

Frequently Asked Questions

National Travel management Regulations and Forest Travel Management Plan on the Wallowa-Whitman National Forest

WHY

Why is the Forest revising their travel management direction now?

In November 2005, the Forest Service finalized new national regulations for recreational motor vehicle use. The new travel management regulations, called the Final Travel Management Rule (Rule), require each national forest and grassland to identify and designate those roads, trails and areas that will be open to motor vehicle use. To meet these new regulations, the Wallowa-Whitman National Forest began the first steps of the 4-year designation process in the summer of 2006, and is scheduled to complete the revision to its current travel management plan by late 2009 or early 2010.

I heard that the travel management plan decision has already been made by the Wallowa-Whitman National Forest. Is this true?

The travel management plan decision has not been made. The planning team is currently in the initial steps of the process and the final decision is not scheduled to be made until late 2009 or early 2010.

ML1 ROADS

What is a maintenance level one (ML-1) road?

A ML 1 or maintenance level 1 road is a forest system road which has been classified as 'closed'. The decision to classify the road as closed is based on a past project decision like a timber sale or watershed restoration project. As part of these past decisions, the closure was based on the need to reduce resource impacts such as wildlife disturbance, fisheries habitat, soil erosion or impacts to an archeological site, but also based on the need for fire access and other considerations.

A ML 1 road may be classified as "closed" yet has the potential to be used for future forest management, if needed. On the ground, ML 1 road closure methods may look different. Some of the roads may have been physically closed with a gate or dirt berm. Others may be overgrown with trees and brush, while others may have no barrier at all and are being driven by vehicles. Once determined to be a ML 1 road, little to no maintenance is conducted on them and the forest assumes a lower level of liability since they are not classified as 'open' for public use.

The recreational use of ML 1 roads for forest ATV users is allowed by a unique standard in the 1990 Wallowa-Whitman National Forest Plan. In the Plan an allowance was made for ATV use on ML 1 roads if use was not prohibited with a forest order or incompatible with resources values. Use on some ML 1 roads is unauthorized since there are Forest Orders restricting motorized use in certain areas.

What is the difference between ML 1 roads and decommissioned or obliterated roads?

The difference between a ML 1 closed road and a decommissioned or obliterated road is projected long term use. Roads which have been or will be decommissioned or obliterated are roads which have either duplicate access into areas or create resource damage. These roads are no longer needed for administration or public access and the decision was to remove that road from the land and the road system.

Are there really 5,000 miles of ML 1 roads on the Wallowa-Whitman National Forest?

The media has referenced the "5000" miles of closed roads. Based on past travel

management decisions there are 4,832 miles of road on the entire Wallowa-Whitman National Forest currently in ML 1 status. In the project area there are 4270 miles of road in ML 1 status.

A county breakdown for the WWNF:

Counties	Objective ML 1 Miles Of Roads in Project Area
Baker	1641
Grant	349
Malheur	6
Umatilla	101
Union	1464
Wallowa	709
Total =	4270

Why are so many miles of ML-1 roads proposed for closure? Is there any flexibility here?

The proposed action which was presented in 2007 and will be one of the alternatives analyzed does show that all of the 4270 miles of ML 1 roads in the project area would not be designated for motorized vehicle use in the future. All of these roads were previously classified as 'closed' by past decisions. The environmental analysis process that the forest is using to develop a revised travel management plan does allow for other alternatives to be developed based on public comments and agency input. Based on the public comments received during the project scoping phase in 2007, users provided site specific comments on ML 1 roads they requested to remain open for uses like ATV riding for pleasure, berry picking, and hunting. These comments are being evaluated by the planning team and will be used to develop alternatives that would retain some ML 1 roads for future motorized uses.

I heard that the ML-1 roads on the forest have actually been closed to regular size vehicles since the 1990. Is this true?

A better description of these roads is that they have been 'classified as closed' with past project decisions which have been made since 1990. Since these roads were not decommissioned or obliterated they have the potential to be used for future forest management. As part of these past decisions, their closure was based on the need to reduce resource impacts such as wildlife disturbance, fisheries habitat, soil erosion or a road that may be impacting an archeological site.

PRIVATE LAND ACCESS

I own private land inside of the Forest boundary. Will the plan change the way I can get to my private land?

As discussed in the Final Travel Management Rule (pages 68282 and 68290), valid existing rights and rights of use on National Forest roads and trails will be recognized when making designation decisions. The Forest will work with you to access your private land. The Alaska National Interest Lands Conservation Acts (ANILCA) states that access to non-federally owned land within the boundaries of the National Forest System will be provided for the owner's reasonable use and enjoyment. This use will comply with applicable rules and regulations. If the road is not designated as open for general public use it may also be possible to obtain a special use permit for the road. To ensure that this use is considered please provide comments to the planning team with the specific route you use and the location of your private land.

FIREWOOD CUTTING

I heat my house with firewood that I cut from the forest. Will I still have access to cut and haul firewood?

Firewood cutting is permitted along open roads unless the road is in an area that is not open to cutting or located in an area specified in the permit as closed. Since the terms of the firewood permit currently allows motorized use off most open roads, the proposed action would affect the firewood cutter who now travels off road for access. Conditions and guidelines of firewood cutting are addressed in the permit.

Access needs of wood cutters are being considered in the development of the alternatives and will be a priority for the Forest once the travel management plan is implemented. Additional opportunities such as having special fuelwood areas which were part of the 1995 Forest Fuelwood Program Environmental Assessment may also implemented.

LIVESTOCK GRAZING

I have a Forest Service grazing permit. Will I still be able to use a motor vehicle to administer my grazing permit on the forest?

The Final Travel Management Rule allows for permitted use of motor vehicles when such use is critical for the operation of the permit. The annual authorization of the grazing permit will be used to allow fence maintenance, raising or letting fences down, clearing fence line, salting, spring and trough maintenance, and livestock movement or trailing if determined to be appropriate by the District Ranger. Annual operating instructions will provide each grazing operation the opportunity to maintain their unique approach to livestock management.

RS 2477

What is an RS2477 Right of Way?

RS 2477 stands for Revised Statute 2477 from the Mining Act of 1866, which states:

"The right-of-way for the construction of highways over public lands. not reserved for public uses. is hereby granted. "

The act granted a public right-of-way across unreserved federal land to guarantee access as land transferred to state or private ownership. Rights-of-way were created and granted under RS 2477 until its repeal in 1976.

How is the validity of a RS2477 claim determined?

Several elements must be met as provided by the Statue to determine validity of these claims. Although there is considerable case law relative to RS 2477, generally speaking there are three basic criteria that must have been met for an RS 2477 right of way to have been "created":

- The lands were public, not reserved for public uses, at the time of construction.
- There had to have been some form of construction of the highway.
- The highway so constructed must be considered a public highway.

Creation of the Forest Reserves (National Forests) generally occurred between 1891 and 1907. A public highway had to have been constructed prior to reservation of the National Forests for public use in order to be considered under this Act.

Who can make an RS2477 claim?

Since an assertion on National Forest land is a claim of title against the Federal Government, an RS2477 claim must be asserted by a State or County government that manages a public road system. Individuals who wish to pursue an RS 2477 claim must present their request to the local County government for consideration.

If an RS2477 claim is established, can the county keep the road open if the Forest Service wants to close it?

The Forest Service will work with the county to manage the road. However, Oregon Revised

Statutes (ORS 810.010) state that highways crossing federal lands are under the authority of the federal agency charged with management of those lands, and roads are to be managed under the rules and regulations of that agency. The Forest Service has the authority to regulate use, including a prohibition on motorized travel, on RS2477 rights-of-way across National Forest managed public lands.

Does the Forest Service have to wait until all of the RS2477 rights-of-way are established before the Travel Management Project can proceed?

No. The county can bring an RS2477 claim at any time.

USER CREATED ROUTES

How does the Forest Service define a user created route?

A user created route, whether a road or trail, is a route that is not recognized as part of the official Forest Service travel system. These routes were built or created by users to access various parts of the forest without authority and without benefit of an environmental analysis.

Were user created routes included in the proposed action? Or will they be included in any of the alternatives?

The proposed action did not consider user created routes for designation in this forest-wide planning process. This approach came from the Rule which states that since user created routes are not part of the current travel management plan, they are not recognized as a National Forest System (NFS) road or motorized trail. They have not gone through the environmental analysis process, are not authorized, designed or maintained by the forest, and are not kept on a forest GIS data base. The Final Travel Management Rule addresses user created routes and leaves their evaluation at the local level.

Although the proposed action did not consider user created routes for designation, many public comments requested designation of these trails. The planning team is evaluating these user created routes and other shorter designated motorized routes to determine if they would enhance a recreation experience in the alternatives.

The Forest has worked with OHV groups in the past to designate 3 OHV trail systems on the forest. In 2007 decisions were also made to designate an additional system in the South Fork Burnt River area, and another system at Sled Springs is still being analyzed. Following the completion of the Travel Management Plan, the forest will continue to work with OHV user groups to consider additional motorized trails using the designation criteria in Rule

ACCESSIBILITY

As an older person I need to ride my ATV behind gates and off of closed roads to enjoy the forest. Will this still be allowed?

When completed, the Forest Travel Management Plan will be consistent with existing laws and regulations that provide accessibility for disabled and elderly forest users. Federal laws and regulations such as Section 504 of the Rehabilitation Act of 1973, do not require agencies to make exceptions for person with disabilities in areas restricting or prohibiting motorized use for all people. An exception is the use of a wheelchair by a person with a disability. In this case a wheelchair may be used wherever foot travel is permitted. Existing laws define a wheelchair as a device designed solely for use by a mobility impaired person for locomotion and is suitable for use in an indoor pedestrian area. A wheelchair, even a battery powered wheelchair, that meets this definition is permitted anywhere foot travel is permitted.

SEARCH & RESCUE AND FIREFIGHTING

How will the Travel Plan address search and rescue operations and firefighting?

Search and rescue operations, and emergency activities such as firefighting, will be

authorized by the forest in areas closed to motor vehicle use. Access is currently allowed in all areas across the forest where motor vehicle closures are in place. If the road is grown in and is needed for access to suppress a fire, firefighting crews could open it with a dozer or hand crew similar to what now happens in closed areas.

MOTOR VEHICLE USE IN THE FUTURE

What kind of 4-wheeler and motorcycle riding opportunities on the Wallowa-Whitman NF will there be when the Travel Plan is completed?

The Forest envisions there will be a variety of designated roads, trails and areas available for recreational motor vehicle use. Many existing area and seasonal road or trail closures will most likely continue to be in effect. To ensure user safety, safety analyses will be completed on forest roads where mixed-use between recreational and street legal vehicles is occurring.

Will cross-country travel be allowed when the plan is completed?

The Final Travel Management Rule indicates that once the Forest's designation process is complete, motor vehicle use off designated routes and areas will be prohibited. However, public comments by many users have recommended retaining cross-country travel off designated routes. These comments are being evaluated by the planning team and will be part of some of the alternatives.

PLANNING PROCESS & PUBLIC INVOLVEMENT

How is the Forest revising the current travel management plan?

The Wallowa-Whitman National Forest has been following the process laid out by the National Environmental Policy Act (NEPA) and guidelines in the Final Travel Management Rule. The NEPA process is followed for all Forest Service project decisions. Since the end of the scoping period for the Proposed Action last fall, the Travel Management Team has reviewed the comments received and has begun developing a range of alternatives in response to the comments. The alternatives will be analyzed for their effects on natural resources and their social and economic effects. These alternatives and effects analysis will be published as a draft Environmental Impact Statement (DEIS) which is scheduled for completion in early 2009. When the DEIS is published, the public can comment on the alternatives and the effects analysis. Following the end of this comment period, the team will use the comments and any new information available at that time, to write a final environmental impact statement (FEIS). The FEIS will be followed by a record of decision which is expected in late 2009 or early 2010. A citizen appeal period will follow the decision.

What are a "proposed action" and a "scoping" period"?

The proposed action is the Forest's initial description of a designated road and trail system available for motorized-vehicle use. The proposed action is one alternative of the several additional alternatives that will be evaluated in a forest-wide Environmental Impact Statement (EIS).

The scoping period is the initial opportunity for the public to read the proposed action and to identify any concerns they have with the proposed action. These concerns will be evaluated by the Travel Management Team and different alternatives to the proposed action will be developed from them.

I commented during the scoping period. When will I be able to comment again?

The next opportunity to comment will be on the draft environmental impact statement, containing all of the alternatives and the analysis of their effects. It will be available for public comment for at least a 45 day comment period. This is scheduled for completion in early 2009.

Will the Forest Service be seriously considering other alternatives to the proposed action that was published in the *Federal Register*? Once the EIS has been completed, can the Forest Service actually pick an alternative other than the proposed action?

Under the environmental analysis (NEPA) process, the Forest Service must consider a range of reasonable alternatives to the proposed action. The scoping process including public and agency comment helps identify those alternatives. Any legal alternative that meets the purpose and need for the project may be selected.

The Forest Service is going to take more than a year to write an Environmental Impact Statement (EIS). What will this document actually do?

The process that the Forest is using to make a decision on the Forest Travel Management Plan is governed by the National Environmental Policy Act (NEPA). NEPA requires that the decision maker and the public to be informed of the effects of the proposed action and alternatives to it. Due to the complexity of the project, the Forest Supervisor has decided that an EIS is the appropriate tool for documentation of the issues and analysis leading to an eventual decision.

How can I provide a comment to the Draft Environmental Impact Statement (DEIS)?

Once you have reviewed the DEIS, your comments can be sent to the Forest Travel Management Planning Team at: Wallowa-Whitman National Forest, ATTN: Travel Mgt Plan, 3502 Highway 30, La Grande, OR 97850 or e-mail wwnf_travel_mgt_plan@fs.fed.us

FOREST PLAN CONSISTENCY

Is the proposed Travel Management Plan consistent with the current Wallowa-Whitman Forest Plan?

The Travel Management Plan proposed action is not consistent with the Wallowa-Whitman Forest Plan, which allows for cross-country motorized vehicle use except in areas designated as closed. The Travel Management Plan proposes an amendment to the Forest Plan that closes the Forest to off-road motorized travel except where routes or areas are designated as open. This amendment is being done in accordance with established regulations for amending forest plans. The final Travel Management Plan will therefore be consistent with the Forest Plan as amended.

Are the current road closures consistent with the Wallowa-Whitman Forest Plan?

Yes. All of the road closure decisions reflected in the Travel Management Project proposed action were concluded through processes that followed the National Environmental Policy Act (NEPA) and were guided by the Wallowa-Whitman Forest Plan goals, objectives, standards and guidelines.

Does the Forest have to wait until the Forest Plan Revision is completed and a revised forest plan is in place before the Travel Management Project can be completed?

No. There are established regulations that allow forest plans to be amended (36 CFR 219). There is an amendment proposed for the Travel Management Plan and it is being done in compliance with those regulations. See previous Q&A.

TRAVEL MANAGEMENT RULE

What type of vehicles does the new Travel Management Rule cover?

The Rule covers the use of "street legal" vehicles and recreational motor vehicles. Recreational motor vehicles include all-terrain vehicles (ATVs), off-highway motorcycles and off-road vehicles (ORVs sometimes also called Off-highway Vehicles or OHVs), such as 4by-4 trucks or Jeeps. It will not include over-snow vehicles, motorized water or aircraft, or non-motorized uses such as mountain bikes, hikers, or equestrian uses.

Are there any motor vehicle exemptions in the Rule?

Yes, the Rule provides exemptions for: aircraft; watercraft; over-snow machines; limited administrative use; fire, military, emergency, and law enforcement vehicles for emergency

purposes; or vehicles with special authorizations.

Does the new Rule require that the Forest review and make designation decisions on all roads and trails?

Yes and No. The Rule requires the Forest to review motorized vehicle use on the roads, trails and areas. State, county or other public roads within national forest and grassland boundaries will not be included in the designation process.

If there is already a closure decision or special designation on a road, trail or area does the Forest have to review it again?

Not necessarily. We defined the project area in the proposed action and will not be looking at closure decisions outside of that area during this project. Within the project area, we will look at the decisions previously made and consider those that will be changed under the alternatives analyzed in the EIS.

MORE INFORMATION

Is there a good Forest Service website to find out more information?

The best websites to find out more information are the national website at: www.fs.fed.us/recreation/proq_rams/ohv/index.shtml

or the Wallowa-Whitman National Forest also has some local information at: www.fs.fed.us/r6/w-w/recreation/ohv/ohv-rule.shtml