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Subject: Appeal Decision for Huron-Manistee National Forests Final Supplemental Environmental Impact Statement to the 2006 Land and Resource Management Plan

To: Regional Forester, R-9

This is my decision on the appeals of the Final Supplemental Environmental Impact Statement (FSEIS) and Record of Decision (ROD) for the Huron-Manistee National Forest's (H-MNFs) FSEIS to accompany Amendment 1 to the 2006 Land and Resource Management Plan. Your decision for this management direction was subject to appeal under the optional appeal procedures available during the transition between planning regulations, as provided for at Title 36, Code of Federal Regulations, Part 219, Appendix A (36 CFR 219 A) to Section 219.35. My review was conducted pursuant to the optional appeal procedures formerly codified at 36 CFR 217 and now found at [http://www.fs.fed.us/appeals/appeals\\_related.php#app\\_work](http://www.fs.fed.us/appeals/appeals_related.php#app_work).

A total of four appeals were submitted under the appeal procedures. The four appeals of the ROD have been consolidated into one set of issues and one decision is being rendered. The issues were sufficiently similar to allow consolidation (optional appeal procedures, section 13(b)).

You transmitted the appeal record to the Chief in conformance with the optional appeal procedures at Section 15(a).

### **Huron-Manistee National Forests FSEIS to the 2006 Land and Resource Management Plan**

On January 27, 2012, you signed the ROD supplementing the Land and Resource Management Plan for the H-MNFs. This FSEIS was prepared to address the findings of the *Meister* panel and the deficiencies that the panel found in the 2006 Final Environmental Impact Statement and Forest Plan. The *Meister* panel of the U.S. Court of Appeals for the Sixth Circuit issued an opinion in the *Meister* case, *Meister v. U.S. Department of Agriculture*, No. 07-13008 (E.D. Mich. Mar. 30, 2009), rev'd 623 F.3d 363 (6th Cr. 2010). The panel found deficiencies in the analysis conducted by the Forest Service under National Environmental Policy Act (NEPA) and National Forest Management Act (NFMA) in preparing the 2006 Forest Plan of the H-MNFs (*Meister*, 623 F.3d at 380).

You completed the amendment under the direction of the planning regulations at 36 CFR 219, as published in the *Federal Register* on December 18, 2009. Section 219.35 and Appendix B to Section 219.35 provided you the option of completing this plan amendment using the provisions of the planning regulations promulgated in 1982. This is the option you chose. Those 1982 planning regulations were last published in the CFR on July 1, 2000, and can be found at <http://www.fs.fed.us/emc/nfma/includes/nfmareg.html>.



## Issues

Four unique appeals were submitted and accepted. They have been consolidated into one set of issues and found to be sufficiently comprehensive to allow a meaningful review and response. The appeal reference numbers are abbreviated throughout this decision document by the last four digits of the tracking number for the notice of appeal (NOA). A listing of the four appeals reviewed in detail and their associated tracking numbers are as follows:

12-13-00-1149 – Michigan Snowmobile Association  
12-13-00-1150 – Mr. Dave Miehke  
12-13-00-1151 – Mr. Kurt Meister  
12-13-00-1152 – Michigan United Conservation Clubs

All appellants will receive notification of my decision. This final appeal decision is also available on the Web at <http://www.fs.fed.us/appeals/> or in hard copy, upon request.

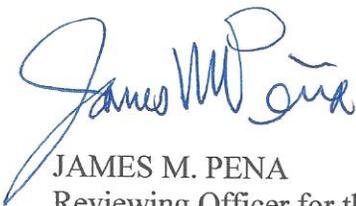
This appeal decision is the outcome of a deliberative and extensive review process. Although not every contention made in the appeals is cited in the same order or format in this decision, all appellants' concerns have been considered. My appeal review focused mainly on compliance of the EIS and the ROD with applicable law, regulation, and policy as cited by appellants or as determined through the Agency's review of the appeals. I also reviewed issues of fact.

Issues and contentions raised in the appeals allege or pertain to violations of the Council on Environmental Quality (CEQ), the NEPA, and the NFMA. Several issues of fact were also raised. All appeal issues raised were addressed and given a direct response. The attached document contains the Agency responses to the issues raised by the appellants.

## Appeal Decision

Based on my review of the appeal record regarding the issues raised on appeal, I am affirming the Regional Forester's decision. Your decision meets the requirements of applicable Federal law, regulations, and policy as well as responding to the findings and direction of the *Meister* panel.

This decision is the final administrative determination of the Department of Agriculture unless the Secretary, on his own initiative, elects to review the decision within 15 days of receipt (optional appeal procedures, section 17(d)).



JAMES M. PENA  
Reviewing Officer for the Chief

Enclosure

cc: All Appellants, Region 9 Appeals, All Intervenors



## **National Environmental Policy Act (NEPA)**

### ***Purpose and need***

#### Issue:

One appellant contends that by eliminating all the semiprimitive nonmotorized (SPNM) areas on the Forests to supposedly comply with the Court decision, which had previously upheld the agency decision regarding the amount of SPNM on the forests, the purpose and need to “remedy the deficiencies identified by the court” has not been met. (NOA #1151, p. 3)

#### Response:

The Council on Environmental Quality (CEQ) regulations at 40 CFR 1501.2(c) and agency NEPA regulations at 36 CFR 220.5(e) state that alternatives should meet the purpose and need and address one or more significant issues related to the proposed action.

Significant issues are used to formulate the range of alternatives, prescribe mitigation measures, and analyze environmental effects. In response to public comments submitted in response to the Notice of Intent (NOI), the Interdisciplinary Team (IDT) grouped comment summary statements into three significant issues. The first issue was that the management area conditions, including other public and private infrastructure within and adjacent to the 14 analysis areas, are inconsistent with the Recreation Opportunity Spectrum (ROS) activity, setting, and experience characteristics (Record of Decision (ROD), p. 27; EIS, chapter 1, p. 4).

The ROD provides a lengthy discussion on the history of SPNM areas as well as the ROS classification system as used and interpreted on the national forests (NFs) (ROD, p. 5-7). The 6<sup>th</sup> Circuit panel of judges in the Meister case found that the existing SPNM areas fail to meet their current ROS characteristics because “Gun hunting is inconsistent with the ‘direction in forest plans’ as set forth in the ROS descriptions of the challenged areas, since those areas are supposed to present little chance of encountering noise by humans” (ROD, p.12).

The Forests evaluated the challenged areas for conformance with their ROS characteristics. The review indicated that the challenged areas failed to meet their current ROS designations (ROD, p. 12). The responsible official determined that an amendment to the 2006 Forest Plan was necessary to align the ROS with the settings. (ROD, p. 15). In responding to the Meister panel finding that SPNM areas did not meet ROS characteristics and by evaluating the areas through a new ROS analysis it was determined that the Forests do not have any areas that meet the SPNM characteristics and the 14 challenged areas were designated with a new classification.

In responding to the Meister panel direction as well as the significant issue developed through public input, the Forests determined that eliminating SPNM brings the Forests into compliance with the ROS classification, and I find that there is no violation of law, regulation, or policy as it pertains to consistency with the amendment’s purpose and need.

***Alternative Title***

Issue:

One appellant contends that the stated purpose of “less roaded” experience in Alternative 4’s title makes no sense since the total miles of roads remains the same in all four of the supplemental environmental impact statement (SEIS) alternatives (NOA #1149, p. 2).

Response:

CEQ regulations at 40 CFR 1501.2(c) as well as regulations at 36 CFR 220.5(e) state that alternatives should meet the purpose and need and address one or more significant issues related to the proposed action. The FSEIS identifies four alternatives for analysis including the no action alternative. In addition, six alternatives were considered and eliminated from detailed study (FSEIS, p. 9; ROD, p. 27).

Adding a title to an alternative should assist the reader in identifying differences between the alternatives. The title of alternative 4, rather than clarifying, has resulted in some confusion caused by the phrase “less roaded recreation experience.” On page 17 of the ROD, the responsible official clarifies and explains what was meant by this phrase. The term refers to a less-roaded opportunity relative to the remainder of the Huron-Manistee National Forests. The overall objective for the new 8.4 management areas would remain: “Close all Forest Service roads to public motorized vehicles except for emergency and administrative use.”

While the title of this alternative is not the clearest nor does it assist in showing differences between alternatives, there is no need to change or amend the title of alternative 4 because the purpose of the alternative is clearly explained by the responsible official. I find that there is no violation of law, regulation, or policy.

***Range of Alternatives***

Issue:

One appellant contends that there was not an alternative that would manage the Forests in accordance with the ROS. The closest alternative was alternative 10 that provided quiet areas plus buffers and was eliminated from detailed study (NOA #1151, p. 6).

Response:

Regulation found at 36 CFR 220.5(e) states that the EIS shall document the examination of reasonable alternatives to the proposed action. An alternative should meet the purpose and need and address one or more significant issues related to the proposed action. In addition, Forest Service Handbook (FSH) 1909.15, chapter 10, states that there is not a specific number of alternatives required or prescribed. Responsible officials are to ensure that the range of alternatives does not prematurely foreclose options that might protect, restore, and enhance the environment. Reasonable alternatives to the proposed action should fulfill the purpose and need and address unresolved conflicts related to the proposed action.

One of the three significant issues identified by the IDT was that the current management area conditions, including other public and private infrastructure within and adjacent to the 14 analysis areas, are inconsistent with the ROS activity, setting, and experience characteristics

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(ROD, p. 27; FSEIS, p.4). This significant issue was developed in response to public comment. The current ROS does not respond to this significant issue, which led to the development of the alternatives considered and evaluated in detail that *do* respond to the significant issue, but to varying degrees. I find that there is no violation of law, regulation, or policy relative to this contention.

#### ***Alternative development***

##### Issue:

One appellant contends that the decision does not comply with the NEPA or CEQ regulations (40 CFR 1508.22(a)) because the NOI did not disclose alternatives that eliminated the SPNM areas or change the ROS categories of the Wilderness and SPNM areas as possible alternatives. (NOA #1151, p. 4-5).

##### Response:

The CEQ regulations at section 1508.22(a) state the notice shall briefly describe the proposed action and possible alternatives.

The NOI was published in the *Federal Register* on December 28, 2010, (75 FR 81561; Project Record p. 435, doc #26). The publication includes the proposed action and has a section titled “possible alternatives” that discusses the No Action and Modified Closure alternatives as well as including a paragraph stating other reasonable alternatives may be developed to respond to issues raised during public participation. At the time of the NOI, the Agency disclosed a reasonable list of possible alternatives, and I find that there is no violation of regulation at 40 CFR 1508.22(a).

#### ***Cumulative Effects***

##### Issue:

One appellant contends the Agency did not do enough in discussing duplication of hunting opportunities with the Michigan Department of Natural Resources (MDNR). The appellant further contends the conclusion that there were no potential opportunities to reduce duplication is not supported by the facts. (NOA #1151, p. 8, 10).

##### Response:

The appellant contends there was insufficient coordination with the MDNR. The Court directed the Agency to coordinate its recreational planning with that of the State of Michigan with the aim of reducing “duplication in meeting recreation demands” with respect to gun hunting and snowmobiling.

The 2010 Memorandum of Understanding (MOU) and the ROD clearly state the MDNR will collaborate with the Forest Service on hunting and snowmobiling needs (20110221\_DNR MOU, p.2; ROD, p. 9). Two individuals from the MDNR are members of the IDT that prepared the document (FSEIS, p.193). The ROD and the Supply and Demand Analysis contain a discussion on the process used by the Forest Service and the MDNR in reviewing activities and looking for any duplication of those activities. The Forest Service conducted a series of meetings with the MDNR to discuss any feasible opportunities to reduce the duplication of recreation opportunities provided for those visitors who enjoy snowmobiling and hunting experiences in the H-MNFs’

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Primitive and SPNM Areas. As part of this process, the agencies reviewed ROS standards, current and projected demand for outdoor recreation experiences in these areas, the recreation opportunities provided in Michigan, and past history of cooperative planning efforts.

In addition, the FSEIS (FSEIS, p.136) and Supply and Demand Analysis (Supply and Demand Analysis, p.4) both identify use of the Michigan State Comprehensive Outdoor Recreation Plan (MSCORP) in determining supply and demand.

I find that there was adequate documentation that the Agency and MDNR collaborated and reviewed potential opportunities to reduce duplication in meeting demands for recreation opportunities on National Forest System lands and State lands. I find that there is no violation of law, regulation, or policy and the direction of the Court has been met.

#### ***Supply and Demand Analysis***

##### Issue:

One appellant contends the Supply and Demand analysis used incorrect current demand numbers, incorrect projections, considered the wrong supply, and failed to consider private land leading to the erroneous conclusion that the demand for hunting was increasing. (NOA #1151, p. 9-10). The same appellant contends the Supply and Demand analysis used incorrect projections that overestimate the demand for snowmobiling (NOA #1151, p. 11) and also contends an inadequate supply analysis was conducted when assessing the potential for duplication of snowmobiling opportunities (NOA #1151, p. 11).

##### Response:

The Court stated that the Agency's estimate of snowmobile and cross-country visitors is entirely arbitrary and does not meet the requirement of 36 CFR 212.21(a)(2) that states that Forest planning shall identify recreational preferences of user groups and the settings needed to provide quality recreation opportunities. The Recreation Supply and Demand Analysis that was completed as part of this FSEIS (ROD, p.8) identify the sources of information as MSCORP, the USFS National Visitor Use Monitoring Survey, and Outdoor Recreation for 21<sup>st</sup> Century America (Supply and Demand Analysis, p.3). The document in its entirety describes the limitations of the data and how those limitations are being addressed as required under 40 CFR 1502.22(b). The document provides information on the methodology used to develop projections for hunting and snowmobiling (Survey and Demand Analysis, pp.21-23). Lastly, the document identifies what steps were taken in order to account for duplication of recreation opportunities (Supply and Demand Analysis, pp. 66-67) and specifically states "... meet the current and foreseeable demand for these recreation experiences without providing unnecessary duplication of opportunities on State and National Forest System lands." (Supply and Demand Analysis, p.67).

I find the Supply and Demand Analysis is sound and it meets the intent of 36 CFR 212.21(a)(2), and there is no violation of law, regulation, or policy relative to this contention.

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#### Issue:

One appellant contends the Supply and Demand analysis fails to identify the supply of lands on which participants in an activity are afforded a quality recreation opportunity. It is contended the Forest Service must perform a more specific study to identify the supply of lands that afford a quality recreation opportunity to comply with 36 CFR 219.21(a)(2) and the Court's opinion (NOA #1151, p. 12).

#### Response:

The Court stated that the Agency's estimate of snowmobile and cross-country visitors is entirely arbitrary and does not meet the requirement of 36 CFR 212.21(a)(2) that states that Forest planning shall identify recreational preferences of user groups and the settings needed to provide quality recreation opportunities.

The Supply and Demand Analysis clearly discloses the recreational preferences of user groups in the FSEIS beginning on page 102. Three data sources were used in the analysis: the 2008-12 Michigan State Comprehensive Outdoor Recreation Plan (MSCORP); the 2007 National Visitor Use Monitoring (NVUM) Study; and the Outdoor Recreation for 21st Century America. The market area for the purposes of the Supply and Demand Analysis is the State of Michigan.

The appellant contends the analysis failed to identify the supply of lands for quality recreation opportunity. The supply and demand analysis document, in the definition of supply and demand, states that it will focus on opportunities for quality recreation and that it will use the ROS as the framework for defining quality recreation opportunity (Supply and Demand Analysis, p.2). Details about ROS are provided that clarify how ROS is developed and support its use as identifying quality recreation opportunities (Supply and Demand Analysis, pp.29-30, 35-38). Having developed a definition of quality recreation opportunities, the document then demonstrates the supply available under that definition, including both public and private entities (Supply and Demand Analysis, pp38-44). The document then further identifies opportunities specifically associated with Primitive and Semi-primitive Non-motorized areas.

I find the Forests did not fail to identify the recreational preferences of user groups or a supply of lands on which quality recreation opportunities are afforded. I find that the Forests complied with 36 CFR 219.21(a)(2) as well as the Court's direction and there is no violation of law, regulation, or policy.

#### ***Decision rationale***

##### Issue:

One appellant contends that the conclusion that alternative 3 does not address significant issue 2 (the H-MNFs should provide opportunities for quiet recreation experiences) is incorrect because alternative 4 does no better in addressing the significant issue within Management Area (MA) 8.4 as firearm hunting and snowmobiling would still be allowed to continue and would still be sources of noise in areas outside of agency control (NOA # 1152, p. 2).

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#### Response:

The CEQ regulations provide the following guidance on evaluating alternatives in an EIS: **...present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public** (40 CFR 1502.14). “CEQ’s NEPA 40 most asked questions” states that the “alternatives” section is the heart of the EIS. This section rigorously explores and objectively evaluates all reasonable alternatives including the proposed action (section 1502.14). It should include relevant comparisons on environmental and other grounds. The “environmental consequences” section of the EIS discusses the specific environmental impacts or effects of each of the alternatives including the proposed action (section 1502.16). In order to avoid duplication between these two sections, most of the “alternatives” section should be devoted to describing and comparing the alternatives. Discussion of the environmental impacts of these alternatives should be limited to a concise descriptive summary of such impacts in a comparative form, including charts or tables, thus sharply defining the issues and providing a clear basis for choice among options (section 1502.14). The “environmental consequences” section should be devoted largely to a scientific analysis of the direct and indirect environmental effects of the proposed action and of each of the alternatives. It forms the analytic basis for the concise comparison in the “alternatives” section.

Significant issue 2 states that the Forests should provide opportunities for quiet recreation experiences. This issue addresses the desire of some visitors for the opportunity to recreate in an environment with the high probability of isolation from the sounds of human activity. (ROD, p. 27; FSEIS, p.4).

When comparing alternatives Table A-1 Comparison of Alternatives by Area of Appendix A – Analysis Support Documentation (FSEIS, p. 313) firearm hunting ban and snowmobile trail closure categories are treated the same under both alternatives 3 and 4.

I acknowledge that there is no difference between alternatives 3 and 4 in regards to allowing firearm hunting and snowmobiling to continue. In addition, the only clear difference between alternatives 3 and 4 is road densities and the standards and guidelines for the management of roads. I find that the document could have done a better job of meeting the requirement of 40 CFR 1502.14 in presenting the alternatives in comparative form and providing for a clear basis for choice among the alternatives. However, there is enough of a difference displayed and discussed to support alternative 4 as the selected alternative, and I find that there is no violation of law, regulation, or policy relative to this contention.

#### Issue:

One appellant contends the decision to allow gun hunting ignores the Agency’s planning rules adopted pursuant to the NFMA, and is in direct violation of the holding of the Court in regards to the desire of the public for a quiet recreation experience and the sources of noise. In addition, the appellant contends wilderness will be managed under the ROS of SPNM; and therefore, gun hunting must be prohibited in the wilderness at the very least because the Forest Service has no discretion to do anything else (NOA #1151, p. 7).

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#### Response:

The appellant does not provide specific examples of how the Agency is ignoring the NFMA by allowing gun hunting. The ROD addresses the discretion the agency has under different laws in permitting or limiting gun hunting (ROD, p. 20 – 23). The analysis contained in the FSEIS does not indicate a need for a prohibition or ban of gun hunting.

The ROS Users Guides for 1982 and 1986 identifies any type of hunting as an acceptable activity within ROS classifications of Primitive and SPNM. The analysis in chapter 3 of the FSEIS states that prohibiting gun hunting in Primitive and SPNM and areas will not ensure that visitors would experience little chance of encountering noise by humans (ROD, p. 22). I find that there is no violation of law, regulation, or policy relative to the decision to allow gun hunting.

#### ***Fact***

##### Issue:

One appellant contends the Agency and MDNR did not consider relevant maps that show dozens of loops that are sources of potential duplication (NOA #1151, p. 11).

##### Response:

The appellant contends that by having looked at the mapping, duplicate opportunities for snowmobiling would have been identified. There is sufficient documentation throughout the project record that the Forests did consider duplicate snowmobile routes. The ROD describes the coordination undertaken with the MDNR to consider duplication in meeting demand (ROD, p.9). It goes on further to state the type of information considered specifically with regards to snowmobiling "... included trail history, trail system connectivity, resource impacts, public safety, area management direction, use levels and trail relocation options" (ROD, p.11). Other considerations included trails that "offer unique recreational opportunity by providing connectivity within larger trail systems" (ROD, p.11). In addition, the Supply and Demand Analysis provides references to examining the supply of opportunities (Supply and Demand Analysis, pp.66-67), as well as the MOU between the USFS and the MDNR clearly defines an outcome as being consideration of duplicate opportunities (20110221\_DNR MOU, p.2).

In regards to the specific maps mentioned, the appellant correctly notes that there is a small inclusion of snowmobile routes within a mile offset from the White River Area (FSEIS, map A-39) that are located on Forest Service roads open to highway legal vehicles yearlong. This route is not located within the White River Area, but is shown as within a 1-mile adjacent to the area.

I find that the analysis supports the fact that the Agency worked in cooperation with the MDNR, and that no feasible opportunities were identified to reduce duplication of recreation opportunities in any areas without diminishing the variety and quality of multiple-use recreation opportunities provided throughout the State.

## **National Forest Management Act (NFMA)**

### ***Special Areas Classification***

**Issue:**

Appellants contend the use of management area 8.4 - Special Areas in alternative 4 does not tier to a common ROS classification. The appellants assert that the term “Special Areas” does not generally imply to the public that motorized uses, development, and “noise” from a variety of sources would be expected on lands labeled as “special.” It is also contended that using this classification increases Special Areas to 5 percent of the Forests and improperly dilutes the intent of true specialness and special area management (NOA #1149, p. 1-2).

**Response:**

There are no national or regional regulations, direction, or guidance on defining or labeling management areas. Management area designations are specific to each Forest and do not cross Forest boundaries.

Choosing to classify 11 of the 14 areas in question as Special Areas because the areas provide a more secluded and less roaded recreational experience is within the Forests’ prerogative and authorities; and I find that there is no violation of law, regulation, or policy.

**Issue:**

One appellant contends the FSEIS confirms that the Agency erred in 2006 in classifying these lands as SPNM. It is also contended that the purpose and intent of semiprimitive, nonmotorized areas should not be diluted or weakened simply to “make areas fit” uniformed public desires where qualifying criteria is lacking or entirely absent (NOA #1149, p. 3).

**Response:**

On page 15 of the ROD, the responsible official acknowledges that the current management area designations of SPNM are inconsistent with the settings revealed in the 2011 ROS inventories and that those settings are unlikely to change. The responsible official goes on to say that an amendment to the 2006 Forest Plan is necessary to align the ROS with the settings (ROD, p.5-7, 15). In addition, there is a lengthy discussion on the history of the SPNM ROS classification that dates back to 1986 and was reviewed again in 2006 when no changes were made to the classification.

I find that in regards to doing a new ROS analysis and properly aligning the ROS with the settings the responsible official took appropriate actions and there is no violation of law, regulation, or policy relative to this reclassification.

### ***Standards and Guidelines***

**Issue:**

One appellant contends that the specific standards, guidelines, and objectives outlined for MA 8.4 in Appendix B of the FSEIS fails to clearly state whether snowmobiling is or will continue to be an appropriate use (NOA #1149, p. 2).

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#### Response:

There are no requirements for what should be included or addressed in standards, guidelines, and objectives for management areas. The Forests have chosen to not specifically address snowmobiling in the standards, guidelines, and objectives for MA 8.4. However, it has been clearly discussed in the ROD how snowmobiling will be managed on the Forests on pages 20 through 24. In addition, in Appendix B – Table B-1 – FSEIS Alternatives by Issues by Project Area p. 337 – the table shows by alternative the project areas where snowmobile trails are closed or allowed.

I find that there is no violation of law, regulation, or policy relative to this contention.

#### ***Travel Management***

##### Issue:

One appellant contends the Travel Management Rule should be incorporated into this FSEIS in order to provide clear and concise expectations for snowmobile use on the Forests (NOA #1150, p. 5). The same appellant contends further analysis, clarification, and consideration should be provided for the restriction of use of off-road vehicles including snowmobiles as stated in outdated regulations. Forest special orders referenced included orders dated 1976, 1991, 1992, and 2002 (NOA #1150, p. 3).

##### Response:

The Forests are implementing the national direction outlined in the Agency's Travel Management regulation (36 CFR 212.51). The Forests provide Motorized Vehicle Use Maps (MVUM) as directed by the Travel Management Rule (December 9, 2005) showing roads and motorized trails that are open to public motorized travel. Routes not shown on the MVUM are not open to public motor vehicle travel. This MVUM is updated annually to correct mapping errors and update travel management decisions on the Forests transportation system (FSEIS, chapter 3, p. 115).

Private landowners would continue to have legal access across National Forest System (NFS) lands as provided for under the Alaska National Interests and Land Conservation Act of 1980. The direction in the Motorized Travel Management Rule, effective December 9, 2005, would continue to be implemented (FSEIS, Ch. 3, p. 166, Effects on Roads).

In regards to snowmobiling, the Agency has the authority to regulate the use of all motorized vehicles on NFS lands. Motorized use is prohibited or restricted in many areas of the National Forests. Travel management regulations state: "Use by over-snow vehicles on National Forest System roads and National Forest System trails and in areas on National Forest System lands may be allowed, restricted or prohibited." (36 CFR section 212.81).

NFS lands in the H-MNFs have been closed to snowmobiling, except on designated trails, since the 1986 Forest Plan was approved. Restricting motorized travel to designated roads, trails, and areas was the method chosen by the Forest Service to reduce potential user conflict with non-motorized users (ROD, p. 20).

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The Travel Management Rule (70 Fed. Reg. 68, 264 (Nov. 9, 2005) (36 CFR Parts 212, 251, 261, and 295) revised regulations regarding travel management on NFS lands to clarify policy related to motor vehicle use including off-highway vehicles. This regulation was used as a guiding statute in the preparation of this FSEIS. The regulation prohibits the use of motor vehicles off the designated system or use inconsistent with those designations once designations are published on a MVUM (ROD, Consistency with Other National Policies, Laws and Authorities, p. 33).

I find the Forests did incorporate the National Travel Management Rule in this analysis and that the analysis and decision is clearly discussed and displayed on maps and in tables throughout the document where and when off-road vehicles, including snowmobiles, are allowed. I find that there is no violation of this regulation or policy associated with its use.