

APPENDIX I
STANDARD CONSULTATION PROTOCOL
FOR TRAVEL MANAGEMENT ROUTE DESIGNATION

*Developed Pursuant to Stipulation IV.A. of the Region 3
First Amended Programmatic Agreement
Regarding Historic Property Protection and Responsibilities*

New regulations for travel management on National Forest Systems lands (36 CFR §212, *Travel Management*) require the designation of those roads, trails and areas that are open to motor vehicle use. Designations will be made by class of vehicle and, if appropriate, by time of year. Once such roads, motorized trails, and areas are designated, use of motor vehicles off the designated system will be prohibited. Such a clearly designated system will greatly reduce cross-country motorized use and the development of unauthorized roads and trails. Restricting travel to the designated system of roads, motorized trails, and designated areas will:

- Protect natural and cultural resources
- Enhance public enjoyment of the national forests
- Promote the safety of all users
- Minimize conflicts among the various users of National Forest System lands

Travel management designation does not address road maintenance, repair, closures, decommissioning or re-opening previously closed roads and trails. These activities are separate actions that will require individual Section 106 consultation. The designation will authorize motorized use, however, and this use has the potential to affect historic properties. In keeping with the Region 3 *First Amended Programmatic Agreement Regarding Historic Property Protection and Responsibilities* (Programmatic Agreement), all unevaluated properties will be treated as if eligible, and therefore considered historic properties for the purposes of this protocol.

Stipulation IV.A.4 of the Programmatic Agreement provides for the development of “Standard Consultation Protocols” for certain classes of undertakings where effects on historic properties and resulting protection and treatment are similar and repetitive. Such protocols specify standard procedures for the identification, evaluation, and treatment of historic properties. In accordance with the Programmatic Agreement, in developing this protocol the Forest Service consulted with the Arizona, New Mexico, Oklahoma, and Texas State Historic Preservation Officers (SHPOs), the Advisory Council on Historic Preservation (Council), and 50 Indian tribes for whom properties within National Forests might have traditional cultural or religious significance.

Once approved by the Forest Service, the Council, and the SHPOs and once formally incorporated into the Programmatic Agreement as Appendix I, the Forests may implement the procedures in this protocol, in lieu of standard consultation in the

Programmatic Agreement or the Council's regulations (36 CFR §800), to take into account the potential effects of travel management designations on historic properties.

On Region 3 National Forests there are approximately 54,000 miles of system roads, approximately 37,000 miles of which are currently open for motor vehicle use. There are approximately 8,400 miles of system trails, approximately 2,300 miles of which are currently open for motor vehicle use. On most Forests, however, cross-country travel is not prohibited, with the exception of wilderness areas and similar special areas. Over time, this has led to the creation of numerous unauthorized or user-created roads (the prolific two-tracks) and trails, and many areas where resources are being damaged by cross-country motor vehicle use.

In Region 3, more than 66,500 historic properties have been recorded in surveys of approximately 3,600,000 acres. It is estimated that this represents only about 16% of the total historic properties on Forest Service lands in the Region. Many of these resources are located in or near roads, trails, or areas open for cross-country motorized use.

These impacts are accelerating as recreational use of off-highway vehicles (OHV) has increased in popularity. For example, the number of OHV users in the United States has climbed tenfold in the past 32 years, from approximately 5 million in 1972 to 51 million in 2004. More than 11 million people using OHVs visited national forests and grasslands in 2004.

The Travel Management regulations require that each Forest or District designate a system of roads, trails, and areas that are open to motor vehicle use. The Forest Service has directed that these designations are to be completed by September 30, 2009. The designations, which may be done Forest-wide or by District(s), will include designation of:

- Roads open to motor vehicle use
- Trails open to motor vehicle use
- Areas designated for cross-country motor vehicle use (optional)
- Areas or routes open for accessing dispersed campsites (optional)
 - fixed distances along certain roads or trails for dispersed camping
 - specific routes or spurs to access specific dispersed camping sites
- Areas or routes open for big game retrieval (optional)
 - fixed distances along certain roads or trails during hunting season

PROCEDURES

The Forests shall ensure that the following procedures are carried out:

I. SCOPE.

This protocol covers the designation of roads, trails and areas for motor vehicle use which will be included in a Forest or Ranger District's motor vehicle use map. Management activities such as road maintenance, repairs, closures, decommissioning, or

re-opening previously closed roads and trails will require separate Section 106 compliance, as provided for in the Region -3 First Amended Programmatic Agreement Regarding Historic Property Protection and Responsibilities.

II. EXEMPTIONS.

The following are exempt from further Section 106 review or consultation:

A. Existing system roads and trails and their associated constructed features. The FS and the SHPOs agree that designation of existing system roads and trails and their associated constructed features that are already open for motor vehicle use will have little or no potential to affect historic properties. Constructed features include parking areas, shoulders, pullouts, turnouts, trailheads, information kiosks, short system roads or spurs, and other intentionally constructed structures and facilities. If heritage resources are present on these roads, motorized trails, or constructed features, they were likely impacted by the original construction or formation of the road or trail and subsequent maintenance and/or use. The signatories agree that some level of disturbance through continued motor vehicle use on these existing routes can be accepted in situations where the integrity of the portion of a site within the constructed road has already been substantially compromised. This will not preclude the FS from implementing protection measures where unacceptable impacts are occurring or from changing the designation at a later date. Each year, for example, the forest will have an opportunity to print new travel management maps, and forests will have the latitude to change designations and amend the maps at that time.

System roads and trails are defined as those identified as “National Forest System Roads” and “National Forest System Trails” in the FS corporate database system, as defined in the Region 3 *Travel Management Rule Implementation Guidelines*, dated 06/12/2006. These roads and trails have Forest Service numbers, usually appear on current visitor and travel management maps, and are reported on in the FS Annual Roads Accomplishment Report and similar accomplishment reports.

B. Existing fixed-distance corridors along existing roads where motorized use has previously been authorized in approved Forest Plans or covered by past decisions, except where on-going impacts to historic properties are known or suspected.

C. Pull-off parking adjacent to existing roads, within a vehicle length,

D. Specific limited-use authorizations such as those for game retrieval, fuelwood gathering or other resource procurement, or management of range allotments, for example that are covered by separate NEPA decisions,

E. Decisions not to designate roads, trails, or cross-country travel areas for motor vehicle use, unless the decision will adversely affect an existing road or trail that is considered to be a historic property,

F. Decisions to restrict further travel on existing system roads, trails and areas.

III. SITUATIONS REQUIRING CONSULTATION.

Designation of roads, trails, and areas other than those identified in Section II above.

This includes the designation of:

- previously closed roads and trails not open to motor vehicle use
- non-system roads and trails, such as unauthorized user-created roads, old temporary roads, and other unclassified roads and trails
- non-system fixed routes or spurs and their associated features to access dispersed camp sites or areas, including the dispersed camp sites and areas themselves
- fixed-distance corridors along certain roads, including exempt roads, that will be designated for dispersed camping
- areas open to cross-country motorized travel
- roads or trails that are considered to be historic properties
- proposed new construction, reroutes, and realignments

IV. PUBLIC INVOLVEMENT.

The Travel Management regulations require the Forest Service to provide for public participation in the process of designating roads, trails, and areas for motor vehicle use. Designation decisions will be made by Forest Supervisors or District Rangers working closely with local communities, motorized and non-motorized recreation groups, and other interested parties. Likewise, the Advisory Council's regulations, 36 CFR §800.2(d) and 800.3(e), require the Forest Service to provide for public participation in the Section 106 process. Local units will notify the public of opportunities to participate in travel planning. Each Forest shall use the NEPA scoping process and the procedures in Section II of the Programmatic Agreement to seek and consider the views of the public regarding designation the travel management system.

V. TRIBAL CONSULTATION.

The Forest will use the principles and procedures in Section III of the Programmatic Agreement to ensure that tribes are consulted as early as possible in the planning process, and properties of traditional cultural and religious significance are identified and addressed. If traditional cultural properties are identified, the Forest will consult with the affected tribes regarding inventory, evaluation, effect, and protection or treatment measures. The SHPO will be a party to these consultations if the traditional cultural properties are also archaeological or architectural sites. Tribal issues concerning access to and use of traditional cultural properties will be addressed in the planning and consultation process.

VI. PLANNING.

A. A FS professional cultural resource specialist will be included in or will provide input to inter-disciplinary teams set up to review the Forest or District's existing roads and

trails systems and to conduct the NEPA analysis for additions, deletions, or changes to that system, including designation of areas where cross-country travel is authorized.

B. Heritage resource information will be considered when identifying and choosing among the range of possibilities for the proposed designated travel management system. Known or potential impacts to historic properties, including historic roads or trails, will be one of the criteria considered in determining whether or not specific roads, trails or areas should be designated for motor vehicle use.

VII. INVENTORY REQUIREMENTS.

A. Inventory requirements, priorities, and strategies for road, motorized trail, or travel area designations identified in Section III may vary depending on the nature and potential effect of the proposed designations, and the expected nature and distribution of historic properties based on existing inventory information. The level of need and extent of new field surveys or inspections will be proposed by a Professional Cultural Resource Specialist and approved by the Forest Archaeologist based on the guidelines provided in this section. This stipulation will take the place of pre-consultation with SHPO concerning the level, extent, and design of inventory for the designation of roads, trails, and areas for motor vehicle use. For each Forest or District road, motorized trail, or travel area designation, a FS professional cultural resource specialist will review the proposed travel route designations using the following guidelines.

1. Prefield Research

The Forests will utilize relevant information to assess the potential to affect historic properties and the expected nature and distribution of heritage properties that may be affected. The Forest Archaeologist shall consider the following to determine the need and extent of survey under this protocol:

(a) The expected nature and severity of all associated impacts based on:

- history of use
- current use levels
- expected future use levels
- types and intensity of motorized use
- slope, topography, and soil conditions
- GIS layers and maps including soils, vegetation type, slope
- current condition of the road, trail or area, and level of disturbance
- known incidents of damage to heritage resources
- results of the Travel Analysis Process (TAP)

(b) The expected nature and distribution of heritage resources based on:

- degree of previous surveys for cultural resources
- known site density
- types of sites
- heritage GIS survey and site layers or hard copy survey, NMCRIIS, and site atlases

- previous heritage reports and site forms
- cultural resource overviews and planning assessments
- information obtained through tribal consultation and public input, other resource specialists familiar with the project area, permittees or other users
- historic maps, topographic maps, aerial photographs, and ortho-photo quads

2. Field Survey.

(a) Based on the results of the prefield research described under VII.(A)(1) above, the following criteria will be used to determine the relative level of field survey to be conducted:

1. Areas previously surveyed to current standards, as defined in paragraph V.C.2 of the Programmatic Agreement, do not have to be resurveyed.
2. No field survey is required for the portions of roads, trails or areas on 40% or greater slopes, where site densities and impacts are expected to be low.
3. The following areas will require 100% surveys:
 - where site density is expected to be high
 - where site densities are unknown and expected visitor use or impacts will be high
 - where significant historic roads or trails, or historic constructed road features that manifest craftsmanship or special engineering considerations, such as CCC-era culverts or bridges, or other associated historic features that are considered to be historic properties are in the area of potential (APE) effect
 - where reroutes or new construction of roads and motorized trails is proposed
4. The following areas may be surveyed at less than 100%:
 - where known site density is low
 - where prior use has already disturbed the road, motorized trail, or area and continued use is not expected to cause additional significant damage to heritage resources

(b) For areas subject to less than 100% survey, the size and design of the sample surveys shall be determined by the Forest Archaeologist. If no heritage resource concerns are identified following the sample survey, no further survey will be necessary. If during the sample survey it is determined that the site density is high, or because of the types of heritage resources, soil conditions, or other factors heritage resources would be highly susceptible to damage from motor vehicle use, the remaining portions of the road, motorized trail, or area may require 100% survey.

(c) Survey width of 7.5 meters each side of the centerline is the minimum width appropriate for most motorized trails or existing roads. Increase the survey coverage as needed in areas where vehicular use will extend beyond 7.5 meters from the centerline in order to minimize the likelihood that follow-up surveys will be needed in the future.

Where new construction of roads is proposed, surveys should encompass a corridor no less than 30 meters on each side of the centerline (60 total meters in width) to cover all turnout ditches, right-of-way clearing and construction areas.

B. Limited subsurface testing within the existing roadbed to gather sufficient information to determine the presence or absence of intact cultural deposits is acceptable under certain conditions. Limited tests include auguring, trowel testing, and shovel testing and do not require pre-consultation with the SHPO or tribes. For unevaluated sites, these limited tests are part of the inventory process. If intact cultural deposits, features, etc. are encountered, additional testing will stop in the area of the discovery and the results will be documented. For sites that have previously been determined eligible, limited testing in the roadbed should only be undertaken when it appears that there are no cultural deposits in the roadbed, and the testing is used to verify the lack of cultural remains. If intact cultural remains are encountered, additional testing will stop and the results will be documented. Limited testing may not serve as mitigation. For the purposes of this protocol, the consulting parties agree that the limited testing in the roadbed as described in this section will have no adverse effect on the historic property.

VIII. PHASING.

Under certain circumstances it may be necessary to phase or defer the inventory until after the NEPA decision provided that:

- the roads, trails and areas that are subject to phased surveys will not be shown on the maps distributed to the public until after the survey and Section 106 process is completed. These roads, trails and areas will be included in the NEPA analysis and the NEPA decision
- the initial Section 106 consultation report to the SHPO and the NEPA document will include a schedule for the completion of remaining inventories
- the phased inventories will be accomplished within 3 years from date of final agency decision on designation
- the expected nature and distribution of historic properties, the anticipated effects, and proposed phased approach are discussed in the NEPA analysis and in the initial Section 106 consultation report submitted to the SHPO prior to the NEPA decision
- the protection measures contained in Section IX below will be sufficient to protect historic properties
- there are no known public issues or identified tribal concerns regarding historic properties, including traditional cultural properties

During the phased inventory, existing dispersed camping sites and their associated access routes may be identified as open for camping following the NEPA decision and prior to the completion of the phased Section 106 compliance process under the following conditions:

- where the dispersed camping sites are already disturbed and the Forest Archaeologist agrees that little additional impacts to historic properties is expected in the short term (one to three years), and

- where no known or suspected impacts to historic properties are occurring

Dispersed camping sites with known or suspected impacts to historic properties shall not be identified as open until after the Section 106 compliance process has been completed and mitigation or protection measures have been implemented. If impacts to historic properties cannot be resolved, the camping site shall be closed to camping.

IX. PROTECTION MEASURES.

Forests shall draw from but not be limited to the following protection measures to ensure that adverse effects to historic properties are avoided or minimized:

- dropping proposed motorized road, trail or area designations to avoid or reduce direct or indirect effects on historic properties
- re-routing or modifying designated roads or trails to protect historic properties. Rerouting or modifying roads will be subject to Section 106 compliance prior to ground disturbance, as provided for in the Programmatic Agreement
- use of temporary emergency closures, if needed, while unacceptable effects on historic properties are addressed
- revision of designations, if determined necessary to protect historic properties from adverse effects
- monitoring to ensure that impacts to historic properties are not occurring or that protection measures are working
- leaving roads, trails, areas off the map distributed to the public until after all Section 106 compliance needs are met.

X. RESOLVING ADVERSE EFFECTS.

If the Forest Service finds, in consultation with the SHPO and tribes, that the protection measures outlined in Section IX above cannot be applied and/or the undertaking will have an “adverse effect” on historic properties, the FS shall notify the Council as specified in Section VII of the Programmatic Agreement and shall consult to resolve adverse effects following the procedures in 36 CFR 800.6. If the determination of adverse effect is made after the NEPA decision, as part of a phased survey for example, the FS shall amend its decision if necessary to disclose the effects.

XI. REPORTS.

A. Reports for travel management NEPA analysis and Section 106 consultation will include:

- a brief description of the area under analysis and existing travel routes
- nature of the decision to be made and brief summary of proposed action and alternatives, including ground-disturbing proposed activities
- percent of travel routes inventoried to current standards and brief summary of the nature and distribution of historic properties, including traditional cultural properties, if any, and the results of tribal contacts
- nature and results of any inventories and inspections conducted;

- determinations of effect
- identification of mitigation measures to avoid or minimize effects to historic properties
- recommendations (site-specific protection measures, monitoring etc)
- a statement that future ground-disturbing management practices will be contingent upon completion of the identification and protection of historic properties and compliance with applicable provisions of NHPA. This will include acceptance of the inventory report by the Forest Archaeologist or other FS archaeologist with delegated responsibilities and appropriate SHPO consultation in accordance with Stipulation V.E. of the Programmatic Agreement

B. These reports, along with any monitoring or inspection reports, will be submitted in accordance with Stipulation V.E. of the Programmatic Agreement.

XII. CONSULTATION PROCEDURES.

Where not specifically provided for in this protocol, forests shall use the procedures contained in Section V of the Programmatic Agreement regarding consultation on inventory, evaluation, determination of eligibility and effect, and treatment of historic properties.

XIII. MONITORING.

Monitoring not specified as part of the Section 106 consultation report or NEPA decision document will be conducted as part of the day-to-day activities of the professional cultural resource specialists. When archaeologists are in the field conducting surveys for timber sales or fuelwood sales, for example, they will be using System roads and trails. The archaeologists will use these opportunities to observe and report on motorized vehicle activities, the effectiveness of the protocol, and potential impacts to heritage resources. Any incidents of damage to historic properties from motor vehicle use will be reported, and the archaeologists will draw upon the protection measured outlined in Section IX above to ensure the effects are avoided or minimized until mitigation measures, if needed, are developed and implemented in consultation with SHPO. Results of these informal monitoring activities will be discussed in the annual meetings with the SHPOs as provided for in Section XIII(D) of the Programmatic Agreement.

XIV. DISCOVERY SITUATIONS.

Previously unrecorded properties that are encountered during the course of implementing a ground-disturbing activity associated with travel management shall be protected in the same manner as other eligible or unevaluated properties, using the protection measures in Section IX above. If a Forest determines that an eligible or unevaluated property has been damaged, the Forest shall halt all activities in the area of actual or possible damage and shall notify SHPO and any affected tribes concerning proposed actions to resolve adverse effects. The SHPO shall respond within 48 hours of notification. The Forest shall carry out the agreed-upon actions.

XV. RELATED ACTIVITIES REQUIRING CONSULTATION.

Subsequent management of designated roads, motorized trails, and motorized areas, including road maintenance, repairs, closures, decommissioning, re-opening previously closed roads and trails, or any MOA developed to resolve adverse effects to a specific historic property within or affected by a road, motorized trail or motorized area, will be subject to separate standard Section 106 consultation as defined in the PA.

XVI. ANNUAL REVIEW.

As part of the Annual Meeting carried out pursuant to the Programmatic Agreement (Stipulation XIII.D), the Forests, the SHPOs, and the Council, if it chooses to participate, shall discuss the activities carried out pursuant to this protocol, reevaluate its procedures, and determine whether continuation, modification, or cancellation is appropriate. Since individual decisions and projects will be submitted to SHPOs for review in accordance with the normal procedures in the Programmatic Agreement, a separate annual report summarizing these activities will not be prepared.

XVII. MODIFICATION.

The Forest Service, Council, or the SHPOs may request modifications to this protocol whereupon the parties will consult to consider such changes. Changes may be made by written consent of the Regional Forester, SHPOs, and Council after appropriate consultation.

XVIII. CANCELLATION.

The Forest Service, Council or the SHPOs may cancel this protocol by providing thirty (30) days notice. The parties will consult during the period prior to cancellation to seek agreement on modification or other actions that would avoid cancellation. In the event the protocol is canceled, the Forests shall comply with the Programmatic Agreement or 36 CFR 800 with regard to individual undertakings that otherwise would be covered by this protocol.

XIX. IMPLEMENTATION.

This protocol becomes effective on the date of the last signature below and may be implemented immediately.

SIGNATURES:

/s/ Lucia M. Turner (for)
Harv Forsgren
Regional Forester, USDA Forest Service – SW Region

8/28/2007
Date

/s/ James W. Garrison
James W. Garrison
Arizona State Historic Preservation Officer

9/20/2007
Date

/s/ Katherine Slick
Katherine A. Slick
New Mexico State Historic Preservation Officer

9/27/2007
Date

/s/ Bob L. Blackburn
Bob L. Blackburn
Oklahoma State Historic Preservation Officer

9/25/2007
Date

/s/ F. Lawrence Oaks
F. Lawrence Oaks
Texas State Historic Preservation Officer

9/25/2007
Date

/s/ John M. Fowler
John M. Fowler, Executive Director
Advisory Council on Historic Preservation

9/25/2007
Date