

## **Travel Management Rule Guidelines (Revised June 30, 2008)**

### **Introduction**

In the interest of providing a level of consistency in travel management planning, the Region proposes these guidelines to assist Forest Staff in the TMR planning process. These guidelines will be revised as necessary, and because they are fluid they will not be incorporated into our Directives system. These guidelines may not be used to preclude options. All recommendations and design features included in the TMR proposals must be supported in the record with logical links to on-the-ground conditions and related to the gap between existing and desired conditions.

A cornerstone of the Rule is local collaboration and decision making. This is particularly important given the diversity of conditions that exist across the Region. The following revised guidelines are intended to complement the Rule's focus on local collaboration and decision making. They are provided for two important purposes: 1) to identify the suite of tools available to meet public interests, consistent with the Rule; and 2) to provide a level of consistency that enhances public understanding, compliance, and ease of enforcement. Consideration of these revised guidelines will provide a common starting point for the dialog that will result in designation of routes and areas open to motor vehicles and other associated management direction, while providing the flexibility to address specific situations on individual units. Consideration of these revised guidelines should result in a suite of local decisions that "feel familiar" to visitors as they recreate on different national forests in the Southwestern Region.

### **I. General Principles**

All designations should be consistent with the Travel Management Rule. Proposed designations should be evaluated against the criteria in Section 212.55 of the Rule. In particular, they should consider:

- National Forest System natural and cultural resources
- Public safety
- Provision of recreational opportunities
- Access needs
- The need for maintenance of National Forest System roads, trails and areas
- Conflicts among uses of National Forest System Lands

Permitting of activities that allow for cross-country travel should also be consistent with these purposes.

Current and foreseeable future uses, as well as developing technologies, should be considered when determining the need for change. Although travel management designations are meant to be dynamic and adaptable, it is unlikely that the Region will have the resources to make frequent significant changes. Therefore tough decisions should not be deferred. Conversely, travel management planning should not seek to prevent a problem anticipated decades into the future or unnecessarily expand the scope of the analysis.

Units should use the designation of areas or permitting of activities that allow for cross-country travel as an opportunity to reinforce the need to comply with existing resource protection practices, e.g., preclude cutting of trees to gain access, prohibit use of motorized vehicles when soil moisture conditions are such that resource damage would occur, etc.

### Coordination

Consistency in implementation of the Rule is important. Units ought to coordinate within states and amongst adjacent Forest Service units to ensure a level of consistency in designation that promotes public understanding, compliance and ease of enforcement. In addition, working closely with adjacent public land managers during designation would avoid unintended and undesirable consequences and capture opportunities to provide desired uses. Units should consult with law enforcement entities to help ensure the viability of compliance and enforcement aspects of designations and permits used to manage motorized use on National Forest System lands.

### Jurisdiction

Many roads and trails accessing National Forest System lands traverse other land ownerships and jurisdictions. Jurisdiction determinations should be made locally, on a case-by-case basis, in coordination with the Lands staff and the Office of the General Counsel. Units should consider historic rights and other rights which may not be documented in a legal rights-of-way instrument when determining jurisdiction under federal law and applicable state law. Evidence of historic rights might include documented construction and/or maintenance records, routes depicted on GLO plats, or visitor or travel maps, signing, and other indicators of ownership assertions. Where the Forest Service has a legal right to a particular road or trail, that road or trail should be considered for designation. The Forest Service will not manage, maintain, or designate roads and trails where it does not have the right to do so. Some questions of jurisdiction have long predated the Rule. Implementing the Rule does not require resolving all these questions, nor should implementing the Rule unwittingly surrender our assertion of rights where those rights are yet to be resolved.

### Engineering Analysis

Administrative units should refer to EM-7700-30, *Guidelines for Engineering Analysis of Motorized Mixed Use on National Forest Roads*, to document engineering analysis associated with motorized mixed uses. Requirements for operator qualifications and personal protective equipment are established by state law. Where the responsible official proposes requirements additional to those encapsulated in state law, that decision must be advised by engineering analysis as described in EM-7700-30. The Region has established a Motorized Mixed Use Team to assist Forests in the analysis. As with questions concerning jurisdiction, some questions of motorized mixed use have long predated the Travel Management Rule and may not need to be resolved to implement the Rule.

## **II. Existing Travel Management Direction (Existing Direction)**

### **A. General**

Because travel management planning is focused on proposed changes to the forest transportation system, identification of the existing direction is an important first step. In general terms, the existing direction includes the National Forest System roads, trails and areas currently managed for motor vehicle use, plus the restrictions, prohibitions and closures on motor vehicle use existing on a Unit.

Existing travel management direction and associated documentation determines the system of roads, trails and areas considered open to public motorized travel. Existing direction comes from: laws and regulations; official directives; Forest Plans; Forest Orders; Roads Analysis, including forest-wide and watershed or project specific Roads Analysis; and travel analysis. Additional sources of information about a Unit's managed system comes from: road and trail management objectives (RMO's/TMO's); maps, including visitor and travel management maps; Recreation Opportunity Guides (ROG's); road and trail maintenance records; Infra; and other sources.

Use the best available and defensible information to identify existing direction. Accurate information, organized in an easily understandable format sets the stage for identification of appropriate changes and improves public credibility and involvement opportunities.

It is important to convey to all interested parties that identification of the existing direction does not preclude the designation of roads, trails or areas that are not part of the existing direction. Conversely, a road, trail or area that is currently part of the existing direction does not assure it will be designated. While the existing direction will be of great interest, in the end, decisions will be made about roads, trails and areas through the collaborative travel management planning process.

## B. Roads

The existing direction for roads is forest system roads that are currently in Infra as follows:

- System = National Forest System Road
- Jurisdiction = Forest Service
- Route Status = Existing
- Operational Maintenance Level = 2-5

This system of open roads is reported in the Annual Roads Accomplishment Report, has been capitalized as pooled assets in real property records, and has been assigned a forest system road number.

Roads that meet any of the following criteria should not be included in the existing direction. Exclude roads where any of the following can be credibly documented:

- Technical Corrections –Incorrect coding in Infra such as:
  1. Road record in Infra but no corresponding road exists on the ground.
  2. Jurisdiction incorrectly coded as Forest Service.
  3. Unauthorized roads incorrectly coded as system roads (i.e., System = NFSR) instead of UNDETERMINED during any inventory or data editing process after the Road Policy came into effect on January 12, 2001 (See FSM 7703.2).
- Changes on the Ground - The road is in Infra but no longer exists on the ground or the road has been converted to another use.
- Decision Not Recorded in Infra – A NEPA decision to close a road exists but has not been recorded in Infra.

## C. Trails

There are far fewer trails than roads currently managed for motorized use. Most trails have core data entered into Infra (i.e., trail name, number and mileage). However, many trails are missing required linear events. Approximately 40 percent of the trail miles in Region 3 are missing one or more of the “big three” required linear events (i.e., Trail System, Jurisdiction, and Trail Status). These three linear events should be populated to identify the existing system of motorized trails in the Region.

In addition, “allowed use” data should be populated in the Access and Travel Management module (ATM) where no data exists and should be supplemented where allowed motorized uses are missing. In these situations, add or modify the “allowed use” data where either of the following criteria is met:

- There is a relevant management decision, such as Forest Plan direction or a NEPA decision.

- Unless a subsequent management decision has been made to the contrary, the intent to accommodate and/or encourage motorized trail use is demonstrated by existing signing, visitor maps, website information, a Recreation Opportunity Guide, or other Forest Service information that indicates a trail is suitable for motorized use.

Once the required linear events and allowed use data cleanup is done, the existing direction for trails is the forest system of trails populated in Infra as follows:

- Trail System = National Forest System Trail
- Jurisdiction = Forest Service
- Trail Status = Existing
- Allowed Use (from ATM) = Any motorized vehicle with a management strategy of “manage” or “accept.”

In some cases, trails that meet the preceding criteria should not be included in the existing direction. Exclude trails where any of the following can be credibly documented:

- Technical Corrections –Incorrect coding in Infra such as:
  1. Trail record in Infra but no corresponding trail exists on the ground.
  2. Jurisdiction incorrectly coded as Forest Service.
  3. Unauthorized trails incorrectly coded as system trails as a result of any inventory or data editing process after January 12, 2001 (See FSM 7711.03).
- Changes on the Ground – The trail is in Infra but no longer exists on the ground or the trail has been converted to another use.
- Decision Not Recorded in Infra – A NEPA decision to close a trail exists but has not been recorded in Infra.

#### D. Areas

Areas identified in Forest Plans or other planning documents, which have been specifically designated for unrestricted recreational motor vehicle use, constitute the existing direction. Tracts of forest which currently lack motor vehicle use restrictions, but are not specifically designated for unrestricted recreational motor vehicle use, are not part of the existing direction for areas.

Areas designated for motor vehicle use are not intended to be large or numerous. The Rule preamble clearly states the provision allowing for this type of designation is to be applied sparingly. Designated areas are to have biophysical characteristics that are suitable for motor vehicle use, or they should be so significantly altered by past actions that motor vehicle use might be appropriate. If an area is designated, all of it will be open to cross-country motorized travel. Where practical, designated areas should be clearly delineated on the ground.

### III. Motorized Access for Dispersed Camping

#### A. General

National Forests in the Southwestern Region provide a variety of opportunities for dispersed camping. With the implementation of the Travel Management Rule, visitors to the forests will still have the opportunity to disperse camp in many locations, but, with elimination of cross-country travel, motorized dispersed camping locations may change somewhat.

The Travel Management Rule requires forests to designate roads, trails and areas for motorized use. Should a forest elect to expand their analysis to include decisions specific to motorized access for dispersed camping, there are several methods that may be used. Regardless of the option or combination of options selected, the responsible official shall consider and disclose, at an appropriate level of detail, the effects associated with providing for motorized access for dispersed camping in the NEPA analysis.

The Rule at 212.55 identifies criteria to consider in the designation of roads, trail, and areas that could also be used when contemplating motorized access for dispersed camping:

§212.55 Criteria for designation of roads, trails, and areas.

(a) *General criteria for designation of National Forest System roads, National Forest System trails, and areas on National Forest System lands.* In designating National Forest System roads, National Forest System trails, and areas on National Forest System lands for motor vehicle use, the responsible official shall consider effects on National Forest System natural and cultural resources, public safety, provision of recreational opportunities, access needs, conflicts among uses of National Forest System lands, the need for maintenance and administration of roads, trails, and areas that would arise if the uses under consideration are designated; and the availability of resources for that maintenance and administration.

(b) *Specific criteria for designation of trails and areas.* In addition to the criteria

in paragraph (a) of this section, in designating National Forest System trails and areas on National Forest System lands, the responsible official shall consider effects on the

following, with the objective of minimizing:

- (1) Damage to soil, watershed, vegetation, and other forest resources;
- (2) Harassment of wildlife and significant disruption of wildlife habitats;
- (3) Conflicts between motor vehicle use and existing or proposed recreational uses of National Forest System lands or neighboring Federal lands; and
- (4) Conflicts among different classes of motor vehicle uses of National Forest System lands or neighboring Federal lands.

In addition, the responsible official shall consider:

(5) Compatibility of motor vehicle use with existing conditions in populated areas, taking into account sound, emissions, and other factors.

(c) *Specific criteria for designation of roads.* In addition to the criteria in paragraph (a) of this section, in designating National Forest System roads, the responsible official shall consider:

(1) Speed, volume, composition, and distribution of traffic on roads; and

(2) Compatibility of vehicle class with road geometry and road surfacing.

(d) *Rights of access.* In making designations pursuant to this subpart, the responsible official shall recognize:

(1) Valid existing rights; and

(2) The rights of use of National Forest System roads and National Forest System trails under §212.6(b).

(e) *Wilderness areas and primitive areas.* National Forest System roads, National

Forest System trails, and areas on National Forest System lands in wilderness areas or

primitive areas shall not be designated for motor vehicle use pursuant to this section,

unless, in the case of wilderness areas, motor vehicle use is authorized by the applicable enabling legislation for those areas.

## B. Options to Address Motorized Access for Dispersed Camping

This section provides information related to various options that are available as well as a general discussion of the level and type of analysis recommended for each option.

### 1. Parking: Roadside or at a Terminal Facility

If a forest elects to limit their travel management planning to the designation of roads, trails, and areas, motorized access to dispersed campsites would be limited to parking at a terminal facility, roadside parking adjacent to a designated route, or in areas designated for general motorized use. Access for dispersed camping not immediately adjacent to a terminal facility or a designated route or in a designated area would be limited to non-motorized methods. Parking at a terminal facility, along a designated route, or in a designated area may take place for any purpose, not just camping.

A terminal facility is defined as “a transfer point between the forest transportation system and forest resources served by the system or between different transportation modes, including parking areas, turnouts, boat ramps and docks, trailheads, marine access facilities, airfields, and heliports (Draft FSM 7705).”

The draft directives at FSM 7716.1 (1) state: “A designation for a road or trail includes all terminal facilities, trailheads, parking lots, and turnouts associated with the designated road or trail. The designation also includes parking a motor vehicle on the side of the road when it is safe to do so without causing damage to NFS resources or facilities, unless prohibited by State law, traffic sign, or by order” (36 CFR 216.54).

Because a terminal facility is part of the road, and roadside parking (where it is safe to do so) is anticipated along routes, the environmental analysis for a new route should consider the effects of motorized travel along the route as well as parking.

Roadside parking alongside existing system roads, at terminal facilities, and in existing designated areas is allowed under the Heritage Resources protocol, and will not need additional Section 106 compliance. Parking along newly designated routes or areas will need to comply with Section 106, but cultural resource surveys may or may not be needed depending on the location, site density and other factors. See the Summary of Heritage Resources Protocol for Travel Management for details.

## 2. Designated Routes

Since the Rule requires designation of roads, trails, and areas for motor vehicle use, one option for providing motorized access for dispersed camping could be to formally designate a route to the location. Once on the route, users could then safely park along the roadside or at the end of the route to disperse camp.

It is anticipated that routes proposed as additions to the system will vary in length, and some routes may be too short to be clearly visible on the motor vehicle use map (MVUM), depending on scale. In such situations, informational signing, in addition to route markers, may be needed in given locations to facilitate public identification and understanding of route locations. Regardless of the length, if a route is to be formally designated, it will need to be inventoried, assigned a route number, and marked on the ground.

Because use of this option requires formally designating a route and adding it to the system, it may not be prudent to use it for designating large numbers of short route segments in a given vicinity. For these types of situations, other options may be more appropriate such as using a fixed distance corridor that could encompass multiple short access spurs along a formally designated route (see fixed distance corridor described later in this section).

The designated route option, however, may be desirable in situations where one or a limited number of unauthorized routes provide access for dispersed camping opportunities in a given location.

A proposal to designate a new route would require analysis of the resources along the proposed designated route and the anticipated effects to those resources resulting from the use that would occur along and adjacent to the route (see parking). Existing system routes that are already open for motorized use are allowed under the Heritage Resources Protocol, and no additional Section 106 consultation is needed for those routes. Designating new routes, regardless of length, will be subject to Section 106 compliance. Cultural resource surveys may or may not be needed depending on the location, site density and other factors. See the Summary of Heritage Resources Protocol for Travel Management for details.

### 3. Fixed Distance Corridor

The Rule provides for dispersed camping in the following manner: *“In designating routes, the responsible official may include in the designation the limited use of motor vehicles within a specified distance of certain designated routes, and if appropriate within specified time periods, solely for the purposes of dispersed camping or retrieval of a downed big game animal by an individual who has legally taken that animal”* (36 CFR 212.51(b)).

If the responsible official elects to designate fixed distance corridors on certain routes, the preamble of the Rule clarifies: *“The Department expects the Forest Service to apply this provision sparingly, on a local or State-wide basis, to avoid undermining the purposes of the final rule and to promote consistency in implementation”* (Federal Register Vol 70, No 216, p 68285). Furthermore, the draft directives at FSM 7703.22 clarify that proposals to include fixed distance corridors should be supported by travel analysis, appropriate site-specific environmental analysis, and public involvement.

A proposal to designate a fixed distance corridor would require analysis of the resources within the designated corridor and the anticipated effects to those resources resulting from motorized uses associated with accessing dispersed camping opportunities within the corridor. The criteria in 212.55 referenced in Section III A above may be useful in the analysis. It is anticipated that a large percentage of campers will use existing access points and existing campsites within a given corridor. However, because the entire corridor would be available for motorized access to dispersed camping opportunities, the effects analysis should estimate the effects to a given resource if new motorized access routes were created within the corridor. Thus, while the majority of use will occur at existing locations, it should be assumed that dispersed camping could occur anywhere within the corridor, not just at existing locations. Existing fixed-distance corridors where motorized use has previously been authorized in approved Forest Plans or covered by past decisions are allowed under the Heritage Resources protocol and no additional Section 106 compliance is needed in those instances. Designating new fixed-distance

corridors will be subject to Section 106 compliance. Cultural resource surveys may or may not be needed depending on the location, site density and other factors. See the Summary of Heritage Resources Protocol for Travel Management for details.

#### 4. Designated Areas

The Rule defines an area as: *“A discrete, specifically delineated space that is smaller, and in most cases much smaller, than a Ranger District” (36 CFR 212.1).*

If the responsible official elects to designate an area or areas, the preamble of the rule clarifies: *“areas designated for motor vehicle use are not intended to be large or numerous.”* And, *“...areas would have natural resource characteristics that are suitable for motor vehicle use, or would be so altered by past actions that motor vehicle use might be appropriate”* (Federal Register Vol. 70 No. 216, p. 68274).

Because designation of an area would include motorized access for all motorized uses, motorized access to dispersed camping opportunities within designated areas would be permitted along with other motorized activities.

A proposal to designate a new area or areas would require analysis of the resources within the designated area boundary and the anticipated effects to those resources resulting from the various types of motorized uses that could occur within the area.

Areas designated for motorized use will be subject to Section 106 compliance. Cultural resource surveys may or may not be needed depending on the location, site density and other factors. See the Summary of Heritage Resources Protocol for Travel Management for details.

#### 5. Written Authorizations for Dispersed Camping

Exempt from the Travel Management Rule is: *“Motor vehicle use that is specifically authorized under a written authorization issued under Federal Law or regulations”* (36 CFR 212.51 (a)(8)).

It is unlikely that this option will be useful to address motorized dispersed camping for general public use due to the need for rule making, and the impracticability of utilizing the existing special uses process, including SUDS, on a broad scale. However, there are situations where a special use permit may be appropriate. The draft directives (FSM 7703.22 (3)) indicate that this option may be desirable when motorized access for dispersed camping off the designated system is associated with a single event or use, e.g., a group recreation event.

Because this activity is exempt from the Travel Management Rule, no proposal or decision will be made in the NEPA analysis associated with implementing the Travel Management Rule. Rather, the effects to various resources would be disclosed as part of the analysis associated with issuance of a given written authorization. The same applies for Section 106 compliance.

## **IV. Motorized Big Game Retrieval**

### **A. General**

National Forests in the Southwestern Region provide hunting opportunities that are important to the public. State agencies are responsible for managing big game within the capacity of the land. Therefore, designation of routes affecting harvest and the need for cross-country travel to facilitate big game retrieval should be identified in close collaboration with the responsible State agency. Designating distances for motorized big game retrieval is optional and not required in the Rule.

All authorizations for cross-country motorized big game retrieval (MBGR) are subject to other existing regulations intended to protect natural and/or heritage resources. This includes compliance with regulations addressing use of vehicles off roads (36CFR 261.15), National Forest Wilderness (36CFR 261.18), and National Forest Primitive Areas (36 CFR 261.21), as well as other applicable laws and regulations. No MBGR is allowed in Wilderness or Primitive Areas. Cross-country MBGR should not be allowed when conditions are such that cross-country travel would cause unacceptable natural and/or heritage resource damage, and existing resource protection regulations should be enforced when conditions warrant.

Authorized cross-country MBGR must be limited to those persons with a legally harvested, and properly tagged, animal. Those authorized for cross-country MBGR should take a relatively direct and safe route that minimizes resource effects when retrieving their harvested animal and they should take the minimum number of trips to accomplish retrieval. Only one vehicle should be allowed for cross-country MBGR per harvested animal.

### **B. Options to Address Motorized Big Game Retrieval (MBGR)**

Units should use route designation open to all users as the first option to address MBGR. If State Game and Fish agencies have additional management needs, consider designation of routes that would be open only during the hunting seasons to reduce the distance for non-motorized big game retrieval, thereby limiting the need to allow for cross-country MBGR. The open road density in any

given big game hunt unit should be a prime consideration in the determination of whether or not cross-country MBGR is authorized.

If the above preferred options are insufficient to address big game retrieval issues, cross-country MBGR can be considered, but it must be needs based. In collaboration with the State Game and Fish Departments determine what, if any, cross-country motorized big game retrieval to authorize, considering the following needs:

- **Need to meet State big game harvest and management objectives**  
Consider providing for cross-country MBGR where it would play an important role in meeting State big game harvest or management objectives. For example, there may be a need to increase hunter willingness to harvest a big game animal deeper in the interior of a big game management unit by providing an opportunity for cross-country MBGR of a downed animal.
- **Need to avoid spoilage of big game**  
Consider providing for cross-country MBGR where it would play an important role in avoiding spoilage of big game meat. Harvest of large animals such as elk, buffalo and mule deer during warmer season hunts are examples of circumstances warranting further consideration.
- **Need to provide for State programs related to disabled hunters**  
Consider providing for cross-country MBGR where it would play an important role in implementation of State regulated programs related to disabled hunters.

The appropriate tools available to provide for the use of motor vehicles to retrieve big game include:

- **Designating fixed distances from open routes** allowing cross-country travel for the specific purpose of big game retrieval (212.51(b)).
- **Designating an area for cross-country use** wherein big game retrieval would be allowed in the area, along with other cross-country motor vehicle use.

In either case, analysis of designation for MBGR should take into account that MBGR can occur anywhere within the designated zones during the allowed timeframes.

### C. State of Arizona – Additional Considerations

Discussions with the Arizona State Department of Game and Fish have identified some management needs and criteria where cross-country MBGR may be authorized for some big game species and hunt areas in Arizona. The following are to be considered when preferred options are insufficient to address big game retrieval issues:

- Bear Hunts  
Consider cross-country MBGR for CHAMP program hunters. MBGR for other bear hunters probably is not necessary.
  
- Bison Hunts  
Consider whether or not cross-country MBGR for up to three miles from a designated route is appropriate.
  
- CHAMP Permits  
Hunters with a valid CHAMP permit may need to travel up to one mile from a designated route for cross-country MBGR for elk, deer, bison or black bear.
  
- Elk Hunts  
Consider cross-country MBGR for up to one mile from a designated route, except between one hour before sunrise and 10:00 am. For “High Country” game management units consider authorizing cross-country MBGR through midnight of the third Thursday of October. For “Low Country” game management units, consider authorizing cross-country MBGR through midnight of the first Thursday of November.  
  
High Country: Game Management Units eligible for consideration of motorized retrieval of legally harvested elk through midnight of the third Thursday of October include 1, 2A, 2B, 2C, 3A, 3B, 3C, 4A, 4B, 5A, 5B-North and South, 6A, 6B, 7-East and West, 8, 9, 10, 11, 12A-East and West, 12B, 13A, 13B, 27, 22-North and 23-North.  
  
Low Country: All other Game Management Units would be eligible for consideration of motorized retrieval of legally harvested elk through midnight of the first Thursday of November.
  
- Mule Deer Hunts  
Consider cross-country MBGR for up to one mile from a designated route, except between one hour before sunrise and 10:00 am from the beginning of the Mule Deer hunts in July through midnight Sunday of the second week in October, except for GMU 12A which should be considered for yearlong needs.

## **V. Summary of the Heritage Resources Travel Management Protocol**

The Region 3 Region-wide Travel Management protocol with the Arizona, New Mexico, Oklahoma and Texas SHPOs provides for consistency between the forests and grasslands, and streamlines the process for compliance with Section 106 of the National Historic Preservation Act.

The protocol grandfathers in system motorized routes and areas where motorized use is already authorized. No additional Section 106 compliance is needed in the following cases:

- Existing system roads and trails already open for motor vehicle use
- Existing associated constructed features such as pullouts, trailheads, and turnouts
- Pull-off parking alongside existing roads within a vehicle length
- Existing fixed-distance corridors where motorized use has previously been authorized in approved Forest Plans or covered by past decisions, e.g., on the Lincoln NF
- Specific limited-use authorizations such as those for game retrieval or fuelwood gathering that are already covered by separate NEPA decisions.

New routes, corridors, and areas to be designated must go through the Section 106 compliance process. In many cases, archaeological surveys will not be required or can be conducted at less than 100 percent coverage. Examples include:

- No field survey needed on 40 percent or greater slopes
- No field survey needed on areas previously surveyed to standard
- Limited (sample) surveys acceptable for routes and areas where the known archaeological site density is low (perhaps only a 10-20 percent survey needed)
- Limited (sample) surveys acceptable where the ground surface is already disturbed and the potential to damage cultural resources is low, e.g., a heavily used dispersed campsite where heritage sites are not being impacted
- 100 percent surveys required in high site density areas or where the potential to impact sites is high.

Costs and lead time for Section 106 compliance work should be kept in mind, particularly when designating fixed distance corridors or large areas for motorized use, e.g., a fixed distance corridor 300 feet on each side of the road, for example, covers approximately 75 acres per mile.

Under the protocol, cultural resource clearances can be deferred for up to 3 years after the NEPA decision, but a designated route or area/corridor cannot be shown on the Motor Vehicle Use Map until after the Section 106 compliance is completed.

## VI. Exempted Uses - Written Instruments

Some vehicles and uses are exempt from the prohibitions of the designation process (36 CFR 212.51(a)). “Motor vehicle use that is **specifically** authorized under a written authorization issued under Federal law or regulation” (36 CFR 212.51(a)(8)) is one of the exempted use. Careful consideration of these

exempted uses is needed to assure the cross-country motorized travel "...specifically authorized under the written authorization..." does not result in unnecessary resource impacts, and meets the intent and purpose of the Rule.

(See earlier discussion on dispersed camping – written authorizations)

#### A. Permitted Grazing Activities

National Forests in the Southwestern Region have a long history of permitted domestic grazing use. Domestic livestock grazing is an important and valued use of National Forest System lands on all 11 National Forests throughout the Region. Domestic livestock grazing activities are an integral part of the tradition, culture, and social fabric of communities throughout the Region.

Forests should ensure that grazing permit holders are aware of the Travel Management Rule (TMR) and seek their input into the designated system, any single purpose road(s) or trails(s) access needs, and needs for general cross-country travel, related to their authorized grazing activities. As a critical component of allotment management, the implementation of the TMR should be conducted in careful and considered consultation with the grazing permit holder [Federal Land Policy and Management Act of 1976, Sec. 402 (d) (e)].

Implementation of the TMR will require active management of all motorized use, including that related to permitted grazing activities. Motorized travel off the designated road system by grazing permit holders should be based on need related to carrying out required management practices, and compliance with the terms and conditions of Term Grazing Permits. Legitimate motorized use, including cross-country access, needed for conducting activities required under Term Grazing Permits will be authorized unless compelling natural and/or heritage resource issues such as those identified below require postponement or modification of the activity.

Motor vehicle use in designated wilderness areas will continue to be managed consistent with the provisions of the Wilderness Act [Section 4(d)(4)(2)] that provides for limited exceptions for grazing livestock as further defined in the Congressional Guidelines (FSM 2323.22).

36 CFR, Part 212, Sec. 212.51(8) and Sec. 261.13(h) specifically exempt motor vehicle use, that is authorized under a written authorization issued under Federal law or regulations, from the prohibition on off road travel established under 36 CFR 212.51. The preamble to 36 CFR, Part 212, (Federal Register/Volume 70, No. 216/Wednesday, November 9, 2005/Rules and Regulations, page 68284) clarifies the Secretary's intention regarding written authorizations. In responding to public comment the Department agreed that motor vehicle use that is specifically authorized under a written authorization issued under Federal law or regulations should be exempted from designations made under 36 CFR 212.51

and restrictions and prohibitions established under 36 CFR 212.81, as well as from the prohibitions in 36 CFR 261.13 and 261.14 of the rule.

Authorizations for cross-country motorized travel should meet the intent of the TMR to the fullest extent possible. Changes from historic patterns of travel should not impair management of the allotment or substantially impact the operator's economic viability. Permittee access to manage allotments would be provided through a combination of the designated Forest system roads and other access needs identified in their Term Grazing Permit. If not currently described in a Term Grazing Permit, access needs other than the designated system, will be spelled out as a special provision in Part 3 of the Term Grazing Permit (either in the Allotment Management Plan (AMP), or directly as a special provision of the permit in Part 3) as presently being practiced. Since travel activities associated with Term Grazing Permits are on-going, with a long history, additional NEPA and a formal decision would not be required. However, a general description of the permitted level of motorized cross-country travel for grazing activities should be addressed in the discussion of cumulative effects in any Travel Management NEPA documents. In the event of significant future deviations from "current access needs" for motorized use as authorized by a Term Grazing Permit, these must be disclosed through subsequent NEPA on a site specific basis.

Annual Operating Instructions (AOI's) specify those annual actions that are needed to implement the management direction set forth in the Term Grazing Permit including the AMP. With regard to travel management needs, this will annually include a brief discussion of the use of vehicles and ATV's within the designated road system, any single purpose use roads or trails, and a description of the annually anticipated level of cross-country travel and access consistent with the Part 3 of the Term Grazing Permit and/or AMP. Any unplanned or emergency type travel not previously contemplated in the Term Grazing Permit would also be discussed with appropriate authorization and guidance established in the AOI.

All authorizations for cross-country motorized travel are subject to other existing regulations intended to protect natural and/or heritage resources. This includes compliance with regulations addressing use of vehicles off roads (36CFR 261.15), National Forest Wilderness (36CFR 261.18), and National Forest Primitive Areas (36 CFR 261.21), as well as other applicable laws and regulations. Cross-country motorized travel should not be allowed when conditions are such that cross-country travel would cause unacceptable natural and/or heritage resource damage, and existing resource protection regulations should be enforced when conditions warrant.

Factors to consider in determining the appropriate level of cross-country motorized travel to authorize in Term Grazing Permits include, but are not limited to the following:

### Grazing Management and Operational Related

- The number, location, and access (via currently designated travel routes) to range improvements (fences, corrals, cattleguards, pipelines, water delivery systems, earthen tanks) which must be checked, maintained, and repaired on a regular basis.
- The anticipated need for construction of new structural and non-structural range improvements identified through adaptive management and the NEPA process related to grazing authorizations and the development of AMPs
- The past and current level of cross-country travel as demonstrated over the past 10 – 20 years for general range management and permit compliance purposes.
- The type and complexity of grazing management and frequency of livestock movements for range management purposes.
- The type of fences needing to be maintained (e.g., electric fences as opposed to traditional barbed wire fences).
- The need for checking the functionality of fences and the logistics involved in the transport of repair materials to fence line locations.
- The need and logistics for repair and maintenance of wildlife, waterfowl, and other types of enclosures which are the responsibility of the grazing permit holder.
- The need for placing supplements in strategic locations for livestock and grazing management purposes.
- The need to check gates potentially left open by other national forest users (e.g., recreationists and hunters).
- The need to attend to sick or injured livestock.

### Resource Management Related

- The potential to damage soil, watershed, vegetation, heritage, or other forest resources.
- The potential for harassment of wildlife and disruption of wildlife habitats.
- Special land-use designations such as wild and scenic river corridors.
- Terms and conditions in ESA section 7 Biological Opinions or compliance with letters of concurrence.

- Direction and requirements contained within land and resource management plans.

## B. Special Use Authorizations (SUA)

SUA holders should be informed about the Travel Management Rule and the pending designation of a system of roads, trails, and areas under the new regulation. It should be possible to satisfy some of the motorized access needs of SUA holders through the designated system, and holder input into the designation process should be sought. Some of the holders' motorized access needs may be on existing routes which will not be part of the designated system, and those routes should be approved by separate authorizations as appropriate.

SUA holders who have cross-country motorized access needs (off the designated system and off routes which are under authorization to them) will be required to request in writing what the specifics of their cross-country travel needs are, and to obtain written approval for that motorized cross-country travel. The standard mechanisms for granting such approval would be the approval by the authorized officer of an operating plan which would become part of the SUA, or utilizing an existing clause within the SUA. The desired end-result is that the written authorization for cross-country motorized travel would become part of the SUA and therefore be enforceable under the terms of the SUA.

The authorization for cross-country motorized travel can address annual or multi-year activities. If an operating plan for maintenance or operational activities is not already required by a permit, and motorized cross-country travel is requested, the Forest will coordinate with the permit holder to amend the authorization either by adding the requirement for an operating plan or utilizing an appropriate existing SUA clause.

The written authorization for cross-country motorized travel should be needs based, authorizing only the cross-country motorized travel necessary to accomplish maintenance and operational activities necessary to conduct activities authorized by the SUA. All authorizations for cross-country motorized travel are subject to other existing regulations intended to protect natural and/or heritage resources. This includes compliance with regulations addressing use of vehicles off roads (36CFR 261.15), National Forest Wilderness (36CFR 261.18), and National Forest Primitive Areas (36 CFR 261.21), as well as other applicable laws and regulations. Cross-country travel should not be allowed when conditions are such that cross-country travel would cause unacceptable natural and/or heritage resource damage, and existing resource protection regulations should be enforced when conditions warrant.

Non-system motorized travel should not be authorized for holders of outfitter/guide SUA's to scout for game, set up hunting camps, or transport clients

to hunting sites. Retrieval of harvested big game animals would be managed the same as for the general public (as outlined in Section V of these Guidelines).

### C. Forestry Program Activities

National Forests in the Southwestern Region have provided forest products, both commercially and for personal uses, since their creation. Many of our communities rely on forest products from the National Forests as a source of economic benefit, and/or personal well-being. We will continue to manage our Forestry Program activities to accomplish forest health objectives, and to provide commercial and personal use products, in a manner which is compatible with the purpose and intent of the Travel Management Rule.

#### 1 Gathering of Forest Products

The ability to gather forest products for personal use, such as firewood and pinyon nuts, is important to many people in the Southwest. For some it is a part of their heritage and cultural identity. For others it is an important way of enjoying their national forests. In some cases gathering forest products is important to peoples' subsistence by providing food for their tables and fuel to cook that food and heat their homes. Motorized cross-country travel to facilitate the gathering of forest products will be managed by the forest products permit system.

The permit issued for the gathering of forest products must specify what, if any, motorized cross-country travel is authorized for the purpose of gathering those products. Without a specific motorized cross-country authorization written into the permit, all motorized cross-country travel is prohibited. Standard permit form language in FS-2400-1 and FS-2400-8 currently requires vehicles to stay on existing roads. Existing roads are defined as system roads. Any motorized cross-country travel authorization should be included in the *terms and conditions* section of the permit.

Removal of lighter forest products such as plants, plant parts, dry cones, grasses, grass seed, pinyon seed, herbs and edibles, mistletoe and mushrooms, do not generally require motorized cross-country travel, and motorized cross-country travel should not generally be authorized.

Removal of heavier more difficult to transport products such as fuelwood, posts, vigas, poles, cactus, boughs and limbs, wildings and novelty woods and burls may require motorized cross-country travel, and motorized cross-country travel should be authorized in the appropriate permit.

All authorizations for motorized cross-country travel to obtain forest products are subject to other existing regulations intended to protect natural and/or heritage

resources. This includes compliance with regulations addressing use of vehicles off roads (36CFR 261.15), National Forest Wilderness (36CFR 261.18), and National Forest Primitive Areas (36 CFR 261.21), as well as other applicable laws and regulations. Motorized cross-country travel should not be allowed when conditions are such that it would cause unacceptable natural and/or heritage resource damage, or into other existing motorized closure areas such as seasonal quiet areas, wildlife habitat areas, natural areas, etc. All existing resource protection regulations should be enforced when conditions warrant.

When a forest product removal permit authorizing motorized cross-country travel is issued, that permit should consider including language that requires the permit holder to:

- Identify the product location before moving a vehicle off the designated route.
- Take a safe route to the product location which will result in minimizing impacts on the ground. If there is not a safe route which will result in little impact on the ground, do not attempt to collect that product.
- Not cut or otherwise damage trees, other vegetation, snags or unwanted dead and down debris in route to the product location.
- Return to the designated road on the same route used to approach the product location.
- Cover the portion of the cross-country route visible from the open system route with tree limbs or other available debris to minimize re-use.
- Not go off a designated route when soils are wet or when the vehicle will cause ruts or depressions, or onto steep slopes that will cause soil disturbance or movement.

Traditional management and administration of the personal use fuelwood program is likely to change. **Forest-wide or District-wide dead and down fuelwood permits authorizing motorized cross-country travel should not be issued. Demand for personal use fuelwood products should be focused on designated areas.** These areas should be designed to meet resource objectives for the project and could include green tree cutting, cutting in slash piles or areas of dead standing trees. Analysis of the need for motorized cross-country travel in these areas should be included in the project NEPA. Use of these areas should be timed so as not to conflict with other uses identified in the NEPA such as a timber sale contract.

Permits/contracts for commercial use should be covered in NEPA documents with designated areas and stipulations for off designated route motorized travel. It is important to consider these uses that are regularly requested on the Forest when doing landscape scale NEPA.

The commercial permits/contracts would include similar terms and conditions as above.

## 2. Timber Sale Contracts

Authority to permit motorized cross-country travel by timber sale contractors performing a Timber Sale Contract should be included in all NEPA documentation and should relate directly to authorized contract provisions. Current contract provisions from the June 2006 version of the 6T contract related to motorized cross-country travel include (Parts and Sections listed below are meant to include relevant subsections, items and associated CT provisions in the contract):

- BT5.1 Authorization (BT5.0 TRANSPORTATION FACILITIES)**
- BT5.12 Use of Roads by Purchaser**
- BT5.26 Alternate Facilities**
- BT6.2 Improvements**
- BT6.31 Operating Schedule**
- BT6.32 Protection of Residual Trees**
- BT6.35 Equipment Cleaning**
- BT6.361 Acceptance of Specified Roads**
- BT6.41 Felling and Bucking**
- BT6.42 Skidding and Yarding**
- BT6.5 Streamcourse Protection**
- BT6.6 Erosion Prevention and Control**
- BT6.7 Slash Disposal**

Timber Sale contract 3T and Integrated Resource Timber Contract (13T) for Stewardship projects have similar provisions. Numbers may vary slightly, but motorized cross-country travel is addressed in the same manner.

For 2400-4 contracts, there are no general conditions that pertain to motorized cross-country travel. Therefore, Other Conditions will need to be inserted to allow for this type of activity. FS-2400-4 provisions that should be used include:

- 6. Erosion Control**
- 7. Stream Course Protection**
- 8. Temporary Facilities**
- 11. Wetlands Protection**
- 14. Equipment Cleaning.**

## **VII. Limited Administrative Use by the Forest Service**

( Under development )