Last month the Trump Administration revoked two executive orders over forty years old that directed federal agencies to restrict off-road vehicle use (ORV) on public lands in order to protect those lands' environmental value. The revocation is, of course, controversial, and of a piece of a scorched earth approach to environmental regulation this Administration has taken. But does it matter on the ground? The short answer is, not yet.

The reason has to do with the statutory and regulatory framework for managing federal public lands. Executive orders generally can just tell agencies to do things – but they cannot override on their own statutes, regulations, or other agency decisions that have legal consequences and that must go through statutorily required procedures to be amended or repealed. And it is likely the case that most of the ORV restrictions on federal lands fall into one of those three buckets.

First, statutory protections. These cannot be overridden by agencies, executive order or not. In general, the relevant public land laws do not absolutely prohibit ORV use. The primary exception here is the Wilderness Act, which explicitly prohibits "mechanized transport." Thus, the revocation has no meaning for designated wilderness areas.

But even outside wilderness areas, there will be statutory constraints on what the agency can do. Most importantly, the Park Service Organic Act requires the Park Service to manage national parks so as not to impair the ecological and other resources of the parks. That is not an absolute prohibition, but it means the agency will have to make arguments about why allowing more ORVs won't cause impairment. And there is a long history of contestation here – most significantly, fights over snowmobile access in Yellowstone National Park, but also efforts by the George W. Bush Administration to change Park Service guidance documents to make increasing ORV access easier.

The Bureau of Land Management also has some constraints. In particular, BLM was required in the 1970s to identify lands that it believed suitable for wilderness designation – those "wilderness study areas" are supposed to be managed by BLM to avoid "impairment" of their wilderness characteristics until Congress decides whether or not to designate them as wilderness. There is a long fight (again) over ORV access on these lands that has produced at least one Supreme Court decision – and again, the agency will have to give reasons as to why it believes increased ORV

use is consistent with this standard, and there will likely be litigation. More generally, BLM must manage all of its lands to avoid "unnecessary or undue degradation," and again the agency will have to explain why increasing ORV access meets that standard.

Finally, there may be site-specific legislation that mandates certain management standards – such as for some "recommended wilderness" on Forest Service lands – and again that may constrain agency decisionmaking here.

But even where agencies have broader discretion – as both the Forest Service and BLM do under their multiple-use mandate, outside of special management areas – the revocation of the executive orders will require multiple steps to be implemented and change ORV policy. That is because over the past few decades, both agencies have moved away from a default rule that ORVs can be used anywhere not prohibited, to a default rule that ORVs are to be allowed only where specifically allowed. (The Forest Service travel management rule is here. The BLM travel management rule is here.) The agencies generally implemented this policy through specific amendments to their land-use plans that identified routes and areas open to ORVs and closed to ORVs.

The agencies cannot, however, just tear those plans up. The relevant laws guiding Forest Service and BLM decisionmaking require them to follow procedures in amending their plans. That includes public participation requirements. And generally, environmental review under the National Environmental Policy Act (NEPA) would also apply to those decisions. Consultation under the Endangered Species Act might also apply where listed species are present. That means that it will take time for those plans to be changed – it is resource intensive to do these analyses, and litigation will surely follow.

That isn't to say that the Administration can not ultimately make changes. But it will not be immediate. And it is unclear if they will have time and resources to make all these changes before the next Administration.