

**DEPARTMENT OF AGRICULTURE****Forest Service**

RIN 0596-AC39

**Travel Management Directives; Forest Service Manual 2350, 7700, and 7710 and Forest Service Handbook 7709.55**

AGENCY: Forest Service, USDA.

ACTION: Final directives.

**SUMMARY:** The Forest Service is amending internal directives regarding travel management to make them consistent with and to facilitate implementation of the agency's final travel management rule. The travel management rule requires each Forest Service administrative unit or ranger district to designate those National Forest System (NFS) roads, NFS trails, and areas on NFS lands that are open to motor vehicle use.

Changes to existing travel management directives are needed to provide guidance on implementation of the travel management rule, to conform terminology to the rule, to provide consistent direction on the process of designating roads, trails, and areas for motor vehicle use, and to provide direction on travel analysis.

These final directives consolidate direction for travel planning for both NFS roads and NFS trails in Forest Service Manual (FSM) 7710 and Forest Service Handbook (FSH) 7709.55. The final directives rename roads analysis "travel analysis" and streamline some of its procedural requirements. In addition, for purposes of designating roads, trails, and areas for motor vehicle use, the final directives expand the scope of travel analysis to encompass trails and areas being considered for designation. Definitions and delegations of authority for the travel management directives are found in FSM 7700. Direction for trail management remains in FSM 2350.

**DATES:** *Effective Date:* The final directives are effective January 7, 2009.

**ADDRESSES:** The record for these final directives is available for inspection and copying at the office of the Director, Recreation, Heritage, and Volunteer Resources Staff, USDA, Forest Service, 4th Floor Central, Sidney R. Yates Federal Building, 1400 Independence Avenue, SW., Washington, DC, from 8:30 a.m. to 4 p.m., Monday through Friday, except holidays. Those wishing to inspect or copy these documents are encouraged to call Deidre St. Louis at (202) 205-0931 to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Deidre St. Louis, Recreation, Heritage,

and Volunteer Resources Staff, (202) 205-0931.

**SUPPLEMENTARY INFORMATION:****Background**

On November 9, 2005, the Forest Service published the travel management rule, governing use of motor vehicles on NFS lands. The travel management rule (36 CFR part 212, subpart B) requires each administrative unit or ranger district to designate those NFS roads, NFS trails, and areas on NFS lands that are open to motor vehicle use by vehicle class and, if appropriate, by time of year. The travel management rule also requires designated roads, trails, and areas to be identified on a motor vehicle use map (MVUM). After designated roads, trails, and areas have been identified on an MVUM, motor vehicle use inconsistent with those designations is prohibited under 36 CFR 261.13.

The travel management rule combines regulations governing administration of the forest transportation system and regulations governing use of motor vehicles off NFS roads into part 212, Travel Management, covering the use of motor vehicles on NFS lands. The travel management rule implements Executive Order (E.O.) 11644 (February 8, 1972), "Use of Off-Road Vehicles on the Public Lands," as amended by E.O. 11989 (May 24, 1977).

Nationally, the Forest Service manages approximately 280,000 miles of NFS roads and 47,000 miles of NFS trails that are open to motor vehicle use. Other NFS roads and NFS trails are managed for non-motorized uses or are closed to all public use. Motor vehicle routes in the forest transportation system range from paved roads designed for all vehicle types, including standard passenger cars, to single-track trails used by motorcycles. Many roads designed for high-clearance vehicles (such as logging trucks and sport utility vehicles) are also used by all-terrain vehicles (ATVs) and other off-highway vehicles (OHVs) not normally found on city streets. Almost all NFS trails serve non-motorized users such as hikers, bicyclists, and equestrians, alone or in combination with motorized users. NFS roads accept non-motorized use as well.

In addition to this managed system of NFS roads and NFS trails, many national forests contain user-created roads and trails. These routes are usually in areas where cross-country travel by motor vehicles has been allowed and sometimes include dense, braided networks of criss-crossing trail. There has been no comprehensive national inventory of user-created routes (and continuing proliferation of these

routes has made a definitive inventory difficult), but they are estimated to number in the tens of thousands of miles.

Wilderness areas are closed to motor vehicles by statute, unless the applicable enabling legislation authorizes motor vehicle use. On some national forests and portions of others, motor vehicle use is restricted by order to designated routes and areas. On other national forests, motor vehicle use is not restricted to designated routes and areas.

**Need for Final Directives**

The Forest Service provides internal direction to field units through its directive system, consisting of the Forest Service manuals and Forest Service handbooks. Directives provide guidance to field units in implementing programs established by statute and regulation. Forest Service directives establish agency policy for delegations of authority, consistent definitions of terms, clear and consistent interpretation of regulatory language, and standard processes.

The travel management rule is being implemented on administrative units and ranger districts, each of which will complete the designation process and publish an MVUM identifying those NFS roads, NFS trails, and areas on NFS lands open to motor vehicle use. The Forest Service plans to complete that task on all units of the NFS within 4 years of publication of the final rule.

Current policy in the Forest Service directive system was written prior to the travel management rule and reflects previous travel management direction and terminology. For example, current directives use the terms "classified road" and "unclassified road," which were removed by the travel management rule. Until this policy is updated, inconsistent terminology may result in confusion and inconsistent application of the travel management rule. The final directives are also needed to provide a procedural approach to implementing the travel management rule in conformance with agency policy on land management planning, environmental analysis, roads analysis, and other requirements of law and policy.

Some comments on the proposed travel management rule requested an opportunity for public input in development of Agency directives implementing the travel management rule.

### Summary of Comments on the Proposed Directives

The Forest Service published the proposed travel management directives in the **Federal Register** for public notice and comment on March 9, 2007 (72 FR 10632). The agency received 33 comments from organizations and individuals. Most comments were submitted by organizations or their representatives.

Many comments were editorial, suggesting minor word changes, referencing errors, or identifying inconsistencies between policy statements. The Forest Service accepted many of these suggestions in developing the final directives.

The following iterates the substantive comments and the agency's *Response*.

### General Comments and Responses

*Comment.* Some respondents suggested adding additional citations and direction related to laws, regulations, E.O.s, and directives to the authority and policy sections in the final directives. Suggested additions included references to the National Historic Preservation Act, Endangered Species Act, Clean Water Act, and the Data Quality Act, and statements addressing the protection of cultural resources and threatened and endangered species and prevention of the introduction of invasive species.

*Response.* The Forest Service does not believe that additional references in the final directives to governing laws, regulations, E.O.s, or directives are necessary. There are numerous laws, regulations, E.O.s, and directives that govern the Forest Service's programs. The purpose of FSM 2353.01, 7701, and 7710.01 and FSH 7709.55, sections 10.03, 20.03, and 30.03, is to reference those authorities that directly pertain to travel management and planning. The Forest Service believes that the final directives accomplish this purpose.

*Comment.* Some respondents commented that some of the sections in the proposed directives were redundant, making them difficult to read and understand.

*Response.* The agency agrees that there was redundancy in the proposed directives and has striven to reduce it by consolidating definitions and text in the final directives. For example, the agency has removed most redundant information on MVUMs in FSM 7711.3 and FSH 7709.55, section 15 and has consolidated direction on MVUMs in FSM 7711.3 and FSH 7709.55, section 15.1.

*Comment.* Some respondents asked the agency to provide definitions for the

following terms in the directives: Sustainable, sustainable access (FSM 7702), fiscally responsible (FSM 7702), considerable adverse effects (36 CFR 212.52(b)(2)), appropriate consideration (FSH 7709.55, sec. 12.1), collaborative learning (FSH 7709.55, sec. 12.2), and use conflict (7710.2, para. 6).

Some respondents requested modification of the definitions for "travel management atlas," "forest transportation atlas," "route," "road decommissioning," "road," "trail," and "unauthorized road."

*Response.* The travel management rule provides a consistent national framework for making travel management decisions at the local level. The final directives provide national direction for implementing the travel management rule. Both the travel management rule and the travel management directives give the responsible official discretion to make appropriate decisions at the local level. Consistent with this approach, the terms "sustainable" and "sustainable access" (FSM 7702), "fiscally responsible" (FSM 7702), "appropriate consideration" (FSH 7709.55, sec. 12.1), "collaborative learning" (FSH 7709.55, sec. 12, para. 2), and "use conflict" are terms of art designed to provide a general context for implementing the final directives, while leaving discretion to the responsible official to work with the public, other Federal agencies, and State, local, and tribal governments to discern what each term means for that official's administrative unit or ranger district in light of local social and environmental issues. Accordingly, the Forest Service does not believe it is necessary or appropriate to define these terms in the final directives.

The phrase "considerable adverse effects" (E.O. 11644, 36 CFR 212.52(b)(2), and 36 CFR 261.51) is a requirement for establishing a temporary emergency closure of a route to motor vehicle use under 36 CFR 212.52(b)(2). The responsible official has the discretion to make this determination based on local, social, and environmental conditions. Therefore, the Forest Service does not believe it is necessary or appropriate to define "considerable adverse effects" in the final directives.

"Forest transportation atlas," "travel management atlas," "road," "road decommissioning," "trail," and "unauthorized road" are defined in regulations at 36 CFR 212.1, and redefining them is beyond the scope of these directives. "Route" is defined in FSM 7705 as "a road or trail," which is a sufficient definition for purposes of these directives.

*Comment.* Some respondents believed that travel planning should be accomplished as part of land management plan revisions. Other respondents believed that the Forest Service should have separate planning processes for recreation and general access routes and suggested how the planning process for recreation routes should be structured.

*Response.* The agency has developed the travel planning process in FSM 7710 and FSH 7709.55, chapter 10, based on past experience with transportation and recreation travel planning. The Forest Service believes that it would not be appropriate to have separate planning processes for recreation and general access routes for implementing the travel management rule, which regulates motor vehicle use by vehicle class and time of year, rather than by type of use. In addition, the agency has clarified or added direction on travel planning in the final directives based on the agency's experience in implementing the travel management rule during the past 3 years.

*Comment.* Some respondents believed that the agency should not restrict motor vehicle use to a designated system of NFS roads, NFS trails, and areas on NFS lands, but if the agency created a designated system for motor vehicle use, the agency should provide broad exemptions for specific activities like big game retrieval and grazing.

One respondent expressed concern about not being able to use a motor vehicle to engage in dispersed camping or big game retrieval off a public road that is not under the jurisdiction of the Forest Service. Other respondents believed that limiting designations for dispersed camping and big game retrieval to "within a specified distance of certain forest roads and trails" was too restrictive, would preclude day use, and would give preference to one group over others. Some respondents commented that the directives should not limit responsible officials' ability to make designations for dispersed camping and big game retrieval. Some respondents believed that additional limitations, such as a maximum length, should be placed on designations for dispersed camping and big game retrieval.

*Response.* Unregulated cross-country motor vehicle use may have been appropriate on some national forests when these vehicles were less numerous, less powerful, and less capable of cross-country travel. Today, however, the proliferation of user-created routes is a major challenge on many national forests, and examples of significant environmental damage,

safety issues, and use conflicts are well-established. The Forest Service believes that a well-planned, well-designed system of designated roads, trails, and areas, developed in coordination with Federal, State, local, and tribal governments and with public involvement, offers better opportunities for sustainable long-term recreational motor vehicle use and better economic opportunities for local residents and communities. Consistent with these determinations, the agency promulgated the travel management rule, which requires each administrative unit or ranger district to establish a designated system of routes and areas for motor vehicle use. These final directives implement that regulation. The final rule and the final directives do not prohibit day use of NFS lands for such purposes as picnicking or fishing. Rather, the final rule and final directives regulate motor vehicle use.

The travel management rule and the final directives enumerate eight exemptions from designations for motor vehicle use, including motor vehicle use that is specifically authorized under a written authorization, such as a grazing permit (36 CFR 212.51(a)). In addition, the travel management rule provides for including in a 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 big game retrieval (36 CFR 212.51(b)).

In many places in the NFS, visitors use motor vehicles for dispersed camping or big game retrieval within a limited distance of State or county roads or trails, which are not under the jurisdiction of the Forest Service and cannot be designated for motor vehicle use (36 CFR 212.1, 212.50(a), and 212.51(a)). Consequently, the proposed directives at FSM 7710 contained language that would allow the responsible official to include in a designation the limited use of motor vehicles within a specified distance of certain forest routes, rather than designated routes, solely for the purposes of dispersed camping and big game retrieval. Forest roads and trails include State and county roads and trails in the NFS, as well as NFS roads and NFS trails (36 CFR 212.1).

The agency has retained the proposed language in FSM 7715.74 of the final directives. In addition, the agency has included the phrase, "where motor vehicle use is allowed" after "certain forest roads and forest trails," since not all forest roads and trails are open to motor vehicle use. In a separate notice in the same issue of the **Federal**

**Register**, the agency is revising the travel management rule at 36 CFR 212.51(b) to make it consistent with FSM 7715.74 in the final directives. Since the proposed language regarding dispersed camping and big game retrieval was subjected to full public notice and comment under the Administrative Procedure Act, further public notice and comment are unnecessary (5 U.S.C. 553(b)(B)).

The Forest Service expects responsible officials to apply 36 CFR 212.51(b) and FSM 7715.74 sparingly to avoid undermining the purposes of the travel management rule and to promote consistency in its implementation. Determination of the specified distance for limited motor vehicle use off a forest road or trail is a local decision dependent on site- and route-specific circumstances. Therefore, the travel management rule and final directives give the responsible official some discretion in making this determination.

Nothing in the travel management rule or final directives requires addressing either dispersed camping or big game retrieval in a designation or reconsideration of any decision prohibiting motor vehicle use while engaging in these activities.

*Comment.* Some respondents suggested adding provisions to the directives requiring responsible officials to coordinate with local governmental entities, including local law enforcement agencies and emergency service providers, during the travel planning process and prior to making travel management decisions.

*Response.* The travel management rule (36 CFR 212.53) and its implementing directives (FSM 7702, para. 5, and 7715.3) require the responsible official to coordinate with appropriate Federal, State, county, and other local governmental entities, which may include local law enforcement agencies and emergency service providers, as well as tribal governments in designating routes and areas for motor vehicle use.

*Comment.* Some respondents believed that the proposed directives should require a complete inventory of user-created routes and consideration of that inventory in travel planning, since many of these routes were created when cross-country travel was allowed, are well-located, and provide the type of experiences motorized recreationists are seeking. Some respondents believed that the proposed directives should provide for accepting inventories of user-created routes collected by volunteers. Other respondents believed that the proposed directives would discourage responsible officials from considering user-created

routes in travel planning. Other respondents believed that a complete inventory was needed for resource protection and restoration and that the requirement to conduct a complete inventory currently in FSM 7710 should be retained.

Other respondents believed that the proposed directives should prohibit inventory of user-created routes and should direct responsible officials not to consider them in travel planning. Some of these respondents believed that the proposed directives were biased toward adding user-created routes to the forest transportation system and designating them for motor vehicle use.

*Response.* A complete inventory of user-created routes is not required to complete the designation process pursuant to the travel management rule. Therefore, the current directives do not require a complete inventory of user-created routes in conducting travel planning. In some cases, however, an administrative unit or ranger district may determine that a complete inventory of user-created routes is necessary to conduct effective travel planning. To clarify this intent, the final directives state that a complete inventory of user-created routes is not required, rather than a complete inventory is not necessary.

As a practical matter, in areas where there are no restrictions on motor vehicle use, there is no way to conduct a complete inventory of user-created routes, since users of motor vehicles can create new routes while the inventory is underway. Furthermore, to the extent a comprehensive inventory of user-created routes is feasible, conducting such an inventory would be very time-consuming and expensive, delaying completion of route and area designation. Advance planning based on public involvement, effective design, and appropriate environmental analysis provides the best hope for a system of motor vehicle routes and areas that addresses users' needs and safety with minimal environmental impacts.

User-created routes in most cases were developed without agency authorization, environmental analysis, or public involvement and do not have the same status as NFS roads and NFS trails in the forest transportation system. Nevertheless, some user-created routes are well-sited, provide excellent opportunities for outdoor recreation by motorized and non-motorized users alike, engender less environmental impact than unrestricted cross-country motor vehicle use, and would enhance the system of designated routes and areas. Other user-created routes are

poorly located and cause unacceptable environmental impacts.

The evaluation of user-created routes is best handled at the local level by officials who have first-hand knowledge of the particular circumstances, uses, and environmental impacts involved and who can work closely with local governments, users, and other members of the public.

*Comment.* Some respondents asked the agency to define "user-created route" in the proposed directives and to explain the difference between that term and the term "unauthorized road."

*Response.* FSM 7703.21, paragraph 1, addresses user-created routes. FSM 7715.78, paragraph 2, in the final directives addresses unauthorized roads and trails. "Unauthorized road or trail," which is defined in the travel management rule as "a road or trail that is not a forest road or trail or a temporary road or trail and that is not included in a forest transportation atlas" (36 CFR 212.1), is the preferred term. Therefore, a definition for and additional direction on user-created routes is not needed in the final directives.

*Comment.* Some respondents believed that responsible officials should be required to identify the minimum trail system, as well as the minimum road system, needed for safe and efficient travel and for administration, utilization, and protection of NFS lands. Other respondents believed that the requirement to identify the minimum road system would result in reducing opportunities for motorized recreation.

*Response.* Forest Service regulations at 36 CFR 212.5(b)(1) establish the requirement to identify the minimum road system on each administrative unit of the NFS, and Forest Service directives at FSM 7703.12 implement that requirement. Agency regulations and directives do not establish a requirement to identify the minimum trail system on NFS lands.

Moreover, identification of the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of NFS lands under 36 CFR 212.5(b)(1) is separate from designation of routes and areas under 36 CFR 212.51. The requirement to identify the minimum road system was established in regulations (the roads rule) and directives (the roads policy) published on January 12, 2001 (66 FR 3216), before promulgation of the travel management rule in November 2005. Identification of the minimum road system focuses on the need for roads in the forest transportation system, rather than on appropriate motor vehicle use on routes

in the forest transportation system and in areas on NFS lands. Therefore, the designation process, rather than identification of the minimum road system, determines the scope of opportunities for motorized recreation.

Although identification of the minimum road system pursuant to 36 CFR 212.5(b)(1) and designation of routes and areas pursuant to 36 CFR 212.51 are independent regulatory requirements, the Forest Service believes that travel analysis can and should be used for both. The agency has revised FSM 7712 to provide that travel analysis for purposes of 36 CFR 212.5(b)(1) and 36 CFR 212.51 may be conducted separately or simultaneously, and that any proposals resulting from travel analysis for either purpose may be addressed in the same or different environmental analyses.

*Comment.* Some respondents wanted the agency to retain all or part of the current direction in FSM 7700 and 7710 regarding roads analysis. Some respondents believed that the proposed changes to roads analysis would weaken its environmental protection.

*Response.* The agency has retained the essentials of roads analysis in the final directives and has not weakened its environmental protection. A key objective of the final directives is to describe a travel analysis process that can be used for the two separate purposes of identification of the minimum road system that incorporates a science-based roads analysis under 36 CFR 212.5(b) and designation of roads, trails, and areas under 36 CFR 212.51. The roads policy (current FSM 7700 and 7710) established Publication FS-643, *Roads Analysis: Informing Decisions About Managing the National Forest Transportation System* (August 1999), as the science-based roads analysis to be followed when identifying the minimum road system. The Forest Service has moved the six-step roads analysis described in Publication FS-643 to FSH 7709.55, chapter 20, and renamed it "travel analysis" to reflect its purpose of informing travel management decisions regarding motor vehicle use on NFS roads, on NFS trails, and in areas on NFS lands, as well as identification of the minimum road system. In addition, the agency has streamlined travel analysis and has given responsible officials additional discretion in determining the scope and scale of travel analysis.

By including travel analysis in the Forest Service directive system, the agency has made the process available to anyone with Internet access. Publication FS-643 was originally available only in hard copy, and while

scanned versions are available on the Internet, they remain difficult to locate and, in contrast to Forest Service directives, do not meet the needs of the accessibility requirements of Section 508 of the Rehabilitation Act (29 U.S.C. 794d).

The Forest Service believes that additional clarification of the relationship between roads analysis and travel analysis is necessary and thus has modified the final directives to specify that travel analysis satisfies the requirement for use of a science-based road analysis when identifying the minimum road system per 36 CFR 212.5(b)(1) (see FSM 7712.4, para. 1). In addition, the final directives clarify that travel analysis is not required to inform decisions related to the designation of roads, trails, and areas for those administrative units and ranger districts that have issued a proposed action as of the effective date of the final directives (FSM 7712, para. 1).

Since the approving official for FSM 7710 and FSH 7709.55 is the Deputy Chief for the National Forest System, issuance of the final directives will negate the need for the statement currently in FSM 7710.41 regarding the authority of the Deputy Chief of the National Forest System to approve or rescind the roads analysis process for field use. Therefore, the agency has removed this statement from the final directives.

*Comment.* Some respondents suggested that the agency require a complete review of the forest transportation system as part of travel planning and establish a schedule for subsequent comprehensive review of the system in the proposed directives.

*Response.* The agency believes that it is not necessary or appropriate to require a comprehensive review of the forest transportation system when designating roads, trails, and areas for motor vehicle use per 36 CFR 212.51. Nothing in the travel management rule requires reconsideration of any previous administrative decisions that allow, restrict, or prohibit motor vehicle use on NFS roads and NFS trails or in areas on NFS lands and that were made under other authorities, including decisions made in land management plans and travel plans. To the contrary, the travel management rule provides that these decisions may be incorporated into designations for motor vehicle use (36 CFR 212.50(b)).

All national forests have a system of NFS roads open to motor vehicle use, and many also have a system of NFS trails managed for motor vehicle use. Some national forests have long restricted motor vehicles to designated

routes under E.O. 11644, 36 CFR part 295, and FSM 2355. Other national forests have issued comprehensive travel management decisions that restrict motor vehicle use to designated routes and have issued orders that prohibit cross-country motor vehicle use. In these cases, the responsible official may, with public notice but no further analysis or decision-making, establish that decision or those decisions as the designation pursuant to 36 CFR 212.51, effective upon publication of an MVUM. In that situation, the only substantive change effected by the designation would be enforcement of the restrictions pursuant to the prohibition in 36 CFR 261.13, rather than pursuant to an order issued under 36 CFR part 261, subpart B. Alternatively, responsible officials may choose to reconsider past decisions, with public involvement, as necessary to achieve the purposes of the travel management rule.

The travel management rule and final directives both recognize that designations of roads, trails, and areas for motor vehicle use are not permanent. Unforeseen environmental impacts, changes in public demand, route construction, and monitoring conducted under § 212.57 of the travel management rule may lead responsible officials to consider revising designations under § 212.54 of the rule.

Designations must be consistent with the applicable land management plan. If a responsible official proposes a designation that would be inconsistent with the applicable land management plan, a proposed amendment to the plan must be included with the proposed designation so that the designation decision will conform to the plan.

The Forest Service supports the concept of adaptive management and agrees that monitoring and, if needed, revision of motor vehicle designations will be an ongoing part of travel management. Since the system of designated routes and areas will change over time, the Forest Service anticipates that responsible officials will publish MVUMs annually to provide notice that they are current, update them as necessary, and update signs as necessary or appropriate.

Neither E.O. 11644 nor the travel management rule requires periodic review of designations. Accordingly, the Forest Service does not believe that it is necessary or appropriate to require periodic review of designations. Rather, the agency believes that responsible officials should have the discretion to conduct review of designations as needed.

*Comment.* Some respondents objected to OHV use on NFS roads, on NFS trails, and in areas on NFS lands. Other respondents advocated designating every NFS road and NFS trail for motor vehicle use. Some respondents believed that the proposed directives favored motorized recreation, while other respondents believed that the proposed directives favored resource protection and non-motorized recreation. Some respondents requested that the proposed directives require responsible officials to give preference in travel planning to resource values such as wilderness values and minimizing or preventing introduction of invasive species; social values, and existing uses such as non-motorized and motorized recreation, rock climbing, grazing, mining, and other authorized uses. Some respondents suggested that the proposed directives include language reflecting the requirements in the Multiple Use-Sustained Yield Act (MUSY) and that the proposed directives emphasize multiple use as a policy objective.

*Response.* Designation of a road, trail, or area for motor vehicle use does not establish that use as the dominant or exclusive use of that road, trail, or area. Pursuant to MUSY (16 U.S.C. 528–531), the Forest Service manages NFS lands for multiple uses, including motorized and non-motorized and recreational and non-recreational uses, without favoring one use over another. The Forest Service believes that NFS lands should provide access for both motorized and non-motorized users in a manner that is environmentally sustainable over the long term. The NFS is not reserved for any particular use, nor must every use be accommodated on every acre of NFS lands. It is not uncommon for different areas in the NFS to provide different recreation opportunities. The Forest Service believes that assessment and determination of appropriate motorized recreation opportunities are best made at the local level, in coordination with Federal, State, and local governmental entities and tribal governments and with public involvement, including input from motorized and non-motorized users, as provided for in the travel management rule and final directives.

The Forest Service does not believe that it is appropriate to cite MUSY as an authority for the final directives or to emphasize multiple use as one of their policy objectives. Like the travel management rule, the authorities for the final directives include the Bankhead-Jones Farm Tenant Act (16 U.S.C. 7 U.S.C. 1011(f)), regarding regulation of national grasslands; the agency's Organic Act (16 U.S.C. 551), regarding regulation of national forests; and E.O.s

11644 and 11989 governing use of motor vehicles off roads (42 FR 26959). In addition, the final directives cite the travel management rule as an authority. Neither the travel management rule nor the final directives need to reference all the laws and regulations governing management of the NFS.

MUSY defines "multiple use" in part as "management of all the various renewable surface resources of the National Forests so that they are utilized in the combination that will best meet the needs of the American people \* \* \*" (16 U.S.C. 531(a)). MUSY specifically provides "that some land will be used for less than all of the resources" (16 U.S.C. 531(a)). MUSY does not direct that all NFS lands be open to all uses. The policy established in the final directives is consistent with MUSY.

*Comment.* Some respondents requested that the agency expand travel planning to include all recreation uses of roads and trails, both motorized and non-motorized. Specifically, these respondents wanted the agency to analyze the social and environmental effects associated with these uses and to make travel management decisions for both motorized and non-motorized uses.

*Response.* The purpose of the travel management rule and final directives is to provide better and more consistent management of motor vehicle use on NFS roads, on NFS trails, and in areas on NFS lands. Regulation of non-motorized use is beyond the scope of the travel management rule and final directives.

In designating roads, trails, and areas, responsible officials must consider conflicts among uses of NFS lands (36 CFR 212.55(a)). In designating trails and areas, local agency officials must consider compatibility of motor vehicle use with existing conditions in populated areas, taking into account sound, emissions, and other factors (36 CFR 212.55(b)(5)).

While there is no requirement to regulate non-motorized recreation uses as part of travel planning, the final directives identify as one of the objectives of travel planning "to provide for and manage a range of motorized and non-motorized recreational experiences, while minimizing conflicts among uses" (FSM 7710.2). Responsible officials have the discretion to use travel analysis and planning to address non-motorized recreation (FSM 7712, para. 6).

*Comment.* Some respondents suggested that the proposed directives require consultation with counties to identify roads that could qualify as R.S. 2477 rights-of-way and that those roads

should remain open to motor vehicle use until they are adjudicated. Some respondents requested that the Forest Service establish a process outside the courts for adjudicating claims for R.S. 2477 rights-of-way. Other respondents requested that the agency limit its legal research and title searches so as not to appear to be conducting an informal adjudication of R.S. 2477 rights-of-way outside the courts. Several respondents commented that discussion of existing rights in FSM 7715.65 should be expanded to include R.S. 2477 rights-of-way.

*Response.* The Forest Service does not believe it is appropriate to include these suggestions in the final directives. Under the travel management rule, responsible officials may designate only NFS roads, NFS trails, and areas on NFS lands, that is, only roads, trails, and areas under the jurisdiction of the Forest Service (36 CFR 212.1, 212.50(a), 212.51(a)). Adjudicated R.S. 2477 rights-of-way are not under the jurisdiction of the Forest Service. The Forest Service does not have the authority to adjudicate R.S. 2477 rights-of-way.

The Forest Service may, however, make a non-binding administrative determination (NBD) as to the potential validity of an R.S. 2477 right-of-way claim for land use planning and management purposes. If the Forest Service identifies a potentially valid R.S. 2477 right-of-way claim through the NBD process, the agency will encourage the claimant to accept jurisdiction pursuant to an easement granted by the U.S. Department of Transportation (23 U.S.C. 317) or by the Forest Service under Section 2 of the National Forest Roads and Trails Act (FRTA) (16 U.S.C. 533) or to adjudicate the claim pursuant to the Quiet Title Act (28 U.S.C. 2409a).

In making designations for motor vehicle use, the responsible official must recognize valid existing rights (see 36 CFR 212.55(d)). FSM 7703.3 provides an administrative framework for meeting this requirement by providing guidance on documenting jurisdiction, transferring jurisdiction, and exercising jurisdiction over forest roads, based on factors such as the right of individuals and local public road authorities to own, operate, maintain, and use these roads. There is no need to repeat this guidance in FSM 7715.75 (recoded from FSM 7715.65 in the proposed directives).

*Comment.* Some respondents were concerned that the agency would rely on lack of jurisdiction over road segments crossing private lands in deciding not to designate the NFS road segments on either side of those private lands. Other respondents did not want

the agency to be dissuaded from designating routes where jurisdiction was uncertain, particularly if those routes are on NFS lands.

*Response.* The Forest Service supports public access to Federal lands and supports the rights of private landowners to control access to their land. The agency generally will not consider designating an NFS road or NFS trail unless there is legal public access to that road or trail. Where access to NFS lands across private property is needed, the responsible official should seek a right-of-way from the landowner. FSM 7715.72 provides guidance regarding situations where access rights may have been acquired but are undocumented.

The Forest Service supports cooperative road development, including construction, maintenance, and reciprocal rights-of-way, where public and private lands are intermingled. When the Forest Service needs access across private land and the private landowner needs access across NFS lands, the Forest Service generally will not grant an easement to the private landowner without a reciprocal easement from the private landowner.

*Comment.* Some respondents objected to provisions in the proposed directives addressing transfer of jurisdiction over NFS roads to local public road authorities. Other respondents wanted the agency to retain some control over roads when transferring jurisdiction so as to influence environmental mitigation or prevent improvements.

*Response.* The Forest Service may transfer jurisdiction over NFS roads to local public road authorities pursuant to FSM 7703.3, for example, when more than half the use is likely to be traffic that is not generated by the Forest Service; the road is necessary for mail delivery, access to a public school, or other local governmental purposes; or the road serves year-long residents within or adjacent to the NFS. In these cases, the Forest Service would transfer jurisdiction through issuance of an easement under Section 2 of FRTA (16 U.S.C. 533). Consistent with the transfer of jurisdiction, these easements would assign full responsibility for road users' safety to the grantee.

*Comment.* Some respondents suggested that when the Forest Service is unable to obtain a permanent right-of-way for an NFS road or NFS trail, the agency accept less than full permanent public access when landowners are willing to grant limited access.

*Response.* Long-standing Forest Service policy in FSM 5460.3 provides for acquiring rights-of-way in perpetuity to accommodate all types of traffic,

unless the applicable land management plan indicates that full public access is not needed, and accepting temporary agreements, road use permits, or other road use arrangements only for immediate, temporary, limited access and when future needs of the United States do not justify the expense of providing a permanent road or trail.

*Comment.* Some respondents suggested that the Forest Service improve maintenance of NFS roads and NFS trails and increase the number of NFS trails designated for motor vehicle use by leveraging all sources of funding and volunteer work, including spending State and Federal gas tax revenues generated by OHV users on road and trail maintenance. Some respondents were concerned that the agency would use the lack of funds to maintain NFS roads and NFS trails as a rationale for reducing motorized recreation opportunities, closing NFS roads, and converting NFS roads to NFS trails. Other respondents believed that the agency should not designate routes for motor vehicle use unless they could be maintained.

*Response.* Funding for road and trail maintenance is beyond the scope of the final directives. Forest Service appropriations are authorized by Congress. The Forest Service is committed to using whatever funds are available to accomplish the purposes of the travel management rule in a targeted, efficient manner. The Agency makes appropriate use of all other sources of available funding and has many successful cooperative relationships. Volunteer agreements with user groups and others have proven successful in extending agency resources for trail construction, maintenance, monitoring, and mitigation. Regardless of the level of funding available, the Forest Service believes that the travel management rule and its implementing directives provide a better framework for management of motor vehicle use on NFS roads, on NFS trails, and in areas on NFS lands.

The Forest Service maintains NFS roads and NFS trails in accordance with their road or trail management objectives, design standards, quantity and types of traffic, and availability of funds. All roads and trails require maintenance. An extended lack of maintenance can lead to deterioration of an NFS road or NFS trail to the point where it will be closed by natural events such as precipitation, wind storms, or growth of vegetation. In other cases, while a route remains passable to some traffic, the Forest Service may have to close the route to address public safety concerns or to prevent severe

environmental damage. The Forest Service actively tries to avoid closures by encouraging volunteer agreements and cooperative relationships with user groups.

The availability of resources is a consideration in designating routes for motor vehicle use. The travel management rule includes as a criterion for designation "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" (36 CFR 212.55(a)). The Forest Service believes, however, that these determinations involve the exercise of judgment and discretion on the part of the responsible official. The final directives clarify that the availability of resources for administration and maintenance of routes should not be the only consideration in developing travel management proposals (FSM 7715.5, para. 1c). Volunteers and cooperators can supplement agency resources for maintenance and monitoring, and their contributions should be considered in assessing the availability of resources.

To clarify that routes should not be added to the forest transportation system unless adequate resources are available to maintain them, the Forest Service has added the following to FSM 7715.03, paragraph 7: "Administrative units and ranger districts should avoid adding routes to the forest transportation system unless there is adequate provision for their maintenance."

In addition, in FSM 7703.27 in the final directives, the Agency has enumerated factors to consider when contemplating conversion of an NFS road to an NFS trail or when overlaying an NFS trail and an NFS road.

*Comment.* Some respondents believed that the proposed directives should require development of area management objectives, similar to road management objectives (RMOs) and trail management objectives (TMOs).

*Response.* The Forest Service agrees that areas designated for motor vehicle use should have management objectives and has added a requirement for area management objectives in FSM 7715.73 in the final directives.

*Comment.* Some respondents suggested that the proposed directives establish criteria for analysis and public comment under the National Environmental Policy Act (NEPA) and its implementing regulations. Some respondents suggested that the proposed directives establish specific factors to consider in conducting cumulative

effects analysis for travel management decisions, such as the effect of road closures on communities, the effect of wilderness designation, and the effect of the roadless rule (36 CFR part 294, subpart B) on the availability of motorized recreation opportunities.

Some respondents stated that the proposed directives should modify the amount of public involvement in the travel planning process to reduce the burden on the commenting public. Other respondents wanted assurance that the public comment process would not be merely a voting process, that is, that public input would be considered, rather than merely tallied in support of or against particular proposals. Some respondents requested that the proposed directives establish the duration and time of year for public comment for specific travel management decisions, such as issuance of special use permits for motorized recreation events.

*Response.* Regulations implementing NEPA, including requirements for public involvement, are issued by the Council on Environmental Quality and are found at 40 CFR part 1500. Agency direction on NEPA compliance is found at 36 CFR part 220 and in FSH 1909.15. The scope, content, and documentation of NEPA analysis associated with designating routes and areas for motor vehicle use will depend on site-specific factors. Therefore, the Forest Service is not addressing NEPA compliance in the final directives beyond the direction found in FSM 7715.

*Comment.* Some respondents suggested that the proposed directives establish specific criteria for monitoring, including the extent and timing of monitoring, the data collected, and the storage, reporting, and use of the data collected. Some respondents believed that allowing each responsible official to develop a monitoring plan would lead to collection of inconsistent data at the local and national level.

*Response.* The travel management rule requires monitoring of the effects of motor vehicle use on designated roads, trails, and areas, consistent with the applicable land management plan and as appropriate and feasible (36 CFR 212.57). Like travel management decisions, decisions regarding what, where, how, and when to monitor are determined by local circumstances and are therefore best left to the responsible official.

Consistent with the objective of the travel management rule to establish a national framework for local decision-making, the final directives provide guidance on monitoring in FSM 7717 and FSH 7709.55, section 16.3. The Agency has strengthened this guidance

in the final directives to ensure that monitoring is consistent with the applicable land management plan and to advise responsible officials to use the applicable criteria in 36 CFR 212.55 as guidance when monitoring the effects of designating roads, trails, and areas for motor vehicle use.

*Comment.* Some respondents believed that the provisions in proposed FSM 7703.14 and 7715.63 clarifying the size of designated areas narrowed their scope beyond what is authorized under the travel management rule. Other respondents believed that these provisions insufficiently narrowed the size of designated areas and suggested that their size be further narrowed by including additional considerations regarding their scope.

*Response.* As stated in the preamble to the proposed and final travel management rules, areas designated for motor vehicle use are not intended to be large or numerous. In the travel management rule, "area" is defined as "a discrete, specifically delineated space that is smaller, and in most cases much smaller, than a ranger district." The final directives contain the same definition at FSM 7705, and the direction in FSM 7703.14 and 7715.73 is consistent with this definition and the preamble to the proposed and final travel management rules.

While areas are not intended to be large or numerous, the Forest Service believes that it is appropriate to designate some areas for motor vehicle use. These areas would have natural resource characteristics that are suitable for motor vehicle use or would be so significantly altered by past actions that motor vehicle use might be appropriate. Under the travel management rule and final directives, no administrative unit or ranger district is required to designate an area for motor vehicle use.

Routes and areas under the travel management rule are designated at the local level, based upon appropriate environmental analysis. Federal law does not require the Forest Service to demonstrate that there are no environmental impacts from designation of areas.

*Comment.* Some respondents recommended against producing multiple maps, such as a motor vehicle use map (MVUM), recreation visitor map, and opportunity maps, to display travel management data, on the grounds that multiple maps would create confusion and make it difficult to identify routes designated for motor vehicle use.

Some respondents wanted additional information displayed on MVUMs, including routes intended solely for

administrative use, routes available solely for non-motorized use, and routes available for winter use. These respondents believed that the additional information would assist with orientation and increase compliance with designations. Other respondents suggested that the proposed directives state that an MVUM's primary purpose is enforcement. Some respondents suggested that MVUMs be made available to motorized recreation groups to enhance their distribution.

*Response.* An MVUM has a single purpose: To display designated roads, trails, and areas on an administrative unit or a ranger district. An MVUM informs visitors where, and in some cases when, they may operate certain classes of motor vehicles. After NFS roads, NFS trails, and areas on NFS lands have been designated (CFR 212.51) on an administrative unit or a ranger district and identified on an MVUM, it is prohibited to possess or operate a motor vehicle on NFS lands other than in accordance with those designations (36 CFR 261.13). The Forest Service has clarified the purpose of the MVUM in FSM 7716.41.

The MVUM is the primary enforcement tool for designation decisions. Therefore, the Forest Service believes that the MVUM needs to be separate from a visitor map and any other maps produced by the Forest Service. It is the responsibility of motor vehicle users to obtain a copy of the MVUM and to operate their motor vehicles consistent with the designations shown on the MVUM.

The Forest Service anticipates that it will be necessary to continue to produce visitor maps, recreation opportunity maps, and other types of maps to meet the needs of visitors to the NFS. Which additional maps to produce and how to make them available to the public are best determined at the local level, based on local circumstances.

The travel management rule requires that MVUMs be made available at the corresponding administrative units and ranger districts and that they be made available as soon as practicable on the Web site for those units and districts (36 CFR 212.56). The Forest Service anticipates that in some cases responsible officials will obtain assistance from cooperators in publishing and distributing the MVUM. The Forest Service also anticipates that individuals will forward, print, and copy the electronic version of MVUMs.

The Forest Service believes that it is important that the MVUM be produced consistently across the NFS. Visitors to the NFS should be able to pick up an MVUM anywhere in the country and see

travel management decisions displayed consistently, using the same symbols, text, and format. To ensure consistency, the final directives require responsible officials to use national protocols for each MVUM (FSM 7711.3 and 7716.41).

*Comment.* Some respondents wanted the proposed directives to require that when wheeled motor vehicle use is acceptable on a snow trail and an over-snow vehicle use map has been published, the designation for wheeled motor vehicles be shown on the over-snow vehicle use map.

*Response.* The Forest Service agrees with this suggestion. There will be times where routes are designated for motor vehicles and both wheeled and tracked motor vehicles will be operating over snow on those routes simultaneously. In these cases, the routes will be shown on the MVUM. If the over-snow vehicle use is regulated under 36 CFR 212.81 on the same route, the use by over-snow vehicles would be shown on an over-snow vehicle use map. The over-snow vehicle use map should also show the wheeled motor vehicle use. The Agency has added direction in FSM 7718 of the final directives to address this unique situation.

*Comment.* Some respondents believed that the proposed directives should require full rehabilitation of all decommissioned routes. Other respondents believed that decommissioning unauthorized routes should be mandatory. Some respondents wanted the proposed directives to include a requirement to establish a schedule for decommissioning unneeded routes. Other respondents did not want any routes decommissioned. Instead, these respondents wanted the Agency to consider including all unauthorized routes in the forest transportation system and designating them for motor vehicle use. Some respondents wanted the agency to consider designating routes that have been decommissioned. One respondent requested more explanation of how roads should be decommissioned.

*Response.* In connection with identification of the minimum road system, the 2001 roads rule requires responsible officials to review NFS roads on each national forest and national grassland and identify those that are no longer needed to meet forest resource management objectives and that therefore should be considered for decommissioning or other uses, such as trails (36 CFR 212.5(b)(2)). Decommissioning involves restoring roads to a more natural state. Decommissioning may involve reestablishing former drainage patterns,

stabilizing slopes, restoring vegetation, blocking the entrance to the road, installing water bars, removing culverts, reestablishing drainage ways, removing unstable fills, pulling back road shoulders, scattering slash on the road bed, completely eliminating the road bed by restoring natural contours and slopes, or other methods designed to meet the specific conditions associated with the unneeded road. Further guidance on road decommissioning is provided in FSM 7734. Identification of the minimum road system and decisions regarding when and how to decommission roads are left to the discretion of the responsible official. The roads rule does not address identification of the minimum trail system or decommissioning of trails.

The Agency believes that evaluation of which routes, including unauthorized routes, should be designated for motor vehicle use is also best handled at the local level by officials with first-hand knowledge of the particular circumstances, uses, and environmental impacts involved, in coordination with Federal, State, and local governmental entities and tribal governments and input from motor vehicle users and other members of the public.

*Comment.* Some respondents stated that allowing motor vehicles to park within one vehicle length of a designated route should not be allowed because it is inconsistent with 36 CFR 212.51(b), which limits motor vehicle use off designated routes to dispersed camping and big game retrieval. Some respondents wanted the agency to replace "one vehicle length" with a specified distance and to include provisions in the proposed directives for prohibiting parking under certain circumstances.

*Response.* Users of NFS lands have always been able to park along NFS roads and NFS trails when it is safe to do so, when it would not cause damage to NFS resources or facilities, and when it is not prohibited by an order issued under 36 CFR 261.50 or by State traffic law.

The travel management rule does not regulate parking of motor vehicles along NFS roads and NFS trails. NFS roads are subject to State traffic laws, which allow parking along the shoulder of public roads when it is safe to do so. Causing resource damage to NFS lands while operating a motor vehicle is prohibited by 36 CFR 261.15(h).

The final directives provide two options for specifying how far from a designated road parking will be allowed. Accordingly, FSM 7716.1, paragraph 1, of the final directives states: "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, a traffic sign, or an order (36 CFR 261.54). Road designations must specify either that they include parking within one vehicle length of the edge of the road or within a specified distance of up to 30 feet from the centerline of the road."

*Comment.* Other respondents suggested that the proposed directives allow OHVs to pull 8 to 10 feet off a route to let others, such as equestrians, pass.

*Response.* The Forest Service has adopted this suggestion for trails designated for motor vehicle use to promote safe, responsible, and courteous use and to reduce or eliminate use conflicts. The agency has revised FSM 7716.1 in the final directives to allow for pulling over for a safe distance on a designated trail to allow others to pass in either direction.

*Comment.* Some respondents commented that the Agency has devoted considerable time to development of strategic plans for recreation, but has not addressed recreation niches and how they relate to trail planning. These respondents suggested addressing these issues in the proposed directives.

*Response.* Recreation Facility Analysis (RFA) is an administrative process, incorporating identification of an administrative unit's recreation niche to inform facility master planning decisions for recreation sites. Development of strategic plans for recreation and facility master planning are beyond the scope of these directives, which address designation of roads, trails, and areas for motor vehicle use. However, recreation opportunities should be consistent with the applicable land management plan, and the Agency has included this clarification in FSM 2350.2, paragraph 2. In addition, FSH 2309.18, chapter 10, was recently updated (73 FR 61600; October 16, 2008) to address trail planning considerations.

*Comment.* Some respondents suggested that the authority to designate routes and areas be kept at the lowest possible level so as to maximize flexibility in the designation process. Other respondents believed that the authority to designate routes and areas should be placed at the highest possible level for consistency in the designation process.

*Response.* The travel management rule authorizes designations at either the level of an administrative unit or a ranger district (36 CFR 212.51(a)), and the agency did not propose changing

these provisions in the proposed directives. Therefore, these comments are beyond the scope of the directives.

The Forest Service believes that it is appropriate to give forest supervisors the discretion to delegate designation authority to district rangers. One of the main objectives of the travel management rule and its implementing directives is to provide a national framework for local decisionmaking. The Agency believes that the decision to designate NFS roads, NFS trails, and areas on NFS lands for motor vehicle use is best made by the forest or grassland supervisor or district ranger, in coordination with Federal, State, and local governmental entities and tribal governments and with public involvement. The requirements in the travel management rule and direction and guidance in the final directives provide the consistency needed in the designation process.

#### Section-Specific Comments and Responses

##### FSM 7703

*Comment.* Some respondents suggested that FSM 7703 in the proposed directives incorporate the phrase "minimize impacts on" from E.O. 11644 in reference to the factors to consider in designating trails and areas for motor vehicle use.

*Response.* The phrase, "the responsible official shall consider effects on the following, with the objective of minimizing," is contained in the travel management rule at 36 CFR 212.55(b) and was not proposed for revision. Therefore, this comment is beyond the scope of these directives.

The phrase in question is mandatory with respect to addressing environmental and other impacts associated with motor vehicle use of trails and areas. Moreover, the Agency believes that this phrase is consistent with E.O. 11644 and better expresses its intent. It is the intent of E.O. 11644 that motor vehicle use of trails and areas on Federal lands be managed to address environmental and other impacts, but that motor vehicle use on Federal lands continue in appropriate locations. An extreme interpretation of "minimize" would preclude any use at all, since impacts always can be reduced further by preventing them altogether. This interpretation would not reflect the full context of E.O. 11644 or other laws and policies related to multiple-use management of NFS lands. Neither E.O. 11644, nor these other laws and policies, establish the primacy of any particular use of trails and areas. The Agency believes that the phrase, "shall

consider \* \* \* with the objective of minimizing \* \* \*" will ensure that environmental impacts are properly taken into account, without categorically precluding motor vehicle use.

##### FSM 7703.11

*Comment.* Some respondents believed that the Agency should not limit designations to vehicle class and time of year in proposed FSM 7703.11, paragraph 3.

*Response.* The travel management rule states: "Motor vehicle use on National Forest System roads, National Forest System trails, and in areas on National Forest System lands shall be designated by vehicle class and, if appropriate, by time of year by the responsible official on administrative units or ranger districts of the National Forest System" (36 CFR 212.51(a)). The Agency has not proposed changing this provision. Therefore, this comment is beyond the scope of these directives.

##### FSM 7703.15

*Comment.* Some respondents suggested that proposed FSM 7703.15 require responsible officials to work with municipalities to craft long-term, integrated transit and recreation plans that consider locating recreation opportunities where they can be accessed by public transportation, bicycles, or other means besides a private motor vehicle. These respondents also suggested including provisions in the proposed directives that would encourage providing public transportation to popular locations in the NFS that are far from urban areas.

*Response.* The need to provide guidance regarding alternative modes of transportation is beyond the scope of these directives, which provide direction on designation of roads, trails, and areas for motor vehicle use.

However, the Forest Service agrees as a matter of principle with this *Comment.* The agency is working with the U.S. Department of the Interior, the U.S. Department of Transportation, and many municipalities under the Alternative Transportation for Parks and Public Lands provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. No. 109-59) to provide transit and alternative transportation in the NFS when appropriate. The agency has retained the proposed policy addressing that subject in the final directives at FSM 7703.15 and 7704.2.

##### FSM 7703.24

*Comment.* Some respondents believed that proposed FSM 7703.24, paragraph

4, should be modified to allow motor vehicle use for recreation events on roads that are open only intermittently.

*Response.* The Forest Service believes that this change is not necessary. Consistent with the travel management rule at 36 CFR 212.51(a)(8), the proposed and final directives at FSM 7703.24, paragraph 4, allow for motor vehicle use that is specifically authorized under a written authorization issued under Federal law or regulation. Recreation events involving motor vehicles are subject to the conditions in FSM 2353.28h.

#### **FSM 7703.25**

*Comment.* Some respondents stated that responsible officials should be able to designate temporary roads for motor vehicle use under proposed FSM 7703.25, paragraph 1.

*Response.* Under the travel management rule, only NFS roads, NFS trails, and areas on NFS lands may be designated for motor vehicle use (36 CFR 212.51(a)). NFS roads and NFS trails are a subset of forest roads and trails (36 CFR 212.1). Temporary roads and trails are not forest roads and trails (36 CFR 212.1) and therefore cannot be designated for motor vehicle use. Consequently, this comment is beyond the scope of these directives.

However, emergency motor vehicle use on temporary roads is exempt from designations under 36 CFR 212.51(a)(5), and motor vehicle use on temporary roads that is specifically authorized under a written authorization is exempt from designations under 36 CFR 212.51(a)(8).

#### **FSM 7703.26**

*Comment.* Some respondents suggested modifying the word "benefit" with the adjective "public" or "social" in proposed FSM 7703.26, paragraph 1, to be consistent with the discussion of social sustainability elsewhere in the proposed directives.

*Response.* The Forest Service agrees and has modified "benefit" with "social" and "economic" in FSM 7703.26, paragraph 1, in the final directives.

*Comment.* Some respondents suggested modifying the 3rd and 5th sentences in proposed FSM 7703.26, paragraph 2, to clarify that changes could be positive and expanding proposed FSM 7703.26, paragraphs 2a through 2c, to include positive effects, such as improved access and enhanced recreation opportunities.

*Response.* The Forest Service agrees and in the final directives has changed the word "impacted" to "affected" in the 3rd sentence and has changed the

word "impacts" to "effects" in the 5th sentence of FSM 7703.26, paragraph 2. In addition, the Agency has expanded the list of considerations to include effects on recreation opportunities and access to NFS lands.

#### **FSM 7705**

*Comment.* Some respondents commented that the definition of forest transportation atlas at FSM 7705 should include the environmental analysis and decision documents and the underlying electronic data that serve as the basis for the maps included in the atlas.

*Response.* The Forest Service does not believe it is appropriate to include environmental analysis and decision documents in the forest transportation atlas. However, the forest transportation atlas may be used to record decisions regarding forest transportation facilities and has added this use for the atlas to FSM 7711.2 in the proposed and final directives.

The Agency agrees that relevant electronic data need to be included in the forest transportation atlas and has therefore added to FSM 7711.2 in the proposed and final directives the requirement to use the Forest Service's national Infrastructure database and the transportation layer of the geographic information system for storage of information in a forest transportation atlas.

#### **FSM 7712.3**

*Comment.* Some respondents suggested that proposed FSM 7712.3, paragraph 6, require the use of travel analysis in setting maintenance priorities.

*Response.* FSM 7732.04c adequately addresses setting road maintenance priorities. This section requires forest and grassland supervisors to approve an annual road maintenance plan. The requirements for these plans include consideration of both short- and long-term needs; consideration of all sources of maintenance funds available during the fiscal year, including appropriated funds and deposits made under cooperative agreements; consideration of maintenance performed by timber purchasers, other contractors, permit holders, and cooperators; and consideration of the need for expenditures of appropriated road maintenance funds for road decommissioning (FSM 7732.11, para. 1). Responsible officials conduct maintenance planning in a variety of ways that are tailored to meet local needs and availability of resources. While travel analysis could be used for maintenance planning, the Agency does not believe it would be productive to

require each responsible official to do so.

#### **FSM 7712.4**

*Comment.* One respondent noted that the discussion about travel analysis in proposed FSM 7712.4 should address trails, as well as roads.

*Response.* The Forest Service has modified FSM 7712 and 7712.4 to provide for the use of travel analysis to inform decisions relating to the designation of NFS roads, NFS trails, and areas on NFS lands for motor vehicle use.

#### **FSM 7715.63**

*Comment.* One respondent believed that the requirements in proposed FSM 7703.14 and 7715.63 (FSM 7715.73 in the final directives), governing designation of areas for motor vehicle use, were not well coordinated.

*Response.* The Forest Service disagrees with this Comment. Both sections in the proposed and final directives are consistent with the travel management rule and each other.

#### **FSM 7715.66**

*Comment.* Some respondents believed that proposed FSM 7715.66 unnecessarily and illegally limited the agency's discretion regarding management of wilderness and primitive areas and requested that this section be removed.

*Response.* The Wilderness Act prohibits mechanical transport and motor vehicles in wilderness areas unless they are necessary to meet minimum requirements for administration of the areas or they are expressly authorized under the applicable enabling legislation for those areas. In addition, section 3(a)(4) of E.O. 11644 prohibits designation of off-road motor vehicle use in primitive areas. Accordingly, 36 CFR 212.55(e) and FSM 7715.66 in the proposed directives (FSM 7715.76 in the final directives) prohibit designation of roads, trails, and areas for motor vehicle use in wilderness areas and primitive areas, unless, in the case of wilderness areas, motor vehicle use is authorized by the applicable enabling legislation for those areas. Primitive areas are defined as areas in the NFS that were classified as primitive on the effective date of the Wilderness Act, September 3, 1964 (36 CFR 261.2; FSM 7705).

#### **FSM 7715.67**

*Comment.* Some respondents believed that the restrictions in proposed FSM 7715.67 on motorized mixed use would limit the network of OHV routes.

*Response.* The Forest Service anticipates the need to mix highway-legal and non-highway-legal traffic on some NFS roads at maintenance levels 3, 4, and 5 and on a significant percentage of NFS roads at maintenance level 2. These decisions will be advised by professional engineering judgment and, when appropriate, will include design features deemed appropriate in engineering studies. The Forest Service believes that the guidance provided in FSM 7715.77 and FSH 7709.55, chapter 30, in the final directives is necessary for public safety and enjoyment.

#### **FSM 7715.69**

*Comment.* Some respondents believed that proposed FSM 7715.69 (FSM 7715.79 in the final directives) should preclude exemptions from designations for people with disabilities. Some respondents believed that proposed FSM 7715.69 should promote more use of OHVs by disabled hunters.

*Response.* 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. Consistent with section 504, FSM 2353.05, and Title V, Section 507(c), of the Americans With Disabilities Act, wheelchairs and mobility devices, including those that are battery-powered, that are designed solely for use by a mobility-impaired person for location and that are suitable for use in an indoor pedestrian area are allowed on all NFS lands that are open to foot travel.

There is no legal requirement to allow people with disabilities to use motor vehicles on roads, on trails, or in areas that are closed to motor vehicle use. Restrictions on motor vehicle use that are applied consistently to everyone are not discriminatory. Generally, granting an exemption from designations for people with disabilities would not be consistent with the resource protection and other management objectives of designation decisions and would fundamentally alter the nature of the Forest Service's travel management program (29 U.S.C. 794; 7 CFR 15e.103).

#### **FSM 7716.11**

*Comment.* Some respondents wanted to know how new vehicles such as utility-terrain vehicles (UTVs) would be included in designations.

*Response.* Designations are made by vehicle class (36 CFR 212.51; FSM 7716.11). The final directives establish seven categories of motor vehicle classes for use when producing a motor vehicle use map: (1) Road open only to

highway-legal motor vehicles; (2) road open to all motor vehicles; (3) trail open to all motor vehicles; (4) trail open only to motor vehicles less than or equal to 50 inches in width; (5) trail open only to wheeled motor vehicles less than or equal to 50 inches in width; (6) trail open only to motorcycles; and (7) special vehicle designation (includes any classes of vehicles that are not already listed) (FSM 7711.3, para. 5a through 5g). UTVs could fall into category 2, 3, 4, 5, or 7, depending on their width.

#### **FSM 7716.12**

*Comment.* Some respondents suggested that proposed FSM 7716.12 require responsible officials to standardize seasonal restrictions to promote consistency and to make compliance with designations easier for the public.

*Response.* The Forest Service agrees that responsible officials should, to the extent possible, standardize seasonal restrictions for consistency. Accordingly, the Agency has revised FSM 7716.12, paragraph 2, in the final directives to emphasize consistency in designating roads, trails and areas by time of year.

#### **FSM 7716.4**

*Comment.* Some respondents suggested that proposed FSM 7716.4 provide direction on adequate signage to ensure the public knows which routes and areas are designated for motor vehicle use. Other respondents objected to providing direction on signage for designations so as to encourage reliance on MVUMs.

*Response.* The Forest Service will continue to use signs widely to provide information and to inform users on a variety of topics, including regulations and prohibitions. However, the Agency does not believe it is appropriate or necessary to require signing for designations. The Agency has found that posting routes as open or closed to particular uses has not always been effective in controlling use. Signs have proven difficult to maintain, are subject to vandalism, and may not be as high a priority for scarce road maintenance funds as providing for user safety and environmental protection. Therefore, the Agency believes that decisions regarding signing are best made at the local level, based on site-specific circumstances. However, the final directives suggest that each route designated for motor vehicle use have a route marker on the ground that corresponds to the route identification shown on the corresponding MVUM (FSM 7716.42, para. 2). The travel

management rule makes motor vehicle users responsible for obtaining MVUMs from the headquarters or Web sites of corresponding administrative units and ranger districts (36 CFR 212.56).

#### **FSH 7709.55, Section 10.02**

*Comment.* Some respondents believed that paragraphs 1, 2, and 3 in section 10.02 of proposed FSH 7709.55 conflict with each other, to the extent that it is impossible simultaneously to limit gridlock, simply confirm existing travel management decisions, limit inventories of routes, and engender trust and credibility in travel management.

*Response.* The Forest Service disagrees with this *Comment*. For many years, some administrative units have limited motor vehicle use to a designated system of roads, trails, and areas. There is nothing in the travel management rule or the final directives that requires these units to reconsider these travel management decisions. To the contrary, the travel management rule provides that these decisions may be incorporated into designations for motor vehicle use (36 CFR 212.50(b)).

The Forest Service believes that it is not necessary to inventory unauthorized routes to complete travel planning. Trust and credibility in designating NFS roads, NFS trails, and areas on NFS lands are best engendered through coordination with Federal, State, and local governmental entities and tribal governments per 36 CFR 212.53 and public involvement per 36 CFR 212.52.

#### **FSH 7709.55, Section 21.11**

*Comment.* Some respondents stated that proposed FSH 7709.55, section 21.11, should require use in travel analysis of the data required to be collected in proposed FSH 7709.55, Section 20.03, paragraph 2.

*Response.* The Forest Service believes that FSH 7709, section 21.11, paragraphs 1a through 1m, in the final directives adequately address what should be considered in travel analysis and track the guidance in FSH 7709.55, section 20.03, paragraph 2, regarding travel analysis.

#### **FSH 7709.55, Section 21.4**

*Comment.* Some respondents suggested that the Agency add guidance in FSH 7709.55, section 21.4, on use of data and analysis of issues associated with social and economic sustainability.

*Response.* The Forest Service believes that FSH 7709.55 adequately addresses social and economic effects by providing a framework for conducting travel analysis in general that gives the responsible official the discretion to design the analysis to address economic

and social issues unique to that administrative unit or ranger district.

#### **FSM 2352**

*Comment.* Some respondents objected to elimination of the concept of recreation road management. These respondents stated that travel analysis is focused exclusively on efficient road system management and fails to consider the value of recreation, which is a critical use of NFS lands.

*Response.* The Agency agrees that driving for pleasure and other forms of recreational use of motor vehicles are legitimate uses of the forest transportation system. The agency has provided guidance on these uses in FSM 2353.28.

Travel analysis is used both to identify the minimum road system per 36 CFR 212.5(b) and to designate NFS roads, NFS trails, and areas on NFS lands for motor vehicle use per 36 CFR 212.51(a).

Recreation management in general is beyond the scope of the final directives, which implement the travel management rule.

#### **FSM 2353**

*Comment.* Some respondents requested that the agency remove Web page references throughout this section and instead make a cross-reference to the FSM or FSH.

*Response.* The Forest Service's accessibility guidelines reside on a Web site. Therefore, references to this Web site must remain. The Agency has removed references to the Recreation and Heritage Resources Integrated Business Management Web site because the external Web site is no longer active and the Agency has incorporated much of this information in recently issued directives at FSM 2350 and FSH 2309.18 (73 FR 61600; October 16, 2008).

#### **FSM 2353.05**

*Comment.* Some respondents believed that the description of difficulty levels for NFS trails in proposed FSM 2353.05 could be improved by incorporating the variation in these levels from region to region. Other respondents suggested that the Agency provide a reference guide for assigning difficulty levels for all types of trails in all parts of the country.

*Response.* Current direction is adequate to allow trail managers to assign difficulty levels, as appropriate, to all different types of NFS trails in different parts of the country. In FSM 2353 and FSH 2309.18, chapter 20, of the recently issued directives implementing the Agency's national

trail classification system (TCS), the Agency clarified the definitions for and guidance on use of difficulty levels (73 FR 61600; October 16, 2008).

#### **FSM 2353.12**

*Comment.* Some respondents suggested that proposed FSM 2353.12 require posting of MVUMs on national forest Web sites.

*Response.* The travel management rule and the final directives require MVUMs to be made available to the public on Web sites of corresponding administrative units and ranger districts (36 CFR 212.56; FSM 7711.3).

#### **FSM 2353.18**

*Comment.* Some respondents suggested that the Agency provide guidance on development of TMOs in FSM 2353.18 or elsewhere in the FSM or FSH that is similar to the guidance on RMOs in FSM 7720 and 7730. These respondents also believed that there should be a clear link between TMOs and travel planning.

*Response.* The Agency has clarified direction on development of TMOs by adding a definition for "trail management objective" in FSM 2353.05 in the new directives implementing the TCS (73 FR 61600; October 16, 2008). In addition, the Agency has added a definition for the Trail Fundamentals and their components of Trail Class, Trail Type, Managed Use, Designed Use, and Design Parameters. The applicable Trail Type, Trail Class, Managed Use, Designed Use, and Design Parameters are reflected in the TMOs for each NFS trail. The link between TMOs and travel planning is established at FSM 2353.12 in the final directives, which requires identifying and documenting TMOs for all NFS trails. In addition, the directives governing application of the Design Parameters for motorized trails require those trails to be designated for motor vehicle use pursuant to 36 CFR 212.51 and displayed on an MVUM (FSH 2309.18, sec. 23.21, para. 1; 23.22, para. 1; and 23.23, para. 1). Management of the TCS is beyond the scope of these directives, which govern designation of routes and areas for motor vehicle use.

#### **FSM 2353.28**

*Comment.* Some respondents recommended including in proposed FSM 2353.28f a discussion of permits and fees for motorized use authorized under the Federal Lands Recreation Enhancement Act (REA).

*Response.* Issuance of special recreation permits and fees for those permits under REA are beyond the scope of these directives, which govern designation of NFS roads, NFS trails,

and areas on NFS lands for motor vehicle use.

*Comment.* Some respondents believed that proposed FSM 2353.28h should be modified to include language from FSM 2355 regarding issuance of permits for motorized recreation events. Other respondents stated that motorized recreation events should occur only on designated routes and in designated areas.

*Response.* The final directives at FSM 2353.28h appropriately incorporate direction from current FSM 2355. The direction not to issue permits for motorized recreation events that can be conducted off NFS lands was narrowed to include only competitive events and activities that are not appropriate for a national forest or national grassland setting. Rather than prohibiting motorized recreation events off designated routes and outside designated areas, FSM 2353.28h in the final directives requires the authorized officer to consider, with the objective of minimizing, adverse effects on natural and cultural resources; to promote activities in harmony with the natural terrain; and to enhance the experience and appreciation of the national forest setting.

#### **FSM 2353.33**

*Comment.* Some respondents suggested that proposed FSM 2353.33a identify who should prepare the establishment report for a National Recreation Trail. One respondent suggested that proposed FSM 2353.33a identify who conducts studies for National Historic Trails and who makes recommendations regarding establishment of National Historic Trails. One respondent suggested that proposed FSM 2353.04g identify a leadership role for the regional forester in the agency's trail program.

*Response.* Forest Supervisors are responsible for preparing establishment reports for National Recreation Trails (FSM 2353.04i, para. 6). Congress authorizes studies for National Historic Trails (16 U.S.C. 1241-1251), and Regional Foresters are responsible for conducting those studies (FSM 2353.04g, para. 3c). The Agency revised FSM 2353.04g in the final directives to identify the regional forester's responsibilities for trails.

#### **Summary of Changes to the Current and Proposed Directives**

To ensure timely and consistent implementation of the travel management rule, the Forest Service is amending travel management directives in FSM 2350, 7700, and 7710 and FSH

7709.55. While some of the changes in the directives simply reiterate direction in the travel management rule, other changes provide clarifying instructions, delegations of authority, or other guidance on implementing the travel management rule.

The final directives consolidate Forest Service policy for travel management into FSM 7700. The Agency changed the title of this chapter from "Transportation System" to "Travel Management" to be consistent with the new title of 36 CFR part 212. The Agency added authorities and responsibilities to FSM 7700.

The Agency added direction on travel analysis and route and area designation to FSM 7710, "Travel Planning." In addition, the Agency revised the Travel Planning Handbook, FSH 7709.55, to identify a process for designating roads, trails, and areas, to describe travel analysis, and to identify a process for conducting engineering analysis. Directives governing road maintenance and operations remain in FSM 7730, Operations and Maintenance, and FSH 7709.59, the Road System Operations Handbook.

The Agency consolidated management direction for motor vehicle use in FSM 2350, Trail, River, and Similar Recreation Opportunities. Directives governing trail maintenance and operations remain in FSM 2350 and the Trails Management Handbook, FSH 2309.18.

The following lists the substantive changes made to the proposed directives. These changes were based on public comment or on the Agency's 3 years of experience in implementing the travel management rule. In addition to these substantive revisions, the Agency improved organization, enhanced clarity by renaming sections, and removed duplication.

#### **FSM 2350**

*2350*—Added rock climbing to the list of recreational activities that involve relatively low-density use and limited infrastructure.

*2350.2*—Clarified that recreation opportunities provided must be consistent with the applicable land management plan.

*2350.2, paragraph 3*—Added the phrase, "on the ground management, including law enforcement."

*2350.3, paragraph 7*—Added direction not to maintain unauthorized trails.

*2353.01b, paragraph 3*—Clarified language regarding prohibitions that apply in wilderness and primitive areas.

*2353.03, paragraph 3*—Clarified that an NFS trail may not have more than one national trail classification.

*2353.03, paragraph 6*—Added that trails may be included in the forest transportation atlas even if they are under the jurisdiction of another entity.

*2353.03, paragraph 8*—Added direction to designate trails for motor vehicle use.

*2353.04d, paragraph 10*—Added direction to disseminate information to the public to enhance understanding of the proper use of motor vehicles.

*2353.04e, paragraphs 4 and 5*—Added responsibilities to issue technical specifications for signs and posters and to approve non-standard symbols and traffic control devices.

*2353.04g, paragraph 1*—Added general responsibilities for NFS trails.

*2353.04i, paragraph 11*—Clarified that the responsibility for temporary, emergency closures may not be delegated to district rangers.

*2353.04j*—Added responsibilities, including approval of TMOs.

*2353.05*—Added definitions for "motorcycle," "over-snow vehicle," "route," and "utility terrain vehicle."

*2353.23, paragraph 2*—Added direction to consult with the regional sign coordinator for approval of non-standard signs.

*2353.25*—Provided direction to consider available resources and costs and decommissioning when alternative routes are available.

*2353.28, paragraphs 3 and 4*—Added direction on linking routes into a trail system and use conflicts.

*2353.28a, paragraph 2*—Added direction to use appropriate and effective communication methods to ensure understanding of motor vehicle management strategies and requirements.

*2353.28b, paragraph 3*—Added direction to review mixed use analysis when existing conditions change.

*2353.28c*—Deleted redundant direction and referred to FSM 7716.42.

*2353.28d, paragraph 5*—Added requirements regarding signing for temporary emergency closures.

*2353.28h*—Modified direction regarding when recreation event permits should not be issued.

*2353.28i*—Added a requirement to use applicable criteria in 36 CFR 212.55 as a basis for identifying effects to monitor.

*2353.28j*—Added section entitled, "Relationship Between Motorized NFS Roads and NFS Trails."

*2353.53*—Added additional guidance regarding the type of trail experience provided.

*2353.54*—Added examples of elements to address when describing the history of a National Recreation Trail.

#### **FSM 7700, Zero Code**

*7703.11*—Removed erroneous direction regarding over-snow vehicle management.

*7703.23*—Removed direction regarding management of non-motorized recreation.

*7703.26*—Added provisions regarding the positive effects of adding roads to the forest transportation system.

*7703.27*—Added section entitled, "Converting NFS Roads to NFS Trails and Managing Coincidental Routes."

*7705*—Added a definition for "primitive area."

#### **FSM 7710**

*7710.3*—Clarified that a science-based travel analysis will be used when identifying the minimum road system.

*7710.42*—Added a responsibility for the Washington Office Director of Engineering to produce a production guide for MVUMs.

*7710.43*—Added a responsibility for the Director of Recreation, Heritage, and Volunteer Resources to monitor implementation of the travel management rule.

*7710.44*—Added a responsibility for regional foresters to ensure that MVUMs comply with the production guide.

*7711.2, paragraph 3b*—Clarified that the forest road atlas constitutes the forest development road system plan for purposes of the National Forest Management Act (16 U.S.C. 1608).

*7711.3*—Included a seventh standard vehicle class category.

*7712, paragraph 1*—Clarified that travel analysis is not required to inform decisions related to the designation of roads, trails, and areas for those administrative units and ranger districts that have issued a proposed action as of the effective date of these directives.

*7712, paragraph 2*—Modified direction to state that travel analysis may address identification of the minimum road system and route and area designation decisions separately or simultaneously.

*7712, paragraph 3*—Added direction to state that proposals resulting from travel analysis may be addressed in the same or different environmental analyses.

*7712, paragraph 7*—Clarified that a roads analysis completed in accordance with Publication FS-643 satisfies the requirement for travel analysis relative to roads.

*7712.3*—Clarified that travel analysis is not required for decommissioning unauthorized routes.

7712.4, paragraph 1—Clarified that travel analysis satisfies the requirement for incorporating a science-based roads analysis at the appropriate scale when identifying the minimum road system.

7712.4, paragraph 5—Clarified that a report produced subsequent to a roads analysis conducted pursuant to Publication FS-643 also meets the requirement to use travel analysis relative to roads.

7715.03—Added a statement that administrative units and ranger districts should avoid adding routes to the forest transportation system unless there is adequate provision for their maintenance.

7715.5, paragraph 2f—Removed grazing allotments as specific criteria to be considered when designating trails and areas, since they are not identified as criteria to be considered when designating trails and areas in the travel management rule.

7715.73—Added guidance on use of signs to identify the boundaries of a designated area; added a requirement to establish and document management objectives for designated areas; and clarified that motor vehicle use in a designated area cannot be restricted by the type of activity.

7715.74—Added guidance on including in a designation the limited use of motor vehicles within a specified distance of certain forest routes, rather than merely designated routes, solely for the purposes of big game retrieval and dispersed camping; clarified the use of terminal facilities for dispersed camping; and suggested coordinating dates for motor vehicle use for big game retrieval with the appropriate State agency.

7715.77—Clarified that motor vehicles licensed under a State green sticker or other similar program do not meet the definition of a highway-legal vehicle for purposes of the agency's directives.

7715.77—Added a provision regarding use of engineering judgment to determine if and to what extent an engineering analysis is needed to ascertain whether over-snow vehicle use should be allowed on roads that are designated for highway-legal vehicles only.

7716.1, paragraph 1—Revised to require that road designations provide for parking within one vehicle length of the edge of the road or within a specified distance of up to 30 feet from the centerline of the road.

7716.12, paragraph 2—Added emphasis on use of standard seasonal designations.

7716.13—Identified limitations on designations for big game retrieval.

7716.41—Added direction to meet requirements for the MVUM established by the Washington Office Director of Engineering.

7717.1, paragraph 1—Added the requirement to establish a regular schedule for monitoring motor vehicle use; to monitor for consistency with the applicable land management plan; and use applicable criteria established in 36 CFR 212.55 as a basis for identifying effects to monitor. Stated that if over time monitoring of motor vehicle use in a designated area identifies a well-established system of routes, consider designating those routes.

7718.1, paragraph 1—Clarified that over-snow vehicle use may be prohibited or restricted pursuant to orders issued under 36 CFR part 261, subpart B, and that wheeled motor vehicles that are modified with tracks and/or skis meet the definition of "over-snow vehicle."

#### **FSH 7709.55, Chapter 10**

*Section 13*—Included a statement that the steps of the travel planning process overlap with the steps of the travel analysis process and that planners should avoid duplication of effort.

*Section 15.1*—To be consistent with FSM 7711.3, included direction on the contents of an MVUM and direction on how to notify the public that an MVUM is available.

*Section 15.2*—Identified a possible need to adjust RMOs and TMOs after travel management decisions are made.

*Section 16.3*—Added the requirement to use applicable criteria established in 36 CFR 212.55 as a basis for identifying effects to monitor.

#### **FSH 7709.55, Chapter 20**

*Section 21.1, paragraph 3*—Added the requirement to identify the scope of travel analysis.

*Section 21.12*—Deleted the example, since it did not clearly illustrate effects on the timeframe for implementing travel management decisions.

*Section 21.6*—Deleted the requirement to include a map in a travel analysis report.

#### **Regulatory Certifications**

##### *Environmental Impact*

The final directives provide policy and procedural guidance to Agency officials implementing the travel management rule. Travel management decisions implementing these directives are made with appropriate site-specific environmental analysis and public involvement. The final directives have no effect on the ground until designations of roads, trails, and areas

are completed at the field level, with opportunity for public involvement, as appropriate. Section 31b of FSH 1909.15 (57 FR 43180, September 18, 1992) excludes from documentation in an environmental assessment or environmental impact statement "rules, regulations, or policies to establish Servicewide administrative procedures, program processes, or instructions." The Agency has concluded that these final directives fall within this category of actions and that no extraordinary circumstances exist that require preparation of an environmental assessment or environmental impact statement.

##### *Regulatory Impact*

These final directives have been reviewed under USDA procedures and E.O. 12866 on regulatory planning and review. The Office of Management and Budget (OMB) has determined that these directives are not significant for purposes of E.O. 12866. These final directives cannot and may not reasonably be anticipated to lead to an annual effect of \$100 million or more on or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; raise novel legal or policy issues; or materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of beneficiaries of those programs. Accordingly, these final directives are not subject to OMB review under E.O. 12866.

##### *Regulatory Flexibility Act Analysis*

The Agency has considered these final directives in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). The final directives require identification at the field level, with public input, as appropriate, of a designated system of roads, trails, and areas for motor vehicle use. The Agency has determined that these final directives will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act because the directives will not impose recordkeeping requirements on them; will not affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market. Therefore, the final directives will not have any effect on small entities as

defined by the Regulatory Flexibility Act.

#### *No Taking Implications*

The Agency has analyzed these final directives in accordance with the principles and criteria contained in E.O. 12630. The Agency has determined that these final directives will not pose the risk of a taking of private property.

#### *Federalism and Consultation and Coordination With Indian Tribal Governments*

The Agency has considered these final directives under the requirements of E.O. 13132 on federalism and has determined that the final directives conform to the federalism principles set out in this E.O.; will not impose any compliance costs on the States; and will not have substantial direct effects on the States, the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the Agency has determined that no further assessment of federalism implications is necessary.

Moreover, these directives do not have Tribal implications as defined by E.O. 13175, Consultation and Coordination With Indian Tribal Governments, and therefore advance consultation with Tribes is not required.

#### *Energy Effects*

The Agency has reviewed these final directives under E.O. 13211 of May 18, 2001, Actions Concerning Regulations That Significantly Affect the Energy Supply. The Agency has determined that these final directives do not constitute a significant energy action as defined in the E.O.

#### *Unfunded Mandates*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Agency has assessed the effects of these final directives on State, local, and Tribal governments and the private sector. These final directives will not compel the expenditure of \$100 million or more by any State, local, or Tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

#### *Controlling Paperwork Burdens on the Public*

These final directives do not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already

required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

#### **Access to the Final Directives**

The Forest Service organizes its directive system by alphanumeric codes and subject headings. The intended audience for this direction is Forest Service employees charged with travel planning and management. The full text of FSM 2350, 7700, and 7710 and FSH 7709.55 is available electronically on the World Wide Web at <http://www.fs.fed.us/im/directives/>.

Dated: November 4, 2008.

#### **Abigail R. Kimbell,**

*Chief, Forest Service.*

[FR Doc. E8–29041 Filed 12–8–08; 8:45 am]

BILLING CODE 3410–11–P

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### **Applications for Duty-Free Entry of Scientific Instruments**

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States. Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before (Insert date 20 days after publication in the FEDERAL REGISTER). Address written comments to Statutory Import Programs Staff, Room 2104, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 2104. *Docket Number: 08–055.* Applicant: House Ear Institute, 2100 W. Third Street, Los Angeles, CA 90057. Instrument: Electron Microscope, Model Technai G2 20 TEM. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be installed in a multi-user shared imaging facility and is intended to be used in hearing research on the cochlea, the mammalian organ of hearing. Specifically, it will be used for examining the cochlear tissues, cells and cell fragments to determine how the normal cochlea functions and how hearing defects affect

ultrastructural morphology and protein distribution. Application accepted by Commissioner of Customs: November 3, 2008.

Dated: December 3, 2008.

#### **Christopher Cassel,**

*Director, Statutory Import Programs Staff, Import Administration.*

[FR Doc. E8–29124 Filed 12–8–08; 8:45 am]

Billing Code: 3510–DS–S

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–588–804]

#### **Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Ball Bearings and Parts Thereof from Japan**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** On September 11, 2008, the Department of Commerce published in the **Federal Register** the final results of the administrative reviews of the antidumping duty orders on ball bearings and parts thereof from France, Germany, Italy, Japan, and the United Kingdom. The period of review is May 1, 2006, through April 30, 2007. Based on the correction of a ministerial error with respect to NTN's home-market packing expense, we have changed the margin for NTN Corporation (NTN) and, as a result, the margins for non-selected respondents for the final results of review with respect to the antidumping duty order on ball bearings and parts thereof from Japan.

**EFFECTIVE DATE:** September 11, 2008

**FOR FURTHER INFORMATION CONTACT:** Thomas Schauer or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–0410 and (202) 482–4477, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On September 11, 2008, the Department of Commerce (the Department) published in the **Federal Register** the final results of the administrative reviews of the antidumping duty orders on ball bearings and parts thereof (ball bearings) from France, Germany, Italy, Japan, and the United Kingdom. See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping*