

Arizona National Scenic Trail Planning Handbook



National Scenic Trail Technical Paper

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National Scenic Trail – Planning Handbook

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I. Introduction

Trails for America

The Secretary of the Interior in 1965 directed the Bureau of Outdoor Recreation to take the lead in conducting a nationwide trails study. This was in response to President Johnson's "Natural Beauty" message of February 1965 in which he called for development and protection of a balanced system of trails in cooperation with state and local government and private interests. In part, the President said, "we can and should have an abundance of trails for walking, cycling, and horseback riding, in and close to our cities. In the backcountry we need to copy the great Appalachian Trail in all parts of America."

The nationwide trails study led to publication of a report in 1966 entitled "Trails for America." The report called for federal legislation to foster the creation of a nationwide system of trails. Earlier that year the Secretary of the Interior had already proposed such legislation to Congress. The report and the legislation proposed three categories of trails for the nationwide system—national scenic trails and two other categories that were different from what eventually came to pass. The report heavily emphasized national scenic trails and the role that they should play in meeting the nation's needs for trail recreation. The Appalachian Trail was to be the first national scenic trail. The report proposed three other national scenic trails—Pacific Crest, Continental Divide, and Potomac Heritage—and identified five other routes that exhibited high potential—Lewis and Clark, Oregon, Santa Fe, Natchez Trace, and North Country. Congress passed the National Trails System Act and the president signed it into law on Oct. 2, 1968. The Act created two congressionally designated areas the Appalachian National Scenic Trail and the Pacific Crest National Scenic Trail.

As envisioned in "Trails for America," national scenic trails are to be very special: "A standard for excellence in the routing, construction, maintenance, and marking consistent with each trail's character and purpose should distinguish all national scenic trails. Each should stand out in its own right as a recreation resource of superlative quality and of physical challenge." According to the National Trails System Act, national scenic trails "will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of nationally significant scenic, historic, natural, and cultural qualities of the area through which such trails may pass." National scenic trails are located so as to represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation. The corridor will be normally located to avoid established uses that are incompatible with the protection of a trail in its natural condition and its use for outdoor recreation.

Congress amended the National Trails Systems Act in 1978 to create the category of national historic trails. At the same time, it designated the Oregon, Mormon Pioneer, Lewis and Clark, and Iditarod (Alaska Gold Rush) trails as national historic trails. Like national scenic trails, national historic trails can only be authorized and established by Congress and are assigned to either the Secretary of the Interior or the Secretary of Agriculture with most of the same administrative authorities as for national scenic trails. To qualify as a national historic trail, a route must have been established by historic use. It must be nationally significant as a result of that use—it must have had a far-reaching effect on broad patterns of American culture (including Native American culture). It must also have significant potential for public recreational use or historic interest based on historic interpretation and appreciation. National historic trails are extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historic significance. National historic trails purpose is the identification and protection of the historic route and its historic remnants and artifacts.

Corridors associated with national scenic trails and the high priority potential sites and segments of national historic trails are protected to the degree necessary to ensure that the values for which each trail was established remain intact. National scenic and national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the corresponding trail, may be permitted in limited situations.

The Forest Service, Bureau of Land Management, and National Park Service recognizes the valuable contributions that volunteers and private, nonprofit trail groups have made to the development and maintenance of the Nation's scenic and historic trails. In recognition of these contributions, it is a purpose of the agencies to encourage and assist volunteer citizen involvement in the planning, development, maintenance, and management of the national scenic and historic trails.

Congressional Designated Areas

Designated areas are specific areas or features within the plan area that have been given a permanent designation to maintain its unique special character or purpose. Certain purposes and restrictions are usually established for designated areas, which greatly influence management needs and opportunities associated with them. The Interdisciplinary Team should identify and evaluate available information about designated areas including:

1. Types, purposes, and locations of established designated areas within the plan area. The Responsible Official should use a map to identify these locations.
2. Range of uses, management activities, or management restrictions associated with the established designated areas in the plan area.
3. Existing plans for the management of established designated areas within the plan area, such as comprehensive plans for national scenic or historic trails.

A recurrent theme in designated area legislation has been the mandate to preserve areas for future generations and to keep the protected resource in a condition representative of the values or conditions

for which it was designated. Important land conservation legislation that is relevant to land management planning includes the National Trails System Act of 1968 (PL 90-543), which states that “National scenic trails,...will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass... National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted... [T]o the extent practicable, efforts be made to avoid activities incompatible with the purposes for which such trails were established. The use of motorized vehicles by the general public along any national scenic trail shall be prohibited... (Sections 3(a) and 7(c)).”

Enacted on the same day as the National Trails System Act, the Wild and Scenic Rivers Act of 1968 (PL 90-542), states that designated rivers, “with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations (Section 1(b)).”

Similarly, another piece of legislation, the Wilderness Act of 1964 (PL 88-577), requires managing agencies to administer wilderness areas “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character...” (Section 2(a)).

This handbook addresses National Scenic Trails (NST) offering guidance for understanding and preserving or enhancing the recreational, scenic, natural, and historical values of a National Scenic Trail (NST) through land use planning that provides for National Trail “nature and purposes.” The information in this handbook supplements and clarifies agency Federal lands planning processes.

II. Nature & Purposes

The National Trails System Act¹ (NTSA) guidance for nature and purposes is foundational for shaping the activities and uses to be preferred and allowed along an NST corridor. The establishment of the following NST nature and purposes statement was formed by extrapolating from the Trails for America report, Congressional Reports, and the NTSA.

A. Trails for America

Trails for America (1966), a report prepared by the Bureau of Outdoor Recreation in response to President Johnson’s Natural Beauty Message of February 8, 1965, describes that, “the entire length of each national scenic trail, together with sufficient land area on both sides to safeguard adequately and

¹ 16 U.S.C. §1241-1251: Public Law 90-543 (October 2, 1968) and amendments.

preserve its character, should be protected....” The Trails for America vision for an NST will be achieved by providing for the nature and purposes values of the designated National Trail.

B. National Trails System Act

NSTA, Sec. 2 [16 U.S.C. 1241] (a). “In order to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation, trails should be established...within scenic areas and along historic travel routes of the Nation which are often more remotely located.”

NTSA Sec. 3. [16 U.S.C. 1242] (a) (2). “National scenic trails, established as provided in section 5 of this Act, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass.”

NTSA Sec. 5 [16 U.S.C. 1244] (e)/(f) ... “Within two complete fiscal years of the date of enactment of legislation designating... the Secretary shall...submit...a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items: (1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved... and... an identified carrying capacity of the trail and a plan for its implementation.”

NTSA Sec. 7. [16 U.S.C. 1246] (c). “Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted...[To] the extent practicable, efforts be made to avoid activities incompatible with the purposes for which such trails were established. The use of motorized vehicles by the general public along any national scenic trail shall be prohibited....”

C. Departmental and Congressional Considerations

Office of the Secretary, 1967: The Departmental Recommendation discusses National Scenic Trails. “National scenic trails.—A relatively small number of lengthy trails which have natural, scenic, or historic qualities that give them recreation use potential of national significance. Such trails will be several hundred miles long, may have overnight shelters at appropriate intervals, and may interconnect with other major trails to permit the enjoyment of such activities as hiking or horseback riding.... The Secretary of the Interior is authorized to select a right-of-way for, and to provide appropriate marking of, the Appalachian and Potomac Heritage Trails, and the Secretary of Agriculture is authorized to do likewise for the Continental Divide and Pacific Crest Trails. The rights-of-way for the trails will be of sufficient width to protect natural, scenic, and historic features along the trails and to provide needed public use facilities. The rights-of-way will be located to avoid established uses that are incompatible with the protection of a trail in its natural condition and its use for outdoor recreation....”

House Report No. 1631, 1968: “PURPOSE - The ultimate aim of H.R. 4865, as amended, is to lay the foundation for expanding further the opportunities for the American people to use and enjoy the

natural, scenic, historic, and outdoor recreational areas of the Nation. To accomplish this objective, it establishes a national trails system composed of...National scenic trails which will be located in more remote areas having natural, scenic, and historic values of national significance....

BACKGROUND AND NEED - The proposed national trails system is the product of a general study conducted by the Bureau of Outdoor Recreation at the direction of the President. That study, entitled "Trails for America," formed the basis for the recommended legislation. It recognizes the value of providing simple trails to meet a multitude of outdoor recreation uses and recommended the immediate authorization of the Appalachian Trail as the initial national scenic trail. It also suggested that the Pacific Crest Trail, the Potomac Heritage Trail, and the Continental Divide Trail should be studied promptly for early consideration for inclusion in the system.”

H.R. 4865 proposed legislation describes the selection of Routes for National Scenic Trails – “The Secretary...shall select the rights-of-way.... Such rights-of-way shall be (1) of sufficient width and so located to provide the maximum retention of natural conditions, scenic and historic features, and primitive character of the trail area, to provide campsites, shelters, and related public-use facilities, and to provide reasonable public access; and (2) located to avoid, insofar as practicable, established highways, motor roads, mining areas, power transmission lines, existing commercial and industrial developments, range fences and improvements, private operations, and any other activities that would be incompatible with the protection of the trail in its natural condition and its use for outdoor recreation....”

Congress considered these qualitative requirements for selecting and designing the rights-of-way in HR 4865, but did not enact the specific direction in NTSA Section 7(a). Instead, the enacted legislation inserts in Section 7(a) more conceptual direction for selecting and designing the rights-of-way, including (1) “consideration of minimizing adverse effects” and (2) designing each national trails system segment “to harmonize with and complement any established multiple use plans²...” (16 U.S.C. 1246(a)(2)). The enacted legislation made other modifications to HR 4865, including (1) changing the definition of a National Scenic Trail to broaden the statement of purpose (16 U.S.C. 1242(a)) and (2) added a requirement to make efforts to avoid activities incompatible with the purpose for which such trails were established (16 U.S.C. 1246(c)). House and Senate Reports are silent on the reasons for these changes.

House Report 95-734, 1978: In 1968, Congress enacted the National Trails System Act, and designated the Appalachian Trail as one of the two initial national scenic trails within the system. The act was intended to insure that long-distance, high-quality trails with substantial recreation and scenic potential were afforded Federal recognition and protection... At the time of enactment of the National Trails System Act in 1968, Congress recognized the unique recreational opportunities afforded by extended trails of this type. It was also recognized that changing land uses and increasing pressures for development were a growing threat to maintaining a continuous trail route. The act therefore provided

² NTSA Section 7(a)(2) is reviewed in the, “Development and Management” section of this paper.

for a Federal responsibility to protect the trail, including the authority to acquire a permanent right-of-way.

Senate Report No.95-636, 1978: “The Act was intended to insure that long-distance, high-quality trails with substantial recreation and scenic potential were afforded Federal recognition and protection.... The fourth amendment modifies section 7(g) of the 1968 act to modify the restriction on the use of eminent domain to provide that the secretary may acquire in fee title and lesser interest no more than an average of 125 acres per mile. Experience with the trail has demonstrated that additional authority is needed to insure the acquisition of a corridor wide enough to protect trail values.” This amendment to the NTSA was specific to the Appalachian NST, but demonstrates awareness of the need for a National Trail corridor even when eminent domain may be used to secure the necessary land.

House Report No.95-1165, 1978: “Title V establishes new units of the National Park and National Trail Systems which the committee believes to be essential additions to these national programs. Timely action to preserve portions of our heritage, both historical and natural, within the states and insular areas is needed to assure these resources are not lost through adverse actions by special interest groups.”

House Report No. 98-28, 1983: Section 7(j) intent is described in this report, “While the new subsection would permit the appropriate secretaries to allow trail bikes and other off-the-road vehicles on portions of the National Trail System, the Committee wishes to emphasize that this provision gives authority to the secretaries to permit such uses where appropriate, but that it must also be exercised in keeping with those other provisions of the law that require the secretaries to protect the resources themselves and the users of the system. It is intended, for example, that motorized vehicles will not normally be allowed on national scenic or historical trails and will be allowed on recreational trails only at times and places where such use will not create significant on-trail or off-trail environmental damage and will not jeopardize the safety of hikers, equestrians, or other uses or conflict with the primary purposes for which the trail, or the portion of the trail, were created.” This report underscores the importance of understanding the primary purposes for which a National Trail was established.

D. Executive Orders

Executive Order 13195 – Trails for America in the 21st Century: “By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of purposes of the National Trails System Act of 1968...and to achieve the common goal of better establishing and operating America's national system of trails, it is hereby ordered as follows: Section 1... Federal agencies will, to the extent permitted by law and where practicable ... protect, connect, promote, and assist trails of all types throughout the United States. This will be accomplished by: ... (b) Protecting the trail corridors associated with national scenic trails...to the degrees necessary to ensure that the values for which each trail was established remain intact.... ”

Executive Order 11644 and 11989 – Use of off-road [motorized] vehicles on the public lands: “...By virtue of the authority vested in me as President of the United States by the Constitution of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), it is hereby ordered as follows: Section 1. *Purpose.* It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road [motorized] vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands....” (Related: 36 CFR 212.55 and 43 CFR 8351.1)

E. Nature and Purposes

In consideration of the language in Trails for America, Legislative History, the NTSA, and Executive Orders, the nature and purposes statement for an NST is: “The nature and purposes of the Arizonan NST are to provide for high-quality scenic, non-motorized recreation opportunities and to conserve natural, historic, and cultural resources along the corridor and provides a long distance trail that highlights the state's topographic, biologic, historic and cultural diversity.”

National Scenic Trail Values – (1) visitor experience opportunities and settings, and (2) the conservation/protection of scenic, natural, historical, and cultural qualities of the corridor. Primitive and Semi-Primitive Non-Motorized ROS settings provide for desired experiences, but only if the allowed non-motorized activities reflect the purposes for which the National Trail was established. Furthermore, the NTSA goes beyond ROS descriptors requiring the protection of significant resources and qualities along the National Trail corridor. The ROS planning framework, NTSA Comprehensive Plan (Section (5(e)/(f)) components, NTSA rights-of-way (Section 7(a)), and E.O. 13195 requirements point to the need for land management plans to map the extent of the corridor and apply to the described corridor appropriate plan components (desired conditions, objectives, standards, guidelines, and suitability of lands) to protect National Trail values (nature and purposes).

III. Land Management Planning

A. Introduction

A National Scenic Trail, “is a continuous, long-distance trail located on the ground... along the congressionally designated route... A National Scenic Trail provides maximum compatible outdoor recreation opportunity and conservation and enjoyment of the nationally significant scenic, historic, natural, and cultural resources, qualities, values, and associated settings and the primary use or uses of the areas through which such trails may pass... National Scenic Trails include the tread, or the trail path, and the trail setting which is included within the National Trail Management Corridor...” (BLM MS-6280).

National Scenic Trails are administered as trail corridors. Managers should establish plan

components that address (1) desired visitor experience opportunities and settings, and (2) the conservation of scenic, natural, historical, and cultural qualities of the corridor. Supporting standards and guidelines need to be established to achieve desired conditions and objectives, and monitoring methods are to be described.

B. Publication of Rights-of-Way

The NTSA states in Section 7(a)(2), “Pursuant to section 5(a), the appropriate Secretary shall select the rights-of-way for national scenic and national historic trails and shall publish notice thereof of the availability of appropriate maps or descriptions in the Federal Register; Provided, That in selecting the rights-of-way full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation...” Other sections of the Act provide additional important guidance that is associated with the selection of the rights-of-way, planning, and management of an NST, including direction stating: (1) Locating the National Trail corridor, “to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas;” (2) “Avoiding, to the extent possible, activities along the National Scenic Trail that would be incompatible with the purposes of an NST for which it was established;” and (3) “National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail.” The selection of the rights-of-way should occur soon after an NST is authorized and designated by Congress, or as in integral part of the timely preparation of the NST Comprehensive Plan. In addition, the selection of the rights-of-way must be consonant of the implications of guidance found in NTSA Section 7(b), 7(d), 7(e), and 7(f).

Primacy of Congressional Designations – As a general rule, if the NTSA conflicts with NFMA’s or FLPMA’s multiple use mandate, the NTSA designating guidance will apply. Land use planning decisions for each unit must be consistent with the purposes and objectives of the designating Act of Congress. Where multiple Congressional designations overlap, the agency must comply with all applicable statutes. In order to do so, the more protective management requirements will likely apply. The establishment of the comprehensive plan for an NST constitutes an overlay on the management regime otherwise applicable to public areas managed by land management agencies. The NTSA (and E.O. 13195) limits the management discretion the agencies would otherwise have by mandating the delineation of an NST corridor and protection of the nature and purposes of an

The NST corridor, also known as a National Trail Management Corridor (NTMC), is to be described through the delineation of a Management Area (MA), NTMC, or equivalent corridor identifier, with plan components that provide for the nature and purposes values of the designated NST. To provide for the nature and purposes of the National Trail, several location and management factors should be considered; such as and where reasonable to do so, the MA or NTMC should be located in more primitive Recreation Opportunity Spectrum (ROS) classes; once located the management of the MA or NTMC should provide for Primitive or Semi-Primitive Non-Motorized experiences. In addition, an NST travel route is a concern level 1 travel route and scenic management objectives of high or very high must be met. The boundary of the MA should follow topographic features to the extent possible,

while being at least one-half mile wide on each side of the established and potential locations of the National Trail travel routes. This recommendation is based on ROS criteria that identifies remoteness for a Semi-Primitive Non-Motorized setting as: An area at least 1/2-mile but not further than 3 miles from all roads, railroads or trails with motorized use. More than 3 miles would tend to classify the area as Primitive³ another desirable setting. The Forest Service Scenery Management System identifies that the middleground begins at 1/2-mile of the travel route.⁴

The extent of the NTMC may reflect the unique qualities of the linear landscape of the area along the National Trail travel route. National Scenic Trails are so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass (NTSA Section 3(a)(2)) and significant natural, historical, and cultural resources are to be preserved (NTSA Section 5(f)). Protection of scenic landscapes and unique wildlife habitat may warrant establishing a corridor of a greater breadth than that normally provided by a semi-primitive non-motorized ROS setting. Forest plans are expected to provide for ecological conditions to contribute to the recovery of threatened and endangered species and to conserve species that have been proposed for listing, or are candidates for listing, under the Endangered Species Act.

C. Development and Management

The development and management of National Scenic and Historic Trails (NSHTs) must be based on many facets of the NTSA, a Comprehensive Plan, other applicable laws, Executive Orders, regulations, and policies. Planning guidance for the National Trails System and an NST has been modified several times since the legislation was enacted in 1968. In 1976, the National Forest Management Act (NFMA) and Federal Land Policy and Management Act (FLPMA) were enacted requiring integrated plans; as such, new and revised NFMA and FLPMA directed land management plans, and the comprehensive planning for NSHTs, are not predisposed by the 1968 NTSA statement to, "...be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land."

Development and management guidance found in the NTSA is summarized below and related to other laws and a National Scenic Trail:

(1) The NTSA, as amended, is the principal legislation that influences the development and management of an NST. The NTSA Statement of Policy describes the purpose of the legislation in Section 2(a), "In order to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation, trails should be

³ FSM 2310.3 – Policy. 1. Use the ROS to establish planning criteria, generate objectives for recreation, evaluate public issues, integrate management concerns, project recreation needs and demands, and coordinate management objectives. 2. Use the ROS system to develop standards and guidelines for proposed recreation resource use and development. 3. Use the ROS system guidelines to describe recreation opportunities and coordinate with other recreation suppliers.... [Policy has been in effect from 1986 to present.] FSM 2311.1 – Reference: ROS User Guide.

⁴ [Landscape Aesthetics, A Handbook for Scenery Management, Agricultural Handbook Number 701](#)

established... and (ii) secondarily, within scenic areas and along historic travel routes of the Nation which are often more remotely located.”

(2) The NTSA, Section 3(a)(2) describes location criteria as, “National scenic trails, established as provided in section 5 of this Act, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass...,”

(3) The NTSA, Section 7(a)(2) is important for it directs the establishment of an NST designated area. “The appropriate Secretary shall select the rights-of-way for national scenic and national historic trails and shall publish notice thereof of the availability of appropriate maps or descriptions in the Federal Register.” This is an essential task that needs to be completed for an NST and many other National Trails. The term rights-of-way can be confusing, so the BLM has provided the following clarifying definition.

“National Trail Right(s)-of-Way. Term used in Section 7(a)(2) of the National Trails System Act to describe the corridor selected by the National Trail administering agency,... which includes the area of land that is of sufficient width to encompass National Trail resources, qualities, values, and associated settings. The National Trail Right-of-Way, in the context of the National Trails System Act, differs from a Federal Land Policy and Management Act (FLPMA) Title V right-of-way, which is a grant issued pursuant to FLPMA authorities. It becomes a key consideration in establishing the National Trail Management Corridor in a Resource Management Plan” (MS-6280).

(4) The NTSA Section 7(a)(2) further expresses that, “Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land.” The following examines this Section 7(a)(2) sentence, and reviews other planning requirements, to try to better understand the intent and legal requirements of the guidance:

(a) What is a “segment of the National Trails System?” To place this in context, it is important to recognize that the components of the “National Trails System,” includes National Recreation Trails (NRTs), National Scenic Trails (NSTs), National Historic Trails (NHT), and Side or Connecting Trails. A simple definition of a segment is, “one of the parts into which something can be divided.” The parts of the National Trails System would be each congressionally and administratively designated National Trail component as established per the requirements of the NTSA.

(b) What is intended by the 1968 guidance to, “be designed to harmonize with and complement any established multiple-use plans for that specific area?” Forest Service policy approved by Chief J. Max Peterson interpreted the direction to be as follows: “Development and administration of a National Scenic Trail or National Historic Trail

will ensure retention of the outdoor recreation experience for which the trail was established. Each segment of a trail should be designed to harmonize with and complement any established land management plans for that specific area in order to ensure continued maximum benefits from the land. Decisions relating to trail design and management practices should reflect a philosophy of perpetuation the spectrum of recreation objectives envisioned for the trail users. Land management planning should describe the planned actions that may affect that trail and its associated environments. Through this process, resource management activities prescribed for land adjacent to the trail can be made compatible with the purpose for which the trail is established. The objective is to maintain or enhance such values as esthetics, natural features, historic and archeological resources, and other cultural qualities of the areas through which a National Scenic or National Historic Trail goes” (FSM 2353.4(1)(d) – Administration (FSM 1/80 Amend 85 – now expired).

Harmonizing and complementing benefits of an optimum location design of an NST corridor would include the recreation and conservation benefits resulting from: (1) locating the National Trail corridor “to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas...” (16 U.S.C. 1242(a)(2)); (2) avoiding, to the extent possible, activities that would be incompatible with the purposes of an NST for which it was established (16 U.S.C. 1246(c)); (3) contributing to achieving historic, outdoor recreation, watershed, and wildlife and fish multiple-use benefits (16 U.S.C. 528); and (4) locating, protecting, and providing for the connectivity of a section of a congressionally designated National Scenic Trail.

Specific to the National Forest System, the NFMA of 1976 established that Land Management Plans were to provide for one integrated plan. The 1982 NFMA planning regulations directed that, “...requirements for additional planning for special areas shall be met through plans required under this subpart” (36 CFR 219.2(a) [1982]). By no later than 1982 with the establishment of regulations, NFMA controlled processes for integrated forest planning superseded the 1968 NTSA guidance to, “harmonize with and complement any established multiple-use plans.”

(c) What is intended by the guidance, “to insure continued maximum benefits from the land?” This statement reinforces the phrase, “shall be designed to harmonize with and complement any established multiple-use plans.” Though, this guidance is vague since “maximum benefits of the land” is not found in the definition of multiple-use as described in the Multiple Use Sustained-Yield Act (MUSYA) of 1960.⁵ As stated above, benefits of establishing a National Trail corridor would include the recreation and

⁵ Multiple Use is defined 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"

conservation benefits resulting from: (1) locating the National Trail corridor “to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas...” (16 U.S.C. 1242(a)(2)); (2) avoiding, to the extent possible, activities along the NST that would be incompatible with the purposes of an NST for which it was established (16 U.S.C. 1246(c)); (3) contributing to achieving outdoor recreation, watershed, and wildlife and fish multiple-use benefits (16 U.S.C. 528); and (4) locating, protecting, and providing for the connectivity of a section of a congressionally designated National Scenic Trail.

In 1968 when the NTSA was enacted, the Forest Service was preparing National Forest Unit Plans. In 1982 regulations were finalized providing for integrated multiple-use plans as a result of the NFMA (Forest Service) and the Federal Land Policy and Management Act of 1976 (BLM).

The NFMA requires that a Forest Plan address the comprehensive planning and other requirements of the NTSA in order to form one integrated Plan (16 U.S.C. 1604(c) and (f) and 36 CFR 219.2 [1982], and 36 CFR 219.1 and 219.10 [2012]). As such, the NTSA guidance that a National Trails System segment be, “designed to harmonize with and complement any established multiple-use plans for that specific area,” is not applicable to a new or revised land management plan approved after the passage of NFMA and FLPMA.

Specific to NSTs, an optimum location assessment may find that designing the rights-of-way corridor to pass through inventoried Primitive and Semi-Primitive Non-Motorized Recreation ROS settings, and then managing the selected corridor to maintain those ROS settings characteristics, would assure continued benefits of the land that best meet the needs of the American people.

(5) NTSA, Section 7(b) states, “After publication of notice of the availability of appropriate maps or descriptions in the Federal Register, the Secretary charged with the administration of a national scenic or national historic trail may relocate segments of a national scenic or national historic trail right-of-way with the concurrence of the head of the Federal agency having jurisdiction over the lands involved, upon a determination that: (I) Such a relocation is necessary to preserve the purposes for which the trail was established, or (ii) the relocation is necessary to promote a sound land management program in accordance with established multiple-use principles: Provided, That a substantial relocation of the rights-of-way for such trail shall be by Act of Congress.” This direction on relocations part (I) and (ii) could also be useful guidance for selecting the initial rights-of-way. The extent of the initial selected rights-of-way should provide for the possibility of future relocations of an NST travel route.

A National Park Service example of a relocation of a selected rights-of-way is described for a section of the Appalachian National Scenic Trail. “The proposed relocations set forth below are deemed necessary to preserve the purpose for which the Appalachian National Scenic Trail was established. As a

part of the program to protect and establish an Appalachian Trail corridor the Department of the Interior, in consultation with the Department of Agriculture, has determined that where the Trail is now along roads, close to houses or otherwise poorly located, the National Park Service in consultation with the Forest Service will seek an alternative location. When necessary, an alternative Trail route will be located outside the existing right-of-way pursuant to Section 7 of the National Trails System Act, which established a process for necessary relocations after publication of notice-in the Federal Register and appropriate consultation” ([46 FR 191](#)).

(6) NTSA, Section 7(c) states, “National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, to the extent practicable, efforts be made to avoid activities incompatible with the purposes for which such trails were established. The use of motorized vehicles by the general public along any national scenic trail shall be prohibited....” This section was also adopted in 1968 and has clear implications to the development and management of NSHTs. It is implicit that the nature and purposes of each designated NSHT be established to not only understand acceptable uses along a National Trail, but also for guiding the selection of the rights-of-way and the establishment of a NSHT management corridor.

(7) In 1978, the NTSA was amended adding Section 5(e) and 5(f) to require the development of a Comprehensive Plan directing that, “a comprehensive plan for the management, and use of the trail, including but not limited to, the following items: (1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved...and for national scenic or national historic trails an identified carrying capacity of the trail and a plan for its implementation; (2) the process to be followed by the appropriate Secretary to implement the marking requirements established in section 7(c) of this Act; (3) a protection plan for any high potential historic sites or high potential route segments; and (4) general and site-specific development plans, including anticipated costs.” The NST Comprehensive Plan is discussed further in the next section.

(8) The 1983, House Report No. 98-28 describes that, “The 94th Congress conducted oversight hearings on the act, and also enacted legislation designating additional routes for study under the act. The oversight hearings revealed that the federal agencies were not moving expeditiously to implement the provisions of the original act with respect to the protection of the designated trails... Subsection 7(a) is amended by requiring that the secretary charged with overall administration of a national scenic or national historic trail must consult with all affected state and federal agencies. No presumption is to be made that a trail designation carries with it any transfer of management responsibility for affected federal lands. A mechanism is established where a management transfer may be negotiated, including a provision that such transferred segments will be subject to the usual laws, rules, and regulations governing management of lands administered by the receiving secretary, subject to whatever exceptions may be provided for in the transfer agreement. For example, the Secretary of the Interior who is

responsible for administration of the Appalachian National Scenic Trail, could negotiate an agreement with the Secretary of Agriculture. This agreement might provide that a certain segment of the trail corridor, acquired by the National Park Service, would be transferred to the Forest Service for management, and would be governed by Forest Service rules and regulations, except that the agreement might specify that the transferred corridor segment would be managed with certain other constraints which would not apply to national forest land generally.”

The Secretary charged with National Trail administration following congressional designation executes requirements under the National Trails System Act (NTSA), which include establishing an advisory council for each trail, completing a Comprehensive Plan, selecting the National Scenic Trail rights-of-way, describing the nature and purposes (values) of the national trail, and ensuring that other uses do not substantially interfere with the described National Scenic Trail values. The federal lands within the rights-of-way has an overlay of management regimes: (1) the National Scenic Trail administering agency has certain responsibilities associated with the NTSA corridor segment and (2) the managing agency (the on-the-ground land managing agency) has responsibilities to implement the NFMA, FLPMA or NPS General Authorities Act, as applicable, while being constrained by other laws including the NTSA.

Subsection 7(i) was amended to specify that the appropriate secretary responsible for the management of any segment of a component of the National Trails System may utilize the appropriate National Park System or National Forest System authorities in administering such segment. Consistent, of course, with the purposes of the act. The 'appropriate' secretary shall consult with states. The appropriate secretary may be either the secretary of Agriculture or the secretary of the Interior. Section 7(j) does not modify the nature and purposes of the NST and the guidance in Section 7(c). The added subsection simply lists uses and vehicles that may be permitted on National Trails generally. This provision gives authority to the secretaries to permit such uses where appropriate, but that it must also be exercised in keeping with those other provisions of the law that require the secretaries to protect the resources themselves and the users of the system. It is intended, for example, that motorized vehicles will not normally be allowed on national scenic or historical trails and will be allowed on recreational trails only at times and places where such use will not create significant on-trail or off-trail environmental. Damage and will not jeopardize the safety of hikers, equestrians, or other uses or conflict with the primary purposes for which the trail, or the portion of the trail, were created. Section 7(k) addresses the management and development issues associated with private land along a NSHT stating, “For the conservation purpose of preserving or enhancing the recreational, scenic, natural, or historical values of components of the national trails system, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualified real property interests to qualified organizations consistent with section 170(h)(3) of the Internal Revenue Code of 1954, including, but not limited to, right-of-way, open space, scenic, or conservation easements....” This direction is specific to private land, but identifies the importance “of preserving or enhancing the recreational, scenic, natural, or historical values” along a National Trail.

(9) In 2001, Executive Order 13195 – Trails for America – addressed development and management of NSHTs by directing in Section 1(b), “Protecting the trail corridors associated with national scenic trails...to the degrees necessary to ensure that the values for which each trail was established remain intact....” This E.O. supplements the NTSA by clearly identifying the need to protect NSHT corridors.

(10) In 2009, Omnibus Public Land Management Act (P.L. 111-11, 16 U.S.C. 7202) The Arizona National Scenic Trail was authorized and designated. In addition, the National Landscape Conservation System areas were established on public lands. Section 2002 of this Act describes, in part, “In order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations, there is established in the Bureau of Land Management the National Landscape Conservation System. (b) COMPONENTS.—The system shall include each of the following areas administered by the Bureau of Land Management: (1) Each area that is designated as— ... (D) a national scenic trail or national historic trail designated as a component of the National Trails System;... Furthermore, the legislation states, The Secretary shall manage the system—(1) in accordance with any applicable law (including regulations) relating to any component of the system included under subsection (b); and (2) in a manner that protects the values for which the components of the system were designated.” The Omnibus Public Land Management Act of 2009 resulted in the comprehensive BLM manual series 6250 and 6280 that address the planning, development, and management of NSHTs for the purpose of protecting NSHT values.

The Federal Land Policy and Management Act of 1976, as amended (P.L. 94-579), section 102, states, “regulations and plans for the protection of public land areas of critical environmental concern be promptly developed.” In addition, Section 103 describes, “(a) The term “areas of critical environmental concern” means areas within the public lands where special management attention is required...to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.” “In the development and revision of land use plans, the Secretary shall— (3) give priority to the designation and protection of areas of critical environmental concern; ... and (9) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located...” (FLPMA Section 202) “The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 202 of this Act when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.” (FLPMA Section 302)

National Landscape Conservation System landscapes are clearly areas where “special management attention is required” as specified in the FLPMA definition of an Area of Critical of Environmental Concern (ACEC), and in fact, the Bureau of Land Management has already addressed the need for such special attention, as in MS-6250 and MS-6280 with regard to NSHTs. The recognition

of NLCS components as ACECs as defined in FLMPA provides a mechanism for the identification of these areas and the protection of their values through the development and implementation of Resource Management Plans.

BLM Areas of Critical Environmental Concern directive describes that, “Congress has reserved the right to approve additions to the National Wilderness System, National Historic/Scenic Trails System, and National Wild and Scenic Rivers System and to congressionally designate public land areas as National Recreation Areas and National Conservation Areas. A potential ACEC may be contained within or overlap one of the above designations provided that the ACEC designation is necessary to protect a resource or value... (MS-1613, Congressional Designations, .51).

(11) In 2015, Forest Service planning directives describe that: “When developing plan components for national scenic and historic trails: The Interdisciplinary Team shall identify Congressionally designated national scenic and historic trails and plan components must provide for the management of rights-of-ways (16 U.S.C 1246(a)(2)) consistent with applicable laws, regulations, and Executive Orders. Plan components must provide for the nature and purposes of existing national scenic and historic trails and for the potential rights-of-way of those trails designated for study.” Furthermore, “... The team..., “should use other information to delineate a national scenic and historic trails corridor that protects the resource values for which the trail was designated... The plan must include plan components including standards or guidelines for a designated areas... that describe the national scenic and historic trail and the recreational, scenic, historic, and other resource values for which the trail was designated....

In the “Response to Comments on the Proposed Land Management Planning Directives,” January 2015, the Agency mentions National Scenic and Historic Trails in a section titled, Forest Planning – General Comments – Plan Components, pages 24-25. “Respondents asked that the Agency clarify the following about plan components: clarify enforceability of each plan component; clarify ability of plan components to constrain or prohibit public activities; require documenting assumptions for plan components; provide guidance on evaluating and adopting lower tier components such as trail class, managed uses, designed use, and design parameters and identify prohibited uses for national scenic trails.” The response states, “The Agency modified the proposed planning directives by adding a new section at FSH 1909.12, chapter 20, section 24 on designated areas and a specific new section (sec. 24.43) on national scenic and historic trails. FSH 1909.12, chapter 20, section 24.43 emphasizes that plans are to identify and map national scenic and historic trails within the plan area. Plan components must provide for management of the trail consistent with legal authorities and the nature and purposes of existing national scenic and historic trails, and must be consistent with the objectives and practices for the management of the national scenic and historic trails as identified in the most recent comprehensive plan.⁶ Comprehensive trail plans are expected to provide for trail management compatible with the plan components of the land management plan.”

⁶ Many existing Comprehensive Plans need to be revised or amended to provide appropriate guidance for “nature and purposes,” “visual resource management,” “recreation resource management,” “motor vehicle use,” “carrying capacity,” and

This response is unclear, since two distinct planning processes are discussed in one passage. A Comprehensive Plan is defined by the NTSA, while a National Forest System (NFS) trail plan is a resource plan, such as establishing Travel Management Objectives (FSM 2353.12). However, it appears that the Agency is committed to (1) providing for the protection of the nature and purposes of National Scenic and Historic Trails and being consistent with each National Scenic or Historic Trail Comprehensive Plan, and (2) NFS trail plans are directed to be consistent with plan components. Comprehensive Plans developed in response to the requirements of the National Trails System Act and Wild and Scenic Rivers Act are not resource plans as defined by the NFMA (16 U.S.C. 1604(i) and 36 CFR 219.15(e)).

NST policy and direction is found in the Comprehensive Plan, FSM 2353, FSH 1909.12 section 14, and FSH 1909.12 section 24.43, which in total provides the necessary National Trail policy and management direction for implementing the requirements of the NTSA. FSM 2350 is referenced in FSH 1909.12 section 24.43, which is necessary since the Forest Service Planning Handbook in itself does not contain substantive specialized guidance and instruction for addressing the NTSA in an integrated land management planning process. FSM 1110.3, FSM 1110.8, and FSM 1112.02 have more information about the formulation of directives.

(12) In 2016, the Bureau of Land Management (BLM) amended its regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act (FLPMA). On March 27, 2017, these regulations were rescinded by P.L. 115-12 - [H.J.Res.44](#) - Disapproving the rule submitted by the Department of the Interior relating to Bureau of Land Management regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act of 1976.

D. National Scenic Trail Comprehensive Planning

A comprehensive plan for the acquisition, management, development, and use of a National Scenic Trail includes, in part, specifies objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, an identified carrying capacity, an acquisition or protection plan, and general and site-specific development plans. A comprehensive plan is completed when programmatic and site-specific planning elements have been addressed.

Comprehensive plan direction must be applied to a management corridor and be associated with measurable outcome-focused objectives that are related to maintaining or achieving nature and purposes desired conditions. These objectives need to define specific recreation opportunities (e.g., activities and experiences); management, land protection, acquisition and development needs; and conservation measures.

to address other NTSA requirements. In addition, Comprehensive Plans need to recognize the role of substantial interference assessments and determinations when addressing other uses along the National Trail corridor.

On National Forest System lands and BLM public lands, the Comprehensive Plan direction is implemented through NFMA and FLPMA integrated planning processes, including establishing direction for practices to be observed:

- Forest Service practices are described in land management plans as plan components, which include standards, guidelines, suitability of lands, and possibly goals. Practices may also include potential management approaches or strategies and partnership opportunities or coordination activities.
- BLM practices are described in Resource Management Plans and Special Area Plans as management actions, allowable use decisions, and implementation actions that are applied to a National Trail Management Corridor.

Comprehensive plan requirements for an NST have often been addressed through staged or stepped-down decision processes: (1) a Comprehensive Plan (Stage 1) establishes broad policy and procedures including identifying the nature and purposes, (2) land management plans (Stage 2) guide all natural resource management activities and establish management standards (aka thresholds), provide integrated resource management direction for special areas, and address programmatic planning requirements, and (3) mid-level and site-specific plans (Stage 3) complete the comprehensive planning process through field-level actions to protect the corridor and then maintain or construct the travel route. Staged and stepped down decision processes could appear to support the notion that the comprehensive plans are simply resource plans that are subordinate to the land management plan direction. Instead, this is an administrative approach to incrementally step through the comprehensive planning process that is required by the NTSA. The Forest Service Planning Rule PEIS discusses staged decisionmaking as related to NFMA and NEPA processes:

“...NFMA requires the promulgation of a planning rule that ‘set[s] out the process for the development and revision of the land management plans, and the guidelines and standards’ set out in the Act. The rule must be developed ‘under the principles of the Multiple-Use Sustained-Yield Act’ (16 U.S.C. 1604(g)). A planning rule sets out requirements for development, revision, and amendment of land management plans. By setting out substantive and procedural requirements, it establishes the decision space within which the planning process is to be carried out and within which plan content must fit. Approval of a planning rule will guide development, revision, and amendment of land management plans...

At the second stage of decisionmaking, within the requirements set out in the planning rule, a land management plan sets out a framework with sideboards to guide all natural resource management activities on a NFS unit. Approval of a land management plan is a programmatic decision that identifies desired conditions, sets goals and objectives, establishes standards and guidelines, and determines what and how often to monitor certain conditions. A plan guides the choice and design of future proposals for projects and activities in a plan area but typically does not authorize projects or activities, nor commit the Forest Service to take action. A plan constrains the Agency, however, by prohibiting the

authorization of certain types of projects or activities or limiting the manner in which they may be carried out, in all or part of the plan area...

As a planning rule establishes the decision space for land management planning, land management plans establish further constraints upon the decision space for on-the-ground management decisions. Yet, as the multiple-use principle necessitates a broad decision space for plans, plans will also provide broad decision space...

At the third decisionmaking stage are authorizations of on-the-ground projects and activities. Decisions in this third stage must be consistent with the applicable land management plan. Site-specific decisions on any one unit can cover a wide variety of actions. The number of such decisions, made during the life of a plan, can number into the hundreds, and vary widely by type.

At each stage—from NFMA to planning rule, planning rule to plan, and plan to project—the decision space narrows. Even so, the decision space remains broad. Every one of the plans developed to date has differed from the others, and the project decisions that have been under each plan have varied widely...

Each stage of the Agency's decisionmaking process (rule, plans, and projects) is subject to the requirements of the NEPA. As the rule narrows the decision space for plans, and each plan narrows the decision space for projects, so too the NEPA analysis narrows at each stage, through 'tiering.' Tiering of NEPA analysis is provided for in the Council on Environmental Quality regulations, and refers to the coverage of general matters in broader environmental impact statements (such as this), with subsequent narrower statements or environmental analyses (such as those for plans) incorporating by reference discussions in the broader document 'to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review' (40 CFR 1502.20). Tiering is appropriate when the sequence of statements or analyses is: from a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis (40 CFR 1508.28)...

Finally, for each proposed project or activity, the Agency undertakes yet another environmental analysis, to determine the site-specific effects. And, it is at that project-specific stage where the bulk of Forest Service NEPA effects analysis is, and will continue to be, done. Only at the point of making project-level decisions does the Agency commit resources or funding for on-the-ground action. It is at this level of NEPA analysis that direct effects can be predicted with confidence to the constituent parts of the environment: the soil, air, water, vegetation, wildlife, social conditions, and economic costs/returns" (Forest Service Planning Rule, PEIS, pages 77-79).

Appendix A depicts an integrated planning strategy for an NST. This strategy does not diminish the *discrete agency action* that is required by the NTSA Section 5(e) and 5(f) to prepare one Comprehensive Plan for each NST.

The establishment of NST MAs and NTMCs, with appropriate plan components, could facilitate comprehensive planning, selecting and publishing the rights-of-way in the Federal Register, and meet attached NEPA requirements.⁷

E. Ecosystem Integrity and Diversity

The Forest Service describes that the, “Agency intent is to promote ecosystem integrity in the plan area. However, it may not be possible or appropriate to strive for returning key characteristics to past conditions throughout the plan area... Understanding the natural range of variation is fundamental in strategic thinking and planning, even if restoration to historical conditions is not the management goal or possible on parts of the plan area. Understanding the natural range of variation of an ecosystem provides an understanding of how ecosystems are dynamic and change over time. The natural range of variation is useful for understanding each specific ecosystem, for understanding its existing ecological conditions, and for understanding its likely future character, based on projections of climate regimes” (FSH 1909.12 23.11a). “Plans must contain plan components, including standards or guidelines, that maintain or restore the composition, structure, ecological processes, and connectivity of plan area ecosystems in a manner that promotes their ecological integrity” (23.11b). “Desired conditions should define and identify fire’s role in the ecosystem” (23.11c).

The scenic character and recreation settings of the planning area must be addressed in the context of ecosystem integrity and diversity. It is important to understand the spatial extent and distribution of ecosystems and habitat types and spatial relationships to the natural range of variation. Understanding these relationships is critical to addressing scenic character and recreation setting stability along the CDNST corridor.

Scenic stability and sustainable recreation in an ecological context are the degree to which the scenic character and recreation settings can be sustained through time with ecological progression. Scenic and setting stability may be at risk if the landscape vegetation is outside the natural range of variation. Older forested areas may be at risk from large intense wildfires and be subject to land clearing from timber harvest, road construction, and other developments in Roaded Natural/Roaded Modified ROS settings. The Forest Plan EIS should describe how much land could be devoted to “timber production” and associated actions and activities, while still meeting requirements for ecological integrity.

The natural range of variation analyses can be used to assess the scenic and setting stability of forest landscapes. This can be measured in terms of the landscape’s departure from the natural range of variation and rate of seral-stage change. Seral-stage communities consist of vegetation types that are adapted to the site’s particular set of physical and biotic conditions. In the unmanaged forested landscape, various natural disturbance agents (such as fire, wind-throw, landslides, and insects) are responsible for creating forests containing a full range of stand ages. Insufficient fire or too much

⁷ Under NEPA, when a federal agency does not make an “overt act,” no NEPA requirement to prepare an Environmental Impact Statement (EIS) attaches. However, if some agency action was mandated under a separate statute in relation to that activity but the action was not taken, NEPA does attach and the Administrative Procedure Act applies (40 CFR 1508.18 and 5 U.S.C. 706). The NTSA presents an independent planning requirement to prepare and implement a comprehensive plan, select the rights-of-way, and in general provide for the NST nature and purposes.

timber harvest on the landscape can determine the level of departure from the natural range of variation or rate of progression between seral-stages. Departures in fire regime, extensive insect outbreaks, excessive timber production, and other disturbances from the natural range of variation and rate of seral-stage change help assess scenic stability and sustainable recreation.

Scenic integrity is defined as the degree of direct human-caused deviation in the landscape, such as road construction, timber harvesting, or activity debris. Sustainable recreation is the set of recreation settings and opportunities on the National Forest System that is ecologically, economically, and socially sustainable for present and future generations. Indirect deviations, such as a landscape created by human suppression of the natural role of fire and insect and disease infestations, are not included. In congressionally designated areas such as the CDNST rights-of-way corridor, limited prescribed fire or non-intervention policies are often the desired approach in order to promote natural processes and natural rejuvenation. Outside of protected areas and in Roaded Natural and Roaded Modified settings, interventions may include removal of infected and dead trees or clear cuts, associated road construction, and then followed by artificial reforestation. However, clear cuts are typically disliked by forest visitors.

A number of studies have addressed public perceptions toward the ecological and economic consequences of forest insect outbreaks. Yet, little is known about the influence of naturally altered conifer forest landscapes and forest management interventions and the location of the impacted forest stands (near-view to far-view) in relation to each other on forest visitors' visual preferences. Expanded 'salvage' logging to prevent wildfire rarely contributes to ecological recovery in the disturbed area. Logging of dead or dying trees may be appropriate near roads where standing dead trees pose a safety hazard but should generally be avoided in areas where maintaining natural ecosystem processes is a priority. Controversial projects must have meaningful evaluation and public engagement to ensure achieving the basic principles of science-based forest management, including the use of the best available science and the application of robust decision-making processes to provide for effective and beneficial management actions to address the vital need to improve the climate and fire resiliency of our national forests and the safety of our communities.

To provide for the nature and purposes of the CDNST over time, scenic and recreation setting stability must be considered when addressing fire, insect, and disease concerns. Managing for CDNST desired Scenic Integrity Levels of Very High and High and Primitive and Semi-Primitive Non-Motorized settings will accommodate management practices, such as prescribed fire, to sustain ecosystem integrity and diversity.

F. Visitor Use Management

The Interagency Visitor Use Management Council (IVUMC) has developed a Visitor Use Management Framework⁸ that is designed for federal managers to collaboratively develop, implement, and monitor strategies and actions to provide sustainable access to lands and waters. The intent, and ultimate desired outcome, is to provide high quality visitor experiences, while protecting natural and cultural resources. Responsive and effective visitor use management requires managers to:

⁸ visitorusemanagement.nps.gov

- Identify desired conditions for resources, visitor experiences, and facilities/operations;
- Gain an understanding of how visitor use influences achievement of those goals; and
- Commit to active / adaptive management and monitoring of visitor use to meet those goals.

The framework can be incorporated into existing federal agency planning and decision-making processes and is applicable across a wide spectrum of situations that vary in complexity and spatial extent from site-specific to large-scale planning efforts. The framework is a legally defensible and transparent planning and decision-making process that:

- Integrates applicable laws and policy requirements;
- Provides sound rationale upon which to base management decisions; and
- Facilitates adaptive management.

The framework identifies four overarching elements with discrete steps under each. These elements and steps are highly iterative in nature. The framework is intended to be applied in a flexible manner using the sliding scale concept. The strengths of this framework are that it is iterative, adaptable, and flexible.

Providing for the nature and purposes of a National Scenic Trail should use the Visitor Use Management Framework and utilize Scenery Management System/Visual Resource Management, Recreation Opportunity Spectrum, and Carrying Capacity processes. A primary purpose of these systems is to provide for quality visitor experiences.

G. Recreation Opportunity Spectrum and Scenery Management System Relationship

The Recreation Opportunity Spectrum (ROS) is a system, by which existing and desired recreation settings are defined, classified, inventoried, established, and monitored. Recreation settings are divided into six distinct classes (Primitive, Semi-Primitive Non-Motorized, Semi-Primitive Motorized, Road Natural, Rural, and Urban). Classifications are based on physical, social, and managerial setting characteristics.

As described in the *Recreation Opportunity Setting as a Management Tool* handbook by Stankey, Warren, and Bacon,⁹ “a recreation opportunity setting is defined as the combination of physical, biological, social, and managerial conditions that give value to a place... The seven indicators include access, remoteness, non-recreation uses, onsite management, visitor management, social encounters, and visitor impacts:

1. Access - Includes the type of transportation used by the recreationists within the area and the level of access development, such as trails and roads.
2. Remoteness - The distance of an area from the nearest road, access point, or center of human habitation or development.
3. Nonrecreation uses - Refers to the type and extent of nonrecreation uses present in the area, such as timber harvesting, grazing, and mining.

⁹ http://nstrail.org/carrying_capacity/ros_tool_1986.pdf

4. On-site management - The on-site management indicator refers to modifications such as facilities, vegetation management, and site design.
5. Visitor management – Includes the management actions undertaken to maintain conditions and enhance visitor experiences within an ROS class.
6. Social encounters - The number, type, and character of other recreationists met in the area, along travel ways, or camped within sight or sound.
7. Visitor impacts - Includes those impacts caused by recreation use and affecting resources such as soil, vegetation, air, water, and wildlife.”

The Recreation Opportunity Spectrum provides a framework for stratifying and defining classes of outdoor recreation environments, activities, and experience opportunities. The settings, activities, and opportunities for obtaining experiences have been arranged along a continuum or spectrum divided into six classes: Primitive, Semi-Primitive Non-Motorized, Semi-Primitive Motorized, Roaded Natural, Rural, and Urban.

Where setting characteristics are not completely aligned with a specific ROS class, a determination should be made as to which class best represents the current specific setting. As a general rule, the physical characteristics take precedent over social and managerial characteristics. This is because social and managerial characteristics can often be altered through visitor use management techniques (permits, closures, etc.) where as the physical characteristics (size, remoteness, and others) are more permanent.

How are ROS setting inconsistencies addressed in providing for desired settings along the National Scenic Trail? An inconsistency is defined as a situation in which the condition of an indicator exceeds the range defined as acceptable by the management guidelines. For example, the condition of the indicators for the National Trail corridor may all be consistent with its management as a semi-primitive non-motorized area with the exception of the presence of a trailhead and access road. In such a case, what are the implications of the inconsistency? Does the inconsistency benefit or interfere with the nature and purposes of the National Trail? What should be done about the inconsistency? Three general kinds of actions are possible. First, perhaps nothing can or should be done. It may be concluded that the inconsistency will have little or no effect on the area's general character. Or, the agency may lack jurisdiction over the source of the inconsistency. A second response is to direct management action at the inconsistency to bring it back in line with the guidelines established for the desired ROS class. The main point to be understood with regard to inconsistencies is that they might be managed. The presence of one does not necessarily automatically lead to a change in ROS class. By analyzing its cause, implications, and possible solutions, an inconsistency may be handled in a logical and systematic fashion.

The Scenery Management System (SMS) provides a systematic approach to inventory, assess, define, and monitor both existing and desired scenic resource conditions. Specific components of the SMS include scenic character, the degree of scenic diversity (scenic attractiveness), how and where people view the scenery (distance zones), the importance of scenery to those viewing it (concern levels), and the desired degree of intactness (scenic integrity objectives).

There are several over-arching concepts of the SMS that facilitate the inclusion and integration of scenery resources with planning efforts. The SMS is grounded in an ecological context; recognizes valued aspects of the built environment; and incorporates constituent input about valued features (biophysical and human-made) of settings.

Scenic integrity is defined as the degree of direct human-caused deviation in the landscape, such as road construction, timber harvesting, or activity debris. Indirect deviations, such as a landscape created by human suppression of the natural role of fire, are not included. Naturally occurring incidents, such as insects and disease infestations, are not defined as human-caused deviations in the landscape.

The relationship between the Scenery Management System and the Recreation Opportunity Spectrum systems are discussed in the Landscape Aesthetics Handbook. Landscape Aesthetics - A Handbook for Scenery Management (Agricultural Handbook Number 701); Appendix F - 1 - Recreation Opportunity Spectrum:

“Recreation planners, landscape architects, and other Forest Service resource managers are interested in providing high quality recreation settings, experiences, and benefits for their constituents. This is accomplished, in part, by linking the Scenery Management System and the Recreation Opportunity Spectrum (ROS) System. In addition, providing a single constituent inventory and analysis for both systems is helpful in coordinating management practices.

Esthetic value is an important consideration in the management of recreation settings. This is especially so in National Forest settings where most people expect a natural appearing landscape with limited evidence of "unnatural" disturbance of landscape features...

Although the ROS User's Guide mentions the need for establishing a value for different landscapes and recreation opportunities within a single ROS class in the attractiveness overlay, there is currently no systematic approach to do so. For instance, in most ROS inventories, all lands that are classified semi-primitive non-motorized are valued equally. Some semi-primitive non-motorized lands are more valuable than others because of existing scenic integrity or scenic attractiveness. The Scenery Management System provides indicators of importance for these in all ROS settings. Attractiveness for outdoor recreation also varies by the variety and type of activities, experience, and benefits possible in each setting...

In the past, there have been apparent conflicts between The Visual Management System sensitivity levels and ROS primitive or semi-primitive classes. One apparent conflict has been where an undeveloped area, having little existing recreation use and seldom seen from sensitive travel routes, was inventoried using The Visual Management System. The inventory led to a "sensitivity level 3" classification, and thus apparently contradicted ROS inventory classes of primitive or semi-primitive non-motorized or semi-primitive motorized. Using criteria in The Visual Management System, in a variety class B landscape with a sensitivity level 3, the initial visual quality objective is "modification" or "maximum modification," depending on surrounding land classification. However, because of factors such as few social encounters, lack of managerial regimentation and control, and feelings of remoteness, the same area having little existing recreation use may establish an ROS primitive, semi-primitive

nonmotorized, or semi-primitive motorized inventory classification. There have been concerns over the premise of The Visual Management System that the visual impact of management activities become more important as the number of viewers increases; yet The ROS System emphasizes solitude, infrequent social encounters, and naturalness at the primitive end of the spectrum, with frequent social encounters and more evident management activities at the urban end. Value or importance are dependent on more than the number of viewers or users, and the key is that both the Scenery Management System and ROS are first used as inventory tools. Land management objectives are established during, not before, development of alternatives. Where there does appear to be a conflict in setting objectives for alternative forest plans, the most restrictive criteria should apply. An example might be an undeveloped land area in a viewshed managed for both middleground partial retention and semi-primitive non-motorized opportunities. Semi-primitive non-motorized criteria are usually the more restrictive.

The Scenery Management System and ROS serve related, but different, purposes that affect management of landscape settings. In some cases, ROS provides stronger protection for landscape settings than does the Scenery Management System. This is similar to landscape setting protection provided by management of other resources, such as cultural resource management, wildlife management, and old-growth management. In all these examples, there may be management directions for other resources that actually provide higher scenic integrity standards than those reached by the Scenery Management System. Different resource values and systems (the Scenery Management System, the ROS System, cultural resource management, wildlife management, and old growth management) are developed for differing needs, but they are all systems that work harmoniously if properly utilized. In all these examples, there are management decisions made for other resources that result in protection and enhancement of landscape settings.” The following exhibit displays the relationship between ROS class and Scenic Integrity Objectives as describe in the Landscape Aesthetics Handbook, Appendix F-3.

Scenic Integrity Objectives					
ROS Class	Very High	High	Moderate	Low	Very Low
Primitive	Norm	Inconsistent	Unacceptable	Unacceptable	Unacceptable
Semi-Primitive Non-Motorized	Fully Compatible	Norm	Inconsistent	Unacceptable	Unacceptable
Semi-Primitive Motorized	Fully Compatible	Fully Compatible	Norm (1)	Inconsistent	Unacceptable
Roaded Natural-Appearing	Fully Compatible	Norm	Norm	Norm (2)	Inconsistent (3)
Rural	Fully Compatible	Fully Compatible	Norm	Norm (2)	Inconsistent (3)
Urban	Fully Compatible	Fully Compatible	Fully Compatible	Fully Compatible	Not Applicable
(1) Norm from sensitive roads and trails.					
(2) Norm only in middleground-concern level 2, where Roaded Modified subclass is used.					
(3) Unacceptable in Roaded Natural-Appearing and Rural where Roaded Modified subclass is used. It may be the norm in a Roaded Modified subclass.					

H. Carrying Capacity

National Trails System Act¹, sections 5(e) and 5(f), direct that a Comprehensive Plan for a national trail, “identify carrying capacity of the trail and a plan for its implementation.” This is similar

to Section 3(d)(1) of the Wild and Scenic Rivers Act (WSRA)¹⁰ that directs federal river-administering agencies to “address...user capacities” in a Comprehensive River Management Plan prepared for each component of the National Wild and Scenic Rivers System.

Carrying capacity has been described as the number of organisms of a given species and quality that can survive in, without causing deterioration of, a given ecosystem through the least favorable environmental conditions that occur within a stated interval of time. In recreation, refers to the number of people that can occupy an area for a given social and experience goal. In range, refers to the maximum stocking rate possible on a given range without causing deterioration to vegetation or related resources.

The NTSA and WSRA do not define “carrying capacity” or “user capacities,” but recent litigation has focused primarily on the recreational use.¹¹ The scope of “carrying capacity” and “user capacity” broadly includes visitor use, other public use, and administrative use, but with particular emphasis on the recreational aspect.

Carrying capacities are an integral part of the management approaches identified in a Comprehensive Plan to protect and enhance NST nature and purposes. The nature and purposes of an NST are also known as NST values. The values of NSTs include: (1) visitor experience opportunities and settings, and (2) the conservation and protection of scenic, natural, historical, and cultural qualities of the corridor. Furthermore, the NTSA goes beyond ROS descriptors requiring the protection of significant resources and qualities along the National Trail corridor.

Visitor use management practices need to be sensitive to situations where there is an asymmetric nature of a conflict, especially where there is a one-way relationship where the primary use is sensitive to a secondary use. In those situations, monitoring and adaptive management actions should ensure that the secondary use does not substantially degrade the primary purposes and values.

Addressing visitor capacities requires managers to assess impacts from both established uses and potential new uses. It can be a challenging task because of the complex relationship between human uses and national trail values. The capacity to absorb use without substantial impacts to resources and visitor experiences is dependent on myriad interrelated factors that should be addressed through NEPA planning processes.

Forest Service special use policy requires a capacity analysis and an assessment of public need for outfitter/guide services. It is useful to have numerical capacities when managing outfitter/guides use, since outfitter/guide permits authorize use in specific amounts—expressed either as number of clients or some other similar measure. Special use authorizations allocate a percentage of total recreation capacity to outfitter/guide use. The allocation represents the balance between the amount of use by the general,

¹⁰ 16 U.S.C. §1271-1278; Public Law 90-542 (October 2, 1968) and amendments.

¹¹ See *Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024 (9th Cir. 2008); *American Whitewater v. Tidwell*, (D.S.C. 2012).

unguided public and by commercial outfitter/guides and their clients. For example, an allocation of 50 percent would mean that roughly half the capacity is used by outfitter/guides.

GENERAL STEPS FOR ADDRESSING CARRYING CAPACITIES ON NATIONAL SCENIC TRAILS
<ol style="list-style-type: none">1. Describe the NST values (nature and purposes) and the existing kinds and amounts of uses in the NST corridor.2. Identify desired resource and social conditions (“desired conditions”) that relate to NST values.3. Identify measurable indicators tied to the desired conditions.4. Establish thresholds for each indicator to prevent degradation of NST values.5. Identify the kinds of uses that can be received in the NST corridor without exceeding the established thresholds.6. Identify a range of specific management actions that would be triggered under specific conditions to prevent exceeding the established thresholds.7. Estimate the capacities---the maximum number of people that can be received in the entire NST corridor without adversely impacting the NST values.8. Establish a program of monitoring and ongoing study to ensure the quantity and mixture of uses does not adversely affect NST values, and adapt management actions accordingly.

I. Substantial Interference

Black's law dictionary defines substantial evidence as the amount of evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla. BLM directive MS-6280 defines substantial interference in relation to nature and purposes:

- *Substantial Interference.* Determination that an activity or use affects (hinders or obstructs) the nature and purposes of a designated National Trail (see nature and purposes).
- *Nature and Purposes.* The term used to describe the character, characteristics, and congressional intent for a designated National Trail, including the resources, qualities, values, and associated settings of the areas through which such trails may pass; the primary use or uses of a National Trail; and activities promoting the preservation of, public access to, travel within, and enjoyment and appreciation of National Trails.

Management direction for Semi-Primitive Motorized, Roaded Natural, Rural, and Urban ROS classes allow uses that would substantially interfere with the nature and purposes of an NST if the allocation desired conditions are realized. Where the allowed non-motorized activities reflect the purposes for which the National Trail was established, the establishment of Primitive and Semi-Primitive Non-Motorized ROS classes and high and very high scenic integrity allocations would normally protect the nature and purposes (values) of an NST.

Land management plans should establish desired conditions and standards and guidelines that preserve and promote the nature and purposes of an NST. Specific interference thresholds should be established during the development of a land management plan. Further, the determination of carrying capacity is integral to protecting NST values.

Mining activities and uses have substantially interfered with the nature and purposes of the Arizona National Scenic Trail as described in the assessment: “These mines have diminished the quality of scenic character on the Tonto although mitigation measures required by the Forest Service have reduced the impact of them on the scenic character. Should both proposals submitted for exploration and development by Resolution Copper Company be approved, scenery would be greatly compromised within the proposed project area of the general plan of operations, and within the proposed land exchange area in the vicinity of Oak Flat. Most alternatives for tailings locations for the Resolution project severely affect the nature and purposes of the Arizona National Scenic Trail by degrading the nationally significant scenic resources for which the trail was designated.”

J. Forest Service Planning Considerations

Forest Service – The following describes common considerations and elements of what could be expected for (or lead to) locations and Plan components that would be applied to a Management Area to achieve the nature and purposes of an NST:

Forest Service land management plans shall form one integrated plan for each unit (16 U.S.C. 1604(f)(1)). The plan must provide for ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish, within Forest Service authority and the inherent capability of the plan area as follows: ... (b)... (1) The plan must include plan components, including standards or guidelines, to provide for: (i) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character..., and (vi) appropriate management of other designated areas or recommended designated areas in the plan area...(36 CFR 219.10(b)(i)&(vi)). The NST is a congressionally designated area (36 CFR 219.19).

On National Forest System lands, a Management Area (MA) is to be established for existing NST rights-of-way corridors. For NST sections that pass through the planning unit, plan components must include management and use direction (16 U.S.C. 1244(f)) for the rights-of-way that provide for the nature and purposes of this National Trail (16 U.S.C. 1246). Forest Service directives FSM 2310 and FSM 2380 describe recreation and scenery planning policy.

- FSM 2310.3 - Policy...
 1. Use the Recreation Opportunity Spectrum (ROS) to establish planning criteria, generate objectives for recreation, evaluate public issues, integrate management concerns, project recreation needs and demands, and coordinate management objectives.
 2. Use the ROS system to develop standards and guidelines for proposed recreation resource use and development.

The boundary of the National Scenic Trail management corridor should follow topographic features to the extent possible, while being at least one-half mile wide on each side of the established and potential locations of an NST travel routes where there is management discretion. This is based on Recreation Opportunity Spectrum (ROS) criteria that identify remoteness for a Semi-Primitive Non-Motorized setting as: "An area designated at least 1/2-mile but not further than 3 miles from all roads, railroads or trails with motorized use; can include the existence of primitive roads if closed to motorized use." The FS Scenery Management System identifies that the middleground begins at 1/2-mile of the travel route.

Forest Plan Components

Recommendations for Arizonan NST plan components are described in the following table.

NST LMP MA Desired Conditions

Descriptions
The National Scenic Trail (NST) provides for high-quality scenic, non-motorized recreation opportunities and conserves natural, historic, and cultural resources along the NST corridor (NST nature and purposes).
The area is predominantly a natural-appearing or naturally evolving landscape. Scenic integrity objectives are High and Very High.
Interaction between users is very low and evidence of other users is minimal. Semi-Primitive Non-Motorized or Primitive ROS settings are protected or restored.
The management area provides for natural ecological processes where the composition, structure, functions, and connectivity function normally.
The NST linear landscape provides connectivity for people and wildlife.

NST LMP MA Objectives

Descriptions
Complete an NST travel route through the MA within five years. [Example of proposed and possible actions.]

NST LMP MA Standards or Guidelines Practices

Descriptions - See FSM 1110.8 for Degree of Compliance or Restriction “Helping Verbs” and “Mood of Verb” Definitions
Scenery Management
Manage an NST travelway as a concern level 1 travel route. Resource management actions must meet a Scenic Integrity Level of Very High or High. (Forest-wide Plan Component)
Recreation Setting Management
Standard: Resource management actions and allowed uses must be compatible with maintaining or restoring Primitive or Semi-Primitive Non-Motorized ROS class settings. Accepted Semi-Primitive Non-Motorized ROS class inconsistencies include existing: (1) NFS roads, (2) state and county road right-of-ways, and (3) utility right-of-ways. [Accepted inconsistencies are to be determined for each Forest unit.] Manage ROS class inconsistencies with the objective of minimizing effects on the

NST nature and purposes.
Standard: The NST must be managed to provide high-quality scenic, non-motorized recreation opportunities
Motor Vehicle Use by the General Public
Standard: Motor vehicle use by the general public is prohibited on the NST travel route unless that use: <ul style="list-style-type: none"> ▪ Is necessary to meet emergencies; ▪ Is necessary to enable adjacent landowners or those with valid outstanding rights to have reasonable access to their lands or rights; ▪ Is for the purpose of allowing private landowners who have agreed to include their lands in the NST by cooperative agreement to use or cross those lands or adjacent lands from time to time in accordance with Forest Service regulations; or ▪ Is on a motor vehicle route that crosses the NST, as long as that use will not substantially interfere with the nature and purposes of the NST.
Special Uses Management
Activities, uses, and events that would require a permit must not be authorized unless the activity, use, or event is compatible with the nature and purposes of an NST.
Minerals Management
Mineral leases are to include stipulations for no surface occupancy.
Permits for the removal of mineral materials are not to be issued.
Mineral withdrawals should be enacted in areas with a history of locatable mineral findings. Locatable mineral activities and operations must not be allowed to substantially degrade the Arizona NST nature and purposes.
Vegetation Management
Vegetation may be managed to enhance NST values, such as to provide vistas to view surrounding landscapes and to conserve natural resources.
Standard: Timber harvests may only be used for maintaining or making progress toward the Management Area desired conditions.
Guideline: Vegetation may be managed to maintain or improve threatened and endangered species, proposed and candidate species, and species of conservation concern habitat. The purpose of this guidance is to recognize the conservation purposes of the NST.
Rangelands and riparian areas where affected by livestock use must be maintained in a Proper Functioning Condition.
Cultural and Historic Resources Management
Protect cultural and historic resources. Interpret National Historic Trails and sites.
Lands Acquisition
Provide for land acquisitions to protect the nature and purposes of the National Trail. Prohibit land disposals.
Travel Routes
Segments of an NST travel route should fall into Trail Class 2 or 3 and have a Designed Use of Pack and Saddle Stock, except where a substantial safety or resource concern exists, the travel route may have a Designed Use of Hiker/Pedestrian (FSH 2309.18).
The NST travel route may not be used for a livestock driveway.

Fire Suppression
Fire suppression activities should apply the Minimum Impact Suppression Tactics Implementation Guidelines.
Motor Vehicle Use
Motor vehicle use by the general public is prohibited unless that use: <ul style="list-style-type: none"> a. Is necessary to meet emergencies; b. Is necessary to enable adjacent landowners or those with valid outstanding rights to have reasonable access to their lands or rights; c. Is for the purpose of allowing private landowners who have agreed to include their lands in the NST by cooperative agreement to use or cross those lands or adjacent lands from time to time in accordance with Forest Service regulations; or d. Is on a motor vehicle route that crosses the NST, as long as that use will not substantially interfere with the nature and purposes of the NST.
Other Uses Considerations
Other uses that could conflict with the nature and purposes of an NST may be allowed only where there is a determination that the other use would not substantially interfere with the nature and purposes of an NST (16 USC 1246(c)).
National Scenic Trail corridors might overlap with Wilderness and Wild and Scenic River designations. Where this occurs, the most restrictive measures control.
Suitability of Lands
Lands are not suitable for timber production.

The NST rights-of-way and management corridor is not suitable for timber production as described in 36 CFR 219.11(a)(i) and (iii). Timber production is incompatible with achieving National Trails System Act objectives and the NST nature and purposes desired conditions.

The NTSA, Section 2(a), policy describes an objective as, "...to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation..." Section 3(a)(2), states that, "national scenic trails...will be...located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass." Section 5(f), describes that a comprehensive plan, which is being completed through staged decision making on NFS lands, will provide management direction that addresses, "specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved..., and a protection plan for any...high potential route segments." Section 7(c) restricts uses and activities, including the removal of vegetation describing that, "Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted."

The NST Comprehensive Plan and FSM 2353.42 policy describe desired conditions, "*Administer National Scenic and National Historic Trail corridors to be compatible with the nature and purposes of the corresponding trail...*"

The lasting effects of an activity (roads, timber harvest) as well as short-term effects (logging trucks, noise) degrade NST values. Managing the NST corridor for Roaded Natural/Modified and Semi-Primitive Motorized ROS settings and timber production purposes would lead to management actions that substantially interfere with the nature and purposes of the NST. In areas of timber production, reoccurring harvests for timber purposes, stand tending, road construction and reconstruction, NST travel route closures, and other activities are incompatible with desired ROS settings and Scenic Integrity Objectives.

The Plan should recognize that timber production and associated actions and activities are inconsistent with the provisions of (1) the National Trails System Act, including providing for the nature and purposes of the NST and (2) Primitive and Semi-Primitive Non-Motorized ROS classes, which are appropriate ROS allocations for an NST management corridor or rights-of-way. Regulated forest structure conditions maintained by periodic forest harvest and regeneration is inconsistent with and unnecessary for achieving National Scenic Trail, Primitive ROS class, and Semi-Primitive ROS class desired conditions; these areas must not be classified as suitable for timber production, and harvest quantity projections must not be included in projected wood sale quantity and projected timber sale quantity calculations.

NST LMP MA Implementation Guidance

Partnerships and volunteers are sustained or sought to lead and assist in NST programs. Volunteer and cooperative agreements will be developed with those volunteers and private organizations that are dedicated to planning, developing, maintaining, and managing an NST in accordance with Sections 2(c), 7(h)(1), and 11 of the NTSA.

The direction in the NTSA, FSM 2310, FSM 2353.4, and FSM 2380 are used to guide the development and management of the Trail.

K. Recreation Opportunity Spectrum Plan Components

The 2012 Planning Rule describes that, “A Forest Plan must contain plan components, including standards or guidelines to provide for sustainable recreation” (36 CFR 219.10(b)). Forest Service directives describe that, “The plan must include plan components, including standards or guidelines, to provide for sustainable recreation integrated with other plan components as described in 23.21a. To meet this requirement the plan: ... (a) Must include desired conditions for sustainable recreation using mapped desired recreation opportunity spectrum classes....” (FSH 1909.12 23.23a).

Forest Service directives describe, “*Use the Recreation Opportunity Spectrum (ROS) system and the ROS Users Guide (1982) to delineate, define, and integrate outdoor recreation opportunities in land and resource management planning*” (FSM 2311.1). “*Managing for recreation requires different kinds of data and management concepts than does most other activities. While recreation must have a physical base of land or water, the product—recreation experience—is a personal or social phenomenon. Although the management is resource based, the actual recreational activities are a result of people, their perceptions, wants, and behavior.*”

While the goal of the recreation is to obtain satisfying experiences, the goal of the recreation resource manager becomes one of providing the opportunities for obtaining these experiences. By managing the natural resource settings, and the activities, which occur within it, the manager is providing the opportunities for recreation experiences to take place. Therefore, for both the manager and the recreationist, recreation opportunities can be expressed in terms of three principal components: the activities, the setting, and the experience.

For management and conceptual convenience possible mixes or combinations of activities, settings, and probable experience opportunities have been arranged along a spectrum, or continuum. This continuum is called the Recreation Opportunity Spectrum (ROS) and is divided into six classes. The six classes or portions along the continuum, and the accompanying class names have been selected and conventionalized because of their descriptiveness and utility in Land and Resource Management Planning and other management applications. The Recreation Opportunity Spectrum provides a framework for defining the types of outdoor recreation opportunities the public might desire, and identifies that portion of the spectrum a given National Forest might be able to provide.

Planning for recreation opportunities using the Recreation Opportunity Spectrum are conducted as part of Land and Resource Management Planning. The recreation input includes factors such as supply and demand, issues and identification of alternative responses to those issues, which the planner must assess in order to develop management area prescriptions designed to assure the appropriate recreation experience through setting and activity management on the Forest...

Land and Resource Management Planning assure that National Forest System lands provide a variety of appropriate opportunities for outdoor recreation... Each prescription should contain minimum guidelines and standards to be met as well as directions concerning the type of activities, settings, and experience opportunities to be managed for during the planning time periods... The land and water areas of the Forest are inventoried and mapped by Recreation Opportunity Spectrum class to identify which areas are currently providing what kinds of recreation opportunities. This is done by analyzing the physical, social, and managerial setting components for each area. The characteristics of each of these three components of the setting affect the kind of experience the recreationist most probably realizes from using the area.

- *PHYSICAL SETTING-The physical setting is defined by the absence or presence of human sights and sounds, size, and the amount of environmental modification caused by human activity.*
- *SIZE OF AREA-Size of area is used as an indicator of the opportunity to experience self-sufficiency as related to the sense of vastness of a relatively undeveloped area. In some settings, application of the remoteness criteria assures the existence of these experience opportunities; in other settings, the remoteness criteria alone do not. Therefore, apply the size criteria to the map or overlay developed using the remoteness criteria to insure that the appropriate experience opportunities are available. (Most useful for ROS setting inventory.)*
- *EVIDENCE OF HUMANS-evidence of Humans is used as an indicator of the opportunity to recreate in environmental settings having varying degrees of human influence or modification.*
- *SOCIAL SETTING-The social setting reflects the amount and type of contact between individuals or groups. It indicates opportunities for solitude, for interactions with a few selected individuals, or for large group interactions.*
- *MANAGERIAL SETTING-The managerial setting reflects the amount and kind of restrictions placed on people's actions by the administering agency or private landowner which affect recreation opportunities."*

The Forest Service Planning Handbook (FSH 1909.12 – Part 23.23a) addresses recreation resources. *“The Forest Plan must include desired conditions for sustainable recreation using mapped desired recreation opportunity spectrum classes. This mapping may be based on management areas, geographic areas, designated areas, independent overlay mapping, or any combination of these approaches. The plan should include specific standards or guidelines where restrictions are needed to ensure the achievement or movement toward the desired recreation opportunity spectrum classes.”* (1982 ROS User Guide, Forest Service)

To meet the Planning Rule analysis requirements of using the *Best Available Scientific Information* and to ensure CEQ requirements for *Methodology and Scientific Accuracy*, ROS plan components with desired conditions, standards, and guidelines must be described in the plan. In addition, Primitive or Semi-Primitive Non-Motorized ROS class “Social Setting” guidance for party size and encounters would meet the NTSA comprehensive planning requirement for addressing carrying capacity. The following descriptions present plan components that link specific ROS characteristics to the appropriate ROS class.

Primitive ROS Setting

Primitive ROS Class Desired Conditions
Setting: The area is essentially an unmodified natural environment. Interaction between users is very low and evidence of other users is minimal.
Experience: Very high probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skill in an environment that offers a high degree of challenge and risk.
Evidence of Humans: Evidence of humans would be un-noticed by an observer wandering through the area. Natural ecological processes such as fire, insects, and disease exist. The area may provide for wildlife connectivity across landscapes. Primitive ROS settings contain no motorized and mechanized vehicles and there is little probability of seeing other groups. They provide quiet solitude away from roads and people or other parties, are generally free of human development, and facilitate self-reliance and discovery. Signing, and other infrastructure is minimal and constructed of rustic, native materials.
Primitive ROS Class Standards and Guidelines
Standards: (1) Motor vehicles are not allowed unless necessary to protect public health and safety or the use is mandated by Federal law and regulation; and (2) Management actions must result in Very High Scenic Integrity.
Guidelines: (1) No new permanent structures should be constructed, since structures may degrade the unmodified character of these landscapes; (2) Less than 6 parties per day encountered on trails and less than 3 parties visible at campsite since an increase in the number of groups may lead to a sense of crowding; (3) Party size limits range between 6 and 12; and (4) No roads, timber harvest, or mineral extraction are allowed in order to protect the remoteness and naturalness of the area.
Primitive ROS Class Suitability of Lands
Suitability: (1) Motorized and mechanized recreation travel are not suitable; and (2) lands are not suitable for timber production.

Semi-Primitive Non-Motorized ROS Setting

Semi-Primitive Non-Motorized ROS Class Desired Conditions
Setting: The area is predominantly a natural-appearing environment where natural ecological processes such as fire, insects, and disease exist. Interaction between users is low, but there is often evidence of other users.
Experience: High probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skill in an environment that offers a high degree of challenge and risk.
Evidence of Humans: Natural setting may have subtle modifications that would be noticed but not draw the attention of an observer wandering through the area. The area provides opportunities for exploration, challenge, and self-reliance. The area may contribute to wildlife connectivity corridors. Closed and re-vegetated roads may be present, but are managed to not dominate the landscape or detract from the naturalness of the area. Rustic structures such as signs and footbridges are occasionally present to direct use and/or protect the setting's natural and cultural resources.
Semi-Primitive Non-Motorized ROS Class Standards and Guidelines
Standards: (1) Motor vehicle use is not allowed unless necessary to protect public health and safety or the use is mandated by Federal law and regulation; and (2) Management actions must result in High or Very High Scenic Integrity level; and (3) Roads may not be constructed.
Guidelines: (1) The development scale of recreation facilities should be 0-1 to protect the undeveloped character of desired SPMN settings; (2) Less than 15 parties per day encountered on trails and less than 6 parties visible at campsite, since an increased in the number of groups may lead to a sense of crowding; (3) Party size limits range between 12 and 18; and (4) Vegetative management may range from prescribed fire to very limited and restricted timber harvest for the purpose of maintaining or restoring a natural setting.
Semi-Primitive Non-Motorized ROS Class Suitability of Lands
Suitability: (1) Motorized recreation travel is not suitable; and (2) Lands are not suitable for timber production.

Semi-Primitive Motorized ROS Setting

Semi-Primitive Motorized ROS Class Desired Conditions
Setting: The area is predominantly natural-appearing environment. Concentration of users is low, but there is often evidence of other users.
Experience: Moderate probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skill in an environment that offers a high degree of challenge and risk. Opportunity to have a high degree of interaction with the natural environment. Opportunity to use motorized equipment.
Evidence of Humans: Natural setting may have moderately alterations, but would not draw the attention of motorized observers on trails and primitive roads within the area. The area provides for motorized recreation opportunities in backcountry settings. Vegetation management does not dominate the landscape or detract from the experience of visitors. Visitors challenge themselves as they explore rugged landscapes.

Semi-Primitive Motorized ROS Class Standards and Guidelines
Standards: (1) Management actions must result in at least a Moderate Scenic Integrity level, and (2) Roads may not be constructed.
Guidelines: (1) The development scale of recreation facilities should be 0-1 to protect the undeveloped character of desired SPM settings; (2) Low to moderate contact between parties to protect the social setting, and (3) Vegetation management may range from prescribed fire to limited and restricted timber harvest for the purpose of maintaining or restoring natural vegetative conditions.
Semi-Primitive Motorized ROS Class Suitability of Lands
Suitability: Lands are not suitable for timber production.

Roaded Natural ROS Setting

Roaded Natural ROS Class Desired Conditions
Setting: The area is predominantly natural-appearing environments with moderate evidences of the sights and sounds of human activities. Such evidences usually harmonize with the natural environment Interaction between users may be low to moderate, but with evidence of other users prevalent. Resource modification and utilization practices evident, but harmonize with the natural environment. Conventional motorized use is provided for in construction standards and design of facilities.
Experience: About equal probability to experience affiliation with other user groups and for isolation from sights and sound of humans. Opportunity to have a high degree of interaction with the natural environment. Challenge and risk opportunities associated with a more primitive type of recreation are not very important. Practice and testing of outdoor skills might be important. Opportunities for both motorized and non-motorized forms of recreation are possible.
Evidence of Humans: Natural settings may have modifications, which range from being easily noticed to strongly dominant to observers within the area. However, from sensitive travel routes and use areas these alternations would remain unnoticed or visually subordinate. The landscape is generally natural with modifications moderately evident. Concentration of users is low to moderate, but facilities for group activities may be present. Challenge and risk opportunities are generally not important in this class. Opportunities for both motorized and non-motorized activities are present. Construction standards and facility design incorporate conventional motorized uses.
The Roaded Modified subclass includes areas that exhibit evidence of extensive forest management activities that are dominant on the landscape, including having high road densities, heavily logged areas, highly visible mining, oil and gas, wind energy, or other similar uses and activities.
Roaded Natural ROS Class Standards and Guidelines
Standard: Management actions must result in at least a Low Scenic Integrity level.
Roaded Natural ROS Class Suitability of Lands
Suitability: Lands may be suitable for timber production.

Rural ROS Setting

Rural ROS Class Desired Conditions

Setting: Area is characterized by substantially modified natural environment. Resource modification and utilization practices are to enhance specific recreation activities and to maintain vegetative cover and soil. Sights and sounds of humans are readily evident, and the interaction between users is often moderate to high. A considerable number of facilities are designed for use by a large number of people. Facilities are often provided for special activities. Moderate densities are provided far away from developed sites. Facilities for intensified motorized use and parking are available.
Experience: Probability for experiencing affiliation with individuals and groups is prevalent as is the convenience of sites and opportunities. These factors are generally more important than the setting of the physical environment. Opportunities for wildland challenges, risk-taking, and testing of outdoor skills are generally unimportant except for specific activities like downhill skiing, for which challenge and risk-taking are important elements.
Evidence of Humans: Natural setting is culturally modified to the point that it is dominant to the sensitive travel route observer. May include intensively managed wildland resource landscapes. Pedestrian or other slow moving observers are constantly within view of the culturally changed landscape.
Rural ROS Class Suitability of Lands
Suitability: Lands may be suitable for timber production.

ROS and the Roadless Rule

The Roadless Rule was enacted in 2001 with many Roadless Areas being traversed by the CDNST. Forest Plans are developed pursuant to the final rule must comply with all applicable laws and regulations” (36 CFR 219.1(f), 77 FR 21206). The Planning Rule provides no direct guidance for integrating IRAs designated by the Roadless Rule into the forest planning process; however, the Planning Rule and directives do require that Forest Plans establish desired ROS classes.

To be consistent with the planning rule and directives, 2001 Roadless Area prohibitions and restrictions would dictate that the Forest Plan must establish Primitive, Semi-Primitive Non-Motorized, or Semi-Primitive Motorized ROS settings for Roadless Areas if their values are to be protected. These ROS settings are not suitable for timber production and road construction, since timber production does not contribute to the desired conditions of these ROS settings.

L. Bureau of Land Management Planning Considerations

Bureau of Land Management, Resource Management Plan, National Trail Management Corridor – Locating an NST Corridor

NST corridor should be addressed through the delineation of a National Trail Management Corridor (NTMC) with Resource Management Plan (RMP) components (prescriptions) that provide for the nature and purposes of an NST. To provide for the nature and purposes of an NST, several location and management factors should be considered, such as an NST corridor should be located in more primitive ROS classes and once located the management of an NST corridor should provide for a Primitive or Semi-Primitive Non-Motorized experiences. In addition, visual resource management objective class I or II must be met along an NST travel route where on federal lands. The NTMC may also be established as an Area of Critical of Environmental Concern (MS-1613, Congressional Designations, .51).

The boundary of the NTMC should follow topographic features to the extent possible, while being at least one-half mile wide on each side of the established and potential locations of an NST travel routes where there is management discretion. This is based on Recreation Opportunity Spectrum (ROS) criteria that identify remoteness for a Semi-Primitive Non-Motorized setting as: "An area designated at least 1/2-mile but not further than 3 miles from all roads, railroads or trails with motorized use; can include the existence of primitive roads if closed to motorized use." The FS Scenery Management System identifies that the middleground begins at 1/2-mile of the travel route.

Bureau of Land Management – The following describes common considerations and elements of what could be expected for (or lead to) National Trail Management Corridor and prescriptions to achieve the nature and purposes of an NST:

Bureau of Land Management, RMP NTMC Theme and Setting

The NST NTMC Area of Critical of Environmental Concern provides for a ROS setting that is consistent with the requirements of an NST. The NST is managed to provide for recreation opportunities in a natural appearing landscape. Furthermore, to provide for the conservation purposes of a National Scenic Trail the NTMC provides for natural ecological processes and not just the visual appearance of naturalness.

Bureau of Land Management, RMP NTMC Desired Conditions

The NTMC provides high-quality scenic, primitive hiking and horseback riding opportunities and conserves natural, historic, and cultural resources.

A variety of compatible non-motorized recreation opportunities are provided. Concentrations of users are low and opportunities for solitude and exercising outdoor skills will be present. Improvements such as trailheads, trails, signs, and bridges that enhance the recreation opportunities could be present.

The NTMC is characterized by a predominantly natural appearing environment. Vegetation alterations could be present to enhance viewing opportunities and to maintain vegetative diversity. Ecological processes such as fire, insects, and disease exist.

The extent of an NST NTMC should be at least one-half mile on both sides of an NST travel route, while additional management direction is prescribed for adjacent areas to assure that an NST NTMC VRM objectives are met.

NTMC Plan Components

Recommendations for NST plan components are described in the following table.

NST NTMC PRIMARY PURPOSE
<ol style="list-style-type: none"> <li data-bbox="261 1738 1305 1808">1. The NST NTMC purpose is to address the requirements of the National Trails System Act. <li data-bbox="261 1814 1398 1919">2. The primary purpose is to administer an NST consistent with the nature and purposes for which this National Scenic Trail was established. The nature and purposes of an NST are to provide for high-quality scenic, primitive hiking and horseback riding

opportunities and to conserve natural, historic, and cultural resources along an NST corridor.

NST NTMC OBJECTIVES

1. Provide opportunities to experience available examples of the diversity of topographic, geologic, fish, wildlife, vegetation, and scenic phenomenon.
2. Maintain and enhance recreation opportunities for residents and visitors to the area to accommodate hiking, horseback riding, biking, camping, wildlife viewing, and other compatible uses in prescribed settings so visitors are able to realize experiences and benefits.
3. Provide Primitive or Back Country classification recreation setting opportunities.
4. Meet the VRM objective class I or II objective in the foreground area (0 - 3 miles) and the VRM objective class I, II, or III in the middle ground area (3 - 5 miles).
5. Promote and demonstrate natural resources Best Management Practices.
6. Sustain or develop partnerships and cooperative management programs with adjacent landowners and volunteers.

NST NTMC RECREATION SETTING CHARACTERISTIC DESCRIPTIONS

1. The NTMC is managed to protect an NST corridor and user experiences as defined for Primitive and Backcountry areas, while recognizing that the travel route intermittently passes across developed roads, recreation sites, and more developed areas.
2. The NTMC is managed to provide opportunities for trail users to experience and view the diverse topographic, geographic, vegetation, fish, wildlife, and scenic phenomena and to conserve natural, historic, and cultural resources. In addition, scenery is managed in adjacent areas to achieve NST NTMC VRM objectives.

NST NTMC MANAGEMENT ACTIONS AND RESOURCE USE DETERMINATIONS / PRACTICES

1. Resource uses must contribute to meeting Primitive or Back Country recreation setting objectives.
2. Resource uses must meet the VRM Class objectives. The degree of contrast in the foreground and middleground for management actions and developments must be none or weak. The degree of contrast in the background for management actions and developments should be none, weak, or moderate.
3. If the interval between natural water sources is excessive, consider developing and protecting water sources for hikers and pack and saddle stock use.
4. Best Management Practices must be applied to all resource management projects and activities.
5. The NTMC must be closed to mineral material disposal.
6. Mineral withdrawals should be enacted for areas with a history of locatable mineral findings. In addition, a withdrawal should be obtained where relocation of an NST would not be practical if a mineral development occurred.

7. Land exchanges and rights-of-way acquisitions should be pursued with cooperative landowners to improve the continuity of an NST corridor and benefit the nature and purposes of an NST.
8. Other resource uses along an NST are only allowed where there is a determination that the other use would not substantially interfere with the nature and purposes of an NST (16 USC 1246(c)).
9. Motor vehicle use by the general public is prohibited unless that use:
 - a. Is necessary to meet emergencies;
 - b. Is necessary to enable adjacent landowners or those with valid outstanding rights to have reasonable access to their lands or rights;
 - c. Is for the purpose of allowing private landowners who have agreed to include their lands in the NST by cooperative agreement to use or cross those lands or adjacent lands from time to time in accordance with Forest Service regulations; or
 - d. Is on a motor vehicle route that crosses the NST, as long as that use will not substantially interfere with the nature and purposes of the NST.

NST NTMC IMPLEMENTATION ACTIONS / PRACTICES

1. Trail Class, Managed Uses, Designed Use, and Design Parameters must be established and identify any Prohibited Uses of an NST travel route.
2. The NST travel route must be developed, constructed, signed, and maintained.
3. Carrying capacity for the NTMC must be established. The Limits of Acceptable Change or a similar system may be used for this purpose.
4. Preservation of any significant natural, historical, and cultural resources must occur within the NTMC.
5. Native vegetation must be restored and noxious weeds and invasive species controlled.
6. The NST must be relocated from roads to trails.
7. Motor vehicle travel routes should be identified and travel management decisions must be made.
8. Needed mineral withdrawals should be implemented.
9. Visitor information should be provided, especially where an NST coincides with National Historic Trails.
10. Monitoring programs must be implemented to evaluate the site-specific conditions of an NST.
11. Fire suppression activities should apply the Minimum Impact Suppression Tactics Implementation Guidelines.
12. Partnerships and volunteers should be sought to lead and assist in NST programs. Volunteer and cooperative agreements will be developed with those volunteers and private organizations that are dedicated to planning, developing, maintaining, and managing an NST in accordance with NTSA Sections 2(c), 7(h)(1), and 11.

M. National Park Service Planning Considerations

Prior to undertaking an action that may substantially interfere with the nature and purposes of an NST, the National Park Service Director must revise or amend the unit General Management Plan to recognize an NST as a congressionally designated area. The GMP must be in compliance with the

National Park System Development Program regulations (16 U.S.C. § 1a-7) and the NTSA as implemented through direction in an NST Comprehensive Plan. Foundation Documents for NPS units should also address the significance of NST, as applicable. Once programmatic direction is established in the General Management Plan, NST site-specific protection and development plans should be established that provide for the values of this National Scenic Trail.

General Management Plan — “This is a broad umbrella document that sets the long-term goals for the park based on the foundation statement. The general management plan (1) clearly defines the desired natural and cultural resource conditions to be achieved and maintained over time; (2) clearly defines the necessary conditions for visitors to understand, enjoy, and appreciate the park’s significant resources, and (3) identifies the kinds and levels of management activities, visitor use, and development that are appropriate for maintaining the desired conditions; and (4) identifies indicators and standards for maintaining the desired conditions. For wild and scenic rivers and national trails, the analogous documents are a comprehensive river management plan and comprehensive management plan, respectively. Each of these plans has requirements very similar to a general management plan, so units usually refer to these plans as GMPs. Additional requirements for river and trail studies are covered in the Wild and Scenic Rivers Act and the National Trails System Act.” (NPS, Park System Planning, 2.2)

IV. Legislative History and Policy

A. Trails for America

Trails for America, a 1966 report prepared by the Bureau of Outdoor Recreation in response to President Johnson’s Natural Beauty Message of February 8, 1965, describes, “A limited number of national scenic trails should be established to provide opportunities of extended foot, horseback, and bicycle trips for Americans in all parts of the Nation. National scenic trails should have natural, scenic, or historic qualities that give them recreation potential of national significance. Such trails typically should be several hundred miles in length, have overnight shelters at appropriate intervals, and be interconnected with other major trails that provide opportunity for extended hiking or riding experiences. They would be the major axes of networks of trails branching out to nearby points of special attraction serving areas of population throughout the country...

The spirit of adventure springs ever anew in the hearts of Americans, young and old. In no way is it better satisfied than in the exploration of unfamiliar terrain or in the discovery of the beauties of nature. Long-distance trails can provide unparalleled opportunities for such adventure and such satisfaction. Designed primarily for walking or riding, they are within the economic reach of all citizens. Routed to open the scenic wonders of ridgelines, mountaintops, countryside, streams, and lakeshores, and to provide access to scenes of historic significance, they offer varied and exciting experiences. Built to harmonize with the natural areas they cross, they afford the visitor close-up instruction in nature and her ways. Healthful exercise and the opportunity to break away from the pace of automated urban living add to the values of extended hiking and riding experiences. Major long-distance trails can lead the traveler through regions of outstanding scenic, historic, and recreation interest, while serving areas of principal population concentration. They can serve as backbones for systems of trails branching out to nearby points of special attraction. Such trails should be called "national scenic trails." Defined as

extended trails which have natural, scenic, or historic qualities that give them recreation-use potential of national significance, such trails might typically be several hundred miles long, have overnight shelters at appropriate intervals, and be interconnected with other major trails to permit the enjoyment of extended hiking or riding experiences.”

Administration of national scenic trails is complicated by the linear nature of the trails and the complex pattern of land ownership along them. Most existing or potential national scenic trails extend through or into several States. Typically, they cross some lands that are administered by Federal, State, and local public agencies, and other lands that are privately owned. In the West, the trails cross lands administered largely by Federal agencies—the Forest Service, National Park Service, [and] Bureau of Land Management... In view of these considerations, administration of national scenic trails should be governed by the following principles...

4. The entire length of each national scenic trail, together with sufficient land area on both sides to safeguard adequately and preserve its character, should be protected in some form of public control..., and

9. The responsible Secretary, after agreement with the other Federal agencies involved and consultation with appropriate States, local governments, private organizations, and advisory councils, should:

a. locate and designate the route and width of right-of-way of each trail assigned him. The right-of-way should be wide enough to protect adequately the natural and scenic character of the lands through which the trail passes and the historic features along and near along the trail, and to provide campsites, shelters, and related public-use facilities as necessary. It should avoid, insofar as practicable, established highways, motor roads, mining areas, power transmission lines, private recreational developments, public recreational developments not related to the trail, existing commercial and industrial developments, range fences and improvements, private operations, and any other activities that would be incompatible with the protection of the trail in its natural condition and its use for outdoor recreation. Formal designation should be accomplished by publishing notice of the route and right-of-way in the Federal Register, together with appropriate maps and descriptions. Minor changes in route and right-of-way should be handled in the same manner.

b. define the kinds of recreation use that are appropriate on the trail and in keeping with its objectives, and define the kinds of non-recreation uses, if any, that may be permitted within the right-of-way; issue the necessary regulations; and provide enforcement.

c. establish construction and maintenance standards including standards for related facilities that will adequately protect trail values and provide for optimum public use.”

B. National Trails System Act

The National Trails System Act (NTSA), P.L. 90-543, was passed by Congress on October 2, 1968. It established policies and procedures for a nationwide system of trails including National Scenic Trails. The Appalachian Trail and the Pacific Crest Trail were designated as the nation's first National Scenic Trails. “The Act was intended to insure that long-distance, high-quality trails with substantial recreation and scenic potential were afforded Federal recognition and protection” (S.R. 95-636).

Statement of Policy – Sec. 2 (16 U.S.C. 1241(a))

Overlay of Management Regime – The NTSA establishment and designation of an NST provides for the Secretaries of the Agriculture and Interior to manage an NST under existing agencies authorities, but subject to the overriding direction of providing for the nature and purposes of this NST. The establishment of an NST thus constitutes an overlay on the management regime otherwise applicable to public areas managed by land management agencies. The NTSA (and E.O. 13195 - Trails for America in the 21st Century) limits the management discretion the agencies would otherwise have by mandating the delineation and protection of an NST corridor.

“In order to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation, trails should be established...within scenic areas and along historic travel routes of the Nation which are often more remotely located.”

National Trails System – Sec. 3 (16 U.S.C. 1242(a)(2)) –

“National scenic trails, established as provided in section 5 of this Act, which will be extended trails **so located** (*emphasis added*) as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass. National scenic trails may be located so as to represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation.”

National Scenic and Historic Trails –

NTSA sec. 5(e)/(f) (16 U.S.C. 1244(e)/(f)) – “...The responsible Secretary shall...submit...a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items:

1. Specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved,... an identified carrying capacity of the trail and a plan for its implementation;
2. The process to be followed by the appropriate Secretary to implement the marking requirements established in section 7(c) of this Act;

3. A protection plan for any...high potential route segments; and
4. General and site-specific development plans, including anticipated costs.”

Administration and Development – Sec. 7
(16 U.S.C. 1246) –

The Secretary of Agriculture is charged with the overall administration of an NST. Section 7(a)(2) states that the, “...Secretary shall select the rights-of-way for national scenic and national historic trails and shall publish notice thereof of the availability of appropriate maps or descriptions in the Federal Register; Provided, That in selecting the rights-of-way full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation. Development and management of each segment of the National Trails System [i.e., National Recreation Trails, National Scenic Trails, National Historic Trails, and Connecting and Side Trails] shall be designed to harmonize with and complement any established multiple-use plans for the specific area in order to insure continued maximum benefits from the land...¹²” The legislative requirement for the Secretary of Agriculture to take action and select an NST rights-of-way should be addressed by establishing NST Management Area (MA) corridors in Land Management Plans; the requirement should be met on BLM public lands by establishing National Trail Management Corridors (NTMC) in Resource Management Plans. The establishment of NST MAs and NTMCs could facilitate NST comprehensive planning (16 U.S.C. 1244(e)/(f)), selecting and publishing an NST rights-of-way in the Federal Register (16 U.S.C. 1246(a)(2)), and meet attached NEPA requirements.

A National Scenic Trail optimum location assessment may find that designing an NST rights-of-way corridor to pass through inventoried Primitive and Semi-Primitive Recreation Opportunity Spectrum (ROS) settings would assure continued benefits of the land that best meet the needs of the American people. This would include the recreation and conservation benefits resulting from: (1) locating the National Trail corridor “to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas...” (16 U.S.C. 1242(a)(2); (2) avoiding, to the extent possible, activities along the NST that would be incompatible with the purposes of an NST for which it was established (16 U.S.C. 1246(c)); and (3) contributing to achieving outdoor recreation, watershed, and wildlife and fish multiple-use benefits (16 U.S.C. 528). The rights-of-way requirement of 16 U.S.C. 1246(a)(2) is directed at selecting the NST rights-of-way corridor and does not diminish or modify the nature and purposes values of an NST (16 U.S.C. 1246(c)).

NTSA Sec. 7(c) (16 U.S.C.1246(c)) – “National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail. Reasonable efforts shall be made to provide sufficient access

¹² The BLM in MS-6280 describes that, “For all National Trails, the National Trail Management Corridor alternatives should consider... (d) opportunities to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land, while minimizing conflict” (Chapter 4.2(D)).

opportunities to such trails and, to the extent practicable, efforts be made to avoid activities incompatible with the purposes for which such trails were established. The use of motorized vehicles by the general public along any National Scenic Trail shall be prohibited.... Other uses include recreational and resource uses that may be incompatible with the nature and purposes for which an NST was established and designated...”

NTSA Sec. 7(j) (16 U.S.C. 1246(j)). This section does not modify the nature and purposes for which an NST was established and created. It describes that, “the provisions of this subsection shall not supersede any other provisions of this Act or other Federal laws, or any State or local laws.”

NTSA Sec. 7(k) (16 U.S.C. 1246(k)). “For the conservation purpose of preserving or enhancing the recreational, scenic, natural, or historical values of components of the national trails system, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualified real property interests to qualified organizations consistent with section 170(h)(3) of the Internal Revenue Code of 1954, including, but not limited to, right-of-way, open space, scenic, or conservation easements....”

NTSA Sec. 7(i) (16 U.S.C. 1246(i)). The appropriate Secretary...may issue regulations, which may be revised from time to time, governing the use, protection, management, development, and administration of trails of the national trails system. In order to maintain good conduct on and along the trails located within federally administered areas and to provide for the proper government and protection of such trails, the Secretary of the Interior and the Secretary of Agriculture shall prescribe and publish such uniform regulations as they deem necessary....

C. Departmental and Congressional Considerations

Office of the Secretary, 1967: The Departmental Recommendation discusses National Scenic Trails. “National scenic trails.—A relatively small number of lengthy trails which have natural, scenic, or historic qualities that give them recreation use potential of national significance. Such trails will be several hundred miles long, may have overnight shelters at appropriate intervals, and may interconnect with other major trails to permit the enjoyment of such activities as hiking or horseback riding.... The Secretary of the Interior is authorized to select a right-of-way for, and to provide appropriate marking of, the Appalachian and Potomac Heritage Trails, and the Secretary of Agriculture is authorized to do likewise for the Continental Divide and Pacific Crest Trails. The rights-of-way for the trails will be of sufficient width to protect natural, scenic, and historic features along the trails and to provide needed public use facilities. The rights-of-way will be located to avoid established uses that are incompatible with the protection of a trail in its natural condition and its use for outdoor recreation....”

House Report No. 1631, 1968: “PURPOSE - The ultimate aim of H.R. 4865, as amended, is to lay the foundation for expanding further the opportunities for the American people to use and enjoy the natural, scenic, historic, and outdoor recreational areas of the Nation. To accomplish this objective, it establishes a national trails system composed of...National scenic trails which will be located in more remote areas having natural, scenic, and historic values of national significance....

BACKGROUND AND NEED - The proposed national trails system is the product of a general study conducted by the Bureau of Outdoor Recreation at the direction of the President. That study, entitled "Trails for America," formed the basis for the recommended legislation. It recognizes the value of providing simple trails to meet a multitude of outdoor recreation uses and recommended the immediate authorization of the Appalachian Trail as the initial national scenic trail. It also suggested that the Pacific Crest Trail, the Potomac Heritage Trail, and the Continental Divide Trail should be studied promptly for early consideration for inclusion in the system.”

H.R. 4865 proposed legislation describes the selection of Routes for National Scenic Trails – “The Secretary...shall select the rights-of-way.... Such rights-of-way shall be (1) of sufficient width and so located to provide the maximum retention of natural conditions, scenic and historic features, and primitive character of the trail area, to provide campsites, shelters, and related public-use facilities, and to provide reasonable public access; and (2) located to avoid, insofar as practicable, established highways, motor roads, mining areas, power transmission lines, existing commercial and industrial developments, range fences and improvements, private operations, and any other activities that would be incompatible with the protection of the trail in its natural condition and its use for outdoor recreation....”

Congress considered these qualitative requirements for selecting and designing the rights-of-way in HR 4865, but did not enact the specific direction in NTSA Section 7(a). Instead, the enacted legislation inserts in Section 7(a) more conceptual direction for selecting and designing the rights-of-way, including (1) “consideration of minimizing adverse effects” and (2) designing each national trails system segment “to harmonize with and complement any established multiple use plans¹³...” (16 U.S.C. 1246(a)(2)). The enacted legislation made other modifications to HR 4865, including (1) changing the definition of a National Scenic Trail to broaden the statement of purpose (16 U.S.C. 1242(a)) and (2) added a requirement to make efforts to avoid activities incompatible with the purpose for which such trails were established (16 U.S.C. 1246(c)). House and Senate Reports are silent on the reasons for these changes.

House Report 95-734, 1978: In 1968, Congress enacted the National Trails System Act, and designated the Appalachian Trail as one of the two initial national scenic trails within the system. The act was intended to insure that long-distance, high-quality trails with substantial recreation and scenic potential were afforded Federal recognition and protection... At the time of enactment of the National Trails System Act in 1968, Congress recognized the unique recreational opportunities afforded by extended trails of this type. It was also recognized that changing land uses and increasing pressures for development were a growing threat to maintaining a continuous trail route. The act therefore provided for a Federal responsibility to protect the trail, including the authority to acquire a permanent right-of-way.

Senate Report No.95-636, 1978: “The Act was intended to insure that long-distance, high-quality trails with substantial recreation and scenic potential were afforded Federal recognition and protection.... The fourth amendment modifies section 7(g) of the 1968 act to modify the restriction on

¹³ NTSA Section 7(a)(2) is reviewed in the, “Development and Management” section of this paper.

the use of eminent domain to provide that the secretary may acquire in fee title and lesser interest no more than an average of 125 acres per mile. Experience with the trail has demonstrated that additional authority is needed to insure the acquisition of a corridor wide enough to protect trail values.” This amendment to the NTSA was specific to the Appalachian NST, but demonstrates awareness of the need for a National Trail corridor even when eminent domain may be used to secure the necessary land.

House Report No.95-1165, 1978: “Title V establishes new units of the National Park and National Trail Systems which the committee believes to be essential additions to these national programs. Timely action to preserve portions of our heritage, both historical and natural, within the states and insular areas is needed to assure these resources are not lost through adverse actions by special interest groups.”

House Report No. 98-28, 1983: Section 7(j) intent is described in this report, “While the new subsection would permit the appropriate secretaries to allow trail bikes and other off-the-road vehicles on portions of the National Trail System, the Committee wishes to emphasize that this provision gives authority to the secretaries to permit such uses where appropriate, but that it must also be exercised in keeping with those other provisions of the law that require the secretaries to protect the resources themselves and the users of the system. It is intended, for example, that motorized vehicles will not normally be allowed on national scenic or historical trails and will be allowed on recreational trails only at times and places where such use will not create significant on-trail or off-trail environmental damage and will not jeopardize the safety of hikers, equestrians, or other uses or conflict with the primary purposes for which the trail, or the portion of the trail, were created.” This report underscores the importance of understanding the primary purposes for which a National Trail was established.

D. Executive Orders

Executive Order 13195 – Trails for America in the 21st Century: “By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of purposes of the National Trails System Act of 1968...and to achieve the common goal of better establishing and operating America's national system of trails, it is hereby ordered as follows: Section 1... Federal agencies will, to the extent permitted by law and where practicable ... protect, connect, promote, and assist trails of all types throughout the United

National Scenic Trail Values – (1) visitor experience opportunities and settings, and (2) the conservation/protection of scenic, natural, historical, and cultural qualities of the corridor. Primitive and Semi-Primitive Non-Motorized ROS settings provide for desired experiences, but only if the allowed non-motorized activities reflect the purposes for which the National Trail was established. Furthermore, the NTSA goes beyond ROS descriptors requiring the protection of significant resources and qualities along the National Trail corridor. The ROS planning framework, NTSA Comprehensive Plan (Section (5(e)/(f)) components, NTSA rights-of-way (Section 7(a)), and E.O. 13195 requirements point to the need for land management plans to map the extent of the corridor and apply to the described corridor appropriate plan components (desired conditions, objectives, standards, guidelines, and suitability of lands) to protect National Trail values (nature and purposes).

States. This will be accomplished by: ... (b) Protecting the trail corridors associated with national scenic trails...to the degrees necessary to ensure that the values for which each trail was established remain intact....”

Executive Order 11644 and 11989 – Use of off-road [motorized] vehicles on the public lands: “...By virtue of the authority vested in me as President of the United States by the Constitution of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), it is hereby ordered as follows: Section 1. *Purpose*. It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road [motorized] vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands....” (Related: 36 CFR 212.55 and 43 CFR 8351.1)

E. Policy for a National Scenic Trail

Forest Service, Regulations and Policy

36 CFR 219.10 Multiple use.

While meeting the requirements of §§ 219.8 and 219.9, the plan must provide for ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish, within Forest Service authority and the inherent capability of the plan area as follows:

(a) *Integrated resource management for multiple use*. The plan must include plan components, including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple uses in the plan area. When developing plan components for integrated resource management, to the extent relevant to the plan area and the public participation process and the requirements of §§ 219.7, 219.8, 219.9, and 219.11, the responsible official shall consider:

(1) Aesthetic values, air quality, cultural and heritage resources, ecosystem services, fish and wildlife species, forage, geologic features, grazing and rangelands, habitat and habitat connectivity, recreation settings and opportunities, riparian areas, scenery, soil, surface and subsurface water quality, timber, trails, vegetation, viewsheds, wilderness, and other relevant resources and uses...

(3) Appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors...

(6) Land status and ownership, use, and access patterns relevant to the plan area.

(7) Reasonably foreseeable risks to ecological, social, and economic sustainability...

(10) Opportunities to connect people with nature.

(b) *Requirements for plan components for a new plan or plan revision*.

(1) The plan must include plan components, including standards or guidelines, to provide for:

(i) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character. Recreation opportunities may include nonmotorized, motorized, developed, and dispersed recreation on land, water, and in the air.

- (ii) Protection of cultural and historic resources.
- (iii) Management of areas of tribal importance.
- (iv) Protection of congressionally designated wilderness areas as well as management of areas recommended for wilderness designation to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation.
- (v) Protection of designated wild and scenic rivers as well as management of rivers found eligible or determined suitable for the National Wild and Scenic River system to protect the values that provide the basis for their suitability for inclusion in the system.
- (vi) Appropriate management of other designated areas or recommended designated areas in the plan area, including research natural areas.

FSM 2310.3 - Policy. In addition to general planning policy presented in 36 CFR 219.1, FSM 1903, FSM 1920.3, FSM 1922.03, and FSM 2303:

1. Use the Recreation Opportunity Spectrum (ROS) to establish planning criteria, generate objectives for recreation, evaluate public issues, integrate management concerns, project recreation needs and demands, and coordinate management objectives.
2. Use the ROS system to develop standards and guidelines for proposed recreation resource use and development.

FSM 2311.1 - Recreation Opportunity Spectrum (ROS).

Use the Recreation Opportunity Spectrum (ROS) system and the ROS Users Guide (U.S. Department of Agriculture, Forest Service. ROS Users Guide. Washington, DC: U.S. Department of Agriculture, Forest Service; 1982. 37p.) to delineate, define, and integrate outdoor recreation opportunities in land and resource management planning (FSM 1922.15, item 2). Recreation integration/coordination provides for integrated management prescriptions and associated standards to deal with the recreation resource. ROS defines six recreation opportunity classes that provide different settings for recreational use: primitive, semi-primitive nonmotorized, semi-primitive motorized, roaded natural, rural, and urban. Use ROS classes to describe all recreation opportunity areas--from natural, undisturbed, and undeveloped to heavily used, modified, and developed. Apply the criteria involving the physical, social, and managerial environments found in the ROS Users Guide to delineate the different ROS classes of land. Urban class areas are not normally an appropriate management objective for National Forest lands.

The 1982 ROS User Guide provides the following descriptions of each ROS class setting and evidence of humans:

Primitive: Area is characterized by essentially unmodified natural environment of fairly large size. Interaction between users is very low and evidence of other users is minimal. The area is managed to be essentially free from evidence of human-induced restrictions and controls.

Motorized use within the area is not permitted. Setting is essentially an unmodified natural environment. Evidence of humans would be un-noticed by an observer wandering through the area.

Semi-Primitive Non-Motorized: Area is characterized by a predominantly natural-appearing environment of moderate-to-large size. Interaction between users is low, but there is often evidence of other users. The areas are managed in such a way that minimum on-site controls and restrictions may be present, but are subtle. Motorized use is not permitted. Natural setting may have subtle modifications that would be noticed but not draw the attention of an observer wandering through the area.

Semi-Primitive Motorized: Area is characterized by a predominantly natural-appearing environment of moderate-to-large size. Concentration of users is low, but there is often evidence of other users. The areas are managed in such a way that minimum on-site controls and restrictions may be present, but are subtle. Motorized use is permitted. Natural setting may have moderately dominant alterations but would not draw the attention of motorized observers on trails and primitive roads within the area.

Roaded Natural: Area is characterized by predominantly natural-appearing environments with moderate evidences of the sights and sounds of man. Such evidences usually harmonize with the natural environment. Interaction between users may be low to moderate, but with evidence of other users prevalent. Resource modification and utilization practices evident, but harmonize with the natural environment. Conventional motorized use is provided for in construction standards and design of facilities. Natural setting may have modifications, which range from being easily noticed to strongly dominant to observers within the area. However, from sensitive travel routes and use areas these alternations would remain unnoticed or visually subordinate.

Rural: Probability for experiencing affiliation with individuals and groups is prevalent as is the convenience of sites and opportunities. These factors are generally more important than the setting of the physical environment. Opportunities for wildland challenges, risk-taking, and testing of outdoor skills are generally unimportant except for specific activities like downhill skin, for which challenge and risk-taking are important elements. Natural setting is culturally modified to the point that it is dominant to the sensitive travel route observer. May include intensively managed wildland resource landscapes. Pedestrian or other slow moving observers are constantly within view of the culturally changed landscape.

FSM 2350 Policy – Approved by Acting Associate Deputy Chief Richard W. Sowa

FSM 2353.04b - Chief of the Forest Service. The Chief of the Forest Service is responsible for: ...

2. Approving and submitting National Scenic and National Historic Trail comprehensive management plans to Congress (16 U.S.C. 1244(e) and (f)).

3. When in the public interest, entering into an agreement with the Secretary of the Interior that transfers management responsibilities for segments of National Scenic or National Historic Trails (16 U.S.C. 1246(a)(1)(B)).
4. Selecting the corridor for National Scenic and National Historic Trails and publishing notice of availability of required maps and descriptions in the Federal Register (16 U.S.C. 1246(a)(2)).

FSM 2353.04g - Regional Foresters. Regional Foresters are responsible for: ...

3. National Scenic and National Historic Trails...

- b. For trails administered by the Secretary of Agriculture: ...

- (2) Approving the location of these trails within the applicable corridor and signing notices for the Federal Register of availability of maps and descriptions of the location of these trails (16 U.S.C. 1246(a)(2) and (b)). For trails that traverse multiple regions, the lead Regional Forester has this responsibility...

- (6) Approving non-substantial relocations of National Scenic and National Historic Trails, publishing required notices in the Federal Register, and referring recommendations for substantial relocations to the Chief (16 U.S.C. 1246(b)). For trails that traverse multiple regions, the lead regional forester has this responsibility.

FSM 2353.11 – Relationship between National Recreation, National Scenic, and National Historic Trails and NFS Trails

Manage National Recreation, National Scenic, and National Historic Trails as NFS trails.

Administer each National Recreation, National Scenic, and National Historic Trail corridor to meet the intended nature and purposes of the corresponding trail (FSM 2353.31).

FSM Policy – Approved by Acting Associate Deputy Chief Richard W. Sowa

FSM 2353.11 – Relationship between National Recreation, National Scenic, and National Historic Trails and NFS Trails

Manage National Recreation, National Scenic, and National Historic Trails as NFS trails.

Administer each National Recreation, National Scenic, and National Historic Trail corridor to meet the intended nature and purposes of the corresponding trail (FSM 2353.31).

FSM 2353.31 – Policy

1. The National Trails System (16 U.S.C. 1242(a)) includes: ... b. National Scenic Trails. These extended trails are located so as to provide for maximum outdoor recreation potential and for conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which these trails pass (16 U.S.C. 1242(a)(2))...

2. Ensure that management of each trail in the National Trails System addresses the nature and purposes of the trail and is consistent with the applicable land management plan (16 U.S.C.

1246(a)(2)).¹⁴

3. TMOs for a National Recreation, National Scenic, or National Historic Trail should reflect the nature and purposes for which the trail was established.

FSM 2353.4 – Administration of National Scenic and National Historic Trails

FSM 2353.41 – Objectives

Develop and administer National Scenic and National Historic Trails to ensure protection of the purposes for which the trails were established and to maximize benefits from the land.

FSM 2353.42 – Policy

Administer National Scenic and National Historic Trail corridors to be compatible with the nature and purposes of the corresponding trail.

FSH 1909.12 – Section 11.3 of the planning handbook describes the assessment report. The assessment report must be a concise public document that supports the development of a new plan or plan revision. In part, summarizes how the best available scientific information and other information informs the assessment. ROS and SMS Scenic Integrity inventories are the principle tools for obtaining the best scientific information for the condition of the recreation resource.

FSH 1909.12 – Part 13.4 of the planning handbook describes the, “focus of the assessment for recreation is to identify and evaluate available information about existing conditions, trends and sustainability of recreation settings, opportunities, uses, preferences, access, and scenic character. Conditions and trends are assessed within the plan area as well as in relation to the broader landscape... The Interdisciplinary Team shall identify and evaluate available information about recreational settings and opportunities, including seasonal variation, using the Recreation Opportunity Spectrum (ROS). The Team shall also identify and evaluate available information about the existing and potential scenic character of the plan area based on maps and other information using the Scenery Management System.”

FSH 1909.12 – Section 14 of the planning handbook describes that designated areas are specific areas or features within the plan area that have been given a permanent designation to maintain its unique special character or purpose. Some categories of designated areas may be established only by statute (statutorily designated areas or often called congressionally designated areas)... Certain purposes and restrictions are usually established for designated areas, which greatly influence management needs and opportunities associated with them.

FSH 1909.12 – Section 22.1 of the planning handbook describes each of the categories of plan components in greater detail and explains how the components should be expressed in the plan. Plan components guide future project and activity decisionmaking. The plan must indicate whether specific plan components apply to the entire plan area, to specific management areas or geographic areas, or to other areas as identified in the plan. Must be informed by the best available scientific information.

¹⁴ A land management plan amendment may be necessary in order to provide for the nature and purposes of an NST. See the discussions under Administration and Development and Land Management Plan Considerations.

FSH 1909.12 – Section 22.2 deals with the identification of management areas and geographic areas. (Designated areas may be identified as MAs or GAs. However, a combination of GA and MA approaches may be useful. Above all, the approach must be clear about where plan components apply. The MA or GA guidance can constrain an activity to a greater degree than the unit-wide direction does.

FSH 1909.12 – Section 22.34 calls for the plan to include a list of types of possible projects for the next 3 to 5 years to move toward the desired conditions and objectives. The possible actions may be displayed in an appendix as a brief summary of the types of possible projects expected but such information is not a commitment to take any action.

FSH 1909.12 – Section 23.23a addresses recreation resources. At the forest scale, sustainable recreation is derived through the integrated planning process and emerges as the resultant set of desired recreation opportunity spectrum classes. Each setting provides opportunities to engage in activities (motorized, nonmotorized, developed, or dispersed on land, water, and in the air) that result in different experiences and outcomes. The Interdisciplinary Team may create desired recreation opportunity spectrum subclasses. For example, the subclass “roaded modified” was first defined in the Pacific Northwest to distinguish those settings significantly altered by past timber harvest from other roaded natural settings. Must include desired conditions for sustainable recreation using mapped desired recreation opportunity spectrum classes. This mapping may be based on management areas, geographic areas, designated areas, independent overlay mapping, or any combination of these approaches. Should include specific standards or guidelines where restrictions are needed to ensure the achievement or movement toward the desired recreation opportunity spectrum classes.

FSH 1909.12 – Section 23.23f is concerned with scenery, aesthetic values, viewsheds and geologic features. (The framework for scenery management is described in Landscape Aesthetics – A Handbook for Scenery Management). Viewsheds are specific elements to be considered because they describe areas seen from certain view locations such as trails (and, implicitly, from national scenic trails). The plan should contain standards or guidelines as needed to avoid or mitigate undesirable effects incompatible with desired scenery conditions. ... Standards and guidelines can be applied at multiple scales to specific management activities such as timber harvest, utility corridors, trail construction, facility development, or road construction.

FSH 1909.12 – Section 23.23i deals with infrastructure, roads and trails. As related to roads, the plan should include the desired condition for the road system based on the desired uses for the plan area. As related to recreational trails, the plan should include desired conditions. The desired condition may describe nationally designated trails and distribution and types of trails for various uses such as hiking, off-road vehicles, mountain bikes, equestrian use, or winter uses such as skiing or snowmobiling. The plan may identify the types of trails and recreational use that are suitable or not suitable in a management or geographic area, aligned with the desired recreational settings and opportunities.

FSH 1909.12 – 24.2 – Plan Components for Designated Areas.

1. When developing plan components:

b. The Responsible Official shall include plan components that will provide for appropriate management of designated areas based on the applicable authorities and the specific purposes for which each area was designated or recommended for designation. Uses and management activities are allowed in designated areas to the extent that these uses are in harmony with the purpose for which the area was designated. For recommended designated areas, the uses and activities allowed should be compatible with the basis of the recommendation.

FSH 1909.12 – 24.3 - Designated Area Plans

Planning for designated areas may be met through the land management plan, unless the authorities for the designation require a separate plan. Specific plans for designated areas must be consistent with the plan components (36 CFR 219.15(e)).¹⁵ The designated area authorities may require specific plans (such as wild and scenic river plans or national scenic and historic trail plans) for a designated area with additional requirements than those of the Planning Rule. Any parts of a designated area plan that meet the requirements for land management plan components must be included in the land management plan. The entire area plan does not need to be included in the land management plan. The land management plans must also be compatible with these designated area plans or either the land management plan or the designated area plan must be amended to achieve this compatibility.

FSH 1909.12 - 24.43 – National Scenic and Historic Trails

1. When developing plan components for national scenic and historic trails:

a. The Interdisciplinary Team should review the assessment for relevant information about existing national scenic and historic trails in the plan area, including established rights-of-way pursuant to 16 U.S.C 1246(a)(2) and direction contained in comprehensive plans (CPs) pursuant to 16 U.S.C. 1244(e) or 1244(f). For existing or study national scenic and historic trails that do not have such information published, assessments identify and evaluate other information pertinent to the location and management of national scenic and historic trails.

b. The Interdisciplinary Team shall identify Congressionally designated national scenic and historic trails and plan components must provide for the management of rights-of-ways (16 U.S.C 1246(a)(2)) consistent with applicable laws, regulations, and Executive Orders. Plan components must provide for the nature and purposes of existing national scenic and historic trails and for the potential rights-of-way of those trails designated for study (16 U.S.C. 1244(b)).

¹⁵ Comprehensive Plans developed in response to the requirements of the National Trails System Act and Wild and Scenic Rivers Act are not resource plans as defined by the NFMA (16 U.S.C. 1604(i) and 36 CFR 219.15(e)).

c. The Interdisciplinary Team shall use the national scenic and historic trails rights-of-way maps required by 16 U.S.C. 1246(a)(2) to map the location of the trails. Where national trail rights-of-way have not yet been selected, the Interdisciplinary Team shall reference the establishing legislation (16 U.S.C. 1244(a)) as the primary source for identifying and mapping the national scenic and historic trails right-of-way. If the right-of-way has not been selected, either through legislation or publication in the Federal Register, the Interdisciplinary Team should use other information to delineate a national scenic and historic trails corridor that protects the resource values for which the trail was designated or is being proposed for designation (16 U.S.C 1244(b)).

d. The Responsible Official shall consult with neighboring Responsible Officials when developing plan components for national scenic and historic trails that cross unit boundaries and shall strive to maintain or establish compatible management approaches while recognizing diverse resource conditions and needs in the different plan areas.

e. Plan components must be compatible with the objectives and practices identified in the comprehensive plan for the management of the national scenic and historic trail. The objectives and practices include the identification of resources to be preserved and the trail's carrying capacity.

f. The Responsible Official shall include plan components that provide for the nature and purposes of national scenic and historic trails in the plan area. In doing so, the Responsible Official should take into consideration other aspects of the plan related to the trail such as access, cultural and historic resources, recreational settings, scenic character, and valid existing rights.

2. The plan must include plan components including standards or guidelines for a designated area as described in section 24.2 of this Handbook. To meet this requirement the plan:

a. Should include desired conditions that describe the national scenic and historic trail and the recreational, scenic, historic, and other resource values for which the trail was designated.

b. May include objectives for national scenic and historic trails where existing conditions (settings, opportunities, scenic character, cultural and other resources values) are different from desired conditions. These objectives can identify intended activities to improve national scenic and historic trail conditions, mitigate or enhance associated resource values, create or improve connections with communities and visitors, or other desired and measureable outcomes that will improve the national scenic and historic trail experience.

c. May include standards or guidelines to place limits or conditions on projects or activities to protect the trail and associated resource values.

d. May include suitability plan components to limit or prevent incompatible uses and activities.

e. Must identify and map National scenic and historic trails per #1c above.

f. May, to apply plan components unique to the National and Scenic Historic Trail: provide one or more management or geographic areas for a national scenic and historic trail; reference the identified national scenic and historic trail right-of-way, place a corridor around the trail, or use other means to clearly identify where the plan components apply in reference to the trail.

FSM 2350 has more information about national scenic and historic trails.

FSH 1909.12 – Section 24.44 requires plan components to be compatible with restrictions of road rules applicable to inventoried roadless areas.

In addition, see 23.23a – Sustainable Recreation Resources and Opportunities to Connect People with Nature; and 23.23f – Scenery, Aesthetic Values, Viewsheds, and Geologic Features.

Bureau of Land Management, Planning Regulations and Policy

43 CFR Part 8350 – Management Areas.

§ 8351.1–1 National Scenic Trails.

(a) Motorized vehicle use. No one shall operate a motorized vehicle along a national scenic trail except: (1) When motorized vehicular use is necessary to meet emergencies involving health, safety, fire suppression, or law enforcement; or (2) Where the authorized officer determines that adjacent landowners and land users have a need for reasonable access to their lands, interests in lands, or timber rights; or (3) On roads that are designated segments of the National Scenic Trail System and are posted as open to motorized vehicles.

BLM MS-6280, Chapter 4, Congressionally Designated Trails - Land Use Planning

This chapter outlines BLM land use planning requirements for congressionally designated National Trails and the National Trail Management Corridor. Through the land use planning process, where a designated trail is within the planning area, the BLM establishes National Trail Management Corridor, and will set forth allocation decisions, management actions, and necessary restrictions for resources and resource uses within that National Trail Management Corridor in order to effectively manage the nature and purposes of National Trail and the resources, qualities, values, and associated settings and the primary use or uses (MS-6280, Chapter 4).

“MS-6280 - 4.1 General Requirements

A. Addressing Designated National Trails through Land Use Planning

1. As soon as practical after activation, the BLM must address designated National Trails through the land use planning process.

2. Designated National Trails may be addressed through a land use plan amendment, or a Statewide Trail Management Plan or a programmatic multi-state effort which amends applicable Resource Management Plans.
3. Regardless of the type of land use planning process undertaken, the BLM shall establish a National Trail Management Corridor(s) and identify management goals, objectives, and actions for each designated National Trail.
4. National Trails shall be clearly identified as a specific resource or discipline, in its own unique section throughout the various chapters of the Resource Management Plan - not contained within and across multiple disciplines.
5. Resource Management Plan decisions should be compatible across BLM jurisdictions, as applicable, to provide for trailwide management consistency....

E. Trail Management Guidance by Resource Program. To the greatest extent possible, the BLM will consider the following guidance when making resource-specific decisions, subject to valid existing rights, within the National Trail Management Corridor allocation:

1. *Scenic and Visual Resources...*,
2. *Cultural and Historic Resources...*,
3. *Recreation and Visitor Services...*, and
4. *Travel and Transportation Management...*

4.2 Requirements for Designated National Trails in Land Use Planning

B. Development of Designated National Trail Goals and Objectives. Goals and objectives for the National Trail shall be identified based on the NTSA, enabling legislation, legislative history (in consultation with the Office of the Solicitor), the nature and purposes of the trail, supporting information from the National Trail Feasibility Study, trailwide Comprehensive Plan, and National Trail inventory. The nature and purposes; resources, qualities, values, and associated settings; and the primary use or uses will be clearly described. At a minimum, the following goals and objectives should be considered for National Trails:

1. For all National Trails

- i. Safeguard the nature and purposes; and conserve, protect, and restore the National Trail resources, qualities, values, and associated settings and the primary use or uses.
- ii. Provide premier trail visitor experiences for public benefit.
- iii. Maximize opportunities for shared National Trail stewardship.
- iv. Reduce the potential for uses that substantially interfere with the nature and purposes of the National Trail (see Chapter 1, 1.6 Statement of Programmatic Policy).
- v. Avoidance of activities that are incompatible with the purposes for which the National Trail was established (see Chapter 1, 1.6 Statement of Programmatic Policy).

2. For National Scenic Trails

- i. Provide for maximum compatible outdoor recreation potential.
- ii. Maintain the continuous nature of the National Scenic Trails.
- iii. Maintain the special environments and landforms that support trail visitor.”

National Park Service

Prior to undertaking an action that may substantially interfere with the nature and purposes of an NST, the National Park Service Director must revise or amend the unit General Management Plan to recognize an NST as a congressionally designated area. The GMP must be in compliance with the National Park System Development Program regulations (16 U.S.C. § 1a-7) and the National Trails System Act as implemented through direction in an NST Comprehensive Plan. Foundation Documents for NPS units should also address the significance of NST, as applicable. Once programmatic direction is established in the General Management Plan, NST site-specific protection and development plans should be established that provide for the values of this National Scenic Trail.

“The NPS will prepare appropriate planning documents to protect the resources and attributes and to provide for public use and appreciation of the national scenic and historic trails authorized by Congress and assigned to it for administration. Each trail’s comprehensive management plan (CMP) will include, at a minimum, those provisions stipulated in 16 USC 1244(e) or (f) that outline trail comprehensive plan requirements. Each CMP will also identify the minimum level of regulation necessary to protect the resources and attributes that warranted the trail’s designation by Congress. CMPs may also include such other provisions as may be needed to satisfy the intent of chapter 2, “Park System Planning,” of Management Policies 2006 and the unique circumstances of the trail. Each trail will then operate according to the CMP.” (Director’s Order #45, 3.11 – Planning)

V. Comprehensive Planning Relationship to NEPA

This section reviews several aspects of the CEQ regulations for implementing NEPA¹⁶ for addressing National Scenic Trails in land management planning. NEPA processes are reviewed in Forest Service Handbook 1909.15, BLM Handbook H-1790-1, and NPS Handbook Director Order #12. Fundamental NEPA process considerations are described in a CEQ document titled, “Major Cases Interpreting the National Environmental Policy Act.” This document is found online at: https://ceq.doe.gov/docs/laws-regulations/Major_NEPA_Cases.pdf.

The Forest Service should recognize the need for robust scientific and technical analyses. Agencies should establish NEPA documents that effectively address issues that are summarized by Feldman and Nichols of Holland and Hart:

“Litigation arguments regarding or even conclusory judicial statements about “deference” to an agency’s NEPA decision making on scientific or technical issues oversimplify the complex balancing

¹⁶ 40 CFR 1500-1508.

and inquiries which courts are directed to undertake in reviewing both the process and substantive issues inherent in evaluating agency use of scientific and technical information under NEPA. A reviewing court at best must struggle to comprehend the agencies' assessments and conclusions regarding environmental effects and to judge their compliance with NEPA in light of the rule of reason, hard look, and arbitrary or capricious formulations of the standard of review.

Where agency NEPA documents are unartfully drawn, incomplete, or otherwise lacking in clarity and comprehensibility, a reviewing court may have little choice but to delve more deeply into the substantive subject matter underlying agency conclusions in an attempt to discern whether, or to what degree, the agency has failed to meet those standards. At the least, less clearly drafted and supported NEPA documents will offer an invitation to conscientious judges to venture into the realm of agency expertise in an effort diligently to review agency action and ensure the agency's implementation of NEPA's twin goals of informed decision making and informed public disclosure.

As the law of NEPA continues to evolve, and agency reliance upon more complex and technical scientific methodologies and information in natural resource management and decision making continues to grow, federal agencies, NEPA practitioners, and stakeholders must recognize and adapt to the shifting standards for scientific information and analysis under NEPA.

In particular, those charged with the development and use of NEPA documents need to ensure that the use of scientific information and analyses in NEPA documentation is clear, transparent, and understandable to both the lay public and the lay judiciary. Accomplishing this requires careful attention to:

- (1) using the most up-to-date information available;*
- (2) identifying limitations in models, methodologies, and information and disclosing them in the National Environmental Policy Act document;*
- (3) where multiple and conflicting data sets, models, or other methodologies for impact assessment exists, comparing and contrasting their strengths and weaknesses, and explaining in the National Environmental Policy Act document the basis for selecting one data set or methodology over another, or for considering multiple methods and data sets in the analysis;*
- (4) documenting the source and basis for key assumptions, standards, and data used in the National Environmental Policy Act document;*
- (5) erring on the side of transparency and, in the language of one early NEPA case, ensuring that stubborn problems are not "otherwise swept . . . under the rug";*
- (6) considering and addressing responsible opposing scientific views; and*
- (7) where data gaps exist, either filling the gaps or explaining why doing so would be too costly or infeasible.*

These and related efforts will produce improved environmental analyses and NEPA documents, and ultimately better agency decisions, thus meeting the underlying goals of the National Environmental Policy Act process. Greater awareness of the types of impact assessment and scientific issues being encountered by the agencies and reviewed by the courts can guide NEPA practitioners, agencies, and stakeholders in meeting NEPA's requirements for high-quality information and accurate scientific analysis."

A. National Scenic Trail Planning and NEPA

Most federal agency actions, unless specifically exempted, are subject to the procedural requirements of NEPA. These requirements are articulated in NEPA CEQ regulations, and in each agency's supplemental implementing policies.¹⁷ Supplemental agency policies often include specific procedural direction or guidance on preparation of appropriate NEPA documents (i.e., Environmental Impact Statements (EIS), Environmental Assessments (EA), and Categorical Exclusions (CE)). Because agency guidance varies widely, this section will generally not address agency specific regulation, policy, or procedure.

NEPA is “our basic national charter for protection of the environment” (40 C.F.R. 1500.1(a)). Better analysis and decisions are the ultimate goal of the NEPA process (40 CFR 1500.1(c)). NEPA's twin aims are to ensure that federal agencies take a hard look at the environmental impacts of their proposed actions before taking an action and to ensure that agencies provide relevant information to the public so the public can play a role in both the decision-making process and the implementation of the decision (40 C.F.R. 1502.1). By focusing the agency's attention on the environmental consequences of its proposed action, NEPA ensures that important effects will not be overlooked or underestimated only to be discovered after an agency has committed resources (42 U.S.C. 4332(2)(C)).

NEPA is designed to promote consideration of potential effects on the human environment¹⁸ that would result from proposed Federal agency actions, and to provide the public and decision makers with useful information regarding reasonable alternatives¹⁹ and mitigation measures to improve the environmental outcomes of Federal agency actions. NEPA ensures that the environmental effects of proposed actions are taken into account before decisions are made and informs the public of significant environmental effects of proposed Federal agency actions, promoting transparency and accountability concerning Federal actions that may significantly affect the quality of the human environment. NEPA reviews should identify measures to avoid, minimize, or mitigate adverse effects of Federal agency actions. Better analysis and decisions are the ultimate goal of the NEPA process.²⁰ Environmental impact statements shall be prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (40 CFR 1502.6).

NEPA document(s) that support a Comprehensive Plan will analyze the effects of a range of alternatives, often covering multiple topics, including but not limited to the selection of the rights-of-way, visual quality, ROS, and carrying capacities. A Comprehensive Plan and supporting NEPA

¹⁷ 36 CFR Part 220 and 43 CFR Part 46 does not lessen the applicability of the CEQ 40 CFR Part 1500 regulations on National Forest System lands (36 CFR 220.1(b)) and BLM Public Lands (73 FR 61292).

¹⁸ 40 CFR 1508.14 - ‘Human environment’ shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment.

¹⁹ 40 CFR 1508.25(b) - Alternatives, which include: (1) No action alternative. (2) Other reasonable courses of actions. (3) Mitigation measures (not in the proposed action).

²⁰ 40 CFR 1500.1(c) - Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.

decision documents will typically establish goals, desired conditions, allowable uses, standards (thresholds), guidelines, and the conditions under which uses are allowed for a discreet geographic area or linear landscape. NEPA decision documents should provide additional information and support the thought process used to implement, revise, or amend a Comprehensive Plan.

The CEQ regulations require that NEPA decision-making processes provide for thoughtful, rigorous evaluation of reasonable options within the scope of the proposed decisions. The decision process involves interested and affected individuals, groups, and governments. The “early and often” interactions that the NEPA suggests in establishing the scope of the proposed actions considered in a Comprehensive Plan are especially important when identifying significant natural, historical, and cultural resources to be preserved; selecting the rights-of-way; and establishing scenic integrity levels, ROS class settings, and capacities for the management corridor.

Comprehensive Plan requirements (16 U.S.C. 1244 (e) and (f)) have sometimes been addressed through staged or stepped-down decision processes: (1) a Comprehensive Plan establishes broad policy and procedures, (2) land management plans provide integrated resource management direction and address programmatic planning requirements as described in the Comprehensive Plan, and (3) mid-level and site-specific plans complete the comprehensive planning process through field-level actions to construct the travel route and protect the corridor. The Comprehensive Plan requirements are met once all staged phases are complete. As required by laws and regulations, addressing NTSA planning requirements are to be an integrated part of developing NFMA and FLPMA directed land management plans.

When a federal agency does not make an “overt act,” no NEPA requirement to prepare an Environmental Impact Statement (EIS) attaches. However, if some agency action was mandated under a separate statute in relation to that activity but the action was not taken, NEPA does attach and the Administrative Procedure Act applies (40 CFR 1508.18 and 5 U.S.C. 706). The NTSA presents an independent planning requirement to prepare and implement a comprehensive plan including identifying carrying capacity, select the rights-of-way, and in general establish management direction that provides for the nature and purposes values of the NST.

Land management plans are to protect Section 7(a)(2) potential rights-of-way and high potential route segments where the rights-of-way is yet to be selected and the travelway officially located (16 U.S.C. 1244(f)(3) and 1246(a)(2)). Until the rights-of-way is selected and the corridor is located, the Agencies must not undertake any major Federal action which (1) may adversely impact nature and purposes values of potential rights-of-way and corridor locations, (2) limit the choice of reasonable alternatives, and (3) prejudice ultimate rights-of-way and locations decisions (40 CFR 1506.1).

Forest Service handbook 1909.12 part 21.13 states, “The NEPA and Forest planning processes must be integrated. The Responsible Official should provide direction to the Interdisciplinary team in a project initiation letter to ensure that the Interdisciplinary Team develops a strategic approach for coordinating planning and NEPA procedures. The Forest Service NEPA directives are found in FSM

1950 – Environmental Policy and Procedures and in FSH 1909.15 – National Environmental Policy Act Handbook... Careful coordination of planning and NEPA procedures, particularly public participation, allows the Interdisciplinary Team to be more efficient by aligning planning tasks with the requirements of NEPA. Important opportunities to integrate planning and NEPA requirements include the following:

1. Using the results of the assessment to describe the affected environment in the environmental impact statement. If information gaps were identified during or subsequent to the assessment, additional information might be needed to effectively describe the affected environment, consistent with NEPA requirements.
2. Using the need to change the plan identified during the planning process to write the purpose and need statement for the environmental impact statement. Early in the planning phase, a preliminary need to change the plan is identified and public comment is sought to help develop the need to change the plan, which in turn helps focus plan development or revision.
3. Including both planning and NEPA requirements in the public participation strategy (FSH 1909.12 part 40.42).
4. Integrating NEPA scoping, where appropriate, into public engagement activities used to support development of plan components and other plan content. Scoping includes refining the proposed action, determining cooperating agencies, identifying preliminary issues, and identifying interested and affected persons (FSH 1909.15 part 10.11.) Early public engagement during the planning process can help to identify goals and concerns for the plan area. This phase provides the opportunity for the Interdisciplinary Team to meet NEPA scoping requirements and, therefore, gain an understanding of the following elements that will be important during the NEPA analysis:
 - a. Significant issues that will frame alternatives for considerations,
 - b. Potential alternatives for analysis, and
 - c. Potential effects of alternatives.

The Healthy Forests Restoration Act (HFRA), as amended through March 23, 2018 (Public Law 113–79), authorized management actions to address vegetation issues.

- Section 104(a) describes that except as otherwise provided in this title, the Secretary shall conduct authorized hazardous fuel reduction projects in accordance with—(1) the National Environmental Policy Act of 1969; and (2) other applicable laws.
- Section 603 states that an insect and disease project may be categorically excluded from documentation in an environmental assessment or an environmental impact statement and exempt from pre-decisional objections. However, section 603 CE may not be used in areas where vegetation removal is restricted.
- Section 605(c) Limitations part (4) describes that, “EXTRAORDINARY CIRCUMSTANCES.—The Secretary shall apply the extraordinary circumstances procedures under section 220.6 of title 36, code of Federal regulations (or successor regulations), when using the categorical exclusion under this section.

- Section 605(d) Exclusions.— This section does not apply to—
 - (1) A component of the National Wilderness Preservation System;
 - (2) Any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;

[The NTSA, Section 7(c), restricts the removal of vegetation to only those actions that would not substantially interfere with the nature and purposes of a National Scenic or Historic Trail.];
 - (3) A congressionally designated wilderness study area; or
 - (4) An area in which activities under subsection (a) would be inconsistent with the applicable land and resource management plan.

The U.S. Forest Service describes that, “...recreation planning and management tools that shape the recreation program include the Recreation opportunity spectrum (ROS) [and] Scenery management system... These tools are used to define existing conditions, describe desired conditions, and monitor change. These tools, along with overarching guidance at the national, Department, and Agency levels, serve as the context by which individual national forests and grasslands engage with their communities. In doing so, the unit’s recreation-related and amenity-based assets are considered and integrated with a vision for the future that is sustainable and that the unit is uniquely poised to provide. As the current planning rule procedures related to recreation are quite general, these tools contribute to consistency in recreation planning across NFS units. The recreation opportunity spectrum has been an effective land management planning tool since 1982. The recreation opportunity spectrum is a framework for identifying, classifying, planning, and managing a range of recreation settings. The setting, activity, and opportunity for obtaining experience are arranged along a spectrum of classes from primitive to urban. In each setting, a range of activities is accommodated. For example, primitive settings accommodate primarily non-motorized uses, such as backpacking and hiking; whereas roaded settings (such as roaded natural) or rural settings accommodate motorized uses, such as driving for scenery or access for hunting. Through this framework, planners compare the relative tradeoffs of how different patterns of settings across the landscape would accommodate (or not accommodate) recreational preferences, opportunities, and impacts (programmatic indirect environmental effects) with other multiple uses. The scenery management system provides a vocabulary for managing scenery and a systematic approach for determining the relative value and importance of scenery in an NFS unit. The system is used in the context of ecosystem management to inventory and analyze scenery, to assist in establishment of overall resource goals and objectives, to monitor the scenic resource, and to ensure high-quality scenery for future generations” (Forest Service Planning Rule, PEIS, page 209).

B. Establishment of the Purpose and Need for Action

The Purpose and Need for Action section of the DEIS should describe the need to provide integrated resource management, including providing for the purposes for which Congressional designated areas are established such as protecting the nature and purposes and related values of National Scenic and Historic Trails.

A land management plan NEPA document must provide the framework for the purpose and need for action and for the decisions to be made of identifying the management corridor and establishing scenic integrity levels, ROS class settings, and carrying capacities. A Comprehensive Plan should establish desired conditions, including the nature and purposes of a National Trail as well as key resource indicators and thresholds that prevent degradation.

The described underlying purpose and need for action for programmatic and site-specific NEPA analyses must be consistent with all land use laws, Presidential proclamations, and regulations that prohibit or restrict actions. To the extent practicable avoid activities incompatible with the purposes for which National Scenic Trails are established. Actions that would substantially interfere with the nature and purposes of a National Scenic Trail are to be eliminated from detailed study in NEPA analyzes.

The “need for action” (or change) is based upon a comparison of the baseline conditions and desired conditions. This comparison establishes both the “scope” of and the “need” for action.

The “scope” of and the “need” for the proposed actions establish the basis for determining the reasonable range of alternatives. The purpose and need description represents the “problem to be solved.” Defining the scope appropriately (and refining as necessary through the early steps of the NEPA process) improves the overall efficacy of the NEPA document. How broadly or narrowly the scope is described affects the range of reasonable alternatives that can meet the need, which in turn affects how well the range of alternatives and the selected alternative respond to this need.

Identifying conditions that are within federal control and those that require action by entities not within the decision-making agency’s control is helpful in the early stages of NEPA. A federal agency cannot necessarily eliminate options or alternatives outside of its jurisdiction from consideration in the NEPA process if the options present reasonable alternatives to meet the need.²¹ However, an agency may only take actions that are within the agency’s legal authority.²² Clarifying who is responsible for achieving desired conditions will help to establish early in the process the key authorities or participation by others needed to achieve the overall desired conditions.

Special Use Permits – Separate “approving a use” from “authorizing a use.” There has been inconsistency in how NEPA is applied to special uses. In short, a NEPA decision “approves” an action/activity to take place on the landscape. A special use authorization “authorizes” a specific entity to conduct the stated action/activity in a specific location on the landscape. Recreational use decisions would normally address the allocation between private and commercial parties of the available allowed use-days (or acceptable impacts) as often seen in the allocation of use on Wild and Scenic Rivers.

²¹ See CEQ 40 Questions

²² 40 CFR 1508.15

C. Identify Proposed Actions and a Reasonable Range of Alternatives

NEPA requires federal agencies to include alternatives to the proposed action within an EIS (42 U.S.C. 4332(2)(C)). The alternatives analysis is the heart of a NEPA document, and NEPA's implementing regulations direct BLM to "rigorously explore and objectively evaluate all reasonable alternatives," including appropriate mitigation measures to reduce the potential impacts of the action on the environment (40 C.F.R. 1502.14).

Forest Service land management plans shall form one integrated plan for each unit (16 U.S.C. 1604(f)(1)). The plan and developed NEPA alternatives must provide for ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish, within Forest Service authority and the inherent capability of the plan area as follows: ... (b)... (1) The plan must include plan components, including standards or guidelines, to provide for: (i) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character..., and (vi) appropriate management of other designated areas or recommended designated areas in the plan area...(36 CFR 219.10(b)(i)&(vi)).

The identification and evaluation of alternative ways of meeting the purpose and need of the proposed action is the heart of the NEPA analysis. Elements of a reasonable proposed action and alternatives for the NST corridor are presented in Chapter III of this paper. The lead agency or agencies must, "objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for there having been eliminated." Reasonable alternatives are those that substantially meet the agency's purpose and need. If the agency is considering an application for a permit or other federal approval, the agency must still consider all reasonable alternatives. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant. Agencies are obligated to evaluate all reasonable alternatives or a range of reasonable alternatives in enough detail so that a reader can compare and contrast the environmental effects of the various alternatives.

Components of a proposed action in land management planning may include the selection of the rights-of-way and/or identification of the management corridor, and will likely include the establishment of scenic integrity levels, ROS class, and carrying capacities for the National Scenic Trail. The conditions under which a variety of uses are allowed may be labeled as thresholds, standards and guidelines, or other terminology. In regards to addressing scenic integrity, recreation opportunities, and carrying capacities, this step requires that these use conditions be expressed in terms of thresholds that will prevent degradation of NST values.

Distinguish early in the process the importance of certain allowable uses or the conditions of those uses in protecting NST values (avoiding, reducing, or eliminating degradation), and/or enhancing values. Besides providing a clear logic track for the decisions made regarding scenic integrity, recreation opportunities, and carrying capacities, this will also help to identify elements that may need monitoring.

Managed and allowable uses and conditions of use may be either common to all alternatives or may vary by alternative. Managed and allowable uses or conditions of use that would be the same for all alternatives should be identified early in the NEPA process, along with a clear rationale for why those uses or conditions of use would be common to all alternatives. For example, conditions of use could protect Threatened and Endangered Species. Commonalities may also include existing uses or conditions not shown to have an adverse effect on NST values (or that otherwise already meet the purpose and need for action).²³

CEQ regulations also provide guidance regarding the agency's scope of actions. Aspects of an action that are inter-related (e.g., the kinds and amounts of use and the facilities that support that use) should be considered during this process.²⁴ If the purpose and need for action suggest a change from the existing condition, or if there are unresolved conflicts regarding alternative uses of resources, then a "hard look" at a reasonable range of alternatives will be needed.²⁵

NEPA documents should explain the timeframe within which future actions would be taken. Be clear about whether NEPA decisions are being made to authorize certain actions when the Comprehensive Plan is completed without further decision process needed, or whether decisions about actions contemplated within the life of the Comprehensive Plan would be authorized at a later time. The latter approach is typically used in broad "programmatic" NEPA documents and subsequent site-specific documents that may be tiered to the larger document.²⁶

Consider the following when determining whether visual quality, recreation setting, or carrying capacity actions identified in the Comprehensive Plan are also NEPA decisions (1) made upon Comprehensive Plan completion or (2) authorized later in time:

- Whether the action is part of an "adaptive management" decision. The term "adaptive management" is sometimes used by agencies to describe a range of different actions that managers may take resulting from one NEPA decision to respond to changing conditions during implementation or uncertain outcomes of implementing the decision. To authorize future adaptive action, the NEPA document describes when, where and how an action would take place, and when, where, and how the decision might be adapted or changed to accommodate changes in conditions or actual outcomes of the original action.
- Whether the action is ripe for decision. Actions are considered "ripe for decision" when the agency has identified a proposal it is prepared to make a decision on and the effects can be meaningfully analyzed.²⁷ However, NEPA processes allow for emergency actions where substantial degradation is probable or occurring.
- If all or parts of the future "adaptive" actions identified in a Comprehensive Plan are not ripe for a NEPA decision, the NEPA document should discuss why they are not ripe for a decision at this

²³ 40 CFR 1502.14(a)

²⁴ 40 CFR 1508.23; 1508.25

²⁵ 40 CFR 1508.25

²⁶ 40 CFR 1500.4(i); 1502.20

²⁷ 40 CFR 1508.22

time. Additionally, the NEPA document should describe the why adaptive action is needed, and the expected process used to make a final decision on those future actions.

D. Affected Environment

The affected environment must describe the environment of the area to be affected by the alternatives under consideration. The affected environment section should describe the degree to which the NST values are being protected, including the protection of desired cultural landscapes, recreation settings, scenic integrity, and providing for conservation purposes. In addition, the status of the rights-of-way is to be described (16 U.S.C. 1246(a)(2)).

The NTSA states that, “national scenic trails, established as provided in section 5 of this Act, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass (16 U.S.C. 1242(a)(2), and specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved...(16 U.S.C. 1244(f)).” Examples of conservation and preservation attributes that should be discussed in the Affected Environment section may include the presence of designated and recommended wilderness, roadless areas, and important wildlife habitat along an NST travel route.

The NEPA affected environment description, as related to forest planning, would normally be consistent with the revision assessment reports and findings that resulted from FSH 1909.12 Chapter 10 Best Available Scientific Information and other processes. However, a Forest Plan revision Environmental Impact Statement analysis would always require describing current conditions and would likely be more robust than that found in the Forest Plan revision assessment due to specific NEPA processes such as the requirement for methodology and scientific accuracy (40 CFR 1502.24).

“Adaptive Management”

Adaptive management is an “if this... then that” approach. If “this” condition exists (in this example for two consecutive years), then “that” action would be taken (in this case a suite of actions, with an ultimate limit on group sizes and campsite closures). To automatically authorize one or more of the actions proposed to reduce the effects of human use, the environmental impacts of those actions must be addressed in the authorizing NEPA document. The Forest Service describes, “The proposed action and one or more alternatives to the proposed action may include adaptive management. An adaptive management proposal or alternative must clearly identify the adjustment(s) that may be made when monitoring during project implementation indicates that the action is not having its intended effect, or is causing unintended and undesirable effects. The EIS [or EA] must disclose not only the effects of the proposed action or alternative but also the effect of the adjustment. Such proposal or alternative must also describe the monitoring that would take place to inform the responsible official during implementation whether the action is having its intended effect.”

The spatial and temporal boundaries of the affected environment must be defined for the cumulative analysis. The components of the affected environment considered in a cumulative analysis are the same resources, ecosystems, and human communities that could be affected by the proposal. However, the spatial limits of a National Scenic Trail cumulative analysis is normally broader than the analysis of the proposal because the cumulative analysis must consider all activities that affect those environmental components, even outside the area affected by the proposal.

E. Analyze the Effects of the Proposed Action and Alternatives

NEPA requires that an EIS analyze the direct, indirect, and cumulative environmental effects of the alternatives, including the proposed action, as well as the means to mitigate against those adverse environmental consequences (42 U.S.C. 4332(2)(C), 40 C.F.R. 1502.16, and 40 CFR 1508.7). An agency must prepare an EIS for any action that has “individually insignificant but cumulatively significant impacts” (40 C.F.R. 1508.27(b)(7)). A cumulative impact is defined as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency . . . or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time” (40 CFR 1508.7). The temporal boundaries of the cumulative analysis often extend beyond the period of time considered in the analysis of the proposed action alone. This is because the cumulative analysis must also take into account activities that occurred before the proposed action is initiated as well as after the proposed action is completed, if those activities affect (or could affect) one or more of the same resources affected by the proposed action. Reasonable assumptions must be made about some activities that would contribute to cumulative effects even if there is uncertainty regarding the activities and their potential effects. The degree of specificity of the cumulative analysis should be consistent with the nature, scale, and degree of certainty regarding the proposed activity. A cumulative analysis should describe the incremental contribution of the proposal to cumulative effects. Thresholds should be described for activities which may create impacts beyond which the National Scenic Trail values could be degraded. The cumulative analysis should address whether thresholds could be exceeded because of the contribution of the proposed action to other cumulative activities affecting resources. The cumulative analysis should describe additive and synergistic effects. Additive effects are similar in nature to the effects of the proposal but are greater in magnitude. Synergistic effects do not occur from a single activity but are the result of the interaction of two or more activities.

The identification and selection of the rights-of-way may lead to varying degrees of effects, but most often a National Scenic Trail management corridor would be the primary area for addressing the effects analysis. Effects on scenic integrity, ROS class conditions, and carrying capacities will generally be based on analysis of the effects of the allowable uses and conditions of use on NST values that are included in the proposed action and each alternative in the NEPA document. This outcome is also a specific decision aspect of the proposed action or alternatives. The level of precision or certainty of the effects can be guided by the CEQ regulations regarding the use of “methodology and scientific

accuracy”²⁸ and the information needed to support a reasoned choice among alternatives.²⁹ Clearly document how the final decision is based on the best available science or other relevant information needed to understand the reasonably foreseeable adverse effects of a choice between alternatives, the gaps in that information, and the rationale for why a reasoned choice between alternatives can be made at this time. In addition, substantial interference analyses and determinations need to be rigorous.

Management direction for Semi-Primitive Motorized, Roded Natural, Rural, and Urban ROS classes allow uses that would substantially interfere with the nature and purposes of an NST if the allocation desired conditions are realized. Where the allowed non-motorized activities reflect the purposes for which the National Trail was established, the establishment of Primitive and Semi-Primitive Non-Motorized ROS classes and high and very high scenic integrity allocations would normally protect the nature and purposes (values) of an NST. See the glossary for ROS class descriptions.

Land Management Plan NEPA document maps, along with associated geospatial data, may assist with the understanding of the relationships between providing for NST and other resources values. As such, public participation in the review and assessment of a land management plan EIS/EA proposed action and alternatives may be advanced through the public availability of the following geospatial data layers--only Forest Service planning handbook references are provided, but similar geospatial information should also be available for planning purposes for public lands:

- Administrative Boundaries (FSH 1909.12 22.2)
- Land Ownership (FSH 1909.12 22.2)
- Designated Areas, including Recommended Wilderness, Wilderness Study Areas, Suitable and Eligible Wild & Scenic Rivers, and the extent of the proposed NST management corridor (FSH 1909.12 22.2 and 24)
- Inventoried Roadless Areas (FSH 1909.12 24.44)
- Recreation Opportunity Spectrum Classes to be established – Summer (FSH 1909.12 22.2 and 23.23a)
- Recreation Opportunity Spectrum Classes to be established – Winter (FSH 1909.12 22.2 and 23.23a)
- Scenic Integrity/VRM Objectives to be established (FSH 1909.12 22.2 and 23.23f)
- Lands that May be Suitable for Timber Production FSH 1909.12 Chapter 60)
- NST travel route as an independent data layer (FSH 1909.12 23.23l)
- NFS roads and trails with attribute data (FSH 1909.12 23.23l)

The effects analysis for the development of the revised Forest Plan proposed action and alternatives should include cross-tabular tables that explore and disclose the relationship between (1) the proposed NST travel route location and management corridor extent and (2) the intersection and overlap with the proposed ROS Classes and Scenic Integrity Objectives allocations. In addition, the analyses need to describe the effects the establishment of an NST management corridor and associated plan components on outdoor recreation, range, timber, watershed, and wildlife and fish resources. The

²⁸ 40 CFR 1502.24

²⁹ 40 CFR 1502.22.

following specific resource relationships should be described:

- Effects on NST nature and purposes from Timber Harvest, Vegetation Management, Livestock Grazing, Roads, Designated Trails, Fire Management, and Mineral Resource Activities.
- Effects on timber production, vegetation management, range management, recreation management, wildlife management, wilderness, recommended wilderness, and fire management of managing the NST corridor (aka rights-of-way) to provide for the nature and purposes of the National Scenic Trail.

For each alternative, the analysis of environmental consequences needs to address how the land use planning decisions will achieve:

1. Providing for the nature and purposes of the National Trail, including protecting the National Trail resources, qualities, values, and associated settings;
3. Identifying the National Trail primary users;
4. Ensuring carrying capacity is not exceeded; and
5. Preventing other uses from substantially interfering with the nature and purposes of the National Trail.

The Record of Decision that accompanies the approved plan and selected alternative needs to describe the planning decisions for the National Trail travel route and the National Trail management corridor. In addition, the ROD must document how the best available scientific information was used for recreation and scenery assessments to inform planning, the plan components, and other plan content, including the plan monitoring program.

F. New Information, Monitoring, and Modifying Decisions

The CEQ regulations tie monitoring and enforcement of mitigation measures to implementation of the decision. The CEQ regulations state that “[a] monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation.”³⁰ Further, “agencies may provide monitoring to assure their decisions are carried out and should do so in important cases. Mitigation and other conditions established...shall be implemented by the lead agency.”³¹

Through a discussion of when to prepare a supplemental EIS, the CEQ regulations also provide guidance about the conditions under which an existing NEPA decision might be changed.³² This approach suggests that a supplemented NEPA document may be needed when there are significant new conditions or information relevant to environmental concerns. While the CEQ regulations indicate the kinds of situations that may suggest a change to a NEPA document, individual agency implementing regulations or policy for the NEPA or other applicable laws and regulation may also provide guidance about when decisions may be changed.

³⁰ 40 CFR 1505.2

³¹ 40 CFR 1505.3

³² 40 CFR 1502.9

As a rule of thumb, if the proposal has not yet been implemented, or if the EIS concerns an ongoing program, EISs that are more than 5 years old should be carefully reexamined to determine if the criteria in Section 40 CFR 1502.9 compel preparation of an EIS/EA supplement (Forty Questions, Council on Environmental Quality).

Project proposals may bring an NST into the scope of a NEPA process and affect alternatives due to potential direct, indirect, and cumulative impacts of past actions and new proposals that may substantially interfere with the nature and purposes of the NST (40 CFR 1508.25(c)).

VI. Glossary

The Bureau of Land Management has established policy direction in directive MS-6280 for National Landscape Conservation Areas, including providing direction for the proper management of National Scenic Trails. The following presents key definitions from this BLM directive that provide context for many of the discussions in this handbook:

- National Trail Corridor Segment. Corridor segment is a term used by congress to describe the management of a National Scenic Trail corridor: *“For example, the Secretary of the Interior who is responsible for administration of the Appalachian National Scenic Trail, could negotiate an agreement with the Secretary of Agriculture. This agreement might provide that a certain segment of the trail corridor, acquired by the National Park Service, would be transferred to the Forest Service for management, and would be governed by Forest Service rules and regulations, except that the agreement might specify that the transferred corridor segment would be managed with certain other constraints which would not apply to national forest land generally.”*
- National Scenic Trail. A continuous, long-distance trail located on the ground by the land-managing agency along the congressionally designated route, in coordination with the trail administering agency. A National Scenic Trail provides maximum compatible outdoor recreation opportunity and conservation and enjoyment of the nationally significant scenic, historic, natural, and cultural resources, qualities, values, and associated settings and the primary use or uses of the areas through which such trails may pass. National Scenic Trails represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms that exhibit significant characteristics of the physiographic regions of the Nation. National Scenic Trails include the tread, or the trail path, and the trail setting which is included within the National Trail Management Corridor. National Scenic Trails may contain water sources or structures which are designed to support and provide for the safety of travelers along the trail.
- National Trail Associated Settings. The geographic extent of the resources, qualities, and values or landscape elements within the surrounding environment that influence the trail experience and contribute to resource protection. Settings associated with a National Scenic or Historic Trail include scenic, historic, cultural, recreation, natural (including biological, geological, and scientific), and other landscape elements (see resources, qualities, and values).

- National Trail Management Corridor. Allocation established through the land use planning process, pursuant to Section 202 of Federal Land Policy and Management Act and Section 7(a)(2) of the National Trails System Act (“rights-of-way”) for a public land area of sufficient width within which to encompass National Trail resources, qualities, values, and associated settings and the primary use or uses that are present or to be restored.
- National Trail Right(s)-of-Way. Term used in Section 7(a)(2) of the National Trails System Act to describe the corridor selected by the National Trail administering agency in the trailwide Comprehensive Plan and which includes the area of land that is of sufficient width to encompass National Trail resources, qualities, values, and associated settings. The National Trail Right-of-Way, in the context of the National Trails System Act, differs from a Federal Land Policy and Management Act (FLPMA) Title V right-of-way, which is a grant issued pursuant to FLPMA authorities. It becomes a key consideration in establishing the National Trail Management Corridor in a Resource Management Plan. In addition, the selection of the rights-of-way must be consonant of the implications of guidance found in NTSA Section 7(b), 7(d), 7(e), and 7(f).
- National Trail Nature and Purposes. The term used to describe the character, characteristics, and congressional intent for a designated National Trail, including the resources, qualities, values, and associated settings of the areas through which such trails may pass; the primary use or uses of a National Trail; and activities promoting the preservation of, public access to, travel within, and enjoyment and appreciation of National Trails.
- National Trail Resources, Qualities, and Values. The significant scenic, historic, cultural, recreation, natural (including biological, geological, and scientific), and other landscape areas through which such trails may pass as identified in the National Trails System Act.
- National Trail Substantial Interference. Determination that an activity or use affects (hinders or obstructs) the nature and purposes of a designated National Trail (see nature and purposes).
- Recreation Opportunity Spectrum: The Recreation Opportunity Spectrum planning framework is the recognized framework for stratifying and defining classes of outdoor recreation environments, activities, and experience opportunities through land management planning. The settings, activities, and opportunities for obtaining experiences have been arranged along a continuum or spectrum divided into six classes that are described below along with recommended plan components. The following descriptions presents plan components that link specific ROS characteristics to the appropriate ROS class.
 - Primitive – Desired Conditions: The area is essentially an unmodified natural environment. Interaction between users is very low and evidence of other users is minimal. Motorized use is not permitted. Very high probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skill in an environment that offers a high degree of challenge and risk. Evidence of humans would be un-noticed by an observer wandering

through the area. Natural ecological processes such as fire, insects, and disease exist. The area may provide for wildlife connectivity across landscapes. Primitive ROS settings contain no motorized and mechanized vehicles and there is little probability of seeing other groups. They provide quiet solitude away from roads and people or other parties, are generally free of human development, and facilitate self-reliance and discovery. Signing, and other infrastructure is minimal and constructed of rustic, native materials. Inventoried Primitive settings are least 3 miles from all roads, trails, rivers, lakes and railroads with motorized use. Standards: (1) Motor and mechanized vehicles are not allowed; and (2) Management actions must result in Very High Scenic Integrity—naturally occurring incidents, such as fire, insects and disease are not defined as human-caused deviations in the landscape. Guidelines: (1) No new permanent structures should be constructed, since structures may degrade the unmodified character of these landscapes; (2) Less than 6 parties per day encountered on trails and less than 3 parties visible at campsite since an increase in the number of groups may lead to a sense of crowding; (3) Party size limits range between 6 and 12; and (4) No roads, timber harvest, or mineral extraction are allowed in order to protect the remoteness and naturalness of the area. Suitability: (1) Motorized and mechanized recreation travel are not suitable; and (2) Lands are not suitable for timber production.

- Semi-Primitive Non-Motorized (SPNM) – Desired Conditions: The area is predominantly a natural-appearing environment where natural ecological processes such as fire, insects, and disease exist. Interaction between users is low, but there is often evidence of other users. Motorized use is not permitted. High, but not extremely high, probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skill in an environment that offers a high degree of challenge and risk. Natural setting may have subtle modifications that would be noticed but not draw the attention of an observer wandering through the area. The area provides opportunities for exploration, challenge, and self-reliance. The area may contribute to wildlife connectivity corridors. Closed and re-vegetated roads may be present, but are managed to not dominate the landscape or detract from the naturalness of the area. Rustic structures such as signs and footbridges are occasionally present to direct use and/or protect the setting's natural and cultural resources. Standards: (1) Motor vehicle use by the general public is not allowed;³³ and (2) Management actions must result in High or Very High Scenic Integrity; and (3) No new roads may be built. Guidelines: (1) The development scale of recreation facilities should be 0-1 to protect the undeveloped character of desired SPNM settings; (2) Less than 15 parties per day encountered on trails and less than 6 parties visible at campsite, since an increased in the number of groups may lead to a sense of crowding; (3) Party size limits range between 12 and 18; and (4) Vegetative management may range from prescribed fire to very limited

³³ Motor vehicle use by the general public may be present along the NST travel route as a ROS class inconsistency if allowed by the National Trails System Act.

timber harvest for the purpose of maintaining a natural setting. Suitability: (1) Motorized recreation travel is not suitable; and (2) Lands are not suitable for timber production.

- Semi-Primitive Motorized (SPM) – Desired Conditions: The area is predominantly natural-appearing environment. Concentration of users is low, but there is often evidence of other users. Moderate probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skill in an environment that offers a high degree of challenge and risk. Opportunity to have a high degree of interaction with the natural environment. Opportunity to use motorized equipment. Natural setting may have moderately alterations, but would not draw the attention of motorized observers on trails and primitive roads within the area. The area provides for motorized recreation opportunities in backcountry settings. Vegetation management does not dominate the landscape or detract from the experience of visitors. Visitors challenge themselves as they explore rugged landscapes. Standard: (1) Management actions must result in at least Moderate Scenic Integrity, and (2) Any road that is constructed or reconstructed for a vegetation manage project must be decommissioned within 2 years after the project is complete. Guidelines: (1) The development scale of recreation facilities should be 0-1 to protect the undeveloped character of desired SPM settings; and (2) Vegetation management may range from prescribed fire to limited timber harvest for the purpose of maintaining or improving natural vegetative conditions. Suitability: Lands are not suitable for timber production.

- Roaded Natural – Desired Conditions: The area is predominantly natural-appearing environments with moderate evidences of the sights and sounds of human activities. Such evidences usually harmonize with the natural environment Interaction between users may be low to moderate, but with evidence of other users prevalent. Resource modification and utilization practices evident, but harmonize with the natural environment. Conventional motorized use is provided for in construction standards and design of facilities. About equal probability to experience affiliation with other user groups and for isolation from sights and sound of humans. Opportunity to have a high degree of interaction with the natural environment. Challenge and risk opportunities associated with a more primitive type of recreation are not very important. Practice and testing of outdoor skills might be important. Opportunities for both motorized and non-motorized forms of recreation are possible. Natural settings may have modifications, which range from being easily noticed to strongly dominant to observers within the area. However, from sensitive travel routes and use areas these alternations would remain unnoticed or visually subordinate. The landscape is generally natural with modifications moderately evident. Concentration of users is low to moderate, but facilities for group activities may be present. Challenge and risk opportunities are generally not important in this class. Opportunities for both motorized and non-motorized activities are present. Construction standards and facility design incorporate conventional motorized uses. Roaded Modified has been used as a subclass of RN by several Forests and Regions for many years. Roaded Modified has typically been defined as areas exhibiting evidence of forest management activities that

are dominant on the landscape. Examples of RM include heavily logged areas, evidence of mining, oil/gas, or other minerals extraction activities.

- Rural: Area is characterized by a substantially modified natural environment. Opportunities to affiliate with others are prevalent. The convenience of recreation sites and opportunities are more important than a natural landscape or setting. Sights and sounds of man are readily evident, and the concentration of users is often moderate to high. Developed sites, roads, and trails are designed for moderate to high uses.
- Recreation Setting (Forest Service). The social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. The Forest Service uses the recreation opportunity spectrum to define recreation settings and categorize them into six distinct classes: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban.
- Recreation Setting (BLM H-8320-1). The collective distinguishing attributes (RSCs) of a landscape. Recreation settings determine the production of recreation opportunities.
- Recreation Setting Characteristics (RSC BLM H-8320-1): The RSC are derived from the Recreation Opportunity Spectrum. The RSC are categorized as physical, social and operational components and are further subdivided into specific characteristics (attributes). These characteristics are categorized across a spectrum of classes that describe a range of qualities and conditions of a recreation setting, for example primitive to urban.
- Recreation Setting Characteristics (BLM H-8320-1).
 - *Primitive*: More than ½ mile from either mechanized or motorized trails and routes. Undisturbed natural landscape. No structures. Foot/horse and water trails only. Fewer than 3 encounters/day at campsites and fewer than 6 encounters/day on travel routes. Fewer than or equal to 3 people/group. No alteration of the natural terrain. Footprints only observed. Sounds of people rare. Foot, horse, and nonmotorized float boat travel. No maps or brochures available onsite. Staff rarely present to provide onsite assistance. No onsite posts/signs of visitor regulations, interpretive info, or ethics. Few use restrictions.
 - *Back Country*: Within ½ mile of mechanized trails/routes. Natural landscape with modifications in harmony with surroundings and not visually obvious. Developed trails made mostly of native materials such as log bridges. Structures are rare and isolated. 7-15 encounters/day on travel routes. 4-6 people per group. Areas of alteration uncommon. Little surface vegetation wear observed. Sounds of people infrequent. Mountain bikes and perhaps other mechanized use, but all is nonmotorized. Basic maps, staff infrequently present (e.g., seasonally, high-use periods) to provide onsite assistance. Basic user regulations at key access points. Minimum use restrictions.
- Substantial Interference. “Determination that an activity or use affects (hinders or obstructs) the nature and purposes of a designated National Trail (see nature and purposes).” (BLM MS-6280)

Black's law dictionary defines substantial evidence as the amount of evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla.

VII. Disclosure

The information in this handbook supplements and clarifies agency planning processes. This handbook provides a description and summary of relevant National Trails System Act requirements that offer foundational rationale for understanding and providing for the nature and purposes of National Scenic Trails. Nonetheless, this paper should not be seen as legal advice to address National Trails System Act and other land management planning requirements.

Appendix A – NTSA, Section 5(e) and (f) – Comprehensive Planning Staged Decisionmaking.

Comprehensive Plan - Stage 1 Legislative Programmatic Direction	Comprehensive Plan - Stage 2 Land Management Plan	Comprehensive Plan - Stage 3 NST Field-Level Plan
<p>This stage establishes national direction that implements foundational provisions of the National Trails System Act, which includes establishing:</p> <ul style="list-style-type: none"> • The Nature and Purposes of an NST • Objectives • The Rights-of-Way Corridor • Guidance for resource management practices as related to: <ul style="list-style-type: none"> ○ Visual Resource (SMS/VMS) ○ Recreation Resource (ROS/RSC) ○ Motorized Use ○ Mechanized Use ○ Special Use Permits ○ Trail and Facilities ○ Carrying Capacity/LAC ○ Monitoring and Evaluation • Developed following programmatic Environmental Impact Statement processes that emphasize ROS/RSC and Visual Quality planning principles, and addresses <i>management actions</i> and <i>other uses</i> that may be allowed (16 USC 1246(c)). 	<p>Land management planning implements the Comprehensive Plan guidance and provides for integrated programmatic direction that is consistent with the NTSA, NFMA, FLPMA or National Parks and Recreation Act, E.O. 13195, and agency specific regulations (e.g., 36 CFR 219) and policies (e.g., FSM 2353 and BLM MS-6250/6280):</p> <ul style="list-style-type: none"> • Identifying objectives. • Identifies and preserves significant natural, historical, and cultural resources. • Establishes the extent of an NST Management Area (FS) or National Trail Management Corridor (BLM). • Provides for protecting or achieving the nature and purposes through establishing supporting plan components: <ul style="list-style-type: none"> ○ Desired Conditions ○ Objectives ○ Standards (Thresholds) ○ Guidelines ○ Suitability of Lands ○ Monitoring ○ Management actions, ○ Allowable use decisions ○ Monitoring • Developed following programmatic Environmental Impact Statement processes that emphasize ROS/RSC and Visual Quality planning principles, and addresses <i>management actions</i> and <i>other uses</i> that may be allowed (16 USC 1246(c)). 	<p>Field-level site-specific planning that is consistent with the Comprehensive Plan, Land Management Plan, and agency regulations and policies:</p> <ul style="list-style-type: none"> • Identifies and preserves significant natural, historical, and cultural resources (site-specific). • Identifies and displays the segments of an NST that traverse the unit. • Establishes the Trail Class, Managed Uses, Designed Use, and Design Parameters for the segments of an NST that traverse the unit and identifies uses that are prohibited. • Provides for development, signing, construction, and maintenance. • Establishes carrying capacity (LAC) for segments. • Establishes monitoring programs to evaluate site-specific conditions. • Developed following site-specific Environmental Impact Statement or Environmental Assessment processes that emphasize ROS/RSC and Visual Quality planning principles, and addresses <i>implementation actions</i> and <i>other uses</i> that may be allowed (16 USC 1246(c)).
<p>NST comprehensive planning stages may be combined if requisite programmatic and site-specific NEPA requirements are satisfied.</p>		