

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
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Instruction Memorandum No. AZ-2006-043
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To: District Managers and Field Managers

From: Deputy State Director, Resources

Subject: Section 106 Compliance for Designating Off-Highway Vehicle Routes and Areas in
Land Use Plans

Purpose: This policy describes how the Bureau of Land Management (BLM) will comply with Section 106 of the National Historic Preservation Act for designation of areas, roads, and trails to control off-highway vehicle (OHV) use on public lands in Arizona. It clarifies the appropriate effort to identify historic properties given the overall beneficial effects of route designation on cultural resources, the extensive size of the planning areas for which the BLM makes OHV-use area and route designations, and BLM's continuing management responsibilities for designated areas and routes.

Background: This policy is consistent with that developed by the BLM's Preservation Board to address Section 106 compliance on OHV route designations in land use plans. Although Bureauwide policy has not yet been issued by our Washington Office, we are issuing guidance for Arizona because of the accelerated schedule for BLM land use planning efforts in this State.

Policy/Action: We are bringing this guidance within the procedures of our Protocol, subsumed under the BLM's national cultural resources Programmatic Agreement, by including it as Appendix 19 of Arizona BLM Handbook H-8120, *Guidelines for Protecting Cultural Resources*. Please insert the attached Appendix into your file copies of the Handbook.

Timeframe: Effective immediately.

Manual/Handbook Sections Affected: Arizona BLM Handbook H-8120, *Guidelines for Protecting Cultural Resources*

Contact: Gary Stumpf, Deputy Preservation Officer, at 602-417-9236.

Signed by:
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Deputy State Director
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1 Attachment:

- 1 - [Designating Off-Highway Vehicle Routes and Areas in Land Use Plans](#) (3 pp)

Designating Off-Highway Vehicle Routes and Areas In Land Use Plans

Background. As part of its comprehensive Travel Management Program, the BLM incorporates road and trail access guidance into every land use plan (LUP). At a minimum, by regulation, each plan designates areas as open, limited, or closed to off-highway vehicle (OHV) use. For limited use areas, the BLM designates a network of roads and trails and may establish other limiting criteria such as numbers and/or types of vehicles, time and/or season of use, etc.

Absent designation, areas, roads and trails are subject to uncontrolled OHV use. Designation of areas and specific networks of roads and trails in limited use areas generally has the beneficial effect of controlling impacts of OHV use on public lands, including impacts on cultural resources.

Designation provides a purposefully designed and clearly delineated travel network for OHV use, reduces the potential for user-caused route proliferation, and facilitates travel management and law enforcement. Title 43 of the Code of Federal Regulation (CFR), Part 8340 authorizes the closure of areas, roads and trails to the types of travel that have caused or may cause adverse effects to cultural resources. In addition, it prohibits reckless OHV use that causes or may cause adverse impacts to cultural resources.

Compliance with Section 106. Designations of travel areas, roads and trails are considered undertakings for the purposes of Section 106 of the National Historic Preservation Act. Given the nature and anticipated effects of OHV route or area designations in LUPs and travel management plans, Section 106 compliance for these undertakings will be accomplished as follows:

Area of Potential Effect (APE). The APE includes areas within which the character or use of any historic properties may be directly or indirectly affected by an undertaking. The APE for designations includes areas designated open, closed, or limited for OHV use, specific roads and trails, and adjacent locations where various activities, such as parking and camping, are authorized or allowed.

Inventory Requirements.

Existing Information. Cultural heritage staff should be involved throughout the planning process. Every new, revised, and amended LUP must incorporate sufficient information to identify the nature and importance of all cultural resources known or expected in the LUP area. Where this information is lacking or out of date, the LUP Preparation Plan should include provision for developing or revising this information as part of the overall plan development, revision, or amendment process. Cultural resource information from the planning area's Class I or existing cultural resources information inventory must be considered when choosing among the range of possibilities in designing a planning area travel system for proposed designation.

Field Inventory. Field inventory requirements, priorities, and strategies will vary depending on the nature and potential effect of the proposed OHV activity and the expected density and nature of cultural resources based on existing inventory information. Inventory efforts prior to designation will focus on locations within the APE where the designation may cause adverse effects to historic properties. The potential effects of proposed designations differ according to extent of anticipated change in OHV use, as follows:

- Proposed designations that will not change or will reduce OHV use are unlikely to adversely affect cultural resources. These include designations that (1) allow continued use of an existing route; (2) impose new limitations on an existing route; (3) close an open area or travel route; (4) keep a closed area closed; or (5) keep an open area open. Class III inventory of such areas is not required prior to designation.
- Where there is a reasonable expectation that a proposed designation will shift, concentrate, or expand travel into areas where historic properties are likely to be adversely affected, the potential for cumulative or indirect effects must be considered. Class III inventory, focused on areas where adverse effects are likely to occur, is required prior to designation.
- Proposed designations of new routes or new areas as open to OHV use will require Class III inventory prior to designation. New locations proposed as camping areas, staging areas for events, or similar areas of concentrated use should be inventoried to Class III standards, as well.
- Class III inventories are not required for routes in areas (1) where there is a low probability of finding cultural resources or (2) where cultural resources are not likely to be affected by OHV use. Examples of such areas are those where previous natural ground disturbance has modified the surface so extensively that the likelihood of finding cultural properties is negligible, areas where human activity within the last 50 years has created a new land surface to such an extent as to eradicate locatable traces of cultural properties, and areas where natural environmental characteristics are unfavorable to the presence of cultural properties (such as recent landslides or rock falls).
- When Class I information reveals areas where adverse effects to cultural resources are occurring from OHV use, or raises a reasonable expectation that adverse effects to cultural resources are occurring from OHV use, those areas will be inventoried and mitigation measures developed in accordance with the procedures in the Arizona Protocol.

Consultation. Coordination with State Historic Preservation Offices and affected Indian tribes is required for all planning efforts. State Historic Preservation Officers should be consulted prior to initiating a LUP or travel management plan and invited to participate in the development of identification, monitoring, and treatment options during the planning and implementation of this effort. The planning team should coordinate with Indian tribes to solicit concerns relative to planning options and to ensure that appropriate identification and treatment options are developed and implemented during or after the planning effort.

Monitoring. Areas and routes open to OHV use are monitored for impacts to resources, and a cultural resource specialist should be included on the team responsible for developing and implementing the monitoring standards and process. The monitoring standards and process should take into consideration the intensity and type of OHV use, the density and sensitivity of cultural resources in the area, and the potential for adverse indirect and cumulative impacts, including route proliferation. When monitoring is proposed to assess potential effects from route or area designation, the decision record should make it clear which mitigation actions should be taken, and when they should be taken, in order to minimize additional environmental analysis required prior to implementation.

Route Improvement or Rehabilitation Projects. Specific projects undertaken to improve or rehabilitate routes or areas are subject to Section 106 review consistent with the Arizona Protocol and the procedures in Arizona Handbook H-8120, *Guidelines for Protecting Cultural Resources*.

Plan Maintenance and Modification. A cultural resource specialist should be included on any team working on periodic plan maintenance or on a plan amendment. Cultural resource monitoring and inventory information gathered after a plan is approved, maintained, or amended should be used to review and update the route network as necessary in any plan maintenance or plan amendment process.

Emergencies. All OHV use is subject to prohibitions against operation of vehicles on public lands in a reckless, careless, or negligent manner and in excess of established speeds or in a manner causing or likely to cause undue damage to cultural and other resources. Where an authorized officer determines that OHVs are causing or likely to cause adverse effects to cultural resources, Title 43 of the CFR, Part 8341.2 requires immediate closure to the type or types of vehicles causing the adverse effect until the adverse effects are eliminated and measures implemented to prevent recurrence. Cultural resources inventory is not required prior to the emergency closure. Where the authorized officer determines that OHVs have caused adverse effects to cultural resources, measures will be taken to mitigate those adverse effects consistent with the procedures in the Arizona Protocol.