



MEMORANDUM OF UNDERSTANDING RELATED TO FOREST HIGHWAYS OVER NATIONAL FOREST LANDS

This Memorandum of Understanding (MOU) by and between the U.S. Department of Agriculture, Forest Service, hereinafter called the Forest Service, and the U. S. Department of Transportation, Federal Highway Administration, hereinafter called the FHWA, is supplemental to Part 660 of Chapter 1, Title 23, Code of Federal Regulations, and establishes procedures for coordinating the planning, reconnaissance, location, design, construction, signing, and consideration of social, economic, and environmental effects related to Forest Highway use and occupancy of National Forest lands.

It is mutually recognized that:

Forest Highways are Forest roads under the jurisdiction of, and maintained by, a public authority and open to public travel. These highways provide access to the National Forest resources and Forest resources benefitting communities in or near National Forests. The highways are mutually identified through the statewide planning process as set forth in the States' Action Plans and through National Forest transportation planning which is a part of the Forest Service land and resource management planning process.

The FHWA has developed and implemented a Direct Federal Nationwide Action Plan (NAP) that covers the interagency coordination and procedures necessary to assure compliance with the National Environmental Policy Act, 42 U.S.C. Sec 4321 et seq., as well as 23 U.S.C. Sec 109(h).

The Forest Service is responsible for the protection and multiple use management of National Forest lands and resources for the use and benefit of the people of the United States, and is vitally interested in the development of a public highway system which will integrate with other National Forest transportation facilities and provide access for use and enjoyment of the National Forests, and

Where Forest Highways traverse National Forest lands, the FHWA will need authorization to use a portion of the lands for highway right-of-way, waste areas, and material sources for highway construction. Since many National Forest access, development, and administrative facilities are appurtenant or adjacent to Forest Highways, the Forest Service will need to confer with the FHWA before developing physical improvements which may have an effect on Forest Highway planning and construction.

Both FHWA and the Forest Service should enter into separate memorandums of understanding with the State highway agency to clarify responsibilities for those items spelled out in the State Action Plan and the FHWA Direct Federal NAP especially where it concerns statewide systems planning.

Nothing in this MOU is to be construed as conflicting with existing laws, regulations, and prescribed responsibilities.

In recognition of the responsibilities, interests, and limitations set forth above, and the mutual benefits of established procedures to facilitate agreement on specific highway matters on National Forest lands, the FHWA and the Forest Service mutually agree as follows:

1. For Forest Highway projects where there may be existing outstanding valid claims, such as right-of-way, powerlines, gaslines, etc., the FHWA will investigate such claims and, if determined to be valid, will arrange for such permission to enter upon or construct as may be necessary on account of any such claims.
2. The Forest Service will be responsible for meeting the requirements listed in the FHWA Direct Federal NAP relating to Forest Service participation in the review of projects and input into the environmental analysis procedure.
3. The Forest Service will file with the FHWA Section 4(f) documentation for all Forest Highway projects to be constructed or reconstructed on National Forest or other lands administered by the Forest Service. The

documentation will state that the proposed route has been reviewed against the criteria of Section 4(f) of the Department of Transportation Act of 1966, Public Law 89-670, as amended by the Federal-Aid Highway Act of 1968, Public Law 90-495, Section 18.

4. The design and construction of Forest Highway projects will be in accord with the applicable provisions of Title 23, Code of Federal Regulations (particularly Part 660), established individual agency procedures for Forest Highways, and the latest edition of the Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects.
5. The final design and the construction specifications for all Forest Highway construction projects on National Forest lands shall have the written concurrence of the Regional Forester before construction begins (see Final Plan Approval on page 8).
6. All amendments or supplements to the approved plans, specifications, or stipulations that may affect National Forest land use shall have the written concurrence of the Regional Forester.
7. Consistent with highway safety standards, the FHWA shall:
 - a. Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.
 - b. Provide for the prevention and control of soil erosion within the right-of-way and on adjacent lands that might be affected by the construction of the highway and shall vegetate with suitable species of grass, trees, shrubs, etc., all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed where it is deemed necessary for erosion control during a joint review between the Forest Service and the FHWA prior to completion of the highway. During construction, the FHWA shall maintain all terracing, leadoff ditches, or other erosion preventive works that may be required to accomplish this objective.
8. The FHWA shall establish no borrow, sand or gravel pits, stone quarries, stockpile sites, sites for contractors' operations, camps or disposal areas on National Forest lands without first obtaining approval of the Regional Forester (see page 9, paragraph 2.d.).

Annual Program Conference. At the annual Forest Highway program and project selection conference, projects are discussed and scheduled for future years' programs. The meeting shall be attended by representatives of the State highway agency, the Forest Service and FHWA, who will be authorized to commit their agencies to agreement. In addition to the information required in the FHWA Direct Federal NAP:

1. The Forest Service will provide:
 - a. A list of projects with supporting data as specified in 23 CFR 660.109, that will best meet its land management and transportation needs and objectives for the next 5 years. This list will represent the best available information on funding levels and coordination with the total statewide transportation system.
 - b. Status reports on land and resource management planning for National Forest development, especially where the land and resource management decisions might affect the existing or proposed Forest Highways.
 - c. Special recommendations for long-range transportation needs and procedural changes in the action planning system.
 - d. Identification of needs for special funding for studies or projects necessary to accomplish any part of the program.
2. The FHWA will provide:
 - a. The latest information on available financing and its effects on the proposed program.
 - b. The latest cost estimates and status of existing projects including environmental studies, special studies, and need for expertise from other agencies or outside sources.
 - c. Recommendations as to possible alternatives and changes that should be considered as a result of analysis of

1 and 2 above.

3. The State highway agency will assume responsibility for:
 - a. Those items spelled out in the State Action Plan.
 - b. Those items spelled out in the Memorandum of Understanding with the Forest Service and cooperative agreements with FHWA especially where it concerns State transportation systems planning.
 - c. A list of projects proposed for financing with supporting data.

Objectives of the meeting will be to reach agreement on a Forest Highway Program that can be feasibly accomplished within the requirements and restraints of each agency and to set the stage for coordinating the efforts of all personnel concerned in implementation of this program.

The Forest Service participation with FHWA in highway development planning and analysis of environmental impacts shall not be construed as sharing project responsibility. It shall be further understood that the Forest Service may embrace a diverse viewpoint during any phase of the project planning and decisionmaking process.

Special requirements on individual projects will be as follows:

1. Final Plan Approval

Concurrence in the final plans and specifications by the Forest Service will be acknowledged by a letter of consent (see Items 2.a. and b below). The letter does not relate to highway engineering functional items but acknowledges that the Forest Service agrees to the appropriation and transfer of the affected National Forest lands under the stated provisions of the Act of August 27, 1958, and the conditions which are to be included in the standard Highway Easement Deed. Stipulations relative to disposal of right-of-way timber, revegetating of cut and fill slopes, relocation of Government-owned buildings or other improvements and other details of construction affecting National Forest Lands should be included in the highway plans and specifications. Those not adequately covered will be agreed to between the Forest Service and the constructing agency before a letter of consent is issued.

2. Right-of-Way

- a. Upon final review of the highway plans and specifications and stipulations, if any, and a determination that National Forest interests are adequately protected, the Regional Forester will prepare a letter of consent to the appropriation by the Department of Transportation and transfer of lands to the State or local government for highway purposes. In the consent letter, the Regional Forester will set forth the first eight (8) terms and conditions to be included in the project standard Highway Easement Deed. The Regional Forester will transmit the consent letter to the FHWA which will issue a deed to the State or local government.
- b. The letter of consent is the Forest Service's authorization for FHWA to enter National Forest lands and to construct the highway project.
- c. Field monumentation of the right-of-way limits by the FHWA, when required, will be in accordance with the Memorandum of Understanding between the Forest Service and the appropriate State highway agency.
- d. The use of borrow pits, gravel pits, stone quarries, or other areas or facilities requiring separate Forest Service approval will be authorized by Special Use Permit to the FHWA contractor with concurrence of the FHWA.

3. Construction

- a. The FHWA will administer construction contracts in a manner to assure work performed is in accordance with approved plans and specifications.

- b. The FHWA will invite the Forest Service to the preconstruction conference. At this conference, the FHWA will designate a field representative to deal directly with the contractor and the Forest Service will designate a field representative to advise the FHWA field representative on matters affecting land use aspects and other Forest Service interests.
- c. The Forest Service will consult only with the designated FHWA field representative on matters pertaining to project construction.
- d. Waste or surplus excavation material shall be disposed of at locations approved by the Forest Service.
- e. Where the construction limits exceed right-of-way limits shown on the approved plans, the designated field representative of the FHWA and Forest Service shall agree on the additional right-of-way and document such agreement in writing. Formal approval of all such additional right-of-way will be requested of the Forest Service when construction is complete.
- f. The FHWA will reestablish or restore public land monuments disturbed or destroyed by Forest Highway construction or reconstruction under FHWA contract according to instructions of the Bureau of Land Management, Department of the Interior. Other land monuments and property corners or witness markers involving National Forest lands shall not be damaged, destroyed, or obliterated without the prior permission of the Forest Service and shall be relocated or reestablished in accordance with standards satisfactory to the Regional Forester.
- g. Upon completion and prior to acceptance of the project by FHWA, the Regional Forester will advise FHWA whether the construction has been satisfactorily completed in accordance with the Forest Service stipulations, terms, and conditions. If the construction has been so satisfactorily completed, such notification will be in writing.

4. Signing

Signing included in Forest Highway Projects will be in accordance with the Manual on Uniform Traffic Control Devices, Section 402 of Title 23 U.S.C., and the Memorandum of Understanding between the Forest Service and the appropriate State highway agency, wherever such agreements are in effect.

5. Landscape Management and Rest Areas

The FHWA and the Forest Service shall jointly review and agree to the location, design, and construction of all highway turnouts, widening for viewpoints, historical and interpretative signing, rest areas, drinking fountains, roadside parking for fishing, camera stops, traveler information signs, Forest boundary signs, and the preservation of areas of scenic beauty. On new construction projects, details of such items will be incorporated into and made a part of construction plans for concurrence by the appropriate Regional Forester. If such items are developed after construction of the highway, details of agreed actions will be made a matter of record by both parties.

Conclusion

1. The FHWA and Forest Service personnel are encouraged to consult with each other during construction and to agree on such matters as fall within their scope of responsibility. Matters which require consideration at a higher level should be referred to appropriate authority in each agency.
2. This Memorandum supersedes the Memorandum signed by the Forest Service January 11, 1974, and the Federal Highway Administration December 19, 1973. This Memorandum may be amended or supplemented by mutual agreement between both parties and may be terminated by either party through written notice to the other.

DATE 5/11/81

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

BY Original signed by R.A. Barnhart

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE

BY Original signed by Gary E. Cargill



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United States Department of Transportation - **Federal Highway Administration**