

# **USDA Forest Service Policy for Section 106 of the NHPA Compliance in Travel Management: Designated Routes for Motor Vehicle Use**

Prepared by the Forest Service in consultation with the  
Advisory Council on Historic Preservation

## **1. Purpose**

On Thursday, July 15, 2004, the USDA Forest Service (FS) published draft regulations concerning the use of motorized vehicles on National Forest System (NFS) lands. Under the proposed regulations, the Forest Service will designate systems of motorized routes and prohibit unmanaged cross-country motor vehicle travel, once that system is established. The national travel management policy addresses the threat to natural and cultural resources created by the unmanaged use of off highway vehicles (OHVs) on NFS lands. The new regulation will provide greater protection for all natural and cultural resources, and historic properties.

The Advisory Council on Historic Preservation (ACHP) advises and cooperates with federal agencies to integrate historic preservation and cultural resource management into agency programs. This draft policy for compliance with the National Historic Preservation Act (NHPA) addresses two primary issues: first, NHPA compliance in policy development, and second, NHPA compliance in the process of travel route designation.

Under the proposed regulations, motorized travel will be restricted to designated routes, and unmanaged cross-country travel will be prohibited. After undergoing the National Environmental Policy Act (NEPA) and NHPA process, Forests may add some existing unauthorized routes to their formal transportation systems, and motorized use would continue on those routes. However, the closure of unmanaged cross-country travel will serve to protect historic properties across a broad landscape.

It is in the interest of resource protection and historic properties to conclude the designation process as rapidly as possible. Requirements to comply with Section 106 and Section 110 of NHPA for inventory and evaluation of historic properties should be established with this in mind.

## **2. Designation of Roads, Trails, and Areas**

Designation of roads, trails, and areas for motorized vehicle travel is necessary to put into effect the prohibition on cross-country travel, and to provide sustainable systems of routes for travel and recreation with a minimum of impact to natural resources and historic properties.

Many authorized and established motor vehicle travel routes already exist on every National Forest. Most national Forests also contain and will propose some user-created and other non-system routes for designation. These proposed additions to the designated

route system must be evaluated according to the NEPA and the NHPA. Forests will designate routes after considering an array of criteria, including the potential impacts to historic properties.

### **3. National Policy on Cultural Resources and Road and Trail Designations**

Section 106 of the NHPA and the ACHP's implementing regulations, *Protection of Historic Properties* (36 CFR Part 800) require that federal agencies take into account the effect of their undertakings on historic properties and that agencies provide the ACHP with an opportunity to comment on those undertakings. The establishment of a national policy and guidance for use of motor vehicles on the national forests is a planning effort that does not have the potential to cause effects to historic properties because the national policy does not itself designate any routes for motor vehicle travel.

Individual Forests will designate roads, trails, and areas for motor vehicle use under the direction of the Forest Supervisor or designee. The following categories of proposals shall be considered "undertakings" with the potential to affect historic properties, triggering evaluation under Section 106 of NHPA, 36 CFR Part 800, and applicable programmatic agreements (PA's):

- Construction of a new road or trail;
- Authorization of motor vehicle use on a route currently closed to vehicles; and
- Formal recognition of a user-developed (unauthorized) route as a designated route open to motor vehicles.

Existing, formally established system (classified) roads and trails, already open to motor vehicle travel, generally need not be re-evaluated for purposes of this rule. Their designation on a motor vehicle use map will not generally be considered an undertaking for the purposes of NHPA and not subject to Section 106 review.

### **4. Forest Designations of Roads, Trails, and Area**

Forests shall be responsible for initiating and completing the appropriate NHPA compliance process. Forests shall also be responsible for identifying consulting parties and inviting them to participate in the decision-making process. The consulting parties shall include, as appropriate, State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), and other federally recognized Tribal governments and Native Hawaiian Organizations. Other entities may be provided consulting party status as necessary (and subject to FACA where appropriate). Those Forests, which have a PA for NHPA compliance, will follow the terms of the PA when authorizing motor vehicle use on new or unclassified roads, trails, and areas.

The Area of Potential Effect (APE) for the road, trail, or area shall include corridors or zones adjacent to the road, trail, or area that the Forest determines to be subject to direct or indirect effects due to local environmental factors or the proximity of particularly sensitive resources. This will include the road, trail, or area surfaces, passing or parking areas, and campsites or other features established as part of the road or trail. It shall also include additional affected areas or properties if the designation would facilitate increased access to those historic properties.

When a Forest proposes an unclassified, user-created road, trail, or area for addition to the designated route system, or when opening an existing route to a new use, the agency official must make a determination as to the potential for that designation to have an effect on historic properties. If there is no effect to any historic properties because there are no historic properties present or because the designation will not affect any historic properties, then the process may conclude with this determination provided that the Forest issues a determination of no effect.

Designations of new or unclassified routes must be based on appropriate inventory of historic properties within the APE, considering local conditions and inventory protocols, the degree to which designation of a route will change existing use patterns, and the probability of finding historic properties.

Each Forest will include accomplishments under this policy in their annual reporting of program activity. Report copies will be made available to consulting parties. Many Forests will report these accomplishments in annual reports that may be required by programmatic agreements. All Forests will include this information for the Annual Heritage Program Report. No new report systems are required under this policy.

Monitoring of impacts to historic properties as the result of motor vehicle activity is a critical component of forest plan monitoring and OHV designation. Forest plan monitoring reports should reflect this work.

## **5. Additional Considerations**

Forests will consider roads, trails, or areas that may be associated with traditional cultural properties that are important to tribes, or to other ethnic and social groups. Forests shall consult and cooperate with the tribes, or other ethnic and social groups, that ascribe traditional use to a property or area. This cooperation and consideration shall extend throughout the NHPA compliance process.

## **6. Disclaimer**

Endorsement of this policy by the ACHP is not intended to, nor does it, alter any requirements under NHPA and 36 CFR Part 800.