

**MOTORIZED TRAVEL PLANNING,
AND THE 2005 TRAVEL MANAGEMENT RULE
SPOTTED BEAR RANGER DISTRICT**

BACKGROUND

The Flathead National Forest provides a variety of recreation opportunities – camping, driving, fishing, hunting, and more. Each year more and more people are involved in Off Highway Vehicle or OHV recreation whether driving all terrain vehicles (ATVs), trail motorcycles, or four wheel drive vehicles. Motor vehicles are an appropriate way to access and enjoy National Forest lands – in the right places and under appropriate management.



Unfortunately, the growth in use of OHVs and their increasing ability to travel in rougher terrain has outraced the development of management strategies for them. While most riders use their OHVs responsibly, the damage from growing cross-country travel is obvious. Proliferation of trails, vegetation loss, unsightly scars, soil erosion, and stream damage are a few of the issues with irresponsible use of OHVs.

THE 2005 TRAVEL MANAGEMENT RULE

To address this situation, the Forest Service adopted a national rule regarding Travel Management and OHV's in November 2005. (Travel Management – Designated Routes and Areas for Motor Vehicle Use – Final Rule, effective 12/9/2005) The final content of this rule was shaped not only by the need for appropriate OHV management, but also by more than 81,000 public comments. The Travel Management Rule requires each National Forest to formally designate those roads, trails, and areas where motorized travel is permitted and to show them on a Motor Vehicle Use Map (MVUM). Once the rule is implemented, motorized travel will be permitted only on the roads, trails, and areas shown on the MVUM. Specific schedules were assigned across Montana to allow for the Rule to be fully implemented in the region by 2009. As a result, Spotted Bear Ranger District is implementing the rule in 2007. Hungry Horse and Glacier View Ranger Districts will publish a Motor Vehicle Use Map by September 2008, followed by Tally Lake Ranger District and Swan Lake Ranger Districts in September 2009.

IMPLEMENTING THE TRAVEL MANAGEMENT RULE

Implementing the Travel Management rule on the Spotted Bear Ranger District, Flathead National Forest will be initiated with a review of the existing motorized roads and trails on the district.

The Spotted Bear Ranger District is initiating actions to designate a system of roads, trails and areas for motorized vehicle use to secure a wide range of recreation opportunities while ensuring the best possible care of the land.

The following sideboards will guide this project:

- Travel management planning has been ongoing on Spotted Bear Ranger District and on the Flathead National Forest in general. It is expected in the future that additional projects (i.e. vegetation management or other) could also consider additional travel management actions.
- Utilize the past site specific motorized decisions and implementation actions related to motorized access.
- Grizzly bear security needs remain a very important component related to motorized recreation opportunities.
- Motorized use is currently only allowed on designated motorized roads and trails, and also on motorized wheeled cross-country travel to a campsite has been permissible within 300 feet of motorized roads and trails as per the January 2001 Off-Highway Vehicle Record of Decision for Region One.
- The Motorized Vehicle Use Map is to be reviewed, updated if needed, and reprinted for each Ranger District each year so this review is not a one time occurrence.
- Winter use will not be addressed by this effort. Over-snow vehicle use will continue to be managed under the current Flathead National Forest 2002 snowmobile settlement agreement and/or Winter Motorized Recreation Plan (Amendment 24) to the Forest Plan.

YOUR INPUT IS NEEDED

We welcome your participation in reviewing the current motorized road, trail, and area access on the Spotted Bear Ranger District. We invite you to send or phone in any comments, suggestions, or concerns that you have regarding motorized travel management planning on Spotted Bear Ranger District. If you have no comments at this time but wish to remain on the mailing list for this project, please let us know or your name will be removed. Please feel free to share this information with neighbors or other interested parties in the event we have missed somebody.

Please send written comments to us at the Spotted Bear Ranger District, P.O. Box 190340, Hungry Horse, MT 59919 (or drop them off at our office – 8975 Highway 2 East, Hungry Horse, MT). To submit comments electronically, please send to: comments-northern-flathead-spotted-bear@fs.fed.us.

In order to be most useful to us, send or phone your comments by March 23, 2007. Please contact Project Leader Dale Luhman at 387-3820, or Spotted Bear District Ranger Deb Mucklow at 387-3851 if you have further questions.

MORE INFORMATION

Check out this link: <http://www.fs.fed.us/recreation/programs/ohv/> for additional information about the process, the schedule, and more answers to frequently asked questions (FAQ).



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FAQ - FREQUENTLY ASKED QUESTIONS

Updated 2/21/2007

QUESTIONS SPECIFIC TO THE FLATHEAD NATIONAL FOREST PROCESS

- F1** Will the travel planning process and environmental analysis cover the entire Flathead National Forest?
- F2** How are snowmobiles affected?
- F3** How do I propose a route for consideration?
- F4** How does travel planning and the National Environmental Policy Act (NEPA) analysis relate to the Flathead National Forest Plan that is currently being revised?

GENERAL QUESTIONS ABOUT THE 2005 NATIONAL TRAVEL MANAGEMENT RULE

Need For The Rule

- N1** Off-Highway Vehicles (OHVs) are an increasingly popular way to enjoy outdoor recreation on National Forest System lands. Will the rule limit access to the national forests and grasslands? Why is there a change in Forest Service policy?
- N2** Some OHV use damages the environment and affects the experiences of other visitors. Why does the agency allow OHV use on national forests and grasslands at all?
- N3** How does the rule define an OHV? What classes of vehicles are subject to the rule?

The Designation Process

- N4** When will the rule become effective? How will roads, trails, and areas be designated? How does travel management relate to land management planning? How will the agency comply with the National Environmental Policy Act (NEPA) in designating routes and areas for motor vehicle use?
- N6** Where cross-country motor vehicle use has been allowed in the past, repeated use has often created unplanned, user-created trails. How will these user-created routes be managed under the final rule?
- N7** Some national forests have long restricted motor vehicles to designated routes. Others have recently completed travel planning decisions designating roads, trails, and areas for motor vehicle use. Will the rule require these units to reconsider past decisions?
- N8** How will the public be involved in travel management decisions?
- N9** Are designations of roads, trails and areas for motor vehicle use permanent?

Special Cases

- N10** Are certain uses of motor vehicles exempted from the general prohibition on motor vehicle use off designated roads and trails and outside designated areas?
- N11** How does the rule affect the use of snowmobiles and other over-snow vehicles on national forests and grasslands?

- N12** Does the rule affect use of state highways or county roads crossing NFS lands?
Does the rule take away valid existing rights held by federally recognized tribal governments, counties, or private individuals, including treaty rights, other statutory rights, or private rights-of-way?
- N13** How does the rule address use of motor vehicles for timber harvesting, grazing, mining, ski areas, utility line maintenance, firewood collection, and other permitted uses of national forests and grasslands?
- N14** The proposed rule included language on Revised Statute (R.S.) 2477, which is missing in the final rule. Why? How does the rule affect R.S. 2477 rights-of-way?
- N15** How does the rule affect access to national forests and grasslands for people with disabilities?
- N16**

Implementation

- N17** How will the Forest Service pay for travel planning? Will other Forest Service programs be cut?
Many respondents suggested including an enforceable deadline in the final rule for route and area designation. Why didn't the Forest Service adopt this suggestion? How will the agency assure that designation gets done?
- N18** The final rule does not require a complete inventory of existing user-created routes. How will the Forest Service give fair consideration to user-created routes without a complete inventory?
- N19** Will the agency authorize mixing ATVs and other non-highway-legal vehicles on roads open to full-sized vehicles? How will the Forest Service address state laws allowing or restricting mixed use?
- N20** On many national forests, designation may not be complete for a few years. What are the rules for OHVs while designation decisions are pending?
- N21** With limited law enforcement resources, how does the Forest Service expect to be able to implement a new regulation and manage OHV use?
- N22**

Process Questions

- N23** What are the major changes between the proposed and final rules?
- N24** Does the Forest Service plan to issue directives and provide guidance on implementing the final regulation? Will directives be subject to public comment?
- N25** Noise is one of the most frequently cited impacts of OHV use on other visitors. Does the Forest Service plan on regulating vehicle noise levels?
Many comments addressed the relationship between the proposed rule and Executive Order (E.O.) 11644. Is the final rule consistent with the E.O.? Does it weaken mandatory language in the E.O.?
- N26**

Abbreviations -

F1. Will the travel planning and environmental analysis cover the entire Flathead National Forest?

A. The Spotted Bear Ranger District is scheduled to complete its motorized Travel Management Planning in 2007. Travel planning and any subsequent environmental analysis will then be focused on the remaining districts – Hungry Horse and Glacier View in 2008, and Swan Lake and Tally Lake in 2009.

F2. Are snowmobiles affected?

A. The Travel Management rule's prohibition of cross-country travel and restriction of vehicles to designated routes generally does not apply to snowmobiles and other vehicles designed specifically for over-snow travel. The Motor Vehicle Use Map (MVUM) will not address them. The final rule does retain current authorities for the Forest Service to manage use of over-snow vehicles and they may be allowed,

restricted, or prohibited in certain areas or on certain routes at times. The Flathead National Forest travel planning effort and subsequent National Environmental Policy Act (NEPA) analysis is not going to consider snowmobiles. Over-snow vehicle use will be managed through the 2002 Snowmobile Settlement Agreement, or the Winter Motorized Recreation Plan (Amendment 24 to the Flathead National Forest Plan). Any restrictions retained or adopted for snowmobiles will be displayed on a separate winter use map.

F3. How do I propose a route for consideration?

A. Public suggestions for routes will be considered during the analysis. Recognize that realistically, very few, if any, new motorized routes will be added as noted in the sideboards above.

F4. How does travel planning and the NEPA analysis relate to the Flathead National Forest Plan that is currently being revised?

A. Forest Plans are strategic documents that primarily identify desired future conditions (DFC's) for a variety of Forest resources. The Forest Plan will identify areas suitable for motorized travel, non-motorized travel, and likely some areas that should provide multiple opportunities. But the Forest Plan itself does not designate routes or restrict uses. Any changes from the existing restriction situation will be evaluated as part of the Travel Planning and subsequent NEPA analysis.

N1. OHVs are an increasingly popular way to enjoy outdoor recreation on National Forest System lands. Will the rule limit access to the national forests and grasslands? Why is there a change in Forest Service policy?

A. In the right places and under careful management, OHVs are a legitimate use of NFS lands. The final rule maintains public access to national forests and grasslands. By designating a system of roads, trails, and areas for motor vehicle use, the rule enhances opportunities for outdoor recreation and ensures that it remains sustainable over the long term. Previous Forest Service regulations were developed before the recent increases in OHV use and advances in OHV technology and are no longer adequate to respond to growing demand.

N2. Some OHV use damages the environment and affects the experiences of other visitors. Why does the agency allow OHV use on national forests and grasslands at all?

A. National forests are established for use by the American public for multiple purposes. When properly managed, OHV use is a legitimate use of National Forest System (NFS) lands. The final rule provides for careful management of OHV use so that environmental impacts can be limited and the use sustained over the long term.

N3. How does the rule define an OHV? What classes of vehicles are subject to the rule?

A. The final rule defines an OHV as "any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain." Technological advances have enabled many classes of motor vehicle to travel off highways. The designation requirements in the final rule apply to all classes of motor vehicles (not just OHVs) except aircraft, watercraft, and over-snow vehicles.

N4. When will the rule become effective? How will roads, trails, and areas be designated?

A. The rule became effective 12/9/2005, 30 days after its publication in the Federal Register in November 2005. However, the rule itself does not open or close any road, trail, or area. The final rule establishes national guidance for making designation decisions at the local level. Each national forest or grassland will assess its current travel management direction, involve the public, and determine whether changes are

needed. The rule does not require reconsideration of past decisions. Designations will be made with public involvement, coordination with federal, state, county and other local governmental entities and tribal governments, and appropriate environmental analysis and documentation. Once an administrative unit or a ranger district completes the designation process and publishes a motor vehicle use map, the rule prohibits motor vehicle use inconsistent with those designations.

N5. How does travel management relate to land management planning? How will the agency comply with the National Environmental Policy Act (NEPA) in designating routes and areas for motor vehicle use?

A. Forest Land and Resource Management Plans contain suitability determinations and guidelines that inform decisions related to motor vehicle use. However, land management plans do not designate roads, trails, and areas for motor vehicle use. Designation of roads, trails, and areas is a local, project-level decision separate from the applicable plan decision, which must be based on appropriate site-specific environmental analysis and documentation under NEPA. Nothing in the final rule requires reconsideration of past travel management decisions authorizing motor vehicle use of specific roads, trails, and areas. The agency expects that the level and scope of NEPA analysis associated with route and area designation will depend on the local situation, including each unit's history of travel planning and the particular issues involved.

N6. Where cross-country motor vehicle use has been allowed in the past, repeated use has often created unplanned, user-created trails. How will these user-created routes be managed under the final rule?

A. Some user-created routes are well-sited, provide excellent opportunities for outdoor recreation, and would enhance the system of designated routes and areas. Other user-created routes are poorly located and are causing unacceptable environmental impacts. User-created routes are best evaluated at the local level, by officials with first-hand knowledge of the particular circumstances, uses, and environmental impacts involved, working closely with local governments, users, and other members of the public. The agency anticipates that some user-created routes will be designated for motor vehicle use and become part of the managed system of NFS roads and NFS trails, after site-specific evaluation and public involvement. Those not designated will be closed to motor vehicle use.

N7. Some national forests have long restricted motor vehicles to designated routes. Others have recently completed travel planning decisions designating roads, trails, and areas for motor vehicle use. Will the rule require these units to reconsider past decisions?

A. No. Each national forest will evaluate its current travel management policy with public input. Where the responsible official proposes changes to travel management decisions, the Forest Service will evaluate these proposals with appropriate public involvement and environmental analysis. If the current policy is working and achieving the goals of the final rule, there is no need for new decision-making.

N8. How will the public be involved in travel management decisions?

A. The final rule requires the Forest Service to provide for public participation in the process of designating roads, trails, and areas for motor vehicle use. Designation decisions will be made by forest supervisors or district rangers working closely with local communities, motorized and non-motorized recreation groups, and other interested parties. Local units will notify the public of opportunities to participate in travel planning. The Forest Service supports collaborative travel planning involving all interested parties and a wide range of interests.

N9. Are designations of roads, trails and areas for motor vehicle use permanent?

A. No. The final rule includes a process for revising designations (36 CFR 212.54). The agency expects that over time new roads and trails will be constructed and added to the designated system. Other existing roads and trails may be closed and removed from the designated system in response to environmental impacts or changing travel management needs. Revision of designations will include public involvement and appropriate environmental analysis.

N10. Are certain uses of motor vehicles exempted from the general prohibition on motor vehicle use off designated roads and trails and outside designated areas?

A. Yes. In the final rule, the following vehicles and uses are exempted from the prohibition:

- Aircraft;
- Watercraft;
- Over-snow vehicles;
- Limited administrative use by the Forest Service;
- Use of any fire, military, emergency, or law enforcement vehicle for emergency purposes;
- Authorized use of any combat or combat support vehicle for national defense purposes;
- Law enforcement response to violations of law, including pursuit;
- Motor vehicle use that is specifically authorized under a written authorization issued under federal law or regulations; and
- Use of a road or trail that is authorized by a legally documented right-of-way held by a state, county, or other local public road authority.

The final rule also allows the responsible official to 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 and retrieval of a big game animal by an individual who has legally taken that animal.

N11. How does the rule affect the use of snowmobiles and other over-snow vehicles on national forests and grasslands?

A. The rule does not require units to designate roads, trails, and areas for over-snow travel. The final rule retains current authorities to manage use of NFS lands by over-snow vehicles, which may be allowed, restricted or prohibited at the local level. Over-snow vehicles result in different impacts to natural resources than motor vehicles traveling over the ground. It may therefore be appropriate for snowmobiles and other over-snow vehicles to travel cross-country in some places where other vehicles are restricted to designated roads, trails, and areas. The final rule expands this exemption to include other over-snow vehicles in addition to snowmobiles.

N12. Does the rule affect use of state highways or county roads crossing NFS lands?

A. No. Public roads authorized by a legally documented right-of-way held by a state, county, or other local public road authority are not subject to designation under this rule.

N13. Does the rule take away valid existing rights held by federally recognized tribal governments, counties, or private individuals, including treaty rights, other statutory rights, or private rights-of-way?

A. No. Responsible officials will recognize valid existing rights in making designations at the local level.

N14. How does the rule address use of motor vehicles for timber harvesting, grazing, mining, ski areas, utility line maintenance, firewood collection, and other permitted uses of national forests and grasslands?

A. The final rule provides an exemption from the prohibition on motor vehicle use off designated roads and trails and outside designated areas for use specifically authorized under a written authorization issued under federal law or regulation. Motor vehicles may be used off the designated system for the above purposes when specifically authorized under a contract, permit, operating plan, or other written instrument issued under federal law or regulation.

N15. The proposed rule included language on Revised Statute (R.S.) 2477 that is missing in the final rule. Why? How does the rule affect R.S. 2477 rights-of-way?

A. Public roads authorized by legally documented rights-of-way are not subject to designation under the final rule. The proposed rule also specifically exempted from designation a road or trail “which an authorized officer has ascertained, for administrative purposes and based on available evidence, is within a public right-of-way for a highway, such as a right-of-way for a highway pursuant to R.S. 2477.” This language has not been retained in the final rule. The definitions of “National Forest System road” and “National Forest System trail” in the final rule exclude rights-of-way under R.S. 2477 that have been adjudicated or otherwise formally established. The Forest Service does not want to give the appearance of establishing the validity of unresolved R.S. 2477 right-of-way claims through this final rule.

N16. How does the rule affect access to national forests and grasslands for people with disabilities?

A. Under section 504 of the Rehabilitation Act of 1973, no person with a disability can be denied participation in a federal program that is available to all other people solely because of his or her disability. In conformance with section 504, wheelchairs are welcome on all NFS lands that are open to foot travel and are specifically exempted from the definition of motor vehicle in §212.1 of the final rule, even if they are battery-powered. However, there is no legal requirement to allow people with disabilities to use OHVs or other motor vehicles on roads, trails, and areas closed to motor vehicle use because such an exemption could fundamentally alter the nature of the Forest Service’s travel management program (7 CFR 15e.103).

N17. How will the Forest Service pay for travel planning? Will other Forest Service programs be cut?

A. The Forest Service expects to complete route and area designation on all national forests by 2009, using available funds. A designated system of motor vehicle routes will benefit multiple agency programs, and funding sources will depend on the specific local circumstances. Travel planning is ongoing today on many national forests. The new rule provides a consistent national framework for these efforts. Addressing urgent needs in unmanaged recreation will sometimes delay other agency work, but this will be a local situation. Failure to complete travel planning would be even more costly, both in agency expenditures and in terms of impacts to recreational visitors and the environment.

N18. Many respondents suggested including an enforceable deadline in the final rule for route and area designation. Why didn’t the Forest Service adopt this suggestion? How will the agency assure that designation gets done?

A. An enforceable regulatory deadline would subject the Forest Service to legal challenge if, despite its best efforts (perhaps due to the controversy involved in the process), the agency is unable to meet the deadline. Cooperative work by responsible officials with state, tribal, county, and municipal governments, user groups, and other interested parties offers the best hope for long-term resolution of issues involving recreational use, including use of motor vehicles. An inflexible deadline can make collaborative solutions more difficult. However, the Forest Service shares a strong interest in completing route and area designation quickly. The Chief expects route and area designation to be completed on all national forests and grasslands by 2009.

N19. The final rule does not require a complete inventory of existing user-created routes. How will the Forest Service give fair consideration to user-created routes without a complete inventory?

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A. User-created routes developed without planning, design, authorization, or study by the agency. Some are well-located. Others are not. Still others involve multiple braided routes in a single corridor. A complete inventory of all these routes would be very time-consuming and expensive and could delay completion of route and area designation. Local Forest Service managers will use public involvement to help identify appropriate user-created routes for consideration and evaluation in the designation process.

N20. Will the agency authorize mixing ATVs and other non-highway-legal vehicles on roads open to full-sized vehicles? How will the Forest Service address state laws allowing or restricting mixed use?

A. NFS roads can provide connections between OHV trails and offer important opportunities for OHV recreation. Some NFS roads receive only limited traffic by highway-legal vehicles. The Forest Service anticipates designating some roads or sections of roads as open to both highway-legal vehicles and non-highway-legal OHVs. Designating roads for this mixed use involves safety considerations such as traffic composition, traffic volume, and road standards. Decisions affecting safety must be informed by engineering judgment. Traffic on roads is subject to state traffic laws except when in conflict with designations established under this final rule.

N21. On many national forests, designation may not be complete for a few years. What are the rules for OHVs while designation decisions are pending?

A. Until an administrative unit or a ranger district completes the designation process, current travel management policies, restrictions, and orders remain in effect. Forest supervisors may continue to issue travel management orders pursuant to part 261, subpart B, and impose temporary, emergency closures based on a determination of considerable adverse effects pursuant to §212.52(b)(2) of the final rule.

N22. With limited law enforcement resources, how does the Forest Service expect to be able to implement a new regulation and manage OHV use?

A. Forest Service law enforcement personnel play a critical role in ensuring compliance with laws and regulations, protecting public safety, and protecting National Forest System resources. The Forest Service also maintains cooperative relationships with many state and local law enforcement agencies that provide mutual support across jurisdictional boundaries. The new rule provides a consistent framework for enforcing travel management regulations, including provision for a motor vehicle use map. Most OHV users want to do the right thing, and the agency believes that proper education and engineering (e.g., road and trail design, signing) can focus law enforcement resources on those few users who intend to violate the law.

N23. What are the major changes between the proposed and final rules?

A. In general, the final rule is very similar to the proposed rule published on July 15, 2004, although many technical edits were incorporated in response to public comment. The three most important substantive changes include:

- Broadening the exemption for snowmobiles to include all over-snow vehicles when operating over snow;
- Providing discretion to consider limited cross-country use for big game retrieval and dispersed camping, in response to local situations; and
- Clarifying the definitions with respect to NFS roads and NFS trails to avoid the appearance that this rule might be used to establish the validity of unresolved R.S. 2477 claims.

N24. Does the Forest Service plan to issue directives and provide guidance on implementing the final regulation? Will directives be subject to public comment?

A. Yes. The Forest Service has issued proposed changes to the Forest Service Manual and Forest Service Handbooks. These agency directives will provide guidance to field units in implementing the final rule. The directives are published in the Federal Register for public notice and comment.

N25. Noise is one of the most frequently cited impacts of OHV use on other visitors. Does the Forest Service plan on regulating vehicle noise levels?

A. Respondents representing a wide range of interests, including OHV user groups and manufacturers, have asked the Forest Service to consider establishing a maximum noise level for OHVs operating on NFS lands. Some states already regulate noise, and standards differ from state to state. No noise regulation is included in this final rule, but the agency anticipates addressing this issue in future rulemaking.

N26. Many comments addressed the relationship between the proposed rule and Executive Order (E.O.) 11644. Is the final rule consistent with the E.O.? Does it weaken mandatory language in the E.O.?

A. The final rule implements and is fully consistent with E.O. 11644 ("Use of Off-Road Vehicles on the Public Lands" February 8, 1972), as amended by E.O. 11989 ("Off-Road Vehicles on Public Lands" May 24, 1977). The final rule is designed to assist agency field units in achieving the purposes of the E.O.s. With respect to temporary, emergency closures and criteria for designation, the preamble to the final rule provides additional discussion of how the final rule ensures that the intent of the E.O.s is achieved.

Abbreviations-

Amendment 19 – Allowable Sale Quantity and Objectives and Standards for Grizzly Bear Habitat Management - Amendment 19 to the 1986 Flathead National Forest Plan

Amendment 24 – Winter Motorized Recreation Plan - Amendment 24 to the 1986 Flathead National Forest Plan

ATV – small all terrain vehicle, sometimes referred to as a "four-wheeler"

CFR – code of federal regulations

DFC – desired future condition

E.O. – executive order

FAQ – frequently asked questions

MVUM – motor vehicle use map

NEPA – national environmental policy act

NF - national forest

NFS – national forest system lands

OHV – off-highway vehicle

RS – Revised Statute

THE 2005 TRAVEL MANAGEMENT RULE - Travel Management – Designated Routes and Areas for Motor Vehicle Use – Final Rule, effective 12/9/2005

