CFR 2.13 – FIRES

(a)(1) The lighting or maintaining of fires is generally prohibited within the boundaries of the monument, except as provided for under the conditions of a special use permit. Employees are authorized to have fires in the residential area, using fire for evening campfire programs in the amphitheater fire pit or at living history demonstrations.

Reason for determination: The high winds and dry conditions at the monument every season of the year make prairie fires a constant concern. There are no fire pits or grates at the monument due to the possibility of wild fire.

36 CFR §2.15 – PETS

(a)(1) The following structures and/or areas are closed to the possession of pets except for service animals:

- All monument buildings with the exception of the park residence.

(a)(1) Pets are allowed in the following areas:

- When leashed, on all paved roads, paved sidewalks and trails.

(a)(5) Pet excrement must be removed from all areas of the monument by the pet owner/handler and placed in an outdoor trash receptacle.

(e) Pets may be kept by park residents under the following conditions:

- Complete permit from superintendent within 14 days of bringing pet into park.
- Wear tags identifying owners name and up to date vaccinations.
- Limit of 3 dogs and/or cats. No restrictions to amount of other household pets.

36 CFR §2.16 – HORSES and PACK ANIMALS

(g) Conditions that are prohibited concerning the use of horses or pack animals:

- Riding on or adjacent to the remnants of the Oregon Trail.
- Riding on all paved trails, the Summit Road and parking lots.
- Riders shall ride abreast, not single file to limit the impact on the resource.
- Load or unload from trailer or temporarily corral within the monument except under the conditions of a special use permit.

36 CFR §2.19 – WINTER ACTIVITIES

(a) The following park roads and/or parking areas open to motor vehicle traffic may be used for skiing, snowshoeing, ice skating, inner-tubing, tobogganing, and similar winter activities under the conditions noted:

- The Summit Road is open to winter activities when the road is closed and no snow removal operation is occurring.

36 CFR §2.21 – SMOKING

(a) The following portions of the park, or all or portions of buildings, structures or facilities are closed to smoking as noted:

- All park buildings and structures.

36 CFR §2.23 – RECREATION FEES

(b) Recreation fees, and/or a permit, in accordance with 36 CFR part 71, are established for the following entrance fee areas, and/or for the use of the following specialized sites, facilities, equipment or services, or for participation in the following group activity, recreation events or specialized recreation uses:

Entrance Fee Areas:

- Recreation fees are collected at the monument's entrance station from approximately Memorial Day weekend to Labor Day Weekend. The rest of the year, fees are collected in the monument's visitor center.
- A valid fee permit or an approved park pass is required for use of all park areas.

36 CFR §2.51 – PUBLIC ASSEMBLIES, MEETINGS

(e) The superintendent shall designate the locations available for public assemblies.

- Areas designated as locations for public assemblies are limited to: grassy area in front of the east end of the visitor center parking, amphitheater, and the viewing areas at the end of the North and South Summit Trails.

- A special use permit is required.
- No special use permit is required when conducting a 1st Amendment Right for groups with 25 or less people if the following conditions are met:
 - The group must not merely be an extension of another group availing itself of the 25 person maximum.
 - The activity must not unreasonably interfere with other demonstrations, special events or NPS program activities.
 - The activities may include the use of hand-carried signs, but not stages, platforms or structures. In those situations the NPS will continue to require a permit.
 - If two or more groups taking advantage of the small group exception seek the same designated area at the same time, and the area cannot reasonably accommodate both groups, the park will, whenever possible, direct the later arriving group to relocate to another nearby available designated area.
- Groups of larger than 25 will require a permit and be designated the amphitheater for conducting a 1st Amendment Right.

Reason for determination: In order to protect the resource, safety of the visitor, and maintain the integrity and purpose of the monument, the public assembly or meeting must be considered by the superintendent in a permit application to make a fair decision.

36 CFR §2.52 – SALE OR DISTRIBUTION OF PRINTED MATTER

(e) The superintendent shall designate areas for sale or distribution of printed matter.

- A special use permit is required.
- Areas designated as locations for distribution of printed matter are limited to: grassy area in front of the east end of the visitor center parking, amphitheater, and the viewing areas at the end of the North and South Summit Trail.

Reason for determination: In order to protect the resource, safety of the visitor, and maintain the integrity and purpose of the monument, the public assembly or meeting must be considered by the superintendent in a permit application to make a fair decision.

36 CFR §2.62 – MEMORIALIZATION

(b) A permit is required for the scattering of ashes from cremated human remains and be in accordance with the terms and conditions of a special use permit.

36 CFR §4.10 – TRAVEL ON PARK ROADS AND ROUTES

- #### **(a) Operating a motor vehicle is prohibited except on Park roads and established parking areas, the following is prohibited:**
- Operating motor vehicles on the canal roads is prohibited.

Reason for determination: Canal roads within the monument are private property of the representing canal companies.

36 CFR §4.21 – SPEED LIMITS

(b) The following speed limits are established for the routes/roads indicated:

- The speed limit along Scotts Bluff County Road – Old Oregon Trail Road is posted at 45 mph through the monument's boundary.
- The posted speed limit on the Summit Road is 25 mph.

- The posted speed limit for travel through the summit and visitor center parking lots is posted at 15 mph.

36 CFR §4.30 – BICYCLES

(a) Park roads and parking areas that are closed to bicycle use are listed in section 1.5 of this document.

- The summit road is closed to bicycle traffic when open to vehicular traffic.
- Canal roads prohibit the operation of bicycles.

The following additional routes, in developed areas or special use zones, have been designated for bicycle use:

- The bicycle trail beginning at the visitor center and to the east boundary are open for bicycle use.

Reason for determination: The bicycle trail was built in association with the local communities monument pathway trail system to provide recreational trails for walking and biking. This is the only trail in the monument built specifically for this activity.