ACCESS GUIDE FOR SNOWMOBILING ON PRIVATE AND PUBLIC LANDS

A Resource Manual for Associations, Clubs, and Trail Managers

Prepared by Trails Work Consulting
For the American Council of Snowmobile Associations

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AMERICAN COUNCIL OF SNOWMOBILE ASSOCIATIONS

ACCESS GUIDE FOR SNOWMOBILING ON PRIVATE AND PUBLIC LANDS

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The purpose of this publication is educational only; with no other intent but to expand the knowledge base of snowmobiling clubs, associations and trail managers regarding working with landowners and public land managers for snowmobiling access. It should not be assumed by readers that all contributors agree with every written word, but are opinions only. The authors, contributors, FHWA, Trails Work Consulting, and ACSA and its members accept no liability resulting from the compliance or noncompliance with the procedures or recommendations given herein, or for the accuracy or completeness of the information contained herein.

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Snowmobile trail access across private or public lands is not a right but rather requires permission from private landowners as well as from the public land managers charged with managing those lands. Successful access requires building relationships – no matter where or what types of land ownership. Obtaining access can be hard work requiring considerable coordination with individuals, groups, agencies, and/or the state trails coordinator. When done properly it can develop strong partnerships that pay huge long-term dividends. Trail sponsors can never take access permission for granted, so must continually nurture landowner and agency relationships in order to retain their access.

> ***Access is about building relationships – no matter where or what types of land ownership***

This Access Guide was developed as a resource – full of real-life examples – to help snowmobile clubs, associations, and trail managers establish and retain permission on private and public lands for snowmobile trails, as well as for open cross-country off-trail riding areas where appropriate. An extensive collection of resources proven to help realize success is also available from the Snowmobile Safety and Access Information Center at http://www.snowmobileinfo.org/ to further assist trail sponsors. Depending upon your local situation, consult one or all chapters in this manual to help gain and protect snowmobiling access.

CHAPTER 1 – ACCESS TO PRIVATE LANDS

Access for snowmobiling across private lands is a matter of permission and respect – respecting private property rights and not going somewhere if you do not have permission. Chapter 1 begins on page five and discusses common issues that may be hurdles for private lands access, while also providing suggestions on how to work with landowners to clear those hurdles.

Decisions regarding whether or not snowmobiling access will be allowed on specific pieces of property are clearly reserved for the owners of private lands and are most often driven by economic and risk management factors. Private property access typically requires either a close working relationship with individual landowners or financial compensation for access to their lands – or both. Landowners must also be protected from liability connected to allowing recreational use of their lands. This chapter provides numerous examples of agreement forms, laws, and trail management approaches that can help achieve and retain private lands permission.

CHAPTER 2 – ACCESS TO PUBLIC LANDS

Chapter 2 begins on page forty-five and outlines how to work with public land managers within the context of rules they must follow to do their jobs. While snowmobilers are one of many 'owners' of public lands, snowmobiling access to these lands is not a right of 'ownership.' Public agencies of all types have been designated to manage various categories of public lands. These agencies have the authority to allow or disallow activities on the lands under their management, typically through a public involvement process influenced by their agency mission and policies, along with social pressures.

Access to public lands for snowmobiling requires participation in complex, lengthy agency rulemaking and/or planning processes, as well as establishing good working relationships with on-the-ground managers within agencies. The fact that a public participation process is required is a good thing since it means snowmobilers are guaranteed a seat at the table with an opportunity to be involved – so it's extremely important to get involved. This participation includes a need to provide written comments that are substantive and also effectively communicate your needs, positions,

and any issues you have with management alternatives being proposed by the planning process; therefore, guidance on how to effectively participate in public agency land use planning is provided in this chapter.

Recreational access to public lands – more than ever before – is also being influenced by groups who bring resources to the table since most agencies continue to have declining staff and financial resources for recreation development and management. Snowmobilers have a multitude of partnership resources available through their funding and/or volunteer partnerships, so are well positioned to help agencies accomplish their mission. But you absolutely must get engaged and properly work each and every agency planning process to be successful.

CHAPTER 3 – TOOLS FOR IMPROVING AND RETAINING ACCESS

Chapter 3 begins on page ninety-eight and provides examples proven to help improve and retain snowmobiling access in a wide range of local situations across the Snowbelt. It's important to use best management practices that help eliminate or mitigate concerns both private landowners and public land agencies may have about snowmobiling on their lands. Good trail system layout and design, signing, fencing, law enforcement, education, and special laws or restrictions can be tailored to help address issues that may affecting snowmobile access in local areas.

Understanding what scientific research says the *real* impacts of snowmobiling are is also important when negotiating access with landowners and agencies. An extensive, peer-reviewed on-line Library of Research Studies Related to Snowmobiling Impacts is available at http://www.snowmobileinfo.org/snowmobiling-access-resources.aspx#Research-Studies-Related-to-Snowmobiling-Impacts. A companion document, *Research Studies Related to Snowmobiling Impacts,* can also be downloaded from http://www.snowmobileinfo.org/snowmobiling-access-resources.aspx#Snowmobile-Access-Education-Resources.

VIP Rides have proven to be one of the best ways to educate and establish working relationships with agency staff, decision makers, landowners, politicians, or other important people who may play a role in setting policy or approving access. For many this may be their first exposure to actually riding a snowmobile, so it's important to make absolutely sure VIP outings are well planned – paying close attention to detail through recommendations presented in this chapter – to help ensure favorable impressions are made.

VIP RIDES* – *proven to be one of the most effective tools in the Tool Box

APPENDIX OF RESOURCES

The Appendix of Resources begins on page 122 and includes several laws or regulations important to snowmobiling access, along with partnership examples that can potentially help facilitate continued long-term access for snowmobiling on public and private lands:

Appendix 1:	A compilation of every Snowbelt state's Recreational Use Statutes which provides protection for landowners who provide recreational opportunities
Appendix 2:	Sample Articles of Incorporation and By-Laws for a motorized land trust (Michigan example)
Appendix 3:	Sample legislation from a forest legacy program (Minnesota example)
Appendix 4:	The National Environmental Policy Act of 1969, as amended (NEPA)
Appendix 5:	USDA Forest Service – Service-Wide MOU with Snowmobile Associations
Appendix 6:	Off-Road Vehicles Executive Orders and the National Park Service's Snowmobile Regulation

For Additional Access Resources, Visit

http://www.snowmobileinfo.org/snowmobiling-access-resources.aspx

INTRODUCTION

WHY PERMISSION FOR SNOWMOBILING ACCESS IS IMPORTANT

Snowmobiling can be fun, revitalizing, and fulfilling for individuals, as well as important economically for businesses and communities. It provides a way for individuals, families, and friends to connect with winter through enjoyable travel and recreation in the great outdoors while providing riders with diverse opportunities to connect with nature or to simply unwind and recharge. Consequently permission for reasonable access to snow-covered trails and open riding areas is required for these many benefits to be realized and sustained.

There are several factors that determine why particular areas or routes are needed for snowmobiling and where they would best be located. Trails that exist simply to get riders from one destination or community to another are largely influenced by desires for expedient travel on the most direct routes that provide an acceptable quality trail tread beneath the snow surface. Having a destination clearly increases the value of trail experiences for snowmobilers. Other trail routes are needed to access rest stops where riders can warm up from the chill of winter or access local services that provide fuel, lodging, food, repair services, etc. Snowmobilers also desire access to scenic overlooks and natural areas, to be able to view wildlife and unique landmarks, and to be able to recreate in open play areas while riding in powder or climbing hills. And most importantly, snowmobile trail routes need to be situated where there is reliable snow cover that provides dependable passage and enough clearing width for grooming equipment. Loops can be important for adding variety to recreational experiences and trail character, as well as for facilitating efficient trail grooming operations. This wide variance in needs requires an equally wide variety of approaches to ensure trail systems meet the needs of snowmobile riders.

Snowmobile clubs, associations, agencies, and other trail providers routinely rely upon a patchwork of public lands, public rights-of-way, and private properties to complete their trail networks. This mixed approach to securing trail corridors and riding areas is critical to the continued success of snowmobile trail systems. The complexity of establishing and keeping areas available for snowmobiling access varies by location based upon whether the areas are rural or suburban and by whether routes traverse public open spaces, private developments, or follow road rights-of-ways. But the bottom line is that snowmobiling requires formal permission for access to (and the continuing use of) private and public lands – and without this permission there simply are no legal places for the general public to operate snowmobiles.

ISSUES FACING SNOWMOBILING ACCESS

The placement of any trail (motorized or nonmotorized) on the landscape has the potential for some level of environmental or social impacts. Therefore the challenge is to keep those impacts to a minimum while providing desired recreational experiences in appropriate settings. Landowners and public agencies need assurance that snowmobiling will not unfavorably impact the ecology of their properties, as well as the primary uses of their properties; otherwise permission will be hard to obtain and retain.

Trespass is the most frequent complaint landowners have against snowmobilers. This infringement may include entering private lands that riders do not have permission to use, as well as snowmobiling on public properties where motorized recreation has been prohibited. If intrusions occur frequently or continue for long periods of time, private landowners and public land managers often become increasingly skeptical about working with snowmobilers.

Snowmobiling access is subject to the feelings of landowners adjacent to trails and riding areas, as well as by communities' and agencies' attitudes regarding snowmobilers and their behavior. Consequently snowmobilers must consistently show they are responsible recreationists in order to be successful in gaining and maintaining access.

In addition to land use approvals from private landowners and public land managers, many trail development projects also require various environmental permits as part of their approval process, particularly if trails cross wetlands or waterways. Road rights-of-way use and site access approvals from appropriate State, county, or local highway authorities may also be necessary. State trail coordinators are an important resource to help sort out local, regional, or statewide rules and regulations, as well as any pertinent trail management or development plans, so should be consulted early in the process.

If you have access, you need to do everything possible to keep it, including expressing appreciation to your landowners and land agencies. And if you're trying to obtain new access, be aware that it can be extremely time-consuming, requiring patience as well as persistence, and that it's becoming increasingly more difficult with each passing year. It's important to recognize changing times and the need for long term visions as well as considering new approaches or partnerships. And it may sometimes be necessary to bend over backwards, make concessions, and/or enter into unlikely partnerships to help keep or gain access. Whatever it takes, it's important to make the effort – because without permission for access, there are no opportunities for recreational snowmobiling.

Partnerships will likely become increasingly important as the types & number of snow-based activities continue to evolve.

CHAPTER 1: ACCESS TO PRIVATE LANDS

Access to private lands is extremely important for snowmobile trails across the Snowbelt. In some instances this involves entire trail systems being located on private or corporate lands while in other situations trails across parcels of private property provide important linkage to or through public lands. Regardless of the setting, access for snowmobiling across private lands is a matter of permission and respect – respecting private property, not going somewhere if you do not have permission, and understanding that no permission for public snowmobiling access means "no" snowmobiling. While several thousand miles of snowmobile trails have been very generously provided by private landowners for decades, changes in landowner status or personal situations, suburban sprawl, and issues such as riders trespassing off designated trail routes can sometimes make landowner permission more difficult. Consequently, more than ever before persistence, patience, and an increased emphasis on relationship building is often required to keep trails open and connected.

LANDOWNER ISSUES THAT MAY BE HURDLES FOR ACCESS PERMISSION

There are several issues that may sometimes be hurdles for gaining or retaining permission for snowmobile trail access across private lands. (Note: for the purposes of this manual, the term 'private lands' is intended to encompass all lands owned by private individuals, families, businesses, and/or corporations.) Snowmobile clubs and trail managers must recognize that these issues are very important from landowners' perspectives – and work to address them the best they can if access permission for snowmobiling is to be granted and retained.

Hurdles for snowmobiling access permission may include:

1. Conflicts with their use of their property
2. Changing business interests or requirements of landowners
3. Changing economic needs of landowners
4. Environmental impacts to their lands
5. Potential off-season impacts from other non-permitted uses
6. If dealing with trails becomes a nuisance for landowners
7. Liability and legal risks

Conflicts with Other Use of Their Property

This can be a significant issue for many landowners. They all own their property for specific reasons and specific uses. Their property may be used for one or more uses including agricultural production, extraction of resources, hunting camps, private wildlife preserves, their full-time homes, or their vacation getaways for the purpose of recreation or relaxation. They must have assurance that a snowmobile trail can co-exist with their use(s) of their property – or access will likely be denied.

If lands are used for production – agriculture, timber, or mining – trail managers must work with landowners to assure trails will not interfere with their production activities or income from those lands. This may mean rerouting as timber sales move about properties or working around a landowner's need to rotate crop production. If properties are used as hunting areas, it may require delaying the use of snowmobile trails until after hunting seasons end; these particular landowners will also want assurance that trail activities will not interfere with wildlife production on their properties. If properties have fulltime or seasonal residences on them, loss of privacy may be a significant concern; this may require trying to route trails behind hills, tree lines, or along outer fringes of properties away from their buildings. It may also require building fences or planting trees to help control trail traffic or to screen trail traffic and noise from residential areas. It could also require placing curfews on trails to prohibit late night traffic.

Changing Business Interests or Requirements of Landowners

It's important to recognize that the business interests and requirements of landowners, particularly corporate landowners, are subject to change over time and may impact access for trails. These changes may be driven by

market demands if their lands are used for production, or by landowners simply tiring of current uses of their properties and making decisions to change course.

If changes are market driven, it may be possible to continue working with landowners as they pursue revised production needs – but this often requires extreme flexibility on the part of trail managers. It's important to assess whether market driven changes are likely to be long-term or if they may only last a year or two. If the changes are short-term, perhaps reroutes can help trails survive. In other situations trail routes may need to be temporarily closed until market conditions change. Or the worst-case scenario is that trail links may be lost forever, requiring major efforts working with new landowners to replace lost routes.

Landowners who tire of owning their properties often eventually sell their land; in this case trail managers need to be patient and wait to see if new owners may be willing to continue hosting trails. In other cases where landowners are influenced by family members to change to more passive 'back to nature' management of their lands, it may likely result in lost access.

The best way to safeguard against this 'changing interests' issue is to pursue long term use agreements or permanent right-of-way easements across properties early in your relationship with landowners.

Changing Economic Needs of Landowners

While similar in nature to changing business interests of landowners, this issue is driven more by landowners needing to generate cash versus retaining wealth in terms of equity in their properties. This situation is often connected to the rising cost of property taxes, the creep of suburbia into rural lands, or changes in status (aging, death, divorce, etc.) of landowners. This can result in either the sale of property or the subdivision of pieces of their property in efforts to raise cash to pay property or estate taxes, generate retirement income for aging landowners, divide assets in divorce settlements, etc.

Again, the best safeguard is to pursue long term use agreements or permanent right-of-way easements. Additionally, trail managers need to be patient and try to work with new landowners if properties are sold.

Environmental Impacts to Their Lands

All landowners – even resource extraction landowners like mining companies – care deeply about the health of their lands. Trail managers need to provide strong assurance that snowmobiling will not cause adverse environmental effects to landowners' properties. These concerns include impacts to vegetation, removal of trees, rutting or causing drainage problems on trails, the spread of noxious weeds, etc. Trail managers can help resolve these concerns by showing they are good stewards of the land and by always using 'best management practices' that tread lightly on all lands used for snowmobile trails.

Potential Off-Season Impacts From Other Non-Permitted Uses

This can be a huge issue for landowners in some areas. Since snowmobiling occurs in winter, which is typically the 'off-season' for many agricultural and some resource extraction activities, it often easily coexists with landowners' primary uses of their properties. On the other hand, other recreational activities that involve ATVs, trucks, bicycles, hikers, horses, hunters, etc. may not be viewed by landowners as compatible uses during the spring, summer, or fall on the same properties. If this is the case, snowmobile trail managers and local clubs need to make extra efforts to help prevent unauthorized uses of landowners' properties.

Whenever landowners blame snowmobile trails with problems they are having with other recreationists, access for snowmobile trails may be lost. This may require snowmobile trail managers and local volunteers to make special efforts to educate the public about proper uses of private properties and trail routes. It may also be necessary to place signs and install gates to help control unauthorized off-season uses on private properties.

It has been proven time and time again that going the extra mile to help landowners in the summertime can pay huge dividends toward keeping winter snowmobiling access open – and that ignoring landowners' summer issues may quickly eliminate your winter access. Consequently, you must *always* give this issue top attention.

If Dealing with Trails Becomes a Nuisance for Landowners

If private landowners (particularly corporate landowners) get to a point where they view dealing with trails, local club members, or trail managers as a nuisance, they may become less likely to allow access. Trail managers must communicate clearly and concisely when coordinating trail details with landowners to ensure landowners' time is minimized and not wasted. This may require managers to be flexible with policies and combining / condensing paperwork to better fit landowners' needs and time commitments (but at the same time you must ensure consistency between how individual landowners are treated). While proper paper trails are important for risk management, do your best to keep coordination processes from becoming any more time consuming or bureaucratic than necessary.

One sure way to irritate landowners is to keep coming back / calling back time and time again for the same issue. Another is to keep asking to reroute trails to different locations on their properties year after year; so try your best to get routes located in the right place the first time. On the other hand, if landowners require trails to be relocated year after year to meet their changing needs – accept their changes gracefully and do your best to accommodate their needs while also assessing whether better long-term alternate options may be available.

Liability and Legal Risks

This is likely the most prominent issue influencing cooperation from private landowners. It is so significant that State legislatures, in recognition of the importance private lands play in providing land for recreational activities, have passed laws in all States that provide some level of protection for landowners who open their properties for recreational uses. Consequently, this topic is discussed at length in the following section:

PRIVATE LANDOWNER LIABILITY AND RECREATIONAL USE STATUTES

Private Landowner Liability

Private landowners are often hesitant or unwilling to open their lands to public uses because they are concerned about liability. While this is a valid concern, every State has legislation that offers landowners protection from liability. Generally, these laws are called 'Recreational Use Statutes.' While every State has some form of Recreational Use Statute, the specific protection offered to landowners varies from State to State. (See Appendix 1 for the full text of all Snowbelt State's Recreational Use Statutes.) These statutes are critically important and the cornerstone for recreational access to private lands.

What are Recreational Use Statutes? 'Recreational Use Statute' is a general term given to laws that are intended to encourage public recreational use of privately owned lands. These Statutes grant landowners broad immunity from liability for personal injuries or property damages suffered by individuals pursuing recreational activities on their lands. These laws are a response to increased private tort litigation of recreational accidents and an effort to encourage private landowners to make their properties available to the public for recreational purposes. This encouragement takes the form of protecting landowners from legal liability for accidents that may happen when people are on their properties for recreational purposes. Recreational uses include a wide variety of activities and, whether specifically mentioned in statutes or not, snowmobiling is a recreational use.

How do Recreational Use Statutes work? Recreational Use Statutes generally provide that landowners do not owe, to anyone using their properties for recreational purposes without a charge, either a duty of care to keep their properties safe for entry or use, or a duty to give any warning of dangerous conditions, uses, structures, or activities on their properties.

Under prior common law (law made by precedent/court rulings), landowners typically had different duties of care depending on whether a person was on their land as an invitee, licensee, or a trespasser. The greatest duty of care was typically owed to an invitee; no duty was owed to unknown, adult trespassers. Under Recreational Use Statutes, recreational users are treated the same as trespassers; thus landowners owe them no duty of care.

The protection of these statutes is typically lost if landowners charge for the use of their lands (with exceptions in most States if the land is leased to a public agency for recreational use). It may also be lost if landowners are guilty of willing malicious conduct, intentionally harm someone, or demonstrate gross negligence.

When are landowners protected by Recreational Use Statutes? The principal question addressed by courts in personal injury and wrongful death litigation where Recreational Use Statutes are in effect is whether the statutes 'applied under the facts that existed at the time of injury or death.' If facts are determined to be outside the statutes, liability will be determined in accordance with principles of State common law. For instance, if courts determine landowners don't qualify as an "owner" defined by the statutes, the facts would be considered to be outside the protection of the statutes. Each State's Recreational Use Statute was drafted with conditions specific to that State in mind, so landowner's liability can vary greatly from State to State. Furthermore, judicial interpretations of various statutes differ greatly such that similar statutes may yield very different results when tested in different State courts. It's therefore very important to check your State's Recreational Use Statutes (See Appendix 1) to see how much protection they offer and how your State's courts have interpreted them.

Who qualifies as "landowners" under Recreational Use Statutes? In order to be protected under Recreational Use Statutes, individuals or companies must qualify as "owners" under the statutes. Most Recreational Use Statutes broadly define "owners" to include the 'legal owners' of the lands, tenants, lessees, occupants, or persons in control of the premises. Some statutes also consider holders of easements as "owners."

What types of land falls within the scope of these statutes? Most Recreational Use Statutes apply broadly to lands and water areas as well as to buildings, structures, and machinery or equipment on the lands.

Each State varies in how broad the statutes and their interpretation go with respect to what constitutes "premises." Some States include only those lands amenable to recreational uses, while others make much broader interpretations and consider whether recreational activities have taken place on lands, regardless of how suitable those lands are for recreational uses.

What activities, use, or purpose qualifies as "recreational"? Many Recreational Use Statutes include, in the text of statutes, a definition of "recreational use" or "recreational purpose." These definitions usually include long lists of specific activities such as hiking, swimming, fishing, driving for pleasure, snowmobiling, hunting, bicycling, etc. The phrase "includes, but is not limited to" is also typically used to prevent narrow interpretations of what constitutes "recreational use." Presumably snowmobiling would be considered "recreational use" by most courts even if it is not specifically listed in the definition of "recreational uses" or "recreational activities."

What constitutes payment for use? Most Recreational Use Statutes do not protect landowners from liability if they charge for access to their lands. In most States, landowners do not lose protection if they lease their properties to public agencies for recreational uses. (See Table 1 below) Typically, fees paid for State snowmobile registrations and user fees do not constitute "payment for use" where private landowners would lose their protection. However, if landowners choose to charge their own "trespass fees" to individual recreationists, their protection would typically be lost.

What constitutes malicious conduct? Most Recreational Use Statutes do not protect landowners from liability if they willfully, maliciously, or deliberately cause injuries.

Courts typically require actual knowledge of dangerous conditions, knowledge that injuries could result from those conditions, and inaction in the face of such knowledge. This standard is generally difficult to prove in lawsuits against private landowners because plaintiffs (injured parties) must show landowners had actual

knowledge (as opposed to constructive knowledge, which means landowners 'should have known') and that landowners willfully failed to guard or warn against dangerous conditions. Since interpretations of this standard can vary from State to State, be sure to consult local statutes and local legal counsel. However as a general rule, if landowners have no knowledge of dangerous conditions, they are normally under no duty to investigate their lands for dangerous conditions.

Do Recreational Use Statutes protect landowners from liability if minors are injured on their lands? Many Recreational Use Statutes refer to "any user" or "any person" without making reference to whether or not minors are included in that language. It's therefore important to check statutes closely for language that either specifically excludes or includes minors in the definition of "recreational user." If statutes are silent on this matter, it's important to check your State's case law to see how courts have dealt with minors.

What is an "Attractive Nuisance" and do Recreational Use Statutes protect landowners from liability under the Doctrine of Attractive Nuisance? Basically, the Doctrine of Attractive Nuisance makes landowners liable for injuries caused by conditions on their lands if they knew children were likely to enter their lands because of those conditions; unfenced swimming pools or trampolines are common examples. Some Recreational Use Statutes expressly exclude protection against attractive nuisance claims. This issue is somewhat interrelated to whether or not statutes apply to minors or only those young enough to be protected by the Doctrine of Attractive Nuisance. Again, it is important to check your State's statutes closely.

What is "Adverse Possession" and do Recreational Use Statutes protect landowners from adverse possession claims? "Adverse possession" is a way to get ownership by continual use or possession of lands without permission or objections by the actual landowners. Some statutes foreclose the possibility of gaining permanent rights of access by adverse possession. This means landowners can open their lands to recreational uses with knowledge that they can later close them when they wish, without worrying about the possibility of the public gaining permanent rights to access their lands. Again, check your State's statutes.

Table 1: State Recreational Use Statute Information (as of 7/1/2017)

State	Statute Number and Web Link	Is Protection Lost if Fee is Charged
Alaska	Alaska Statutes 09.65.200 and 34.17.055 http://www.akleg.gov/basis/statutes.asp#09.65.200 http://www.akleg.gov/basis/statutes.asp#34.17.055	Yes
California	California Government Code 2-2-3-2-846 http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=846. http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=846.1.	Yes, but fees from land leased to public agency allowed
Colorado	Colorado Revised Statutes 33-41-101 thru 105.5 http://www.lexisnexis.com/hottopics/Colorado/	Yes, but fees from land leased to public agency allowed
Idaho	Idaho Code 36-1604 https://legislature.idaho.gov/statutesrules/idstat/Title36/T36CH16/SECT36-1604/	Yes, but fees from land leased to public agency allowed
Illinois	Illinois Compiled Statutes 745-65-1 thru 7 http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2081&ChapAct=745%26nbsp%3BILCS%26nbsp%3B65%2F&ChapterID=58&ChapterName=CIVIL+IMMUNITIES&ActName=Recreational+Use+of+Land+and+Water+Areas+Act%2E	Yes
Indiana	Indiana Statutes 14-22-10-2 http://iga.in.gov/legislative/laws/2016/ic/titles/014/	Yes
Iowa	Iowa Code XI-2-461C.1 thru 7 http://coolice.legis.iowa.gov/Cool-ICE/default.asp?category=billinfo&service=IowaCode&ga=83&input=461C.	Yes, but fees from land leased to public agency allowed
Maine	Maine Revised Statutes Annotated 14-1-7-159(A) http://janus.state.me.us/legis/statutes/14/title14sec159-A.html	Yes, but fees from land leased to public agency allowed

State	Statute Number and Web Link	Is Protection Lost if Fee is Charged
Massachusetts	Massachusetts General Laws I-21-17C https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter21/Section17C	Yes, but fees from land leased to public agency & voluntary payments allowed
Michigan	Michigan Compiled Laws 324.73301 http://www.legislature.mi.gov/(S(5gqa5q3ghm45sojkdcaowkbw))/mileg.aspx?page=getObject&objectName=mcl-324-73301&highlight=73301	Yes, but lands used for public trails are excepted
Minnesota	Minnesota Statutes 604A .20 thru 27 https://www.revisor.mn.gov/statutes/?id=604A	Yes, but fees from land leased to public agency allowed
Montana	Montana Code 70-16-301 and 302 http://www.leg.mt.gov/bills/mca/title_0700/chapter_0160/part_0030/sections_index.html	Yes, but fees from land leased to public agency allowed
Nebraska	Nebraska Revised Statutes 37-729 thru 736 http://www.nebraskalegislature.gov/laws/statutes.php?statute=37-729	Yes, but fees from land leased to public agency allowed
Nevada	Nevada Revised Statutes 41.510 http://www.leg.state.nv.us/NRS/NRS-041.html#NRS041Sec510	Yes, but fees from land leased to public agency allowed
New Hampshire	New Hampshire Revised Statutes XVIII-212:34 http://www.gencourt.state.nh.us/rsa/html/XVIII/212/212-34.htm	Yes, but fees from land leased by state allowed
New York	New York General Obligations Law 9-103 http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS	Yes, but fees from land leased to public agency allowed
North Dakota	North Dakota Century Code 53-08-01 thru 06 http://www.legis.nd.gov/cencode/t53c08.pdf	Yes, but fees from land leased to public agency allowed
Ohio	Ohio Revised Code 1533.18 thru 181 http://codes.ohio.gov/orc/1533.18	Yes, but fees from land leased to public agency allowed
Oregon	Oregon Revised Statutes 105.672 thru 700 https://www.oregonlaws.org/?search=105.672	Yes, unless an easement has been transferred to a public body
Pennsylvania	Pennsylvania Public Law 1860, No. 586 http://www.legis.state.pa.us/cfdocs/legis/LI/uconsCheck.cfm?txtType=HTM&yr=1965&sessInd=0&smthLwInd=0&act=0586	Yes, but fees from land leased to public agency allowed
South Dakota	South Dakota Codified Laws 20-9-12 thru 18 http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=20-9	Yes, but fees from land leased to public agency allowed
Utah	Utah Code 57-14-1 thru 7 http://www.le.utah.gov/xcode/Title57/Chapter14/57-14-P1.html?v=C57-14-P1_1800010118000101	Yes, but fees from land leased to public agency allowed
Vermont	Vermont Statutes Annotated 12-203-5791 thru 5795 http://legislature.vermont.gov/statutes/fullchapter/12/203	Yes, except consideration paid for easements or damages are allowed
Washington	Washington Revised Code 4-24.200 thru 210 http://apps.leg.wa.gov/RCW/default.aspx?cite=4.24.200	Yes
Wisconsin	Wisconsin Statutes 895.52 thru 525 http://docs.legis.wisconsin.gov/statutes/statutes/895/II/52	Yes, but fees from land leased to public agency or nonprofit are allowed
Wyoming	Wyoming Statutes 34-19-101 thru 106 http://legisweb.state.wy.us/NXT/gateway.dll?f=templates&fn=default.htm	Yes, but fees from land leased to agency allowed

TYPES OF LANDOWNER PERMISSION

The five most common types of permission granted when working with private landowners includes:

1. Verbal permission
2. Permits
3. Written lease agreements (annual or multiple years)
4. Right-of-way easements
5. Conservation easements through land trusts

Verbal Permission

Many trails are located on private lands with only verbal permission from landowners. This practice often dates back to days when a handshake and a 'gentleman's agreement' were the most common way of doing business, particularly in rural areas.

While many trails have successfully existed for years with only verbal permission, it is by far the riskiest situation since trail providers have no rights and are totally at the whim of their landowners. If landowners simply change their minds or a single snowmobiler irritates them – trail permission can be gone overnight. If landowners die, their heirs often do not honor 'verbal' arrangements. Or if landowners decide to subdivide parts of or sell off all their properties – trail routes can be eliminated with very little or even no prior notice. While this practice has worked in many areas for years, it's the least desirable situation. Trail managers are strongly encouraged to get all permission for trail access in writing.

Permits

Revocable permits provide less risk and are more secure than simple verbal agreements, but they have more risk and are less secure than written lease agreements. Temporary use permits are revocable at the will of landowners with very short notice. They are sometimes used for short term construction projects or emergency reroutes. Revocable permits do not convey any property rights away from landowners.

Written Lease Agreements

Written leases can be used to provide trail access on an annual basis or for multiple years. While fairly simple and relatively short, they put conditions of use, including the expectations of both landowners and trail managers, into concise written documents. They typically include starting and ending dates, any restrictions or special conditions for permitted uses, conditions for non-winter access for trail maintenance tasks, and point-of-contact information for both parties.

Both parties can normally cancel access agreements on a fairly short notice and the cancellation process is outlined in the lease so all parties know the exact process and risks when entering into their agreements. While there are no guarantees for long term access with written leases, they typically provide some assurance for short-term, season-to-season access since cancellation clauses typically require at least 30-days' notice to other parties. Additionally, 'incentive payments' may sometimes be made to landowners as part of written leases. Two examples of 'no payment' and 'incentive payment' types of written lease agreements are shown in Exhibits 1 and 2 below.

It's important to note that many State and Federal funding programs (such as the Federal Recreational Trails Program) require written assurances to ensure continuing public access as a condition of using public funds for trails that cross private lands.

Tracking Landowner Contacts is Important: Regardless of the type of landowner permission used, it should be managed and systematically tracked to ensure all landowners along trail routes are kept current and properly engaged. Exhibit 3 on page 17 provides an example Landowner Contact and Information Form to help collect and track pertinent landowner contact information and permission dates.

Exhibit 1: Example of a South Dakota 'No Payment' Private Land Use Agreement

SNOWMOBILE TRAILS PROGRAM
LAND USE AGREEMENT

South Dakota Department of Game, Fish and Parks

This Agreement is made effective this ____day of _____, 20__ by and between the **STATE OF SOUTH DAKOTA, DEPARTMENT OF GAME, FISH AND PARKS, SNOWMOBILE TRAILS PROGRAM,** having an address at 1301 Farm Island Road, Pierre, South Dakota 57501, Phone (605) 773-2888 ("State"), and

_____having an address of _____

__**_____**South Dakota 57_____ 605-_____ ("Permitter").

In consideration of the conditions set forth below, hereinafter Permitter, and the _____ Snowmobile Club, acting in partnership with the State of South Dakota, Department of Game, Fish and Parks, Division of Parks and Recreation Snowmobile Trails Program, Pierre, South Dakota, agree to the following terms:

1. The Permitter agrees to permit public snowmobiling between the period of December 1 through April 1 of each year this agreement remains in effect and until terminated by either party hereto pursuant to Section 10 of this agreement, on the following described property _____owned or _____ leased by the Permitter situated and being in the County of _____, State of South Dakota to wit:

   Legal Description: _____

   _____

   Legal description includes: _____Usable Acres and/or
   _____ Miles of Trail

2. The Permitter does not, by this agreement, assume any responsibility or liability by granting free public access for outdoor recreational purposes, except as provided by SDCL 20-9-12 to 20-9-18, inclusive.

3. Both parties agree that the use of the described premises shall be only for the purpose associated with snowmobile operation for the general public, said premises to be enjoyed equally by all individuals without regard to race, color, creed, or sex.

4. The Permitter shall not be restricted from use of the above described property, except that the Permitter shall not interfere with snowmobile operation during the term of the Agreement.

5. The State will restrict snowmobile use when snow cover on the trail is less than three (3") inches.

6. The Permitter shall not post "No Trespassing" or similar prohibitory signs on the above described property during the term of the Agreement.

7. The Permitter agrees to maintain the condition or usability of the premises herein described by making no physical changes either through alteration, cultivation, storage of materials, or other ways which will

interfere with snowmobile operations that are not agreed to the date signing this agreement. Types of ground cover for these premises will be: _____.

8. The State will be responsible for maintaining the conditions of said premises for trail use which are present at the date of signing this agreement. All fences opened will be repaired to original condition and all trail signing materials will be removed by the State by May 1. Access by the State to described premises between the date of signing this agreement and prior to December 1st to perform snowmobile trail preparatory tasks will be permitted after obtaining consent of the Permitter 24 hours in advance.

9. Non-compliance with this Agreement by the State may result in cancellation of this land use Agreement.

10. This agreement may be terminated by either party by notifying the other party in writing between April 1 and July 1 of any year.

IT IS FULLY UNDERSTOOD that this Agreement contains **ALL** of the agreements between the parties and that no **AMENDMENT** shall be binding unless in written form signed by all of the parties to this Agreement.

Dated this _____ day of _____, 2016.

_____
(Director-Division of Parks & Recreation)

Dated this _____ day of _____, 2016.

_____
(Signature of Permitter)

Dated this_____ day of _____2016.

_____
(Signature of Owner)

Dated this _____ day of _____, 2016.

_____
(Signature of Snowmobile Club) (Title)

(NOTE: If Permitter is lessee, owner must also sign.)

Exhibit 2: Example of a South Dakota 'Incentive Payment' Private Land Use Agreement

SNOWMOBILE TRAIL LICENSE

1. _____ (hereinafter "GRANTOR") of, _____(address)_____, hereby grants to the STATE OF SOUTH DAKOTA, DEPARTMENT OF GAME, FISH AND PARKS (hereinafter "Grantee") of 523 East Capitol Avenue, Pierre, South Dakota 57501-3185, a revocable at-will, non-exclusive license for the construction, maintenance and use by the general public of a snowmobile trail over and across those certain parcels of land owned by GRANTOR and located in Lawrence County, South Dakota, as more particularly described in Exhibit A attached hereto, and as generally shown on the map attached hereto.as Exhibit B.

2. Grantee shall use this License solely for the purposes of a snowmobile trail. Grantee shall not advertise, promote, or otherwise invite year-round use of the property described in Exhibit A for any purpose other than those directly related to use of the property by snowmobiles. Grantee shall exercise reasonable efforts to prevent the use of the property subject to this license for any other purpose or use, which prevented purposes or uses shall include but not necessarily be limited to, use by all-terrain-vehicles ("ATV"), bicycles and horses. Grantee shall not use or promote, nor allow the public to use or promote, the use of the property subject to this License for any commercial purpose or monetary gain.

3. Grantee agrees to pay the Granter an incentive payment, as allowed in SDCL 20-9-16, at a rate equal to the property tax assessed against the property described in Exhibit A and shown on Exhibit B on which the snowmobile trail is located. The value of the property tax shall be evidenced by official documentation provided to Grantee by GRANTOR immediately upon execution of this agreement. Incentive payments by the Grantee shall be made as follows: 50% of the total sum shall be paid to the GRANTOR prior to December 1, 2015; the remaining 50% of the total sum shall be paid to the GRANTOR by April 1, 2016.

4. Grantee may allow the public to use the snowmobile trail during the period beginning December 15, 2015, and ending the following March 31, 2016. Grantee shall not allow the public to use the snowmobile trail at any other time.

5. Grantee shall not allow man-made or artificial snow to be produced or placed on any of the property subject to the License without the prior, written consent of an authorized representative of GRANTOR.

6. GRANTOR expressly reserves the right to conduct timber management, mineral exploration, development and mining operations and related activities on, in and under all areas subject to this License.

7. As represented by Grantee, the snowmobile trail is 10 to 12 feet wide. Grantee shall be entirely responsible for clearing and maintaining the snowmobile trail, including noxious weed control and trash removal from the snowmobile trail.

8. Grantee, at its sole expense, shall clearly mark with appropriate signage, the snowmobile trail and all snowmobile trail crossings of public roads and roadway crossings, subject to this License.

9. Grantee, at its sole expense shall appropriately post on all snowmobile trail entrances to the lands subject to this License that the snowmobile trail is located on private property, and that the use or occupation by the public is to be restricted to the clearly marked snowmobile trail. Such signage shall also state that the snowmobile trail is open to the public only during the time period beginning December 15, 2015,and ending March 31, 2016. Such signage shall further provide that the snowmobile trail may not be

used at any time for any purpose other than snowmobile riding and may not be used by bicycles, horses, or ATV's.

10. Grantee shall not promote, advertise or otherwise invite year-round use of the snowmobile trail for any use other than activities related directly to snowmobile trail riding.

11. This License shall remain in effect only until March 31, 2016.

12. Grantee shall remove any property, fixtures or improvements within thirty (30) days after expiration of this License. Any of Grantee's property, fixtures or improvements not removed within the specified time period after expiration shall become the sole property of GRANTOR.

13. This License is personal to Grantee, and Grantee shall not sell, assign or otherwise transfer this License or any rights hereunder to any person, other government entity, company, or utility company.

14. This License is granted without any warranty or representation, express or implied, by GRANTOR

15. Grantee agrees, at its own expense, to comply with the requirements of all federal and state acts, all applicable statutes, laws, regulations, municipal or county laws and ordinances in connection with Grantee's construction, maintenance and use of the snowmobile trail.

16. Pursuant to SDCL §§20-9-13, 14 and 15, GRANTOR does not assume any responsibility or liability for any injuries to persons or property resulting from the use of the snowmobile trail.

17. Grantee shall pay for all materials and labor used on the snowmobile trail and shall not allow the placement of any liens or encumbrances of any character or nature on the property.

18. Grantee shall not permit or commit waste on the snowmobile trail and shall refrain from acts which have a tendency to cause undue soil erosion. Grantee shall do all in its power to prevent and to suppress forest fires and grass fires on or in the vicinity of the snowmobile trail.

19. Any provision in this License which is held to be prohibited or unenforceable, shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

20. Time shall be of the essence of this License and any part hereof and no extension or variation of this License shall operate as a waiver of this provision.

21. Any provision of this License may be amended only if both parties so agree in writing and may be waived only if both parties agree in writing. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given.

22. This License constitutes the entire agreement between the parties and the subject matter hereof supersedes all negotiations, whether oral or written, relating to the subject matter hereof.

23. This License shall be governed by and construed and enforced in accordance with the laws of South Dakota.

END OF AGREEMENT TEXT

DATED and executed by the parties to be effective this ____ day of _____, 2015.

NAME
(GRANTOR)

By _____
(Title)

STATE OF SOUTH DAKOTA
DEPARTMENT OF GAME, FISH AND PARKS
(GRANTEE)

By _____
(Title)

****

EXHIBIT A SNOWMOBILE TRAIL LICENSE

PROPERTY PARCEL OWNED BY _____
AFFECTED BY SNOWMOBILE TRAIL

PROPERTY LEGAL DESCRIPTION / NAME

EXHIBIT B

SNOWMOBILE TRAIL LICENSE

(Attach Map)

Exhibit 3: Example of a New York 'Landowner Contact and Information Form'

LANDOWNER CONTACT AND INFORMATION FORM **YEAR_____**

TO: _____; Club Trail Coordinator(s)

FROM: _____; Club Volunteer Representative

DATE: ___/___/ 20___ CLUB NAME: _____

RE: APPROVED PROPERTY PERMISSION FOR SNOWMOBILE TRAIL DEVELOPMENT

"I have obtained permission from the below named person(s) to develop a snowmobile trail on the listed property to ride snowmobiles through for the 20-_____ season."

NAME OF OWNER: _____

ADDRESS OF OWNER: _____

CITY:_____STATE:_____ZIP CODE: _____

PHONE #: _____E-MAIL: _____

IN THE EVENT THE LANDOWNER DOES NOT RESIDE ON THE PROPERTY, LIST THE ADDRESS OF THE PROPERTY (and tenant) WHERE THE TRAIL IS LOCATED below:

NAME OF TENANT: _____

PROPERTY ADDRESS: _____

CITY:_____STATE:_____ZIP CODE: _____

PHONE #: _____E-MAIL: _____

CIRCLE BELOW "YES" or "NO" APPROPRIATELY FOR INTERNAL CLUB INFORMATION

OWNER REQUESTS TO BE CALLED FOR PERMISSION ANNUALLY	YES	NO
OWNER WILL MEET WITH CLUB REPS TO LAYOUT TRAIL LOCATION	YES	NO
OWNER REQUESTS PROHIBITING OTHER MOTORIZED VEHICLES	YES	NO

LIST ANY OTHER SPECIAL CONSIDERATIONS REQUESTED BY LANDOWNER (gates, signs, etc.):

_____

This property requires a site visit by the Trail Coordinator(s) prior to any work YES NO

FINAL TRAIL DESIGNATION (name): _____ FUNDED or UNFUNDED

PERMISSION OBTAINED BY:_____

DATE: _____

TRAIL COORDINATOR NAME: _____

****NOTE ANY ADDITIONAL SPECIAL MODIFICATIONS AND/OR REQUIRED SIGNS ON THE OTHER SIDE****

Right-of-Way Easements

The terms ‘right-of-way’ and ‘easement’ are very similar and are often interchangeable (depending upon local laws). They typically provide either permanent access or access for long periods of time across specific portions of properties. Easements are ‘the right to use other persons’ properties for stated purposes’ and can involve general or very specific portions of properties. Right-of-ways are types of easements that ‘give someone the right to travel across properties owned by other persons.’ They are also sometimes referred to as ‘covenants’ since they typically add (‘attach’) specific conditions to a specific property’s ‘chain of title.’

Easements can benefit properties. An example of this is that Susan owns a tract of land that borders a national forest that is a popular recreation area. Bob lives next door to Susan, but his land does not touch the national forest. Therefore, to avoid trespassing, he must drive or walk to a public entry point to access the forest recreation area. Instead, Susan grants an easement allowing present and future owners of Bob’s property to cross her land to access the national forest. This easement then becomes part of the chain of title for both properties to ensure permanent access to the forest from Bob’s property. As the landowner, Susan has the right to limit such access to only Bob and future owners of Bob’s property, or she could grant the easement across her property to a broader group, or even to the public as a whole.

Easements can also benefit individuals or business entities. In the example above, a tract of land was granted an easement so its owners could use a neighbor’s land to access a public area. Susan could grant an easement to another individual to do the same, but without adding it to her property’s chain of title. Such an easement normally expires at a specific time or event, or upon the death of the person who benefits from it.

An example of easements that benefit business includes easements giving a utility company the right to erect power lines or bury a gas pipeline across specific tracts of land. Another could be when housing developments retain easements allowing them to build and maintain utilities and water lines within their developments. Both examples would likely have easements added to the property’s chain of title and remain in effect if lands are sold. Utility easements may be exclusive and allow only individual utilities to use the properties, or in other cases easements may allow either utility companies or landowners to permit additional uses of properties for activities such as snowmobile trails. Consult landowners rather than easement holders first when attempting to determine if properties may also be able to accommodate your trail needs.

Landowners who grant easements usually cannot build structures within easement areas or use fencing which would hinder access. Other activities may also be prohibited, depending upon terms stipulated when easements were granted. Typically, landowners may receive one-time payments when easements are granted. However, some easements are also granted free of charge, solely at the discretion of landowners.

Easements can sometimes affect property values, which might discourage some landowners from agreeing to provide access. Examples of when easements may affect property values include: 1) if several easements are on a tract of land, it might seriously limit the choice of building sites on that property, 2) high tension power lines running on an easement through an otherwise good building site may be considered unsightly by some and therefore decrease that property’s value, or 3) potential buyers may simply not like the idea that others have a right to use their property in any manner.

Just because easements are not currently being used does not mean they can’t be used or never will be used. If easements are part of a property’s chain of title, they remain available (‘attached to the chain of title’) for the stipulated uses until such time they are removed by the easement holder. This can be important when easements exist that could provide public access across important pieces of properties for trail linkages. Likewise, as rural properties are subdivided and developed, it can be an important strategy for long term snowmobiling access to pursue easements for current or future trail routes.

Exhibit 4: Example of a South Dakota 'Right-of-Way Easement'

SNOWMOBILE TRAIL EASEMENT AGREEMENT

This Snowmobile Trail Easement Agreement ("easement") is made and entered into on the ___ day of, _____ by and between _____ ("Grantors"), and the State of South Dakota, for the use and benefit of the Department of Game, Fish and Parks, of 523 Capitol Avenue, Pierre, SD 57501 ("Grantee").

WITNESSETH:

WHEREAS, Grantors are the owners of certain real estate which is more fully described as follows, to wit:

WHEREAS, pursuant to SDCL § 41-19-2, Grantee is authorized to acquire property by purchase, lease or easements for the construction, maintenance, and markings necessary for the establishment of state snowmobile trails and areas; and

WHEREAS, Grantors desire to sell and Grantee desires to purchase a perpetual easement over and across the above described real property, which said easement is more fully described in attached Exhibit "A", to be used by Grantee as part of the South Dakota snowmobile trails system and in conjunction therewith, enable Grantee to construct, maintain, access and utilize the easement for use by the Grantee and members of the general public as a snowmobile trail.

NOW, THEREFORE, in consideration of the sum of _____, receipt of which is hereby acknowledged by Grantors, and subject to the conditions and agreements hereinafter set forth, the parties hereby agree as follows:

1. Grantors hereby grant to Grantee a perpetual easement sixteen feet (16') in width located over and across the above described real property, which said easement is more fully described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Easement Area"), for use by Grantee as part of the South Dakota snowmobile trails system and in conjunction therewith, hereby authorizes Grantee to have full and unrestricted access to the Easement Area at any time in order to construct, maintain, access and utilize the easement for use by the Grantee and members of the general public as a snowmobile trail. The right of the general public to use the Easement Area and snowmobile trail shall commence on December I and expire on March 31 of each calendar year this agreement remains in force and effect.

2. Grantors, their successors and assignees, shall not be restricted from use of the Easement Area during the time this agreement remains in force and effect; provided, however, that Grantors, their successors and assigns, shall not interfere with the operation of snowmobiles on the Easement Area, nor shall Grantors, their successors and assigns, build any structure upon or otherwise obstruct or prevent the use of the Easement Area as a snowmobile trail. Grantee agrees to cooperate with Grantors, their successors and assigns, in the construction and use by Grantors, their successors and assigns, of driveways and approaches, cattle guards, gates, fences and similar devices on or near the Easement Area.

3. The easement granted herein is limited to Grantee for the purposes herein described. Grantee shall not sell, assign or otherwise transfer this easement or any rights hereunder to any third party, nor shall Grantee transfer to any person or entity this easement or any right to use the Easement Area or

the snowmobile trail without the prior written permission of Grantors, their successors or assigns.

4. Grantors warrant and represent that they hold merchantable title to the above described real property and have the full and complete authority to enter into this agreement for the purposes herein described.

5. Grantee shall comply with all applicable laws and regulations in connection with Grantee's use of the Easement Area. By entering into this agreement, Grantee assumes all responsibility for constructing, maintaining, signing, and cleaning the snowmobile trail located on the Easement Area. Grantors, their successors and assigns, shall have no responsibility or obligation arising out of the use or maintenance of the Easement Area and snowmobile trail.

6. This easement shall run with the land and be binding upon and inure to the benefit of the parties hereto, their successors and assigns. This easement may not be amended except by express written agreement of the parties hereto, their successors and assigns.

7. This easement shall be construed, interpreted and enforced in accordance with the laws of the State of South Dakota.

8. The easement granted herein shall remain in full force and effect until such time as it is terminated by written agreement of the parties, including their successors and assigns, or by Grantee's abandonment and non-use of the Easement Area as a snowmobile trail for a period of two (2) consecutive years; provided, however, in the event the Easement Area is not utilized as a snowmobile trail by reason of insufficient snowfall, such an event shall not be considered to be "non-use" as contemplated by this paragraph.

IN WITNESS WHEREOF, the parties have executed this Access Easement Agreement this ___ day of _____.

GRANTORS:

_____

_____

GRANTEE:

STATE OF SOUTH DAKOTA, DEPARTMENT OF GAME, FISH AND PARKS

By: _____

(END OF AGREEMENT TEXT)

What is "Fair Compensation" for ROW Easements? This is a hard question to answer since it can be heavily influenced by local real estate markets and, most importantly, landowners' attitudes toward snowmobiling. It must be kept in mind that most ROW easements are forever – which is a very long time. Therefore ROW easements will likely not be inexpensive since landowners have a right to be fairly compensated for giving up certain rights to their properties (through the ROW easement) for forever. Therefore this document can only discuss 'fair compensation' in general terms since the question of value must be assessed by qualified real estate appraisers and is ultimately decided by good faith negotiations with property owners. Remember that landowners are in the driver's seat – they don't have to negotiate long term access if they don't want to – so building good relationships with them is a critical prerequisite. While the cost of ROW easements may initially be viewed as too expensive, they can be a good investment in the future; consequently their true value toward assuring long term (forever) access may be immeasurable.

The value of a ROW easement will generally be near the 'lost value difference' determined by subtracting the value of the property 'with the easement' (after value) from the value of the property 'without the easement' (before value). The estimated value of the easement could also include any damages to the remainder property not physically encumbered by the easement if the remainder property was negatively impacted (damaged) by the easement. Compensable damages, as well as appraisal methods and techniques, can vary depending upon State laws so the involvement of locally qualified appraisers is extremely important. Ultimately, the value of an easement will depend upon how much the development value and/or future use of the property is impacted by the ROW easement in regard to set-backs, infringements, loss of privacy, loss of use, etc.

Conservation Easements through Land Trusts

Conservation easements are similar to ROW Easements discussed above, except they are typically granted through, and managed in perpetuity by, nonprofit organizations called Land Trusts.

What are Land Trusts? Land trusts are nonprofit organizations that, as all or part of their missions, actively work to conserve lands by undertaking or assisting in land or conservation easement acquisitions, or by stewardship of such lands or easements. Land trusts are experts at helping interested landowners find ways to protect their lands in the face of ever-growing development pressures. They protect lands by working with landowners who wish to donate or sell conservation easements (permanent deed restrictions that prevent harmful land uses), or by acquiring land outright through donations or purchase to maintain working farms, forests, wilderness, or for other conservation reasons.

Are land trusts government agencies? No, they are independent, entrepreneurial organizations that work with landowners who are interested in protecting open spaces. However land trusts do often work cooperatively with governmental agencies by acquiring or managing lands, researching open space needs and priorities, or assisting in the development of open space plans.

What are the advantages and disadvantages of working with land trusts? Land trusts are often very closely tied to communities in which they operate. Moreover, land trusts' nonprofit tax status brings them a variety of tax benefits. Donations of lands, conservation easements, or money may qualify landowners for income, estate, or gift tax savings. Moreover, because they are private organizations, land trusts can be more flexible and creative than public agencies – and therefore can act more quickly – in acquiring lands or easements that serve land trusts' missions.

Some people object to land trusts since, as nonprofit landowners, they may take land out of local property tax bases (this will vary with State and local tax laws). Therefore if their lands are in fact taken out of local tax bases, other landowning taxpayers conceivably have higher property tax burdens. As a result there is potential for local opposition to putting more private lands into land trusts.

What do land trusts do? Many local and regional land trusts, organized as charitable organizations under Federal tax laws, are directly involved in conserving lands for their natural, recreational, scenic, historical, or

productive values. Many well-known national organizations like the Nature Conservancy and Rocky Mountain Elk Foundation are also land trusts that operate through local chapters to conserve lands important to their missions – and sometimes eventually transfer their 'conserved' lands to State or Federal government agencies for long term management. Land trusts can purchase lands for permanent protection, or they may use one of several other methods: accept donations of land or the funds to purchase lands, accept bequests, or accept donations of conservation easements which permanently limit the types and scope of developments that can take place on lands. In some instances, land trusts also purchase conservation easements.

Are land trusts new? A few land trusts have been around for over one hundred years, but most are much younger. While there were only 53 land trusts operating in 26 States in 1950, there are over 1,650 land trusts operating across the country today, in every State in the nation. The Northeast is home to the first U.S. land trust and has the largest amount of land protected by local and regional trusts. Most land trusts focus primarily on conservation, environmental education, etc. and therefore are open primarily for nonmotorized recreational uses. Land trusts which cater to motorized vehicle uses are relatively rare, although they are growing in interest as a potential mechanism for providing long-term riding opportunities.

Are there needs for new land trusts? Land trusts are extremely effective vehicles for conserving lands. But with more than 1,650 land trusts already in existence, starting new land trusts may not be necessary, timely, or the best approach to achieving local land conservation goals. Given the time and effort it takes to run land trusts – and the long-term commitment needed to protect lands in perpetuity – it may be best to first try working with existing land trusts. However since many existing land trusts are not receptive to motorized uses on their lands, it may be necessary to consider starting new ones to serve the needs of snowmobiling and other motorized uses.

Land trusts are very complex, require very organized structures and substantial funding, and must operate within strict guidelines. An example articles of incorporation, bylaws, operating procedures, etc. pertinent to establishing and operating land trusts to serve motorized uses can be found in Appendix 2.

Land Trust Land Conservation Options

There are two types of land conservation options typically used when working with land trusts: donation of lands and conservation easements.

Donation of Lands: Donating lands for conservation purposes is sometimes used by landowners who wish to leave a legacy to future generations. It may be a good conservation strategy for owners who do not wish to pass their land onto heirs, own property they no longer use, own highly appreciated property, have substantial real estate holdings and wish to reduce estate tax burdens, or would like to be relieved of the responsibility of managing and caring for their lands.

Land donations can:

- Result in substantial income tax deductions.
- Be structured in ways that allow landowners to continue to live on their lands or to receive life incomes.

Conservation Easements: Conservation easements are voluntary legal agreements between landowners and qualified easement holders, such as Federal, State, or local governmental entities, or charitable conservation organizations like land trusts, in which owners of lands voluntarily agree to give up certain rights to the use of their lands *in perpetuity* for a stated "conservation purpose", such as: (a) preservation of lands for outdoor recreation by, or the education of, the general public, (b) protection of natural habitats of fish, wildlife, or plants, (c) preservation of open spaces, or (d) preservation of historically important land areas or certified historic structures.

Conservation easements must be recorded in the county where the real property is located and sets forth the rights and obligations of parties to the agreement. Conservation easements may be either donated or sold by

landowners to easement holders. While agreeing to give up certain rights to the use of their properties, landowners can also specify certain rights they wish to keep, as long as such *retained rights are not inconsistent* with the *conservation purposes* the easement seeks to protect (i.e., farming or ranching activities are generally not inconsistent with easements for open space, but may or may not be inconsistent with easements for the protection of wildlife or natural habitats). Public access is not necessarily required. Moreover, landowners retain their rights to sell, lease, mortgage, or otherwise convey their properties to anyone else, subject to their conservation easements, and landowners can dispose of their properties to family members, either by gifts during life or by testamentary disposition.

How can conservation easements be tailored to landowners' needs and desires? Easements restrict developments to the degree necessary to protect significant conservation values or needs for trail routes through properties. Sometimes this totally prohibits construction by landowners and sometimes it doesn't. Landowners and land trusts, working together, can often write conservation easements that mesh both landowners' desires and the needs for trails or open space conservation. Oftentimes, restrictive easements typically permit landowners to continue traditional uses of lands for such things as farming and ranching. Landowners should always consult with other family members, as well as their own attorneys and financial advisors regarding such substantial, long lasting decisions.

What are land trusts' responsibilities regarding conservation easements? Land trusts are responsible for enforcing restrictions that easement documents spell out. Therefore, land trusts must monitor their trust properties on a regular basis – typically once a year – to determine that properties remain in the condition prescribed by their agreements. Land trusts maintain written records of their monitoring visits, which also provide landowners a chance to keep in touch with trusts. Many land trusts establish endowments to provide for long term stewardship of their easements. If land trusts find violations of agreement terms, they must work with their landowners to try to correct the issues. If landowners do not cooperate, land trusts may ultimately pursue court action to enforce terms of their conservation easements.

Overview of Conservation Easement Benefits

Non-tax benefits: The most important benefit to landowners who wish to donate conservation easements is protection of their lands in perpetuity for stated conservation purposes while retaining the right to continue owning and using their lands. Benefits to their communities and/or the general public can also be reasons why benevolent landowners donate conservation easements.

Tax benefits: As a general principle, contributions of partial interests in real property are not tax deductible. [See I.R.C. (Internal Revenue Code) § 170; Regulations §1.170A-7(a)(1)] However, "Qualified Conservation Contributions," which can include conservation easements, can constitute an exception to this general rule. The tax benefits which are potentially available to landowners who wish to donate conservation easements on their properties can include: 1) charitable income tax deductions, 2) reductions in the value of their lands included in the gross estate of decedents when such lands are encumbered by conservation easements, 3) estate tax exclusions, and 4) property tax relief benefits, in some cases.

Charitable Income Tax Deductions: Deductions for a 'qualified conservation contribution' are allowed under I.R.C. §170(h) if the following four requirements are met: 1) the property contributed must be a 'qualified real property interest,' 2) the property must be donated to a qualified organization, 3) the gift must be for 'conservation purposes,' and 4) the contribution must be 'exclusively' for conservation purposes.

If these four requirements are met, landowners may claim charitable income tax deductions on their income tax return for the donation of conservation easements. The amount of the deduction that may be claimed by donors in any taxable year is limited to 30 percent of the donors' adjusted gross income for that year. Donors may carry forward any unused deductions for up to five years after the year of the donation (i.e., donors have six years to fully utilize the tax benefits of their donations).

Gifted real property must be a gift of: 1) the entire interest in the property, other than the reservation of subsurface mining rights, 2) a remainder interest, or 3) a perpetual conservation restriction. Conservation easements qualify as partial interests in real property under the third category. Remember that contributions must be exclusively for one or more of these conservation purposes. Conservation purposes must be protected in perpetuity. Property may not be put to uses inconsistent with the conservation purposes of the gift. However, donors may continue to use their properties for existing uses as long as that use does not conflict with conservation purposes of their gift. Any retained interests of donors must be subject to legally enforceable restrictions that prevent retained interests from being used inconsistently with conservation purposes.

Qualified Organizations: A governmental unit or a charitable organization as defined in I.R.C. §170(h)(3), which can include:

(1) Federal, State, and local governments;
(2) Traditional public charities described in I.R.C. §170(b)(1(A)(vi);
(3) Section 501(c)(3) organizations that meet the public support test of I.R.C. §509(a)(2); or
(4) Section 509(a)(3) organizations which are organizations that operate exclusively to support any of the organizations described above, and are controlled by that organization.

Additionally, the following three requirements must be satisfied:

(1) The qualified organization must have a commitment to protect the conservation purposes of the easement;
(2) The qualified organization must have the resources to enforce the restrictions in the easement;
(3) The terms of the easement must require that any transfer of the easement by a qualified organization must be made to one or more other qualified organizations that: (a) agree to enforce the terms of the easement; (b) have a commitment to protect the conservation purposes of the easement; and (c) have the resources to enforce the restrictions in the easement.

Conservation Purposes: A qualified conservation contribution must be made for one or more of the following permitted conservation purposes:

(1) Preservation of land for outdoor recreation by, or the education of, the general public;
(2) Protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem;
(3) Preservation of open space (including farmland and forests) either for the scenic enjoyment of the general public or pursuant to a clearly delineated governmental conservation policy (both purposes must yield a significant public benefit); or
(4) Preservation of a historically important land area or a certified historic structure.

Incidental Benefits to Donors Permitted: The fact that donors may obtain “incidental" benefits from their contributions will not cause the loss of their contributions.

Inconsistent Uses: In general, no deductions are available if properties are put to uses that are inconsistent with the conservation purposes of gifts. Contributions are not deductible if they would accomplish permitted conservation purposes while also destroying other significant conservation interests. Donors who donate conservation easements may reserve rights with respect to existing or future uses of their properties that do not impair the conservation purposes of their gift and, therefore, do not jeopardize the allowance of their deductions.

Subordination Required of Mortgagee: A special rule applies for contributions of interests in real properties subject to a mortgage. No deduction is allowed unless the mortgagee agrees to subordinate its rights in properties to the right of the donee to enforce the conservation purposes in perpetuity.

Public Access Requirements: Certain conservation easements require public access to properties. Table 2 below summarizes public access requirements for each type of conservation purpose. (Note that U.S.C. in Table 2 and elsewhere means United States Code under ‘Statute’ and CFR means Code of Federal Regulations under ‘IRS Regulations’ and elsewhere.)

Table 2: Public Access Requirements for Types of Conservation Easements

TYPE OF CONSERVATION PURPOSE	PUBLIC ACCESS REQUIRED?	STATUTE	IRS REGULATIONS
Preservation of land for recreational or educational use by the general public	Yes, must have public access for regular and substantial use	26 U.S.C. §170(h)(4)(A)(i)	26 CFR §1.170A 14(d)(2)(ii)
Protection of natural habit of fish, wildlife, plants, or similar ecosystems	No	26 U.S.C. §170(h)(4)(A)(ii)	26 CFR §1.170A 14(d)(3)(iii)
Preservation of open space for the scenic enjoyment of the general public	Some visual access required (physical access is not required)	26 U.S.C. §170(h)(4)(A)(iii)	26 CFR (I) §1.170A – 14(d)(4)(ii)(B)
Preservation of open space pursuant to governmental policy	No, unless required by governmental policy	26 U.S.C. §170(h)(4)(A)(iii)	26 CFR (II) §1.170A 14(d)(4)(iii)(C)
Preservation of historically important land or certified historic structures	Some visual access required (physical access is not required)	26 U.S.C. §170(h)(4)(A)(iv)	26 CFR §1.170A 14(d)(5)(iv)

Reductions in the Value of Lands Subject to Estate Tax: The second tax benefit consists of reductions in estate taxes for properties included in the gross estate of decedents when their properties are subject to conservation easements. As explained above, because conservation easements place restrictions on the development and use of properties, the fair market value of properties encumbered by conservation easements will be less than the fair market value of those same properties without conservation easements.

Estate Tax Exclusions: The third tax benefit provides additional estate tax savings for beneficiaries of estates that include lands subject to conservation easements. As noted above, prior to the enactment of I.R.C. (Internal Revenue Code) §2031(c), the only estate tax relief available for conservation easements was in the form of reductions in the fair market value of properties subject to conservation easements that was includable in the gross estates of decedents. An additional incentive to make conservation easements is available under I.R.C. §2031(c), which provides an exclusion for Federal estate tax purposes of up to 40 percent of the value of *land subject to Qualified Conservation Easements* for intervivos gifts (during life) or testamentary gifts (at death) made to *governmental entities* and *certain charitable conservation organizations.* This exclusion is limited to $500,000.

Property Tax Relief Benefits: The fourth tax benefit can consist, in some States, of property tax relief for certain qualified charitable conservation organizations. These benefits depend heavily upon State law and local applications of that law, but are potentially important considerations for entities considering whether to accept donations of or manage conservation easements.

Conservation Easement Valuation Issues for Charitable Income Tax Deductions

The value of conservation easements and the amount of qualifying income tax deductions are based upon comparable sales of similar easements. However, because there are rarely – if ever – comparable sales of similar easements Treasury Regulations provide that the value of easements is equal to the difference between the value of property before and after the gift of conservation easements (similar to the ‘fair value’ discussion above under Right-of-Way Easements). To qualify for charitable tax deductions, donors must obtain a "qualified appraisal" of easements from a "qualified appraiser," and the donors, donee, and appraiser must sign IRS Form 8283. In

addition, donors must file Form 8283 with their income tax return in the year of the donation. To substantiate the deduction of qualified conservation contributions, donors must maintain written records of the fair market value of the underlying property before and after the gift, as well as of the conservation purposes furthered by their gift. [26 CFR §1.170A-14(i)]

Before and After Method: Treasury Regulations authorize a 'before and after' approach to determining the value of conservation easements. This approach assumes that the fair market value of conservation easements should be the difference between the fair market value of the land before any easements are placed on it and the fair market value of land after the donation of any conservation easements. This appraisal methodology is best illustrated by the following example:

Example: Landowner Bob donates Black Forest which has a fair market value of $1,000,000 to a qualifying charitable conservation organization, Snow Trails. After donation of the conservation easement to Snow Trails, Black Forest has a fair market value of only $750,000. Therefore under the 'before and after method' the value of the conservation easement is $250,000. Landowner Bob, the donor of this conservation easement, can claim a $250,000 charitable income tax deduction on his income tax return, subject to the IRS 30 percent adjusted gross income limitation.

Enhancement in Value of Other Property: The value of conservation easements will be reduced to the extent the easements have an effect of increasing the value of *any other properties owned by the donors or related persons*, whether or not such property is *contiguous*. Treasury Regulations define "related person" by reference to I.R.C. §267(b) and I.R.C. §707(b).

Allocation of Basis: When landowners donate conservation easements, a portion of the basis (cost) of their properties must be allocated between their conservation easements and the retained portion of their lands. The portion of the basis allocated to their easements is equal to a fraction of their land's total basis, the numerator of which is the fair market value of their easements and the denominator is the fair market value of their lands immediately before their donation. The basis allocation is illustrated by the following example:

Example: Assume the same facts as in the 'Before and After Method' example above except that the basis (purchase price or cost) of the land is $400,000. The amount of the basis allocated to the easement is $100,000 (i.e., $400,000 x $250,000 /$1,000,000). Therefore Landowner Bob's basis in this property would be $300,000 (i.e. $400,000 - $100,000).

Importance of Qualified Appraiser: It is important to recognize that there are numerous pitfalls to be avoided in creating and performing conservation easements. None of these steps, including the appraisal process, should be taken lightly or considered an opportunity to cut corners. Obtaining and adhering to the advice of qualified professionals is essential at each step of the easement procurement process.

Examples of Conservation Easement Projects and Partnerships

The following news articles and press releases give an indication of the complexity and high cost of long term conservation easement projects. While extremely worthwhile, they require patience, multiple partnerships, large funding sources, and often the cooperation of State or county governments to serve as the property's end-manager. Appendix 3 provides an example of the Minnesota 'Forests for the Future Program's' (formerly Forest Legacy Partnership) authorizing legislation which is featured in the following examples:

SNOWMOBILE ENTHUSIASTS CELEBRATE EXPANDED TRAIL ACCESS IN NORTHERN MN
(Northland News Story – February 5, 2008)

A number of public and private entities celebrated their partnership in Itasca County over the weekend.

Landowner Forest Capital Partners has been working with the Minnesota Forest Legacy Partnership and the Itasca County Snowmobile Alliance on a conservation easement project on 80 square miles of forestland in the Koochiching-Washington forest.

Saturday morning the snowmobile club showed riders the miles of trails the public will now have permanent access to, thanks to an agreement with landowner Forest Capital Partners, and several state agencies.

"It's 300-thousand acres that we bought in 2005, and we just decided this was a good partnership between the Department of Natural Resources (DNR) and the forest legacy group."

"They've agreed to work with this concept of a working forest, so they retain ownership of the land, and for a price, which is what the state and the private entities have come up with money for, to purchase away the right to development, so these lands will never be developed and can be used for hunting, hiking, berry picking, and it's good for wildlife."

"Our goal is to get forestland protected in Northern Minnesota, so we can all enjoy it, use it for recreational purposes, make sure we're pulling timber off it, and protect the habitat at the same time." Snowmobile alliance founder Elmer Cone organized the ride to celebrate the partnership; Arctic Cat helped provide sleds and gear.

"We've always looked at how are we going to protect our trail system, so they don't get taken away when there's a sale, and what's really amazing is this agreement is forever."

"We're here to support the snowmobile club, because without them the trails wouldn't be here, so we try to help them out as much as possible." The hope is to keep protecting the state's one million plus acres of commercial forestland. "We've been working together in a public/private partnership to raise 26 million dollars to protect up to 75-thousand acres just as an initial project."

PURCHASE PROTECTS 18,500 ACRES (AP / St. Paul Pioneer Press – September 26, 2006)

A Seattle-based timber producer has completed an agreement to preserve more than 18,000 acres near the Wolf River in northern Wisconsin.

Although Plum Creek Timber will own and manage the timber on the land, the state Department of Natural Resources is purchasing the 18,511-acre area that borders the Nicolet National Forest and the Upper Wolf River Fishery as well as Langlade County forestland. The DNR is buying the land to ensure it always remains open for public and recreational access.
The area covers more than 29 square miles, and includes frontage land on Nine Mile Creek, the Lily River, and Tyra Lake. It also borders a six-mile portion of the Ice Age Trail.

State Stewardship funds and Federal Forest Legacy funds will provide DNR with $9.1 million to purchase the land. That works out to just under $500 an acre, said Dick Steffes, real estate director for the DNR. The public will be able to hunt, fish, hike, snowmobile, and enjoy wildlife in its natural environment, he said.

"We got a good bang for our buck," Steffes said.

The land is the fifth- or sixth-largest tract protected by the state. The largest is a 64,633-acre area of conserved forest, lakes, and rivers in Florence, Forest, and Marinette counties. The DNR and The Nature Conservancy purchased that land for $83.6 million in March.

Dave Peterson, director of the Association of Wisconsin Snowmobile Clubs, said the purchase comes at a time when Wisconsin's land is being fragmented by businesses and private landowners.

"With this (the purchase), we have free access and a very large tract of land," Peterson said. "One has to go there to realize it, but this is a very beautiful area."

Plum Creek also recently announced that it will partner with the State, Federal government, local organizations, and individuals to conserve 400 acres of forest in Bayfield County.

DEAL SHIELDS 6,200 ACRES OF FOREST FROM DEVELOPERS (St. Paul Pioneer Press – October 13, 2006)

More than 6,200 acres of forest in Minnesota's Arrowhead region will be protected from development and maintained for timber production, public use, and wildlife habitat under a deal completed Thursday.

The arrangement prohibits all types of development, ensures the forest will be cut in a sustainable way, and opens the land to such public uses as hunting, fishing, hiking, dog sledding, and snowmobiling. It's part of a broader effort to protect large blocks of forest that are being sold off and opened up to development because of shifting economics in the timber industry.

Under terms of the complex transaction, Lake County bought the property from the Conservation Fund for $2.2 million and the Nature Conservancy paid an additional $1.1 million for a protective conservation easement, the second-largest one it's done in the state. Eventually, that easement will be transferred to the Minnesota Department of Natural Resources for long-term management.

The area is 25 miles north of Silver Bay and 25 miles south of the Boundary Waters Canoe Area Wilderness. Besides holding such wildlife as ruffed grouse, deer, timber wolves, and moose, it includes the headwaters of the north branch of the Manitou River, a prime trout stream.

Since 1999, more than 400,000 acres of Minnesota forestland considered more valuable for development than timber production have been sold and subdivided, much of it for seasonal-home development.

"This fragmentation of the forest threatens wildlife habitat, timber-related jobs, and recreational opportunities like hunting and birding," DNR Commissioner Gene Merriam said.

To offset the loss of taxable property, Lake County plans to sell a comparable value of tax-forfeited land that is more accessible and is closer to utility services.

This press release from The Nature Conservancy expands on their partnership in this arrangement:

PARTNERS ENSURE SUISTAINABLE FORESTRY ON MORE THAN 6,200 ACRES IN LAKE COUNTY ***Agreement also guarantees public access and protects wildlife habitat***

DULUTH, MN—October 12, 2006—More than 6,200 acres north of Silver Bay in Lake County will be conserved for forest production, public access and wildlife habitat, a coalition of partners announced today. The agreement ensures the forestland will continue to be harvested sustainably, providing jobs for the local community and wood supply to the mills. At the same time, it guarantees public access, including hunting, fishing, hiking, dog sledding, and snowmobiling and protects important habitat for a wide variety of wildlife species. The partnership is comprised of Lake County, the Department of Natural Resources, The Conservation Fund, The Nature Conservancy, and Minnesota Power.

"The Lake County Board of Commissioners realized from past experiences that purchasing the land now, would be far less expensive in the long run," said Lake County Board Chairman Clair Nelson. "Long term planning eliminates a tremendous amount of potential expenditures from smaller land purchases to protect recreational facilities such as trails, and eliminates staff time and service costs from development occurring within public lands. It is more efficient and less costly to manage our county lands when they are consolidated. An equal value of tax forfeit land will be sold to offset the loss of private lands in Lake County. The tax forfeit land to be sold will be more accessible and located closer to utilities and other services."

Under the terms of the agreement, Lake County purchased the property from The Conservation Fund to manage it for forest products. The Nature Conservancy purchased a conservation easement on the property, ensuring sustainable forest management, wildlife habitat, and opportunities for public recreation. In the coming months, the Conservancy intends to transfer the easement to the Department of Natural Resources for long-term management. The Conservancy is also purchasing a 220-acre in-holding from Minnesota Power and donating it to the County, subject to a conservation easement, as part of the transaction.

"Because of changes in the forest products industry and increases in real estate values, we are seeing a move from large industrial ownership of forestlands to smaller-parcel private ownership. This fragmentation of the forest threatens wildlife habitat, timber-related jobs, and recreational opportunities like hunting and birding," said DNR Commissioner Gene Merriam. "The DNR is pleased to be a part of this cooperative effort to conserve this large tract of forest land."

Aside from supplying local mills with timber, the property provides important habitat for migratory songbirds, ruffed grouse, deer, timber wolf, and moose. The land also encompasses the headwaters of the north branch of the Manitou River, a prime trout stream in the region.

"This project would not have been possible without the great cooperation of Lake County, the Minnesota Department of Natural Resources, and The Conservation Fund," said Peggy Ladner, State Director of The Nature Conservancy. "They worked to find a creative solution to permanently conserve the property and ensure continued forest management and public access. The involvement of The Conservation Fund was critical in that it took a significant risk in purchasing the land and holding it until the final details could be worked out."

Across the U.S., and now in Minnesota, the shifting economics of the forest products industry and real estate values have forced unprecedented changes in timberland ownership. Forestland has become increasingly susceptible to seasonal home development rather than sustainable timber production. Large expanses of forests that people thought were protected are now being converted to small lot subdivisions resulting in degradation of habitat, loss of productive timberland, and reduced public recreational access. There is a short window of opportunity in Minnesota to guide this development and protect specific large blocks of forest for continued forest products uses and public recreation.

"The Manitou Forest and the coastal watersheds along Lake Superior are among the last pristine lands in the Great Lakes region, yet they are increasingly threatened by subdivision and changing ownership patterns," said The Conservation Fund's state director, Tom Duffus. "Thanks to the support of the Charles Stewart Mott Foundation and the Butler Family Foundation, the leadership of Lake County, and the dedication of the state and The Nature Conservancy, we are demonstrating the extraordinary results that can be achieved through balanced conservation solutions."

The fragmentation of forestland ownership is among the greatest threats faced by wildlife and it further threatens timber-related jobs. Since 1999, more than 400,000 acres of Minnesota's industrial forestland has been subdivided and sold. As much of this is sold for second-home development, it is lost to forestry purposes and public recreation.

LANDOWNER MOTIVATIONS AND INCENTIVES

Some landowners are more easily motivated to allow permission for trail access across their properties than others. For all, it's a personal/individual decision based upon various factors and incentives. Generally, landowners make their decisions based upon one, several, or all of the following factors:

1. Favorable risk management and their protection from liability
2. Community goodwill
3. Political support for their activities
4. Money: incentive payments and/or property tax relief or payments
5. Responsible and responsive management of the permitted activity (snowmobiling)

Favorable Risk Management and Their Protection from Liability

As discussed earlier, private landowners are often hesitant or unwilling to open their lands to public use because of concerns about their liabilities in the event someone gets injured on their properties. This is a valid concern and as a result every State has passed legislation that offers landowners some protection from liability when their properties are used by others for recreation. These State laws are critically important and are the cornerstone for recreational access to private lands across the country.

Additionally, trail managers must ensure they place a high emphasis on safety, follow best management practices for their trails, and make good decisions that help properly manage their as well as landowners' risks. If landowners are not assured their risks are minimized with good management practices – in both the short and long term – they most likely will deny access permission across their properties. Likewise, if landowners have permitted access and then become uncomfortable with risk management practices of trail managers, or the behavior of trail users, which they feel increase their liability – they will not hesitate to cancel permission for the use of their properties. Therefore, more than any other factor, landowners must receive continuing assurance that their liability exposure is properly minimized with good risk management – or there will be no access.

Community Goodwill

Oftentimes community goodwill can be a strong motivator for civic-minded private landowners, particularly when people are well acquainted with one another and everyone lives in the same rural area or small community. On the other hand, when trails are located in urban or suburban areas – or when landowners don't live in the community but rather in different regions of the State or elsewhere in the country – community goodwill is often not a large landowner motivator.

The best chance of playing on private landowners' 'sense of goodwill' is when local club members know the landowners, or if landowners or someone in their extended family is a snowmobiler. While it may be helpful to play up the importance of trails to local economies, this approach can sometimes backfire when landowners are less civic minded and more concerned about "what's in it for me." In this case landowners may be irritated that local motels, bars, restaurants, shops, etc. stand to make money off trail visitors while they gain nothing. In this situation discussions regarding access often turn to 'what payments are available for landowners.'

Some, but certainly not all, corporate landowners may also be motivated by community goodwill. This will often depend upon their historical ties to the area, whether their activities on their properties can easily coexist with snowmobiling, and if their companies are involved in controversial local issues where they may be looking to gather supporters. In such situations, timing is everything. As with individual private landowners, the odds for cooperation increases whenever employees of landowning companies are also snowmobilers.

Political Support for Their Activities

This can be a particularly strong motivator for corporate landowners, irrespective of whether they are involved in agriculture, timber, conservation, development, or otherwise, and particularly if their companies are in need

of positive public relations (PR). While this is somewhat tied to a sense of community goodwill, it goes beyond that motivator since these companies make conscious decisions to provide access to their properties as a PR investment – hoping that local communities and trail users will in turn support their corporate agendas. Individual private landowners such as farmers and ranchers also typically appreciate support for their activities.

For certain, if snowmobilers hope to have and keep access across private lands, they need to be supportive of the farmers, ranchers, timber and mining companies, developers, and other landowners who provide their riding areas. While snowmobilers and other recreationists may not agree with every perspective of what landowners do with or on their properties – the fact remains that it's their property. Therefore it's important to look for ways to work with and support your local landowners wherever possible.

Money: Incentive Payments and/or Property Tax Relief or Payments

First, check to see if (1) your State's laws allow incentive payments to be made to landowners without jeopardizing their immunity from liability (as offered by your State's Recreational Use Statutes – see Table 1 on pages 9 and 10), and (2) whether incentive payments must be channeled through governmental agencies or whether they could come directly from clubs or associations. If allowed in your State, money can be one of the greatest motivators to help gain access from private landowners. The question then becomes 'how important is this particular trail connection and how much is it worth to keep the route intact if there are no alternatives.'

While landowners will never get rich from incentive payments through short-term lease agreements, financial compensation may help agricultural landowners in particular even out their incomes and perhaps help tip the scale in favor of them allowing access to their properties. It also helps dispel ill feelings that 'just the folks in town are making money from all these snowmobilers running across our properties.'

Some areas offer incentive payments based upon a 'per mile of trail' or 'per acre' open to snowmobiling; other areas offer to pay property taxes on parcels being used for snowmobiling. Either approach can cost as little as a hundred dollars or as much as several thousand dollars – but from the perspective of landowners, the amount paid is often not the greatest factor. Rather it's simply that some token of appreciation is paid for their troubles of hosting trails on a short term basis, without their giving up any of their property rights. The other issue is consistency – if you pay one, you need to pay them all, and the rate of payment needs to be consistent from one to another. Thus a per-mile, per-acre, or property-tax-rate standard helps treat everyone fairly and consistently.

Property tax relief means that the State legislature, county, town board, or other taxing authorities have taken action to reduce property taxes for landowners who allow recreational access to their lands. While this is a good concept, it's fairly rare in practice since it means taxing authorities have to make up lost revenues elsewhere. While positive economic impacts from snowmobiling in local areas – and the number of jobs created and sales and use taxes generated – are valid reasons for communities to support such incentive programs, reality is that it takes long and persistent efforts from local snowmobilers to make this happen .

Responsible and Responsive Management of the Permitted Activity (Snowmobiling)

The quickest way to lose access is to not follow through with responsible and responsive management of snowmobile trails across landowners' properties. You must <u>always</u> 'do as you say you will do' – and be as responsive as possible to *all concerns* expressed by your landowners. If issues arise that are contrary to how written agreements say your trails are to be managed, you must quickly resolve the problem(s) – as soon as possible versus next week or next month.

Landowners are often neighbors who talk amongst themselves on a regular basis – so problems on one landowner's property could quickly become problems with several landowners if the initial issues are not satisfactorily resolved. If landowners know their neighbors have not been satisfied with snowmobile trails across their properties, they are likely to be reluctant to grant you access. And sometimes what may appear to be irrelevant issues – such as trespass by snowmobilers onto other area landowners' properties that aren't even

directly connected to trails – can threaten cooperation from landowners whose properties your trails do need to cross. If your trail's landowners' concerns are for their neighborhood, then you may need to address overall neighborhood issues the best you can to gain or keep your access. Every effort needs to be made – over and over again – to show that snowmobiling is a responsible activity and that you are a trail manager who's responsible and responsive to landowners' concerns.

SAMPLE LANDOWNER BROCHURES

It can be helpful to prepare a brochure that answers common questions that landowners and local club members may have about landowners' liability, any incentives that may be available to help entice landowners to allow access to their properties, and other issues that may be common in areas. This helps ensure that everyone has the right information and hears a consistent message. Two examples of landowner brochures are shown below:

Exhibit 5: Example of a Minnesota landowner brochure

The text that follows is from *This Land is Your Land*, a brochure produced by the Minnesota United Snowmobilers Association (MnUSA) to help local clubs work with their landowners to obtain permission for snowmobile trail routes across private property http://www.snowmobileinfo.org/snowmobile-access-docs/This-Land-Is-Your-Land-brochure_MN.pdf . It provides a brief rundown as to why landowners are important to snowmobiling and answers ten common questions that landowners have about providing snowmobiling access across their properties. While this brochure is specific to Minnesota laws and procedures, it could be easily adapted to situations and laws in other States. While the answers to the questions may vary from State to State, the questions are typical of those landowners have regardless where they live.

This Land is Your Land…

Dear Landowner:

For over 20 years, Minnesota's 300 nonprofit snowmobile clubs and their local volunteers have depended on the generosity and cooperation of many landowners, just like you, who volunteer their land for snowmobile trails. This ongoing partnership between local snowmobile clubs and private property owners has resulted in irreplaceable social, economic, and recreational benefits to communities, just like yours, across our rural Snowbelt. Thanks to you and thousands of other landowners, there are 20,000 miles of snowmobile trails in Minnesota, the second longest integrated snowmobile trail system in the United States!

These trails, and the benefits they generate, foster substantial new opportunities, prosperity, enjoyment, and well-being for you, and your family, friends, and neighbors, during a winter season that has been traditionally dormant and stagnant. Many of these same relatives, friends, and neighbors also depend on the use of your land each winter for their family snowmobiling pleasure. It's a classic Minnesota example of the caring neighbors volunteering to help each other for the overall betterment of their community and their lifestyle. Ultimately, through giving generously of their time and resources, everyone wins.

Those of us associated with organized snowmobiling know that the voluntary use of your land each winter is a privilege, not a right – a privilege that we have to earn continuously through our diligent care of, and respect for, your land and property. Our commitment to your land starts at the grassroots, with our volunteers and clubs. It continues to the highest levels of our state organization, Minnesota United Snowmobilers Association (MnUSA).

That's why MnUSA, in cooperation with your local snowmobile club and its community volunteers, has developed this brochure. It is intended to answer many of your questions about volunteering the use of a portion of your land for a snowmobile trail. As you will see, the information is presented in a user friendly, question and answer format. This brochure also contains the contact person for your community snowmobile club, MnUSA contact information, and a copy of the official Minnesota Landowner Trail Permit.

Yours truly,
Minnesota United Snowmobilers Association, Inc.

1. Question: liability coverage
If I give land use permission to my local snowmobile club, is there any liability coverage?

Answer: Yes. By signing the Landowner Trail Permit you automatically become covered under Minnesota Statutes 604A.20 to 604A.27 which were enacted to encourage and promote the use of privately owned lands for beneficial recreational purposes. Under the statute, snowmobiling is a recreational purpose.
In addition, your local snowmobile club maintains trail liability insurance which covers the private landowners as additional insured's under the policy. A copy of the policy is available from your local club or from Minnesota United Snowmobilers Association.

You are still responsible for carrying the usual liability coverage to cover any other non-snowmobile related occurrences on your land, including liability coverage for any equipment, automobiles, and snowmobiles you may own.

2. Question: official form
Is there a reason I should sign the Landowner Trail Permit?

Answer: Yes. The Landowner Trail Permit has been developed by the State of Minnesota to ensure that it complies with the terms and conditions of Minnesota Statutes. For you, this means the certainty of knowing you are covered in the unlikely event of a claim resulting from the snowmobile trail on your land. By not signing this official form, or by altering it in any way, you may place your coverage under Minnesota Statutes 604A.22 to 604A.27 in jeopardy.

3. Question: ownership
By giving land use permission to my local snowmobile club, do I lose any ownership rights to my land?

Answer: No. All you are doing is allowing the local club seasonal use of a specific portion of your land for a snowmobile trail. The trail is not for any purpose other than snowmobile. We do not want to use all of your land, to prevent you from using any of it, or even to use the designated trail corridor in any other season. The land is always yours to own and control, and ultimately you may revoke the land use permission if you choose to terminate the partnership. You also retain your full rights throughout the balance of the year.

4. Question: trail use
When I give land use permission to my local snowmobile club, can anything be done to stop others from using this trail?

Answer: Yes. The land use permission you give to your local snowmobile club is for winter use only as a snowmobile trail for snowmobiles displaying valid Minnesota snowmobile registration. Under the law, no other trail users are allowed on this trail or any other part of your property at any time of the year without your specific permission. Your local club is responsible for maintaining the trail regularly during the winter, and for opening at the beginning of the season and closing at the end of the season any applicable, existing gates/barriers, etc., as agreed upon pursuant to the agreement between you and your local club. The club will also sign the trail to indicate that it is exclusively for snowmobile use, including a trespass warning.

5. Question: prior approval
Can I ensure that my land will be used in accordance with my wishes?

Answer: Yes. Before signing the Landowner Trail Permit, talk to your club contact about any specific needs, concerns, or considerations you may have. It is strongly recommended that the landowner and the club contact walk the proposed trail site together, specifying the exact layout, permitted width, and signage requirement, as well as such diverse items as noting to be/not be allowed, listing gates and fences that need attention, designating fields that need to be staked, crops that need protection, and agreeing on methods for water crossings. If you are planning to do any winter work that might impact the snowmobile trail, this is also a good time to discuss it. These items should be placed on a site map and/or in writing and attached to the Landowner Trail Permit as an addendum and initialed by both parties.

6. Question: satisfaction
Is there any remedy if I am dissatisfied later on?

Answer: Yes. Should you have any concerns throughout the snowmobiling season, we urge you to contact your club representative immediately and advise him/her of the exact details of the matter. Often, small irritations, when left to fester, can grow into larger difficulties that could have been easily resolved with an initial phone call.

If necessary, you can call the president of your local club to explain your problem. These contact names and phone numbers are included in this brochure.

If your concerns are still not satisfied within a reasonable time, the bottom line is that you have every right to revoke the Landowner Trail Permit by giving advance written notice as specified in the permit. If revoking a Landowner Trail Permit appears to be the only remedy to an unresolved problem, please consider making it effective only after the end of a current season. That way, most difficulties and inconveniences can normally be avoided and a clean transition put in place.

7. Question: benefits
Will I benefit from this winter use of my land?

Answer: Yes. If you are a snowmobiler, you will have a groomed trail almost to your door! Besides, the presence of a snowmobile trail often adds value to your land through the improvements made by your local club at no cost to you. Such landowner approved, club implemented, measures as grading, widening, bridging, or adding culverts can enhance your own use of your land in other seasons too.

Remember, your local snowmobile club is a nonprofit association that covers the considerable cost of operating snowmobile trails through various community fundraisers, volunteer labor, and a partial reimbursement of expenses from the grant funds provided by snowmobilers across the state. For the greater good of the community, many volunteers donate thousands of hours to your snowmobile club to enable it to make ends meet. Your voluntary contribution of land adds significant support to their good work at no out of pocket cost to you! By donating the use of your land, you also avoid the acceptance of liability which could be incurred if you received any compensation for the use of your property.

8. Question: duration
Is my permission ongoing?

Answer: Yes. This Landowner Permit remains in force until revoked or until your property is transferred to a new owner.

9. Question: organized snowmobiling
Is there a state body involved?

Answer: Yes. Twenty-five years ago, local snowmobile clubs saw the need to form a state association to represent their broader interests and to help coordinate, promote, and integrate trail development. This was the beginning of organized snowmobiling in Minnesota.

Today, MnUSA is a volunteer driven, nonprofit, grassroots organization that operates according to mandates set by its membership at the Annual Meeting, and under the immediate direction of a Board of Directors elected by the clubs and membership from nine regions across the state. The officers of MnUSA are elected annually by the membership. Each community-based snowmobile club retains its own autonomy and continues to function independently, to best serve the needs of its own community. With a permanent staff in Brooklyn Park, MnUSA has a paid staff who works in close cooperation with the Executive Board, chairs of major committees, and other MnUSA volunteers.

Thanks to MnUSA, organized snowmobiling has a proven track record in Minnesota. As a landowner, you are dealing with a local club backed by a professional, effective association. No other trail user group in Minnesota

can offer you the stability and consistency of organized snowmobiling. No other group has such a longstanding, successful, and amicable relationship with Minnesota's private land owners.

10. Question: property rights
Is there legislation covering this kind of land use?

Answer: Yes. Laws exist in Minnesota to protect the property rights of landowners and at the same time, encourage owners of land to make their land available for a variety of recreational activities.

The Landowner Liability Act: A series of laws are in place in Minnesota to protect landowners permitting snowmobile riders access to a snowmobile trail on their property. The provisions of Minnesota Statutes Chapter 604A are intended to protect landowners providing such access by eliminating legal duties of care that an injured ride could argue are owed to him by the landowner.

The laws provide that landowners that have given written or oral permission to others to use their land for recreational purposes such as snowmobiling "without charge" do not owe a legal duty of care to trail users to maintain the land safe, warn persons of dangerous conditions, or curtail use of the land [Minn. Stat. 604A.22]. Permitting persons to use one's land "without charge" is defined to include situations in which a landowner has received compensation from the State or a political subdivision for a lease or dedication of land for recreational purposes [Minn. Stat. 604A.25]. The only exceptions are situations in which even a trespasser could maintain a legal action, or when the landowner has charged the trail user an admission charge for use of the landowner's property [Minn. Stat. 604A.25].

The laws further provide that landowners granting written or oral permission to others to use their property for snowmobiling "without charge" are not to be interpreted by their mere act of granting such permission to have any assurances that the land is safe for any purpose or that that landowner will assume responsibility for or incur liability for any injury to the snowmobile trail user, or conferred upon the trail user the legal status of an "invitee" or "licensee" [Minn. Stat. 604A.23].

Chapter 604A addresses situations that may occur outside of the specific trail areas for which a landowner has granted an easement or otherwise authorized use. Persons who are using a snowmobile trail but then end up entering onto other property outside the easement are restricted in their ability to successfully sue a landowner for injuries sustained while on that other property. With the exception of willful actions taken by the landowner, trespassers may not recover against the landowner for injury if the entry upon the landowner's land at issue was "incidental to or arises from" access granted for the recreational use of trail land on the landowner's property [Minn. Stat. 604A.25].

Persons interested in more details on Minnesota's laws protecting land owners providing access to snowmobile trails on their property should refer to Minnesota Statutes 604A.20-27.

Minnesota has trespass statutes which protect the landowner from entry onto the property by anyone other than snowmobile riders. The law provides that outside the Twin Cities metropolitan area, no person shall enter onto another's land for the purpose of operating a motorized recreational vehicle after being notified not to do so. If a landowner has posted signs that meet certain basic criteria at corners and ordinary ingress and egress points to the property advising that recreational vehicle use is prohibited, a "conclusive presumption" is created that the trespasser knew his entry onto the land was not authorized [Minn. Stat. 84.90].

A similar law prevents trespass by unauthorized recreational vehicle riders on agricultural lands. Except for minor exceptions permitting hunters to retrieve wounded game or hunting dogs, persons may not enter onto agricultural land for outdoor recreational purposes without permission of the owner, occupant, or lessee. A person may not enter another's agricultural land if signs meeting basic criteria along the property designate the land as off-limits to outdoor recreationists [Minn. Stat. 97B.001].

Trespass onto another's property by unauthorized trail riders is punishable as a criminal misdemeanor [Minn. Stat. 84.90, 97A.315]. Persons knowingly disregarding signs prohibiting trespass or other notification from the

landowner are guilty of a gross misdemeanor and subject to forfeiture of their fishing and gaming licenses [Minn. Stat. 97A.315].

Together, these statutes outline the rights and responsibilities of landowners and visitors and are designed to encourage continued cooperation between them.

Disclaimer: While this information is believed to be correct at the time of writing, the materials are provided for awareness purposes only and do not purport to provide legal advice. If you require legal advice, you should consult with an attorney.

Editor's Note: The brochure includes a flap intended as a place to insert additional information, along with a blank space stating: Here is your club and local contact information: (so local information can be added to the brochure).

Minnesota United Snowmobilers Association
7040 Lakeland Ave. N. #212, Brooklyn Park, MN 55428
Phone: 763-577-0185 Fax: 763-577-0186 www.mnsnowmobiler.org

Exhibit 6: Example of the Minnesota 'Landowner Trail Permission Form'

LANDOWNER PERMISSION

THIS PERMIT is granted on _____, by _____
the Landowner(s) to_____ the Sponsor to establish and/or maintain the
_____ Snowmobile Trail.
That _____, the (record owners, contract for deed purchasers, lessees)
in consideration of _____, grants this permit over
and upon the following described premises situated in the County of _____, State of Minnesota,
to wit: (complete land description)

SUBJECT TO:

1. This permit shall be continuous and will terminate upon sale of the land, or upon notification in writing to the Sponsor six (6) months prior to termination by the Landowner(s).
2. The right-of-way shall be open to the general public for snowmobile use.
3. The Sponsor shall at all times have the right to enter upon said right-of-way for any purpose necessary to the performance of lawful powers and duties.
4. The Landowner(s) shall have the right to close said right-of-way during any emergency, with the approval of the Sponsor.
5. The permit is for a _____ foot width over the route to be used.

DATE: _____ _____
(Landowner Signature)

_____
(Address and Phone Number)

_____
(Club Representative)

NOTE: All Trail Permits are to be made out to the **Sponsor** not the club. Permits can be made out to club only if the Sponsor has specifically given written permission and authority to the club, and the club has been incorporated.

(Revised 10/08/2013)

Exhibit 7: Example of a New York landowner brochure

This two-sided tri-fold brochure was developed by the New York State Snowmobile Association to help clubs work with their landowners to obtain permission for snowmobile trail routes.

NYS STATUTE FOR NEGLIGENCE

S 25.23 Liability for Negligence.

Negligence in the use or operation of a snowmobile shall be attributable to the owner. Every owner of a snowmobile used or operated in this state shall be liable and responsible for death or injury to person or damage to property resulting from negligence in the use or operation of such snowmobile by any person using or operating the same with the permission, express or implied, of such owner, provided, however, that such operator's negligence shall not be attributed to the owner as to any claim or cause of action accruing to the operator or his legal representative for such injuries or death.

This brochure and the information contained herein is presented for information purposes only, and does not replace professional legal counsel.

HIGHLIGHTS FROM THE GENERAL OBLIGATIONS LAW

9-103. No duty to keep premises safe for certain uses; responsibility for acts of such users.

a. an owner, lessee or occupant of premises, whether or not posted as provided in section 11-1211 of the environmental conservation law, owes no duty to keep the premises safe for entry … or to give warning of any hazardous condition or use of or structure or activity on such premises to persons entering for such purposes;

b. an owner, lessee or occupant of premises who gives permission to another to pursue any such activities upon such premises does not thereby

(1) extend any assurance that the premises are safe for such purpose, or (2) constitute the person to whom permission is granted an invitee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

2. This section does not limit the liability which would otherwise exist

a. for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity; or

b. for injury suffered in any case where permission to pursue any of the activities was granted for a consideration ...

To review the full text of the "Recreational Use Statue", go to Section 9-103 of the New York General Obligations Law at http://public.leginfo.state.ny.us

NEW YORK STATE SNOWMOBILE ASSOCIATION
1-888-624-3849

Add Club Info Here

WWW.NYSNOWMOBILER.COM

landowner information

information for landowners

Nearly 80% of all snowmobile trails in New York State are located on private lands.

Without the generous support of thousands of private landowners across the state and hundreds across the county, there would be no snowmobile trail system for wintertime enjoyment.

Snowmobiling is a family activity which provides a measurable boost to the local economy during the winter months.

The landowner, when giving permission to a snowmobile club, continues all rights of ownership of the land the trail is on. The landowner is simply allowing the local club seasonal use of a specific portion of the landowner's property for a snowmobile trail.

Clubs seeking landowner permission for a trail are requesting permission for seasonal snowmobile use… NOT for other trail uses.

All pictures courtesy Dan Coffman and ISMA

Private landowners are the foundation of the **SNOWMOBILE TRAIL SYSTEM**

By giving permission for seasonal access to the club, the landowner is protected by the provisions of the General Obligations law. The incorporated snowmobile club assumes the responsibility for the condition of the snowmobile trail. Its liability insurance policy, as part of the New York State Snowmobile Association (NYSSA), protects the club for its trail maintenance actions and protects the landowner that gives permission for the trail.

After consultation/approval from the landowner, the club may install bridges and culverts, open and close gates, remove brush, install signs, and groom the trail according to his or her wishes. The club will work with the landowner to provide the safest trail location possible for use on the landowner's property.

The club should provide their landowner with the name of the club, a contact person, and that person's telephone number so that the landowner can get immediate response if a problem arises with the snowmobile trail. The club can also provide contact information and an email address for NYSSA, if the landowner wishes that information.

Landowners giving permission for a snowmobile trail do not jeopardize their right of continued ownership of the property. All the landowner is doing is allowing the seasonal use of a specific portion of the landowner's property for a snowmobile trail.

Landowner generosity is the foundation of the statewide system that provides over $850 million annually to the state and local economy.

RAIL TRAILS

What is a rail trail? Rail trails are multipurpose public paths created from former railroad corridors – which are in a sense corporate lands or former corporate lands. They are typically flat or follow very gentle grades (3% or less) and traverse urban, suburban, and rural properties – which can make them extremely important linkages for snowmobile trail systems. They are ideal for many uses and are most often used for nonmotorized trail activities like bicycling, walking, inline skating, cross-country skiing, equestrian, and wheelchair use. Snowmobiling is allowed on rail trails in some areas and, less often, rail trails are open for ATV use.

Rail trails are extremely popular and very useful as recreation and transportation corridors. However they are also often very controversial with adjacent landowners since the railroad transfers whatever interest they had in title, easement, or right-of-way of the corridor to the rail trail's manager – while adjacent landowners often believe abandoned right-of-way should instead revert to their ownership. Opposition from adjacent landowners can be extremely strong and their well organized opposition has successfully killed many rail trail proposals at local levels. The National Association of Reversionary Property Owners (NARPO) represents anti rail trail landowners. More information about its positions can be found at http://www.home.earthlink.net/~dick156/.

Developing rail trails on old railroad grades can be a time consuming, very lengthy process. Therefore it's critical that partnerships and broad coalitions be formed early to help sustain efforts over the long time periods typically required to bring rail trail projects to completion. Development of these trails can also be expensive, so funding partnerships are almost always required. While rail trails are often managed as nonmotorized-only trails, snowmobilers often have funding when other recreationists do not – so if supporters in coalitions are approached early in the project and in a positive manner, snowmobilers can sometimes 'buy' a share in rail trail projects.

Why are rail trails important for snowmobiling access? Railroad corridors were built to connect communities at regular and frequent intervals. Similarly, connecting communities together is also a primary goal of many snowmobile trail systems. Using old railroad corridors for snowmobile trails or multiple use trails helps minimize the number of landowner permits needed for trails, even though it's still important to be a 'good neighbor' to the numerous landowners who may have properties along former railroad rights-of-way.

Railroad corridors also typically followed routes right through the heart of communities – places that are often difficult to access today, near businesses and services needed by snowmobilers, since communities have built up and out since railroad corridors were initially established. Oftentimes former railroad corridors may be the most reasonable access available to reach services located within the interior of communities. Old railroad corridors also provide access that is much safer for both snowmobilers and motorists since oftentimes the only other alternative for snowmobilers is to operate on the shoulder of plowed roadways or on streets for ingress and egress to community services and attractions.

Another advantage of using old railroad grades for snowmobile trails is that they are often wide with a flat, firm base that provides a good location for trail grooming. This wide template also provides a safe location for multiple use recreation.

Where are existing rail trails located? According to the Rails-to-Trails Conservancy (RTC), since the 1960s over 2,000 rail trails totaling over 22,600 miles have been created across the U.S. (there is at least one in every State). Table 3 shows that rail trails are a heavily northern occurrence, with 1,448 of these trails (71.9%) being located in Snowbelt States. Table 4 provides a State-by-State breakdown of rail trails in Snowbelt states.

While only 252 (12.5%) rail trails currently allow some level of snowmobile use on them, this equals over 7,350 miles of trail open to snowmobile use (32.5% of all rail trail miles in the country), which is very significant for snowmobiling access. Perhaps – given that snowmobiling is not allowed on more than 10,800 miles of existing rail trails in Snowbelt states – the right approach and persistence in appropriate areas could enhance multiple use partnerships and eventually expand total miles open for snowmobile use.

Table 3: Comparison of Snowbelt State Rail Trails to total U.S. Rail Trails (RTC 2016)

Rail Trails	Total Number	% of U.S. Total	Total Miles	% of U.S. Total
Rail Trails Open to Snowmobiles	252	12.5	7,357.7	32.5
Snowbelt State Rail Trails	1,448	71.9	18,181.6	80.3
Rail Trails Open in the U.S.	2,013	100	22,640	100

Table 4: Comparison of Rail Trails (RT) open to snowmobile use in Snowbelt States

State	Number of Rail Trails Open to Snowmobiles	Total Number of Rail Trails	% of State RT Open	Miles of RT Open to Snowmobiles*	Total State RT Miles	% of State RT Miles Open
Alaska	1	5	20	14	47	29.8
California	1	119	0.8	86	1,020	8.4
Colorado	1	38	2.6	14	285	4.9
Connecticut	0	20	0	0	192	0
Idaho	3	22	13.6	48.3	421.7	11.5
Illinois	12	78	15.4	319.4	909	35.1
Indiana	0	65	0	0	448	0
Iowa	17	81	20.9	353.5	842	42
Maine	12	30	40	265.9	386	68.9
Massachusetts	4	66	6.1	38	307	12.4
Michigan	40	126	31.7	1,375.5	2,393	57.5
Minnesota	37	71	52.1	2,002.8	2,127	94.2
Montana	2	18	11.1	46.3	199	23.3
Nebraska	1	25	4	2.1	414	0.5
New Hampshire	26	71	36.6	329.4	539	61.1
New York	18	103	17.5	537.5	1,031.9	52.1
North Dakota	2	3	66.7	26.5	28	94.6
Ohio	0	92	0	0	935	0
Oregon	0	21	0	0	311	0
Pennsylvania	12	179	6.7	211	1,775	11.9
South Dakota	1	4	25	10	143	7
Utah	0	14	0	0	158	0
Vermont	9	18	50.0	202	130	66
Washington	2	82	2.4	10.2	1,070	0.9
Wisconsin	50	93	53.8	1,443.3	1,846	78.2
Wyoming	1	4	25	22	48	45.8
Total	**252**	**1,448**	**17.4**	**7,357.7**	**18,181.6**	**40.5**

***** *Note: the total 'Miles of RT Open to Snowmobiles' listed in Table 4 are likely higher than what are actually available on-the-ground in each State. This could be because not all of the trail may be open to snowmobiles – even though the overall trail is classified as 'open' to snowmobiles by RTC, or because parts of the trail may have low snowfall or no snowfall and therefore does not provide dependable snowmobiling opportunities.*

What are the first steps in developing rail trails? First, determine if the corridor is actually inactive and will no longer be used for rail service. A railroad corridor is generally considered inactive when: 1) rail service is discontinued, 2) the Surface Transportation Board (STB) officially approves the abandonment, and 3) tariffs (pay schedules) are canceled. Status of abandonment can be determined through the rail office of your state department of transportation or by contacting the railroad company directly.

Some rail trails are railbanked under Section 8(d) of the National Trails System Act (16 U.S.C. 1247(d), see www.nps.gov/nts/legislation.html), meaning they are not legally abandoned, but may be held in interim trail use pending a railroad's possible return to service. Visit www.stb.dot.gov/stb/public/resources_railstrails.html or www.stb.dot.gov/stb/public/resources_abandonment.html for more information about the abandonment process.

After abandonment has been approved, the railroad company usually removes the tracks and ties for salvage and regrades the corridor with original ballast left by the railroad. Many trails are later surfaced with asphalt, crushed stone, wood chips, or another material appropriate for the intended trail uses. Ideally, bridges and tunnels are left intact so trail managers need only add wood decking, appropriate railings, and other safety features. Road crossings must be properly striped and signed for both trail and road users.

Who builds and manages rail trails? In most cases the local, State, or Federal government agency that buys the corridor builds the trail as well. In a few cases, groups of citizen volunteers have constructed trails. Rail trails are generally managed by public agencies, but some are operated by other types of organizations, including nonprofit 'friends of the trail' citizen groups, land trusts, and community foundations.

What is the Rails-to-Trails Conservancy? The Rails-to-Trails Conservancy (RTC) is a nonprofit advocacy organization that works to convert unused rail corridors into trails. RTC also provides resources through its web site at www.railstotrails.org including trail building information, rail trail statistics, and a blog to post information and share discussions with other rail trail advocates and builders. It also provides reports and fact sheets on topics such as railbanking, rails-with-trails, liability, safety, management, and maintenance. RTC is not a manager of rail trails, although in limited situations it has purchased and held title to rail corridors for a short time until public agencies were able to take over ownership and management of the corridors.

LAWS AND PERMITS APPLICABLE TO TRAIL ACQUISITION AND DEVELOPMENT

There are several Federal laws which may apply to trail acquisition and development projects. Additionally, the National Environmental Policy Act of 1969 (NEPA) as discussed in detail beginning on page 46 under Federal Land Use Planning is required to be followed anytime Federal funds are used. States also often have their own environmental laws and permitting requirements. Therefore it's important to consult State and local environmental agencies early in your planning process to determine exact local requirements prior to the start of any work. The most common Federal requirements in addition to NEPA include:

Private Property Acquisition: Uniform Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) [https://www.fhwa.dot.gov/real_estate/uniform_act/index.cfm] sets a minimum standard of performance for all Federally funded projects with regard to the acquisition of real property and the relocation of persons displaced by the acquisition of such property. The Uniform Act applies if there are:

(a) *Direct Federal program or project funds* involved for any acquisitions (Examples: Federal RTP grant funds are used to purchase an easement from willing sellers; or a land trust uses Federal grant monies to wholly or partially purchase a conservation easement.), or
(b) *Programs and projects receiving Federal financial assistance* that have any part in an overall trail acquisition and development project (Examples: Federal RTP grant funds are used for the construction or development of a trail even though the trail's easement or land was purchased with nonfederal funds; or Federal wildlife funds are used to develop interpretive displays on a new trail acquired from private property owners.).

This Act applies to voluntary acquisitions from willing sellers, as well as situations where agencies use condemnation procedures to acquire lands.

Section 102 of the Uniform Act establishes basic acquisition policies, summarized as follows:

(a) *Expeditious acquisition.* The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.
(b) *Notice to owner*. As soon as feasible, the Agency shall notify the owner in writing of the Agency's interest in acquiring the real property and the basic protections provided to the owner by law and this part.
(c) *Appraisal, waiver thereof, and invitation to owner*. Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in §24.102 (c)(2), and the owner, or the owner's

designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(d) *Establishment and offer of just compensation.* Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property.

(e) *Summary statement.* Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation.

(f) *Basic negotiation procedures.* The Agency shall make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with §24.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The Agency shall consider the owner's presentation.

(g) *Updating offer of just compensation.* If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.

(h) *Coercive action.* The Agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

(i) *Administrative settlement.* The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared, which states what available information, including trial risks, supports such a settlement.

(j) *Payment before taking possession.* Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the Agency's approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Agency may obtain a right-of-entry for construction purposes before making payment available to an owner.

(k) *Uneconomic remnant.* If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project.

(l) *Inverse condemnation.* If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

(m) *Fair rental.* If the Agency permits a former owner or tenant to occupy the real property after acquisition for a short term, or a period subject to termination by the Agency on short notice, the rent shall not exceed the fair market rent for such occupancy.

(n) *Conflict of interest.* The appraiser, review appraiser or person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the Agency.

Work in Wetlands/Rivers/Streams/Lakes and Ponds: Clean Water Act

Section 404 Permits: Section 404 of the Clean Water Act (CWA) regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Activities regulated under this program include fill for developments and infrastructure development projects such as highways and trails; this can sometimes also include the installation of culverts and drainage ways along trails. Impacts subject to Federal review include not

only the area of wetlands directly filled, but also any inundation or drainage of wetlands caused by the placement of fill or mechanized land clearing. See https://www.epa.gov/wetlands for more information.

DEFINITION OF "WETLAND": The term "wetland" is defined by Federal regulations to mean "…those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions…" Wetlands generally include swamps, bogs, and similar areas.

DEFINITION OF "FILL": The term "fill material" is defined by Federal regulations to mean "…any material used for the primary purpose of replacing an aquatic area with dry land or changing the bottom elevation of a water body. The term does not include any pollutant discharged into the water primarily to dispose of waste…"

Permits are administered by the U.S. Army Corps of Engineers; applications can be downloaded at http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/.

Work in Rivers, Streams, Lakes, and Ponds: Rivers and Harbors Act

Section 10 Permits: Section 10 of the Rivers and Harbors Act regulates the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States. See https://www.epa.gov/wetlands and http://www.usace.army.mil/ for additional information. This Act applies to all structures or work below the ordinary high water mark in all navigable waters; applicable projects include but are not limited to bridge construction and placing rip rap along streams or river banks. Section 404 Permit requirements also typically pertain and are administered concurrently with projects in these areas.

Permits are administered by the U.S. Army Corps of Engineers; applications can be downloaded at http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/

National Historic Preservation Act

Section 106: Section 106 of the National Historic Preservation Act requires that all Federal agencies take into account the effects of any undertaking they fund, assist, permit, or license on historic properties. Historic properties typically include any building, structure, object, prehistoric or historic district, and prehistoric or historic archeological sites included in or eligible for inclusion in the National Registry of Historic Places. See http://www.achp.gov/106summary.html for additional information.

Administration of the Act is typically delegated to State Historic Preservation Offices (SHPO). The Section 106 process does not ordain an outcome, but it does require consultation with SHPO to determine potential effects, avoidance, and/or mitigation.

CHAPTER 2 – ACCESS TO PUBLIC LANDS

Access to public lands for snowmobiling typically requires participation in complex, cumbersome, and oftentimes lengthy agency rulemaking and planning processes. On Federal lands, these planning processes are driven by the National Environmental Policy Act (NEPA) along with a host of other Federal laws specific to the applicable public land managing agencies. State and local governments also often have their own environmental planning laws that govern how they make decisions on appropriate uses for the lands they manage. These laws spell out the 'rules of the game,' so it is important that snowmobilers learn what they are and how to participate in agency planning processes to retain and enhance snowmobiling access.

Access to public lands also requires establishing good working relationships with on-the-ground managers in these agencies. Your role is to educate land managers about your needs for snowmobiling access and to work with them within the bounds of the many laws and regulations which constrain their management decisions.

Additionally, access to public lands often depends upon funding partnerships between land managing agencies, snowmobilers, and other recreationists. To a great extent these partnerships help to 'buy' access for snowmobiling and other activities since most agencies' recreation budgets continue to decline. As a result recreation opportunities on public lands could potentially decline if snowmobilers and others don't continue to bring money and in-kind resources (volunteer labor, donated materials, etc.) to the table to help agencies.

WORKING WITH LAND MANAGERS

It's important for snowmobilers to build positive working relationships with land managers to help facilitate effective communications that lead to keeping and enhancing access for snowmobiling. It's also important to understand that decisions about the use of public lands do not typically happen overnight – so it requires patience with the process and long-term commitments to working with agencies.

Building good working relationships with land managers takes time. When dealing with one another, it's helpful when both sides are:

- Honest
- Credible
- Trustworthy
- Fair
- Knowledgeable about the subject of interest
- Open minded
- Willing to learn and share
- Understanding of others' needs and constraints
- Patient

While you can't control how land managers approach working with snowmobilers, you can control your approach to working with agencies. If you follow the above principles, you will get farther quicker and have stronger, longer lasting partnerships than if you approach working relationships with negativism, hostility, and combativeness.

Understand that agency working relationships need to span years, not just weeks or months. You need to identify representatives (club members, employees, consultants, etc.) who are willing to take the lead as well as commit the time required to make your relationships successful. Your representatives should understand your partner agencies and how their policies work. They should get themselves included on agencies' electronic mailing lists, including reaching out to their main office(s) to ensure you're on their electronic mailing for all projects or topics of interest to your group, and try to establish conduits to offer assistance and supply information to agency staff. And they must also understand that staff members can turn over – and over and over

– due to transfers, promotions, and retirements. So you need to be prepared to start building new relationships with new staff members over and over again.

Tips for Dealing with Issues

- ✓ Try to be part of a solution and not just a problem for agencies.
- ✓ Try to understand both sides of issues because that is what agencies must do.
- ✓ Understand the rules (laws, regulations, policies, politics, etc.) land managers must work within.
- ✓ Try to find "Win-Win" solutions.
- ✓ Tell land managers what it is you want or would like them to do, but also try to give them options.
- ✓ Be persistent, but always be professional.

Tips for Dealing with Disagreements

- ✓ Remember that agencies' decisions are professional – not personal.
- ✓ If decisions don't go your way, look for ways to improve your messages so future decisions might become more favorable to your positions.
- ✓ Just because land managers don't agree with you doesn't make them an enemy; they will continue being the decision makers, so look for ways to build and improve working relationships with them.
- ✓ Be willing to move up agencies' chain-of-command if necessary; however weigh your options and actions carefully considering your need for future working relationships with on-the-ground staff.
- ✓ Avoid burning bridges because you often need to cross them again before your journey ends.

FEDERAL LAND USE PLANNING

A three-tiered hierarchy of guidance directs the activities of any Federal agency. At the highest level, Congress establishes ***law***, which provides mandatory direction to agencies. Because laws are often very broad, agencies generate more specific direction by creating regulations and policies to further define and implement laws. Two key laws typically influence every Federal agency's planning efforts: the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 et seq.) and a land management act specific to each agency. The two most common Federal agencies which provide snowmobiling access are the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM). Their respective land management acts are the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by the National Forest Management Act of 1976, (NFMA, Section 6, 16 U.S.C. 1600), and the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1701 et seq.).

The NFMA establishes the USFS's land use planning requirements while sections 201 and 202 of the FLPMA establish the BLM's land use planning requirements. Section 102 of the FLPMA also sets forth the policy of periodically projecting the present and future use of public lands, as well as their resources, using the land use planning process. These laws result in the Forest Service preparing a Land Management Plan (LMP) and the BLM preparing a Resource Management Plan (RMP) to ensure that USFS- and BLM-administered lands are managed in accordance with requirements of NFMA, FLPMA, and NEPA; as well as with the principles of multiple use and sustained yield. The purpose and goals of these planning processes are to provide integrated plans that will guide future land use decisions and project-specific analyses for public lands under the care and management of both agencies.

Specifically, the purpose of a Forest Service LMP is to:

1. Describe the strategic guidance for forest management, including desired conditions, objectives, strategies, and guidance; and
2. Determine resource management practices, levels of resource production and management, and the availability and suitability of lands for resource management (36 CFR 219.1(b)).

The specific purpose of a BLM RMP is to:

1. Provide an overview of goals, objectives, and needs associated with public land management; and

2. Resolve multiple use conflicts and/or issues associated with those requirements that drive the preparation of the RMP.

Regulations are the second highest level of direction. When an agency creates new or revises existing regulations, other agencies and the public must review them. Agencies publish their finalized regulations in the Code of Federal Regulations (CFR) and in the Federal Register.

Agencies also issue ***policy***, the third level of direction, to provide even more detail to complement laws and regulations. Policies are internal documents that historically had no external review requirements. However effective January 2007 new policies which do not merely interpret existing laws and regulations or announce tentative policy positions – but which rather establish new policy positions that agencies treat as binding – must comply with public notice and comment requirements. Each Federal agency has its own Planning Handbook that spells out in policy how the agency will carry out the requirements of NEPA, its land management policy act, and its applicable planning regulations.

Relationship between Programmatic and Site-Specific Analysis and Tiering

LMPs and RMPs are programmatic documents that discuss environmental effects on a broad scale. Over the lifetime of a LMP or RMP, the selected alternative and the accompanying area-wide guidelines and design criteria set management directions by establishing and affirming rules and policies for use of natural resources.

LMPs, RMPs, and other federal agency land management plans look at a 'planning area-wide' (entire national forest, national park, BLM unit, etc.) level of analysis; therefore, they do not predict what will happen when such broad based standards and guidelines are implemented on individual, site-specific projects. Nor do they convey the long term environmental consequences of any site-specific project. The actual effects (impacts) will depend on the extent of each project, the environmental conditions at the site (which can vary widely across the public lands), and the mitigation measures and their effectiveness.

Completion of programmatic land management plans has typically involved the preparation of Environmental Impact Statements (EISs) which identify and analyze which consequences are most likely to occur under each EIS alternative in relation to different resources, and why they are likely to occur. Combining this broad based assessment later with site-specific information then helps managers and the interested publics make reasonable predictions about the kinds of environmental effects that could result from specific projects.

Given the complexity of natural systems, an EIS does not describe every environmental process or condition since this would be an impractical, if not impossible, undertaking. Rather, the purpose of a plan's EIS is to provide a survey of the broader environmental, social, and economic factors that are relevant to the programmatic planning process.

After the agency's final land management plan is approved, the analysis presented in the EIS is used in "tiering." (NEPA defines "tiering" as the coverage of general matters in broader EISs with subsequent narrower statements or environmental analyses that incorporate by reference the general discussions, allowing discussions to then concentrate solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when it helps the lead agency focus on the new issues and exclude from consideration issues already decided). Thus, the broader analysis and conclusions analyzed in development of land management plans can then be used as a starting point for future site-specific project planning within planning areas. Each future project's environmental effects analysis document incorporates, by reference, the information found in the LMP/RMP's EIS without the need to repeat the broader analysis process.

The USFS LMP planning process is guided by the 2012 Forest Service Planning Rule (available at https://www.fs.usda.gov/planningrule) and the agency's Planning Rule Directives (available at https://www.fs.usda.gov/detail/planningrule/home/?cid=stelprd3828310). Since forest planning can be a very complex issue, it's important to review the Rule itself along with the following publications developed to help

guide public and governmental participation in the various USFS planning processes: A Citizen's Guide to National Forest Planning (available at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd520670.pdf along with A Guide for State, Local and Tribal Governments – Understanding Your Opportunities for Participating in the Forest Service Planning Process (available at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd520672.pdf).

The rules governing the BLM's RMP planning process have been under revision for the past several years and the most recent revision attempt (known as Planning 2.0) was overturned in early 2017 by Congress and Presidential order. Consequently, future revision efforts remain in-process so refer to https://www.blm.gov/ for the most current updates and planning process direction.

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

The National Environmental Policy Act of 1969 (NEPA) [http://www.epw.senate.gov/nepa69.pdf] is the cornerstone of Federal environmental policy in the United States. It became law on January 1, 1970 and has been amended three times: in 1975, 1975, and 1982. NEPA is clearly the overarching guiding process by which access and use decisions on Federal lands must be made by land managers. NEPA defines the 'rules of the game' regarding access to public lands, so it is important that those working for snowmobiling access on Federal lands understand NEPA and work the process correctly to be effective. Visit the FHWA Environmental Review Toolkit for specific NEPA guidance at https://www.environment.fhwa.dot.gov/projdev/pd2implement.asp.

The purposes of this Act as stated by Congress include: "to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality." See Appendix 4 for the full NEPA Act.

NEPA requires that all Federal agencies give 'appropriate' consideration of all potential environmental impacts of proposed actions as part of all agency planning and decision making. It also defines nine procedures in Section 102 by which all Federal agencies must work to achieve six goals listed in Section 101 to 'prevent damage to the environment.' Additionally, agencies must tier their consideration to other specific resource laws such as the Endangered Species Act, the Clean Air Act, the Clean Water Act, etc.

NEPA also established a Federal agency, the Council on Environmental Quality (CEQ), to advise the President and to oversee NEPA compliance. As part of these oversight duties, CEQ published Regulations for Implementing NEPA (40 CFR Parts 1500 – 1508) in 1978. These extensive regulations were amended in 1986, reprinted in 2005, and are available at https://energy.gov/sites/prod/files/NEPA-40CFR1500_1508.pdf . These regulations require each Federal agency or department to also prepare their own set of implementing procedures to outline how they will comply with NEPA within their agency or department. CEQ has also offered extensive guidance on specific NEPA topics over the years. CEQ's NEPA Guidance is available at https://ceq.doe.gov/guidance/guidance.html.

What triggers NEPA? Essentially, proposing ***any*** Federal action triggers NEPA. Whenever an agency proposes any action, the decision maker must answer the following question: ***Might this proposed action be a 'Major Federal Action' significantly affecting the quality of the human environment?***

The agency is required by NEPA to answer the question using one of four methods and levels of documentation:

1. Prepare an **Environmental Impact Statement (EIS)** and a **Record of Decision (ROD)**;
2. Prepare an **Environmental Assessment (EA)** and a **Finding of No Significant Impact (FONSI)** with the FONSI meaning the EA determined that the proposed action ***will not*** significantly affect the quality of the human environment. However if a FONSI is not possible (meaning the EA determined there will be ***some*** level of significant impact), the agency must then prepare an EIS and a ROD in order to proceed with the proposed action;

3. Document that the proposed action meets a **Categorical Exclusion (CE)**; or
4. Prepare no environmental documents but still have a CE on file for the action (essentially means having a 'letter to the file' which documents the thought process as to why it is okay to proceed with the proposed action without further analysis).

What is a 'Major Federal Action' significantly affecting the quality of the human environment?
NEPA applies to all actions taken by a federal agency. **Federal** means that one of the following is involved with the action:

- Federal jurisdiction (lands, programs, etc.).
- Federal money involved.
- Federal employees involved.

Action is defined in 40 CFR 1508.18 as approving, undertaking, or funding in whole or part:

- New and continuing activities.
- Projects or programs funded or conducted by agencies.
- New or revised agency rules, regulations, plans, policies, or procedures.
- Legislative proposals.

Human Environment is defined in 40 CFR 1508.14 to comprehensively include the natural and physical environment.

Significantly is defined in 40 CFR 1508.27 as it applies to NEPA and is a complex and subjective term which has two parts:

A. **Context** (where) requires analysis and evaluation of the impacts from several aspects, including: society as a whole, the affected region, the affected interests, and local situations. Both short term and long term impacts are relevant.
B. **Intensity** is the "severity of the impacts" and has ten specific aspects relative to NEPA:
    1. Beneficial and adverse.
    2. Public health and safety.
    3. Unique characteristics and ecologically critical areas.
    4. Highly controversial impacts.
    5. Uncertain impacts.
    6. Precedent-setting actions.
    7. Cumulative actions and impacts.
    8. National Register of Historic Places.
    9. Endangered or threatened species or habitat.
    10. Violation of Federal, State, or local law.

NEPA Compliance Requirements and Decision Factors

NEPA has two Compliance Requirements:

- ✓ **Agencies must make informed decisions.** In respect to NEPA, **informed** means a candid and factual presentation of all potential environmental impacts. This means a range of 'reasonable alternatives' (not just one proposed action) must be available and duly considered by the decision maker before making a commitment of the agency's resources to carry out the proposed action.
- ✓ **Agencies must make diligent efforts to involve the public in their NEPA process**. In this case, **diligent** is defined at the agency's discretion depending upon how they interpret the severity of potential impacts. Ultimately if there is a dispute, a court will rule as to whether or not public involvement was 'appropriate' for the circumstances, which then shapes the agency's 'public involvement' for their subsequent NEPA processes. The intent of this requirement is that **public involvement** should mean that the agency listens to the publics' concerns early in their NEPA process and provides the public with environmental documents that are reasonably written.

Ultimately, the final decision regarding any proposed action includes many relevant factors:

- The agency's mission, goals, and objectives.
- Technical requirements for analyzing and/or implementing the action.
- Mandated (perhaps court-imposed) or planned schedule for a decision.
- Economics (funds available to analyze and/or implement the action).
- Other Federal environmental laws and regulations which include: Clean Water Act, Clean Air Act, Endangered Species Act, National Historic Preservation Act, Safe Drinking Water Act, Resource Conservation and Recovery Act, etc.
- Local environmental laws, regulations, and values.
- Social impacts.

An 'EIS' Versus an 'EA' Versus a 'CE': What are They?

Environmental Impact Statement (EIS)

- Any action that might have significant impacts upon the quality of the human environment requires an EIS. Since the ultimate judgment as to whether an impact may be *significant* rests with the local decision maker (with public scrutiny), this judgment is typically subjective versus being scientific.
- Extensive, formalized public involvement is mandatory, including: publishing a Notice of Intent to prepare an EIS in the *Federal Register*, holding appropriate public meetings or hearings; release of a Draft EIS for a minimum 45-day (or longer at the discretion of the decision maker) public comment period; and a Final EIS that addresses comments and/or makes changes in the draft, with a minimum 30-day public comment period.
- Can be avoided if mitigation actions would reduce the impacts below the level of being significant (to a point where an EA's FONSI fulfills NEPA's requirements).

Environmental Assessment (EA)

- Any action with the potential for significant environmental impacts but not on the list of categorical exclusions requires at least an EA.
- Public involvement is encouraged 'to the extent practicable' – but is not required.
- Through mitigation measures, an agency can reduce impacts below a 'significant level' and thereby prepare an EA versus an EIS. CEQ Regulations define five types of mitigation measures:
    1. Avoid the adverse condition.
    2. Minimize impacts by limiting degree or magnitude.
    3. Rectify the impact.
    4. Reduce or eliminate the impact over time.
    5. Compensate for the impact.

Categorical Exclusion (CE)

- Applies to actions which do not individually or cumulatively have a significant effect on the human environment.
- Generally there is no public involvement in the decision.
- Every agency has a published list of routine actions it has deemed to qualify as a CE (typically routine things like everyday maintenance, repetitive actions which have already had prior NEPA analysis, etc.).
- All CE actions on an agency's list must first pass "extraordinary circumstances" criteria before they can be categorically excluded. This means that if any of the following apply, the action cannot be categorically excluded and an EA must be prepared:
    1. Action has a greater scope or size than generally expected.
    2. Action has potential to further degrade already poor environmental conditions.
    3. Action has potential to adversely affect threatened or endangered species, archeological remains, historical sites, or other protected resources.
    4. Action employs unproven technology.
    5. Action involves critical environmental areas including: prime or unique farm lands, wetlands, coastal zones, wilderness areas, floodplains, or wild and scenic river areas.

An EIS and an EA both analyze the potential environmental impacts of the proposed action and alternative actions (alternatives). Differences between the two methods include:

- A standardized format for an EIS is recommended by CEQ regulations, whereas an EA's format can vary by agency or issue.
- EAs can cost between $30,000 and $200,000 to prepare if contracted out by the agency (although many are done in-house with agency staff), while an EIS is often (but not always) contracted out by the agency and can cost $250,000 to well over $1 million to complete.
- EAs typically take from three months to one year to complete, whereas an EIS can take one to three years to complete.
- If an EA is prepared and no significant impacts are found, the finding is filed as a Finding of No Significant Impact (FONSI) which includes a Decision Record ((DR) documenting the rationale for the FONSI decision. If an EIS is prepared, the choice of action/alternatives, and any associated mitigation action, is filed as the Record of Decision (ROD).

Typically, the purpose of an EA is to support a Finding of No Significant Impact for a Proposed Action. However, if the analysis in the EA cannot support a FONSI, then an EIS becomes necessary if the agency still wants to proceed with the Proposed Action. If any reasonable alternative actions exist, they must be examined in an EA, thus a 'Range of Alternatives' is common to most EAs. However in an EA, the focus is on the agency's Proposed Action, its impacts, and any potential mitigation measures the agency is analyzing. Comparatively, the purpose of an EIS is to disclose all potential impacts from a range of actions and to guide the agency in choosing between all potential action alternatives or a blend of the alternatives. Therefore an EIS will be much lengthier and more complex.

Figure 1: Typical steps in a NEPA analysis process

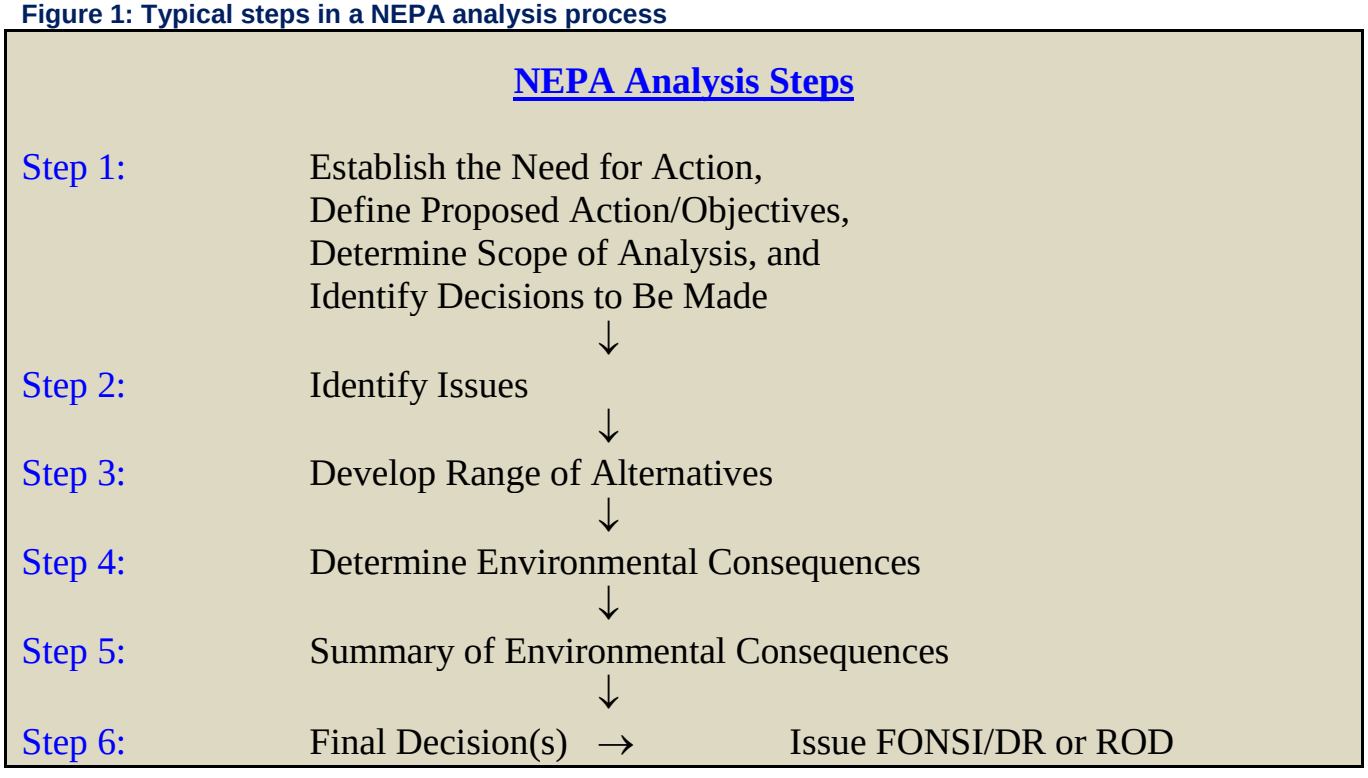
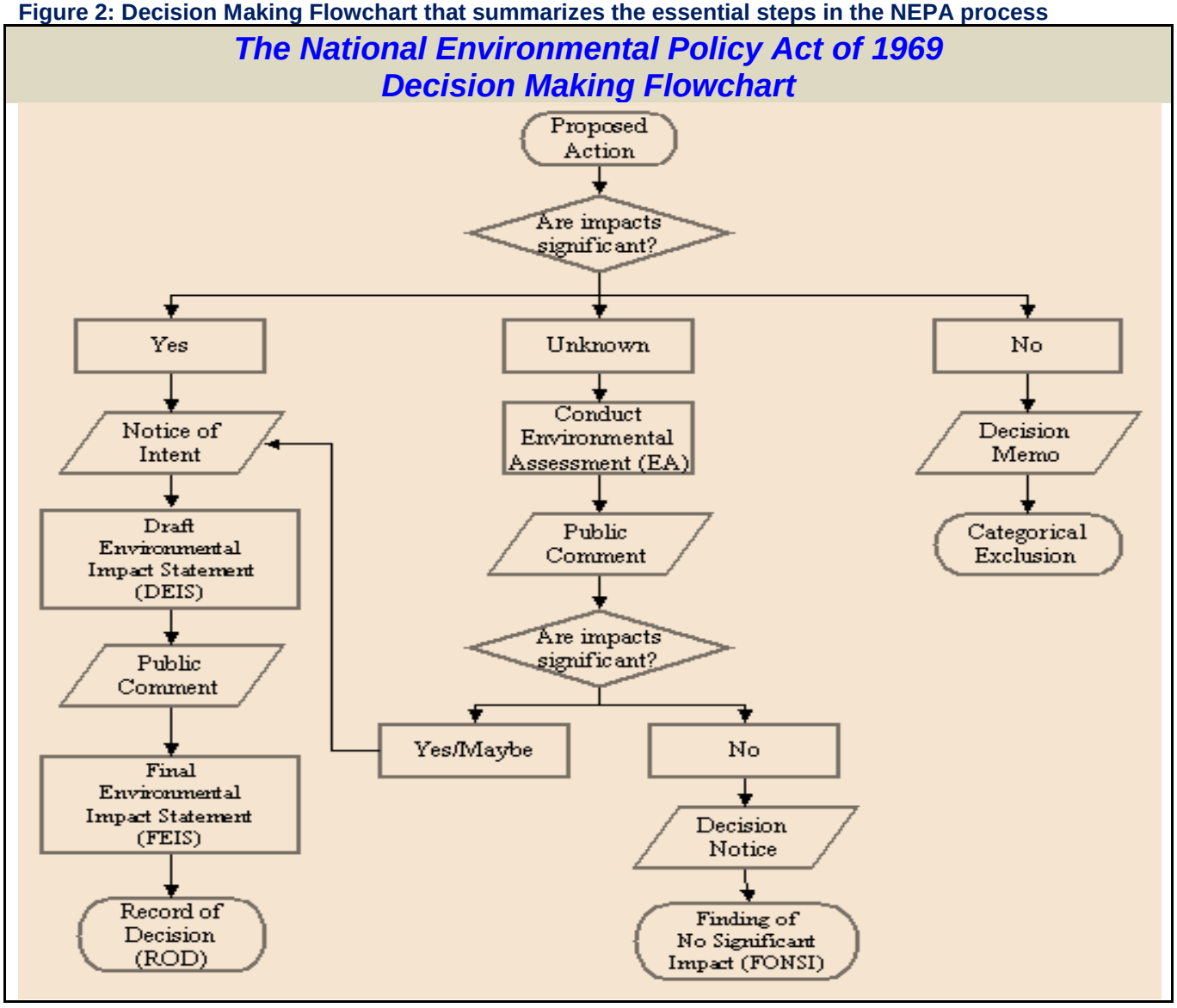


Figure 2: Decision Making Flowchart that summarizes the essential steps in the NEPA process



Typical EA/EIS Document Outline and Contents

EAs and EISs generally cover similar topics in each analysis even though an EIS will be much more detailed than an EA. Still, their contents as well as how those topics are organized in the documents are very similar. A typical outline for an EA or an EIS is as follows:

Introductory Sections

- ☐ Cover Sheet (Abstract).
- ☐ Summary.
- ☐ Table of Contents.
- ☐ Chart or Matrix of Issues.

Chapter 1: Purpose of and Need for Action

- ☐ Explains **who** wants to do **what**; **where** and **when** they want to do it; and also **why** they want to do it (their objectives).
- ☐ Explains any other EAs/EISs (previous or current on this topic or a related topic) that may influence the scope of this particular EA/EIS.

- ☐ Explains the decision(s) that must be made by this process and identifies any other agencies involved in this NEPA analysis.
- ☐ Summarizes the scoping (preliminary information gathering) for the process and explains significant issues that were identified. If applicable, it also identifies issues considered but eliminated from detailed analysis by this process.
- ☐ Lists all applicable Federal licenses, permits, and entitlements necessary to implement the project.
- ☐ Previews the remaining chapters of the document.

Chapter 2: Alternatives
- ☐ Describes the alternatives (potential actions) proposed by the analysis process.
- ☐ Explains how the alternatives represent a range of reasonable alternatives, including the proposed action and no action.
- ☐ If applicable, briefly describes any alternatives eliminated from detailed study and why they were eliminated.
- ☐ Summarizes the environmental consequences of the alternatives based upon outputs from potential actions.
- ☐ Provides a matrix that compares the alternatives by summarizing their environmental consequences.
- ☐ Often identifies the agency's preferred alternative.

Chapter 3: Affected Environment
- ☐ Presents the existing environment (baseline environmental conditions).
- ☐ Presents resources (issues) covered by the analysis. "Resources" includes all physical, biological, social, and economic features of the human environment.
- ☐ Relevant issues are more extensively discussed than non-relevant issues.

Chapter 4: Environmental Consequences
- ☐ This chapter is organized by resources (issues) which may include: Air Quality, Water Quality, Habitat/Vegetation/Timber, Wildlife, Natural Soundscapes, Socioeconomics, Health and Safety, Visitor Experience, etc.
- ☐ Details effects on each resource/issue (issue A, B, C, D, etc.) by alternative.
- ☐ Identifies cumulative impacts.
- ☐ Identifies any adverse effects that cannot be avoided.
- ☐ Identifies the relationship of short-term uses and long-term productivity.
- ☐ Identifies any irreversible and irretrievable commitment of resources.

Closing Sections
- ☐ List of Preparers.
- ☐ List of Agencies, Organizations, and Persons to Whom Copies of the document are sent to (also may be called the List of Agencies and Persons Consulted).
- ☐ Index.
- ☐ Appendixes.
- ☐ Scoping Information/ Public Input to the planning process.
- ☐ Bibliography and Cited References.
- ☐ Glossary of terms, acronyms, and abbreviations.
- ☐ Maps.

Interdisciplinary (ID) Team

Qualified experts must be used to conduct the environmental analysis required for a proper EIS or EA. This is done by using a team of specialists with expertise in pertinent topic areas (disciplines) and the work group is called the Interdisciplinary (ID) Team. The ID Team typically has representatives with expertise in air quality, water quality, wildlife, recreation, soils, vegetation, social science, economics, etc. This is the group that writes the various pieces of the document that ultimately end up as the EIS or EA. It's important that trail advocates get to know who these players are and to interact/communicate with them regularly, to both relay information you

believe is important to the planning process and also monitor what issues appear to be driving the document's development. Get involved with ID Team members early and stay engaged with them throughout the process.

RECREATION OPPORTUNITY SPECTRUM

What is the Recreation Opportunity Spectrum (ROS)? ROS is a recreation management tool developed by the USDA – Forest Service in the early 1980s to manage and administer natural settings for specific visitor experiences. Since that time other Federal agencies, as well as some States, have also adopted this system. The BLM uses a modified form of ROS through Outcomes-Focused Management (OFM) which considers the existing managerial/social setting versus the desired/acceptable management/social setting. This system provides the BLM ability to designate areas where the recreational experiences of snowmobilers, for example, are a top priority, even if the setting is primitive (non-Wilderness) – or vice versa where they could exclude snowmobilers from areas they've previously used. ROS, as well as its variations like OFM, are extremely important for advocates to understand as they work through the land use planning process.

The ROS system focuses on the identification and management of what land managers can provide in regard to space, facilities, and social and ecological conditions. Its main objective is to attain consistency in the management of recreation through the integration of recreation and resource management planning. ROS does not dictate resource management decisions but rather supports proactive and constructive integration of both recreational experience and opportunity considerations with the ecological considerations necessary for sustainable natural resource management.

The range of recreational experiences, opportunities, and settings available on a given area of land are classified through the ROS and can be divided into as many as six classes, depending on the geography and development of the location. ROS classifications range from essentially natural, low-use areas (resource-dependent recreational opportunities) to highly developed, intensive-use areas (facility/vehicle-dependent recreational opportunities) and typically include: Primitive, Semiprimitive Nonmotorized, Semiprimitive Motorized, Roaded Natural, Rural, and Urban.

ROS is a framework for inventorying, planning, and managing the recreational experience and setting. Each class is defined in terms of three principal components: the environmental setting, the activities possible, and the experiences that can be achieved. The goal of recreationists is to have satisfying leisure experiences by participating in their preferred activities in favorable environmental settings. Opportunities for them achieving satisfying experiences depends on natural elements such as vegetation, landscape and scenery, and conditions controlled by land management agencies, such as developed sites, roads, and regulations. The goal of agencies then becomes to provide the range of opportunities to obtain such experiences by managing the natural setting of their lands and the activities within it.

The most important factor in determining ROS classes is the **Setting**. This describes the overall outdoor environment in which activities occur, influences the types of activities, and ultimately determines the types of recreation that can be achieved. For individual recreationists, her/his recreational experience depends on the environmental setting and is often also influenced by recreationists' differences based on their background, education, sex, age, and place of residence.

The Recreation **Opportunity Class** and accompanying **Management Objectives** assigned to an area determine which recreational activities (snowmobiling) may be allowed in that area. While activities are not completely dependent on the Opportunity Class, and most can take place in some form throughout the spectrum, general activities can be characterized for each ROS class. Generally, snowmobiling could potentially occur in any Opportunity Class except Primitive.

Recreation Opportunity Settings

The ROS encompasses a variety of recreational settings under which certain experiences are possible.

Seven elements provide the basis to inventory and delineate recreational settings. They include:

Access: Includes the mode of travel used within the area and influences both the level and type of recreational use an area receives.

Remoteness: Concerns the extent to which individuals perceive themselves removed from human activity. Vegetation or topographic variation can increase this sense of remoteness. Remoteness (or the lack of remoteness) is important for some recreational experiences.

Naturalness: Concerns the varying degrees of human modification of the environment. Often is described in terms of scenic quality influenced by the degree of alteration of the natural landscape.

Site Management: Refers to the level of site development. Lack of site modifications can facilitate feelings of self-reliance and naturalness, while highly developed facilities can enhance comfort and increase the opportunity to meet and interact with others.

Visitor Management: Includes both regulation and control of visitors as well as providing them with information and services. A continuum of visitor management can be described, ranging from subtle techniques such as site design, to strict rules and regulations. In some recreational settings controls are expected and appropriate; in others, on-site controls detract from the desired experience.

Social Encounters: Involves the number and type of others met in the recreation area. Also measures the extent to which an area provides experiences for solitude or social interaction.

Visitor Impacts: Affects natural resources such as soil, vegetation, air, water, and wildlife. Even low levels of use can produce significant ecological impacts, and these impacts can influence the visitor's experience.

Recreation Opportunity Classes

Six Recreation Opportunity Classes were developed based on the seven elements described above. Essentially each Class represents a different place on the scale between 'natural, low-use areas' and 'highly developed intensive-use areas,' as determined by the sum of answers derived from assessing the seven Settings elements. At times these classifications can overlap. It's important to note that reclassification of an area typically only occurs through a NEPA-type evaluation process. The Recreation Opportunity Classes include:

Primitive: This setting is characterized by a large-sized area of about 5,000 acres or more, lying at least 3 miles from the nearest point of motor vehicle access. It is essentially an unmodified natural landscape, with little evidence of others and almost no on-site management controls. Activities include overnight backpack camping, nature study and photography, backcountry hunting, horseback riding, and hiking. The experience provides visitors with a chance to achieve solitude and isolation from human civilization, feel close to nature, and encounter a greater degree of personal risk and challenge.

Semi-Primitive Non-Motorized: This setting consists of about 2,500 acres or more lying at least ½ mile from the nearest point of motor vehicle access. The area is predominantly a natural landscape. Where there is evidence of others, interaction is low, and few management controls exist. Activities include backpack camping, nature viewing, backcountry hunting (big game, small game, and upland birds), climbing, hiking, and cross-country skiing. The experience provides for minimal contact with others, a high degree of interaction with nature, and a great deal of personal risk and challenge.

Semi-Primitive Motorized: This setting consists of about 2,500 acres or more within ½ mile of primitive roads and two-track vehicle trails. The area has a mostly natural landscape with some evidence of others (but numbers and frequency of contact seem to remain low) and few management controls. Activities include hunting, climbing, vehicle trail riding, backcountry driving, mountain biking, hiking, and snowmobiling. The experience provides for isolation from human civilization, a high degree of interaction with the natural environment, and a moderate degree of personal risk and challenge.

Roaded Natural: This setting consists of areas near improved and maintained roads. While these areas are mostly natural in appearance, some human modifications are evident, with moderate numbers of people, visible management controls, and developments. Activities include wood gathering, downhill skiing, fishing, off-highway vehicle driving, snowmobiling, interpretive uses, picnicking, and vehicle camping. The experience provides for a sense of security through the moderate number of visitors and developments, but with some personal risk-taking and challenges.

Rural: This setting is characterized by a substantially modified natural environment. Resource modification, development, and use are obvious. Human presence is readily evident; interaction between users is often moderate to high. Activities consist mostly of facility/vehicle-dependent recreation (including snowmobiling) and generally include vehicle sightseeing, horseback riding, on-road biking, golf, swimming, picnicking, and outdoor games. The experience provides modern visitor conveniences, moderate to high levels of interactions with others, and a feeling of security from personal risk.

Urban: This setting consists of areas near paved highways, where the natural landscape is dominated by human modifications. Large numbers of users can be expected. Sights and sounds of others dominate, while management controls are numerous. Activities are facility/vehicle-dependent (including snowmobiling) and can include concerts, wave pools, amusement parks, zoos, vehicle racing facilities, spectator sports, and indoor games. The experience provides for numerous modern conveniences, large numbers of people, interaction with an exotic and manicured environment, and a feeling of high personal security.

Management Objectives for ROS Classes

Objectives (sometimes also referred to as 'prescriptions') for a specific ROS class contain minimum guidelines and standards, as well as directions concerning the type of activities, physical and social settings, and recreational opportunities to be managed for. It is important to note that snowmobiling can potentially be allowed in all ROS classes except Primitive. The objectives for each ROS class include:

Primitive: The primitive class is managed to be essentially free from evidence of humans and on-site controls. Motor vehicle use within the area is not permitted. The area is managed to maintain an extremely high probability of experiencing isolation from others (not more than three to six encounters per day) and little to no managerial contact. Independence, closeness to nature, self-reliance, and an environment that offers a high degree of challenge and risk characterize this class. Backcountry use and management of renewable resources is subject to the protection of backcountry recreational values.

Semi-Primitive Non-Motorized (SPNM): Semi-primitive non-motorized areas are managed to be largely free from the evidence of humans and onsite controls. Motor vehicle use is not permitted (**except as authorized** – which is often for administrative use and sometimes for winter snowmobiling use. ***Example: a semi-primitive nonmotorized area can be designated as "open to over-the-snow vehicles from (date) to (date)" [or when adequate snow cover exists] – typically done by having a 'summer SPNM' ROS and a 'winter SPM' ROS***). Facilities for the administration of livestock and for visitor use are allowed but limited. Project designs stress the protection of natural values and maintenance of the predominantly natural environment. Areas are managed to maintain a good probability of experiencing minimum contact with others, self-reliance through the application of backcountry skills, and an environment that offers a high degree of risk and challenge.

Backcountry use and management of renewable resources are dependent on maintaining naturally occurring ecosystems. The consumption of renewable resources is subject to the protection of backcountry recreational values.

Semi-Primitive Motorized (SPM): These areas are managed to provide a natural-appearing environment. Evidence of humans and management controls are present but subtle.

Motor vehicle use is allowed, but the concentration of users should be low. On-site interpretive facilities, low-standard roads and trails, trailheads, and signs should stress the natural environment and be the minimum necessary to achieve objectives.

The consumption of natural resources is allowed. Effort is taken to reduce the impact of utility corridors, rights-of-way, and other surface-disturbing projects on the natural environment. Frequency of managerial contact with visitors is low to moderate.

Roaded Natural: Roaded natural areas are managed to provide a natural-appearing environment with moderate evidence of humans. Motor vehicle use is permitted and facilities for this use are provided. Concentration of users is moderate with evidence of others prevalent. Resource modification and use practices are evident but harmonize with the natural environment. Placement of rights-of-way, utility corridors, management facilities, and other surface-disturbing activities would be favored here over placement in semi-primitive non-motorized and semi-primitive motorized areas. The consumption of natural resources is allowed except at developed trailheads, developed recreational areas and sites, and where geological, cultural, or natural interests prevail. Managerial contact with visitors is moderate.

Rural: Rural areas are managed to provide a setting that is substantially modified with moderate to high evidence of civilization. Motor vehicle use is permitted. Concentration of users is often high with substantial evidence of others. Resource modification and use practices are mostly dominant in a somewhat manicured environment. Standards for road, highway, and facility development are high for user convenience. Frequency of managerial contact with visitors is moderate to high.

Urban: Urban areas are managed to provide a setting that is largely modified. Large numbers of users can be expected, and vegetation cover is often exotic and manicured. Facilities for highly intensified motor vehicle use and parking are available, with mass transit often included to carry people throughout the site. The probability for encountering other individuals and groups is prevalent, as is the convenience of recreational opportunities. Experiencing natural environments and their challenges and risks is relatively unimportant. Opportunities for competitive and spectator sports are common.

MANAGEMENT AREAS

ROS classifications are generally used to develop a range of Management Areas (MA) [zones] which differentiate between management emphasis, the desired level of development, and the suitability for different resource uses and activities from location to location across the agency's planning area. Areas within the planning area are typically allocated to one of eight management areas (MAs). These MAs range from areas where natural processes dominate and shape the landscape to areas that are intensely managed. MAs are intended to describe the overall appearance desired within the area, as well as the uses and activities that may occur. Snowmobiling is generally prohibited in MA 1s and often not allowed in MA 2s. While it could generally be allowed in all other MAs, it would most commonly occur in MAs 3, 4, or 5. While the actual MA numbering scheme may vary locally, the eight typical MAs are described generally as follows:

MA 1 - Natural Processes Dominate: Areas allocated under this MA include relatively pristine lands where natural ecological processes operate free from human influences. Succession, fire, insects, disease, floods, and other natural processes and disturbance events shape the composition, structure, and landscape pattern of the vegetation. These areas would continue to contribute significantly to ecosystem and species diversity and

sustainability. They would also continue to serve as habitat for fauna and flora, wildlife corridors, reference areas, primitive recreation sites, and places for people seeking natural scenery and solitude. Roads and human structures would be absent and management activities would be limited on MA 1 lands. In most cases, motorized travel as well as mechanized equipment would be prohibited. MA 1s would include designated Wilderness, Wilderness Study Areas, and other non-designated lands where the desired condition would be to maintain the undeveloped natural character of the landscape.

MA 2 - Special Areas and Unique Landscapes: Areas allocated under this MA include areas possessing one or more special feature, or characteristic, which make them and their management unique from other areas within the planning area. MA 2s typically include Research Natural Areas (RNAs), Areas of Critical Environmental Concern (ACECs), Wild Horse Herd Management Areas, Archaeological Areas, Habitat Management Areas (HMAs), Botanical Areas, or other unique areas that have a mix of special features and uses. In general, MA 2s are managed in order to protect and/or enhance their unique characteristics and, as such, management intensity and suitability would vary by each area.

MA 3 - Natural Landscapes with Limited Management: Areas allocated under this MA typically include relatively unaltered lands where natural ecological processes operate mostly free from human influences. Succession, fire, insects, disease, floods, and other natural processes and disturbance events would continue to predominantly shape the composition, structure, and landscape pattern of the vegetation (although management activities might also have an influence). These areas would continue to contribute to ecosystem and species diversity and sustainability, and to serve as habitat for fauna and flora, wildlife corridors, reference areas, primitive and semi-primitive recreation sites, and places for people seeking natural scenery and solitude. Roads and human structures would be present, although uncommon.

Management activities would be allowed, but would be limited in MA 3s. They would be reserved primarily for restoration purposes brought about by natural disturbance events and/or by past management actions. Management activities could include restoration of ecological conditions or habitat components; prescribed fire; wildland fire use; salvage logging following fire, insect epidemics, or a wind event; hazardous fuels reduction; invasive species reduction; etc. Temporary road construction and motorized equipment could be used in order to achieve desired conditions; however, most roads would be closed upon project completion. Motorized and nonmotorized recreation opportunities would exist, and livestock grazing would occur on many of these lands.

MA 4 - High-Use Recreation Emphasis: Areas allocated under this MA include places where recreation would be managed in order to provide a wide variety of opportunities and experiences to a broad spectrum of visitors. The area allocations would be associated with, and would often provide access to, popular destinations, transportation corridors, scenic byways, scenic vistas, lakes, and/or streams. These areas tend to be altered, but would also include some more undeveloped places, such as backcountry travel corridors. In MA 4s, visitors could expect to see a wide range of human activities and development including roads, trails, interpretive sites, campgrounds, trailheads, fences, mountain bikes, and day-use facilities. Motorized and nonmotorized activity would be common. Natural ecological processes and disturbance agents, including succession and fire, would often be influenced by humans on most of these lands. Resource uses (such as livestock grazing, timber management, wildlife management, etc.) might occur in conjunction with surrounding recreation and scenic objectives.

MA 5 - Active Management (commodity production to meet multiple use goals): Areas allocated under this MA would include multiple use areas where active management would occur in order to meet a variety of social, economic, and/or ecological objectives. These areas would be easily accessible, occurring mostly on roaded landscapes and on gentle terrain. These would include lands where timber harvesting, oil and gas activities, and intensive livestock grazing would occur, and would, as a result, influence the composition, structure, and landscape pattern of the vegetation. Natural ecological processes and disturbance agents, including succession and fire, would be influenced by humans on many of these lands. A mosaic of vegetation conditions would often be present, with some showing the effects (impacts) of past management activities, and

others appearing predominantly natural. These areas would continue to contribute to ecosystem and species diversity, and to serve as habitat for fauna and flora.

Visitors in MA 5s could expect to see a wide range of human activities, development, and management investments (including roads, trails, fences, corrals, stock ponds, timber harvesting equipment, oil and gas wells, mountain bikes, and/or livestock). Maintenance of past and current investments is anticipated to be continued for future management opportunities. Motorized and nonmotorized recreation opportunities would be easily accessed by the relatively dense network of roads found on these lands. Hiking trails would provide access for visitors who could expect contact with others. Developed recreational facilities that provide user comfort, and resource protection would be present.

MA 6 - Grasslands: Areas allocated under this MA are primarily non-forested ecosystems that are managed to meet a variety of ecological and human needs. Ecological conditions will be maintained while emphasizing selected biological (grasses and other vegetation) structures and compositions which consider the range of natural variability. These lands often display high levels of investment, use, and activity; density of facilities; and evidence of vegetative manipulation. Users expect to see other people and evidence of human activities. Facilities supporting the various resource uses are common. Motorized transportation is common.

MA 7 - Public and Private Lands Intermix: Areas allocated under this MA include places where public lands are near private lands (in such a manner that coordination with communities and local governments would be essential in order to balance the needs of both parties). MA 7s would often be associated with towns and cities, as well as with the houses, structures, people, and values associated with them. Visitors in MA 7s could expect to see a wide range of human activities and development (including roads, trails, fences, signs, mountain bikes, ATVs, pets, and/or livestock).

The nearness of these areas to private lands would make them a priority for fuels and vegetation treatments in order to reduce wildfire hazards. The “backyard” or rural recreation setting provided by many of these lands would be an amenity to the active lifestyles and quality of life for local residents. Hiking and biking could be common activities. These areas would continue to contribute to ecosystem and species diversity, and to serve as habitat for fauna and flora. Winter range for deer and elk would continue to be a common component of MA 7s, as would seasonal closures in order to reduce animal disturbance. Natural ecological processes and/or disturbance agents, including succession and fire, would be influenced by humans on most of these lands.

Land exchanges, acquisitions, and/or land disposals could be used in order to improve the intermingled land ownership patterns that are common in MA 7s. Cooperation with adjacent landowners and local governments would continue to be necessary in order to improve access and to convey roads to county jurisdictions, where appropriate. Such cooperation would also be necessary in order to improve the transportation network, protect resources, and allow authorized legitimate access to public lands. Utility and communication distribution lines would tend to be more common in these areas.

MA 8 - Highly Developed Areas: Areas allocated under this MA include places where human activities have permanently changed the planning area, and have, in most cases, completely altered the composition, structure, and function (ecological processes and disturbance agents) of the associated ecosystems. These areas, which often provide large socioeconomic benefits, include downhill ski areas, marinas, and other recreation developments.

WORKING WITH THE U.S. FOREST SERVICE

Understanding the Forest Service Structure

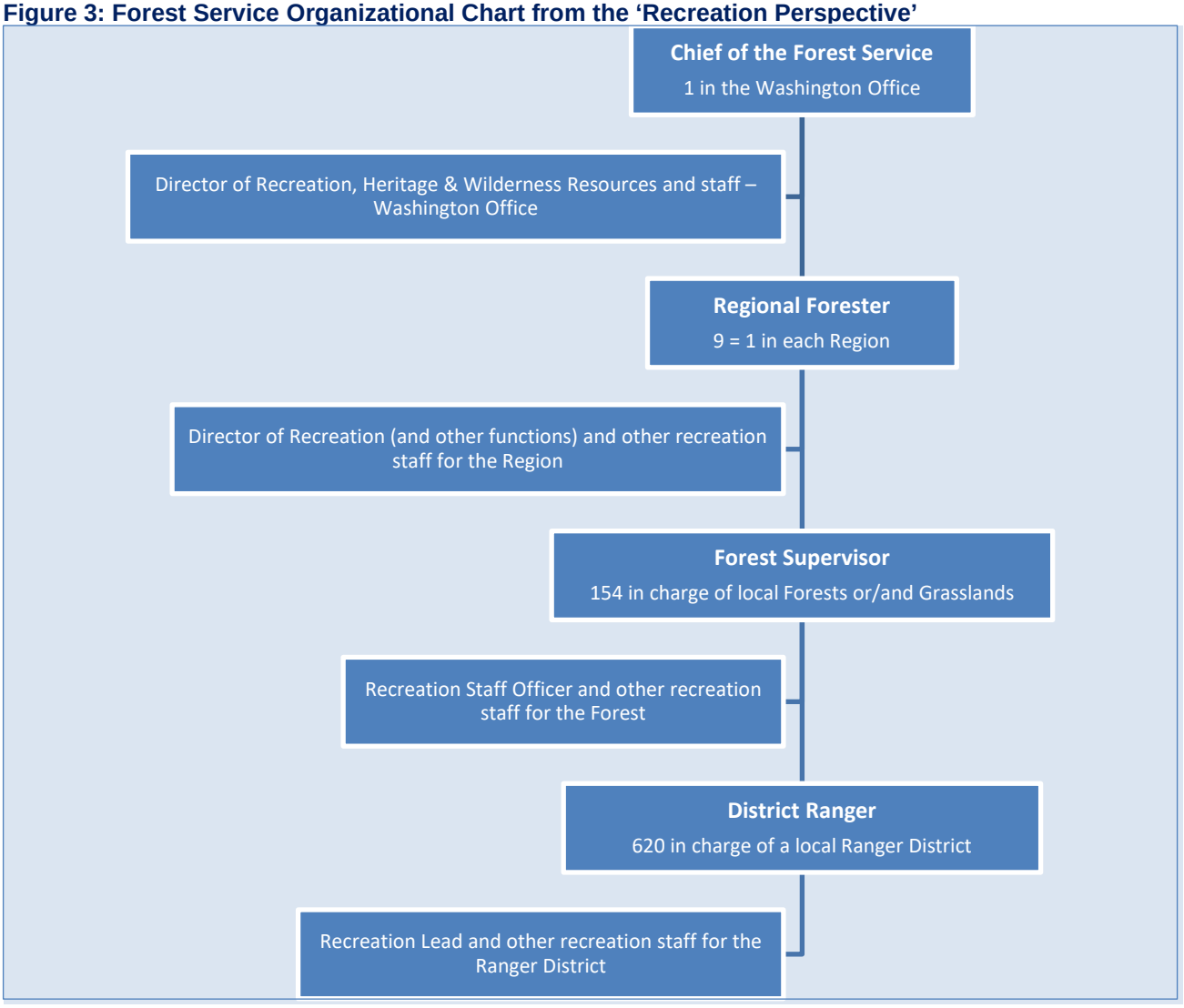
The Forest Service (www.fs.fed.us) is part of the U. S. Department of Agriculture (USDA) with its national headquarters in Washington, D.C. It manages 193 million acres of land with oversight from a structure that includes nine Regional Offices, 154 National Forests and 20 National Grasslands, and over 600 Ranger Districts

at the local level within those forests and grasslands. It is, by far, the largest provider of snowmobiling opportunities on public lands within the United States.

In recognition of the importance of providing snowmobiling on its lands, the Forest Service renewed a Service-wide Memorandum of Understanding (MOU) in 2016 (replaced 2005 MOU) with the American Council of Snowmobile Associations (ACSA) and the International Snowmobile Manufacturers Association (ISMA). The purpose of this MOU was to "establish a general framework of cooperation upon which mutually beneficial programs, work projects, and snowmobile activities may be planned and accomplished on National Forest System lands." The MOU further states that, "Such programs, projects, and activities complement the Forest Service mission and are in the best interests of the public." A copy of this MOU can be found in Appendix 5.

The mission of the Forest Service is to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations. Its motto, "CARING FOR THE LAND AND SERVING PEOPLE," captures this mission which emphasizes quality, multiple use land management to meet the diverse needs of people. This multiple use mandate provide a diversity of recreation opportunities, including snowmobiling, on national forest lands. Since there are extreme demands for the use of these lands by diverse and competing interests, it is critical that snowmobilers understand how the Forest Service works and engage in its planning and management processes.

Figure 3: Forest Service Organizational Chart from the 'Recreation Perspective'



The positions on the right side (in bold) of the Forest Service Organizational Chart in Figure 3 above are known as the 'line officers' (those with decision making authority) within the Forest Service. The recreation positions shown on the left side of the chart are 'staff officers' or 'recreation staff' that – while important for helping develop policies or recommendations and conducting day-to-day business – have no authority to sign off on final policy decisions.

It's important to note that the Forest Service follows a 'decentralized' decision making process – so most decisions are left to the lower levels with 'guidance' from the upper level line officers and from staff positions (left side of chart). This means that the District Ranger makes most decisions at the local level. As an issue raises in importance or controversy, or crosses administrative boundaries, the point of decision may (or may not) advance up the ladder of line officers – from District Ranger to the Forest Supervisor to the Regional Forester and, ultimately, to the Chief. It is therefore critical to work most issues from the bottom (district level) up since the District Ranger is the top/most common decision maker (even though it appears on paper they are at the bottom of the totem pole). Exceptions to this would be when processes are initiated at the forest, region, or national levels (revision of a forest's management plan or implementation of a national travel policy, for instance). In such cases you must work the process through the forest-wide (or higher) planning team versus isolating your input only through a single local district office.

While it's extremely important to get to know and to work with recreation staff at various levels of the Forest Service – because they are the primary advisers to the line officers – it can be a mistake to work solely with them. It is critical that decision makers (the line officers) know who you (snowmobilers) are and have first-hand familiarity with your issues. Reach out to them, feed them information, get to know them, and invite them to go snowmobiling with you so they can view your issues first-hand.

Another thing to keep in mind in respect to recreation staff (the left side of the chart) is that they typically have many and varied "other duties." In the Washington Office, the title of the staff position is 'Director of Recreation, Heritage, and Wilderness.' This is often true with similar positions at the Region, Forest, and sometimes even District levels. 'Recreation' means all types of recreation including motorized and nonmotorized activities as well as diverse things like campgrounds, marinas, and downhill ski areas. 'Heritage' refers to historic preservation, cultural resources, tourism, etc. and 'Wilderness' is just that – Wilderness with no motorized use. Therefore 'recreation staff' may not have a strong (or any) background with snowmobiling. It is imperative that you make concerted efforts to help educate them as to your needs and priorities because, if you don't, they most likely will not know or understand. On the other hand, if they have 'wilderness' in their title, it's a sure bet that person has had experience with it at some point during their career – so they do know nonmotorized recreation. It is far less likely that staff will have experience with snowmobiling management, so their education about snowmobiling is vital and largely your responsibility if it's going to happen.

Forest Service Planning Process Overview

1. The "decision authority" for most actions is placed at the lowest level of the agency (District Ranger).
2. Planning decisions are always subject to NEPA.
3. The Forest Service uses a "tiered" system of planning with two levels:
   - Strategic/Programmatic: provides overall strategic guidance for the sustainable management of the National Forest (*example:* a Forest Land and Resource Management Plan).
   - Site Specific Projects: provides analysis of the effects of a site-specific on-the-ground Federal action (*example:* trail construction project or other ground disturbing actions) or establishes direction for a specific program or identifies and designates specific uses on specific routes (*example:* a Travel Management Plan).

When developing alternative actions for its plan, the agency must:

- ✓ Evaluate reasonable alternatives and explain reasons for eliminating others.
- ✓ Give substantive treatment to all alternatives which are considered in detail.

- ✓ Reasonable alternatives must meet the Purpose and Need and address one or more of the significant issues identified for (why) the planning process.

When evaluating Alternatives for their plan:

- ✓ The agency's field specialists gather data, conduct required surveys, and evaluate information; this is a great opportunity for snowmobilers to help the various specialists collect information.
- ✓ The agency's field specialists analyze the effects of various proposed actions within various alternatives.
- ✓ Based upon the analysis, the agency develops findings and recommendations between various aspects of the alternatives.

Public Review of the Environmental Document:

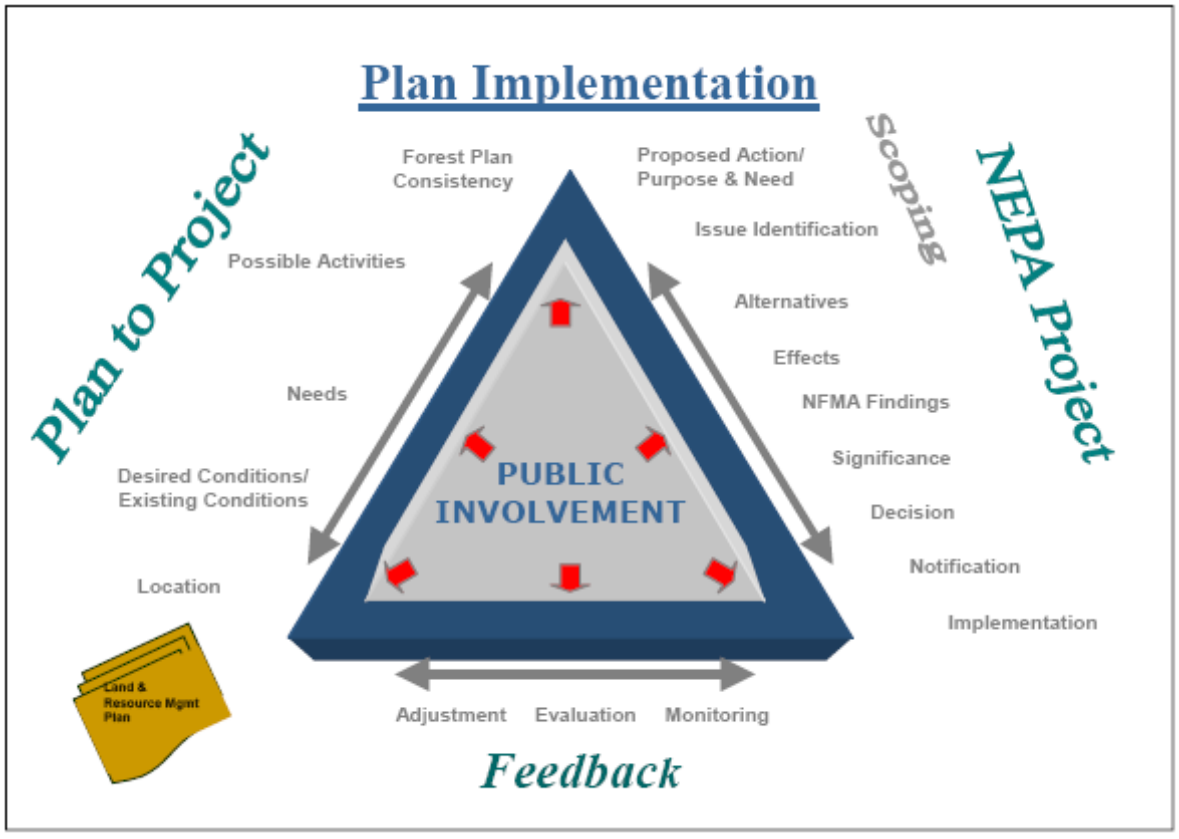
EIS: The first required opportunity for public review of the document is upon release of the Draft EIS, which is midway to three-fourths of the way through the process; the agency may add more opportunities earlier in the process, entirely at their discretion.

EA: The analysis is released for a 30-day (or sometimes longer) public review before the final decision is made, which is very near to the end of the process.

It's important that the public base their comments on a review of the information presented in the document versus going off on tangents about issues that are outside the scope of issues being considered by the document. They should also address information submitted earlier in the process, particularly if the agency did not use it in the document's analysis or failed to use it in its proper context.

Figure 4 below illustrates the numerous steps in the Forest Service planning process – from developing an idea into a plan to implementation of the idea as a project. Public involvement is central to all steps of the process, so snowmobilers need to ensure they take advantage and participate from beginning to end.

Figure 4: The Forest Service Public Involvement Triangle



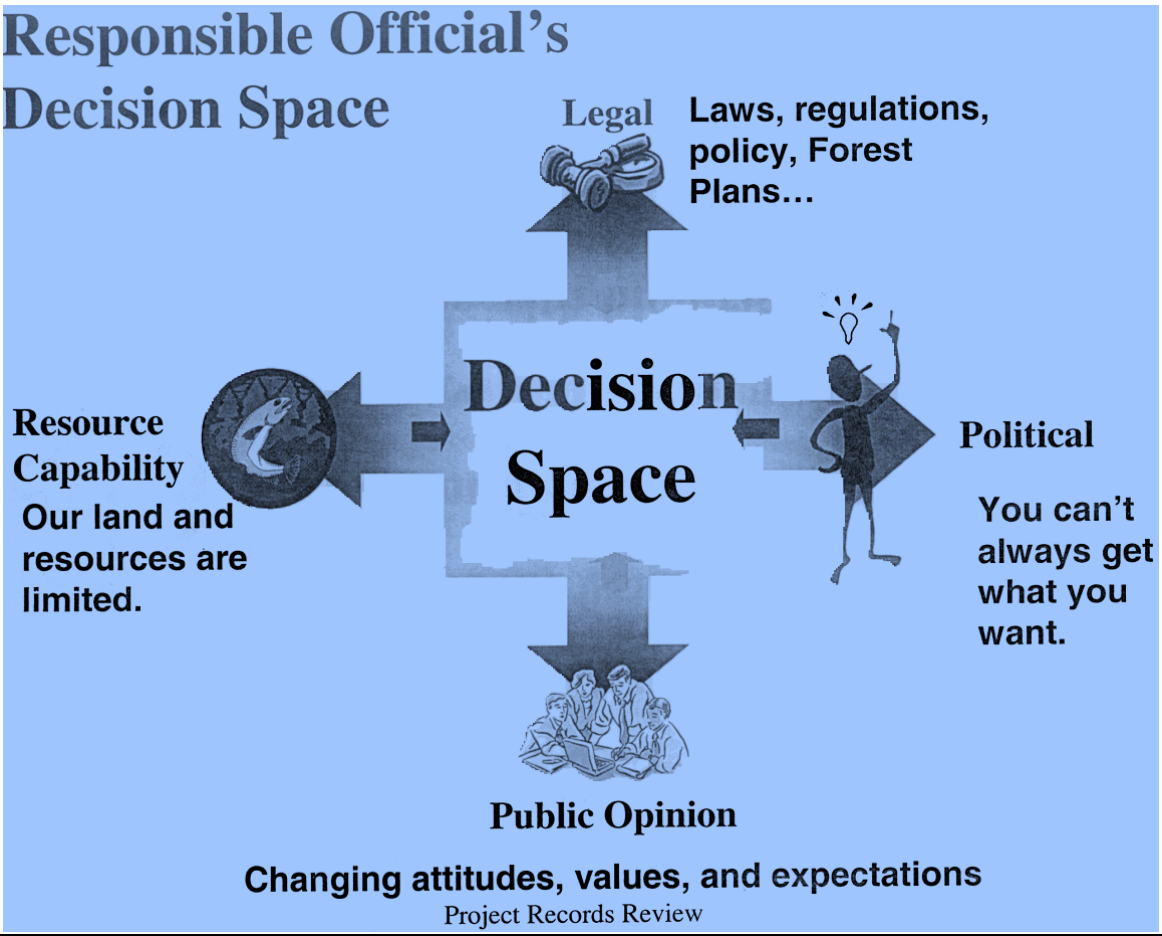
An Official's Decision Space

Figure 5 below illustrates the "space" and four factors/pressures within which responsible officials must make their decisions. These four factors include:

1. Legal Constraints
2. Resource Capability
3. Public Opinion
4. Political Pressures

Decision making officials often have little flexibility within their Legal Constraints; additionally, since their Resource Capability is also often limited, they ultimately may be quite limited on two sides of their decision making space. It is therefore important that snowmobilers weigh in on the Public Opinion front – so officials clearly understand the importance of their decisions in respect to snowmobiling. Likewise, Public Opinion can help sway the Political side of issues – so if you don't apply pressure to politicians, you likely may not have support from that side of the process. The bottom line is that if you don't participate and apply pressure to the two sides where decision makers may have options, positive decisions will be less likely to come your way.

Figure 5: A Responsible Official's Decision Space



National Forest Management Act (NFMA)

The National Forest Management Act (NFMA) amended the Forest and Rangeland Renewable Resources Planning Act (RPA) of 1974 to require preparation of Land Management Plans for National Forests and National Grasslands. Land management plans provide guidance and direction to the agency for all resource management activities on the unit.

Under the NFMA, the Forest Service must prepare land management plans using an Interdisciplinary (ID) team and public participation. In addition, the Forest Service must comply with the National Environmental Policy Act (NEPA) in the development, review, and revision of LMPs. Permits, contracts, plans, and other instruments used in managing National Forest System lands—such as timber sale contracts, grazing permits, recreation development, and mine reclamation plans—must be consistent with land management plans.

Forest Service Travel Management Rule

History of the Forest Service Travel Rule

The U.S. Department of Agriculture – Forest Service issued its Travel Management Rule (TMR) in November 2005 in response to concerns about 'unmanaged off-highway vehicle (OHV) recreation being one of the four major threats currently facing management of national forests and grasslands.' This service-wide travel management rule dramatically changed OHV planning by requiring a systematic approach to designating motor vehicle use on Forest Service roads, trails and areas by type of vehicle, and if appropriate, by time of year. Subpart B of the TMR generally restricted all wheeled motor vehicles to designated roads and trails and mostly eliminated their cross-country travel off designated travel routes.

Group of snowmobile riders in an open area

Subpart C of the TMR addresses over-snow vehicles (OSVs), which includes snowmobiles, differently from other motor vehicles and was amended in 2015 as the result of a lawsuit filed by the Winter Wildlands Alliance (WWA), a national quiet-use group.

The amended Subpart C – OSV portion of the TMR became effective January 2015. It's contained in Title 36 Code of Federal Regulations, Part 212 – Travel Management, Subpart C – Over-Snow Vehicle Use. Revised Subpart C and other pertinent TMR regulations can be found in Appendix 1 of the workbook link below.

Understanding the OSV Travel Rule

Subpart C – the OSV portion of the Travel Rule – is distinctly different than Subpart B which applies to all other motor vehicles. It's important to understand those differences – whether snowmobilers, Forest Service employees, or other trail managers and users – to properly apply the OSV rule on the ground and ensure an appropriate range of desired snowmobile riding opportunities remain available going forward.

Snowmobilers riding on a trail

The American Council of Snowmobile Associations (ACSA) has developed *Implementation Guidance for the U.S. Forest Service Over-Snow Vehicle (OSV) Travel Management Rule* to help guide snowmobilers and trail managers. This information is available in both a guidebook format at http://www.snowmobileinfo.org/snowmobile-access-docs/Implementation-Guidance-USFS-OSVtravel-rule.pdf and PowerPoint format at http://www.snowmobileinfo.org/snowmobiling-access-resources.aspx#Snowmobile-Access-Education-Resources . Key elements of Subpart C include:

Purpose
Subpart C provides for a system of roads, trails and areas on National Forest lands to be designated for motorized OSV use. Once roads, trails and areas are designated for use under Subpart C, all other OSV use is prohibited if not in accordance with the prescribed OSV use designations.

Once the OSV designation process is complete – if it's not on the OSV travel map, it's not open to snowmobile travel

- Other types of motor (wheeled) vehicles operating over snow will continue to be regulated by Subpart B

Scope
The OSV Travel Rule will affect all National Forest System (NFS) lands where snowfall is adequate for OSV use to be allowed. The responsible official may incorporate previous administrative decisions regarding OSV use, made under other authorities, in designating roads, trail and areas for OSV use under Subpart C.

'Where snowfall is adequate' is the distinguishing criteria for where the OSV rule applies

- The final rule does not set or suggest using minimum snow depths.
- The ability for Forest Service officials to incorporate previous decisions is very significant in respect to minimizing long, burdensome travel planning processes where some type of winter travel designation already exists; consequently they are not required to open up / redo older decisions that have designated where OSV use can occur.

Timeframe
There is no required timeframe or deadline by which the Forest Service must complete OSV travel management designations.

- Having no completion deadline is important since implementation of the OSV rule is just one more unfunded mandate for the agency; at the same time there is no expectation that the Forest Service will delay its implementation for too long.

Key Definitions
Over-Snow Vehicle (OSV): A motor vehicle that is designed for use over snow and that runs on a track or tracks and/or a ski or skis, while in use over snow.

- The Forest Service OSV definition is very broad and includes a wide variety of tracked vehicles as shown in example photos below.
- Vehicle types can potentially be narrowed down to only specific vehicles being allowed through travel plan decisions, if desired locally.
- Since this definition is broader than many state's snowmobile definition, travel planning will also need to reconcile those differences on a local case by case basis.

Snowmobile

Snow Bike

Tracked ATV

Tracked UTV

Tracked Van Conversion

Area: A discrete, specifically delineated space that is smaller, and except for over-snow vehicle use, in most cases much smaller, than a Ranger District.

Significant difference from Subpart B:
Subpart C recognizes that cross-country travel by OSVs is acceptable in appropriate circumstances that can be large scale – which could involve a culture shift in the management of some areas

- The OSV rule expanded the Forest Service area definition so it can essentially include an entire administrative unit (forest or district) in respect to OSVs.

- This may potentially require the reorientation of Forest Service employees – who have been focused on 'route-route-route' designations since 2005 in respect to most other motor vehicles – that large open OSV riding areas can be perfectly acceptable.

Designations
If deemed appropriate, OSV use may be designated by:

- **Class of Vehicle**
  - Width
  - Type
- **Time of Year**
  - Dates

Example tracked UTV width versus snowmobile width

- Class of Vehicle will be an important decision factor for local levels if there is a desire or need to narrow down the types and width of OSVs allowed. For example a tracked Ranger is 68.5" wide while a snowmobile is generally not wider than 48" – so local maximum trail widths may dictate a need to restrict some vehicle types and/or widths due to safety issues.
- 'Snowmobile season' dates may come into play in some areas more than what's been seen in the past.
- 'Snow Depth' is not a designation criteria; it is instead addressed overarching in the final OSV Rule as 'where snowfall is adequate.' This is significant and appropriate since snow depth can be nebulous and generally inconsistent from one place to another within single sight-lines, as well as ever-changing due to wind and other uncontrollable weather conditions.

Uses Exempt from Travel Designations
The following uses are exempt from OSV travel designations:

- Limited Forest Service administrative use;
- Emergency purposes for fire, military and law enforcement;
- National defense purposes for combat;
- Law enforcement response to violation of laws, including pursuit; and
- Special use specifically authorized under a written authorization (permit) issued under Federal law or regulation.

Existing Management Decisions That Remain In Place
The three following decision types have existed for decades and have substantially defined – and will continue to define – the sideboards as to where OSV use can be allowed:

1. **Forest Plan:** the Recreation Opportunity Spectrum (ROS) classification for individual management areas has zoned where winter motorized use is permissible; so if not allowed by the Forest Plan, OSV use cannot occur and is not open for revision during travel planning.

   - Every unit has a Forest Land Management Plan (Forest Plan) which uses the ROS classification to define (limit) where winter motorized use is potentially allowed. Forest Plan ROS area prescriptions cannot be changed without a Forest Plan amendment – so OSV travel planning is generally NOT going to expand winter motorized use beyond what the Forest Plan allows.

It's a myth that OSV use has previously been unmanaged on NFS Lands

ROS management area classifications in the Forest Plan zone where winter motorized use is permissible or not

2. **Existing Travel Plans:** some units have winter motorized travel plans in place which may have further defined allowable OSV use; these existing decisions may be revised – but only through a new travel planning process that includes public participation and as per what the Forest Plan's ROS allows in its various management areas.

   - Existing or future travel plans can further define/restrict where OSV use is allowed.

3. **Area or Project Specific Management Plans:** site-specific plans may have also placed restrictions on OSV use; these existing decisions may also be revised through travel planning as per Forest Plan management prescriptions.

   - Other site-specific projects or plans can further define/restrict where OSV use is allowed.

Public Involvement
The requirement for public involvement differs for implementing Existing Decisions versus New Decisions:

A. **EXISTING DECISIONS: Public notice with no further public involvement** is sufficient **only if** the unit made **previous administrative decisions** under other authorities that restricted OSV use to designated routes and areas, which **included public involvement, and no change is proposed** to the previous travel management decision.

   - It's generally best to keep an existing travel management decision and roll it into a Subpart C

If there's an existing winter travel plan that was created with public input – it's generally best to roll it into a Subpart C designation without further public involvement

designation, even if it's not perfect. Otherwise all existing 'winter motorized' areas on the unit are open for reconsideration and a potentially long, drawn-out revision process.

- Use the annual OSV designation revision process to improve upon any imperfections since it's generally easier to address issues in specific targeted areas rather than working a travel planning process that covers an entire forest.

B. **NEW DECISIONS: Public participation is required for all new designations** of Forest Service roads, trails and areas for OSV use under Subpart C – **as well as for revising existing designations**.

If a unit does not have an existing winter travel plan decision – it will need to complete a designation process using public participation

- Advance notice must be given to allow for public comment
- Coordination with Federal, State, County, Local and Tribal governments is required

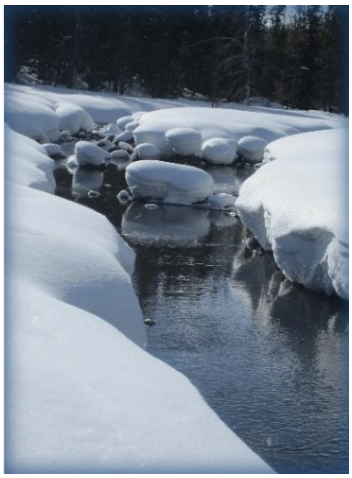
EXCEPTION: No public notice is required for temporary, emergency closures related to short-term resource protection or to protect public health and safety

Designation Criteria Categories
The following five criteria categories must be considered during travel management designation:

1. **General Criteria Considerations for all roads, trails and areas**
   General criteria that must be considered includes:

   - Natural and cultural **resources**
   - Public **safety**
   - Provision of recreational **opportunities**
   - **Access** needs
   - **Conflicts** among uses of Forest Service lands
   - The need for **maintenance and administration** of roads, trails and areas due to any designation, as well as the availability of resources for maintenance and administration if designated

   - General Criteria are normal topics routinely considered any time the Forest Service makes any decision related to a project or plan


Water resources

2. **Trail and Area Criteria Considerations**
   Trail and Area criteria have the specific objective of MINIMIZING impacts and include the following:

   - **Damage to** soil, watershed, vegetation and other forest **resources**
   - **Harassment of wildlife** and significant disruption of wildlife habitats
   - **Conflicts between** motor vehicle use and existing or proposed **recreational uses** of Forest Service lands or neighboring Federal lands
   - **Conflicts among** different **classes of motor vehicle uses** of Forest Service lands or neighboring Federal lands


New winter trail users

- The Trail and Area Criteria are often referred to as the **Minimization Criteria** – meaning does the decision do the best it can to **MINIMIZE** potential impacts to various resources and wildlife, as well as potential conflicts between OSV use and other recreational uses as well as between different classes of motor vehicles.
- These criteria are considered every time there is a decision related to motorized recreation – so nothing new and certainly nothing to be afraid of even though some groups try to make a big deal out of 'complying with the minimization criteria.'
- The stated objective is to MINIMIZE – it does not say the agency must prohibit or totally eliminate impacts – so the goal is to make sure the proposed action does the best it can to 'minimize' impacts in order to allow a favorable decision/result for continued OSV use.

The Trail and Area Criteria must also consider:

- Compatibility of motor vehicle use with existing conditions in populated areas, taking into account sound, emissions and other factors.

- OSV use on NFS lands in populated areas is likely much lower than other motor vehicle use in this particular setting. Nonetheless the OSV designation decision must properly consider the compatibility of OSV use in populated areas as well as cumulatively for all five criteria.

3. Road Criteria Considerations

Road related criteria that must be considered includes:

- Speed, volume, composition and distribution of traffic on roads
- Compatibility of vehicle class with road geometry and road surfacing

While the Road criteria may seem more significant for other motor vehicle use, many snowmobile trails are co-located on Forest Service roads. This requires the following considerations:

- Will snow covered roads:
  - be open to OSV travel (whether groomed or ungroomed) and closed to all other motor vehicles,
  - be closed to all OSV use, or
  - include a mixture of both situations
- Will plowed roadways:
  - be closed to OSV travel, or
  - include circumstances where concurrent OSV use with other wheeled motor vehicles is necessary and feasible on plowed roadways

Road management sign

4. Rights of Access Considerations:

The Forest Service can only designate OSV routes over their own lands, or over private property for which they have a legal access agreement. Access rights criteria that must be considered includes:

- Valid existing access rights
- Ingress/egress rights of private property in-holders

- Are there either Forest Service or other public access easements/agreements in place across adjacent private lands?

- The Forest Service must often depend upon partners to help secure legal access across private lands where they do not have an existing easement, in order to link trail segments together into a desired trail system network.
- While the Forest Service can't prevent access for in-holders through any OSV designation, they aren't necessarily prevented from designating in-holder access as 'dual-use' with OSVs.

Private property management sign

5. Wilderness and Primitive Areas

OSV or other motor vehicle use designations cannot be considered in a designated Wilderness area:

Wilderness boundary sign

❖ OSV use is always prohibited in congressionally designated Wilderness, or in Primitive Areas that existed in 1964 – unless a Wilderness area's enabling legislation specifically authorized such use (which is very rare).

Over-Snow Vehicle Use Map

All road, trail and area use designation decisions will be identified on an Over-Snow Vehicle Use Map (OSVUM). This map is the legal enforcement document and may (if applicable to the area) also specify the vehicle classes and times of year for which OSV use is designated.

If a road, trail or area is not designated on the OSVUM – it's closed to OSV use!

- In the case of open areas where cross-country OSV travel is allowed: open trails and roads will generally NOT need to be identified – the fewer lines on the OSVUM in open areas, the better.
- Not having all open roads and trails shown within large open area designated on the OSVUM will generally require a culture shift for snowmobilers – who generally freak out when a winter map shows up missing 100% of their trails. However in this case it will truly be a better approach since NEPA will be required for any future 'line changes' on the OSVUM.
- The OSVUM will be black and white, generally lacking in scale or features, and therefore generally useless for on-the-ground navigation. Consequently it will be important that partners – states, clubs, associations, chambers, etc. – print (continue to print) more detailed maps in color that are more user friendly.

All future partner maps should incorporate all OSVUM designations, as well as show all designated trails within 'open' areas that likely will not be included on the OSVUM

Monitoring

Monitoring is typically a part of any Forest Service decision. It is routinely done by the agency for Forest Plan compliance as well as other decisions. Monitoring requirements related to the TMR include:

❖ Responsible official must monitor the effects of OSV use, consistent with applicable land management plans, as appropriate and feasible.
❖ Evaluation may be holistic and need not address every route within an area.

❖ Any proposed changes identified or suggested by monitoring must go back through the designation process.

- Monitoring is a big-picture look at what's actually happening on the ground.
- While it's not necessarily route or area specific – it can be if definite impacts begin to be noticed.
- It's good that any proposed change identified through monitoring must go back through the designation process and must also include public input.

On-the-ground monitoring by Forest Service official

<u>Key Take-A-Way Points Regarding Sub-Part C / Travel Management Rules For OSVs:</u>

The Travel Management Rule treats OSVs different from Other Motor Vehicles in two ways:

1. While Subpart B recognizes that cross-country travel by other types of motor vehicles is generally unacceptable, Subpart C recognizes that cross-country travel by OSVs is acceptable in a larger number of appropriate circumstances. Consequently OSV use is generally confined to designated roads and trails considerably less than other motor vehicle use.

Off-Highway Vehicles (OHVs) operating on-trail

Snowmobile operating in an open area

2. Subpart C recognizes that OSV use varies in different regions of the country due to widely varying terrain, snow depth and typology, as well as different local recreation and transportation trends. This generally results in more (but not exclusively) trail and road based OSV use in the Northeast and Midwest compared to large open OSV riding areas being predominately the norm across the West.

Primary Reasons for OSV Management Difference

An OSV traveling over snow results in different / fewer impacts to natural and cultural resources than motor vehicles traveling over ground for the following reasons:

1. When properly operated and managed, OSVs do not make direct contact with soil, water and vegetation, whereas most other motor vehicle types operate directly on the ground surface. Consequently – unlike other types of motor vehicles traveling cross-country – OSVs generally do not create a permanent trail.

2. OSV use occurs only in the winter months when snow is present, in contrast to other types of motor vehicle use which can occur at any time of the year. Winter is simply a distinctly different season. The entire setting is very different from other seasons due to blankets of snow: visitor use is substantially less, impacts are lower, and public preferences for activities transform, allowing OSV recreation an opportunity to fulfill a unique niche not possible in other seasons.

Winter is distinctly different from other seasons

Forest Service Schedule of Proposed Actions (SOPA)

The Schedule of Proposed Actions (SOPA) is published by the Forest Service in January, April, July, and October and is an important tool to track agency planning initiatives. It contains a list of proposed actions that will soon begin or are currently undergoing environmental analysis and documentation. It provides information to help you become aware of and indicate your interest in specific proposals. The following national SOPA link (http://www.fs.fed.us/sopa/) can be used to identify and track projects at local levels. The map or drop-down lists can be used to view the SOPA for a particular National Forest, Grassland, Scenic Area, Recreation Area, or Tall Grass Prairie. You can also track the SOPA by working directly with local Forest Service offices. Quarterly SOPA reports generally indicate the following:

- **General Information:** For general information about the SOPA, refer to the Related Information links.
- **Specific Information:** For proposal-specific information, contact the "Project Contact" listed in the SOPA.
- **Future Involvement:** To be included in future public involvement for a specific proposal, contact the "Project Contact" listed in the SOPA to indicate your interest in being involved.

The Difference between 'Designated Wilderness Areas,' 'Wilderness Study Areas,' and 'Areas Recommended for Wilderness'

Designated Wilderness Areas: can only be created by an official Act of Congress. The first designated Wilderness Areas were created by the 1964 Wilderness Act and initially involved 54 areas (9.1 million acres) in 13 States. There are now 765 designated Wilderness Areas totaling more than 109 million acres in 44 States. The Forest Service manages the vast majority of the congressionally designated Wilderness areas (445 or 58% of the total), followed by BLM with 224 units (29%), the Fish and Wildlife Service with 71 (9%), and the National Park Service with 61 Wilderness units (8%). In respect to total acres, the Park Service manages about 40% of all Wilderness acres while the Forest Service manages over 33% followed by the Fish and Wildlife Service with 18% and the BLM with 8% of all Wilderness acres.

Section 2 (c) of the Wilderness Act (http://www.wilderness.net/index.cfm?fuse=NWPS&sec=legisAct) defines "Wilderness" as follows: "A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and

which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value."

The Wilderness Act prohibits commercial enterprises, structures, roads, motorized equipment (vehicles, snowmobiles, all-terrain vehicles, chainsaws, etc.), and mechanized transportation (bicycles, baby strollers, hand carts, etc.). There is a mechanized-use exception for wheelchairs that are a 'medically prescribed form of transportation also suitable for indoor use.' **This motorized/mechanized use prohibition (Federal law) means that the use of a snowmobile in a Congressionally Designated Wilderness Area is strictly prohibited and must be respected.** Only Congress – not the Forest Service or any other land manager – can change the boundaries of an official Wilderness Area once it has been designated.

What makes an area suitable for consideration as a new Wilderness area? As prescribed in the Wilderness definition above, new Wilderness areas ***must***:

- ✓ Be an area 5,000 acres in size or larger or be a roadless island;
- ✓ Generally appear to be natural and human presence must be relatively unnoticeable;
- ✓ Offer the opportunity for primitive and unconfined recreational activities;
- ✓ Provide opportunities for solitude; and
- ✓ Contain features of ecological, geological, scientific, educational, scenic, or historical significance.

Areas Recommended for Wilderness: the Forest Service is required to identify and evaluate potential new Wilderness areas when it's developing or revising its land management plans (the same requirement also applies to other Federal land managing agencies). If a planning process identifies an area believed to be worthy of consideration for Congressional Wilderness designation, the agency can <u>administratively</u> recommend the area for wilderness or wilderness study. While such an administrative action does not have the same force of law as Congressional designation, it by policy places the land into a management classification where "areas recommended for wilderness or wilderness studies are not available for any use or activity that may reduce their wilderness potential." (Forest Service Handbook 1909.12, section 71) These lands can remain in this classification for decades – ultimately until Congress acts to either approve the area as designated Wilderness or releases it from consideration as a designated Wilderness area. This policy has in essence created "de-facto" wilderness areas in some locations since use and activities have been unduly restricted without the force of Wilderness law behind the agency's management actions.

In respect to snowmobiling access to 'areas administratively recommended for Wilderness,' there are variations from one locale (Region or Forest) to another as to how these areas are managed while waiting upon Congressional action. Some areas continue to allow snowmobiling in the 'recommended areas' while others immediately prohibit snowmobiling and other activities after placing the 'recommended for Wilderness' tag on the area. Local variation seems to hinge upon local decisionmakers' perspectives as to whether or not continued snowmobiling during the interim (while waiting upon Congress) "may reduce the area's wilderness potential."

On the 'continue to allow' side of the discussion is the strong premise that 'since snowmobiling has been allowed in the area – and that existing use did not reduce its wilderness potential or disqualify the area from being recommended for Wilderness – there is no valid reason to eliminate this existing use unless and until Congress takes action.' In such cases it is important to remember that – if snowmobiling is currently allowed in the area – it is only because it was previously determined to be an acceptable use by a previous land use planning process, where the area was classified under the ROS system as 'open to snowmobiling.'

It's also important to note that Wilderness law specifically stipulates that, "Congress does not intend that the designation of wilderness areas lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from within any wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area." Therefore,

unless there are other factors that would clearly combine to reduce an area's potential for Wilderness designation, snowmobiling, by itself, should not be summarily eliminated simply because of the agency's administrative recommendation.

On the 'disallow now" side of the discussion is the declaration by some agency decisionmakers that snowmobiling *will* reduce the wilderness potential of the area, simply because it is a motorized recreational activity; there will therefore be decreased opportunities for solitude and conflicts with primitive recreation activities. This premise is fundamentally flawed since again, snowmobiling can only currently occur in these areas because previous land management planning decisions concluded snowmobiling was compatible and appropriate for the ROS classification assigned to the area.

This policy tends to suggest that blanket closures to snowmobiling access (based solely on the 'recommended for Wilderness' tag) are generally unfounded reversals of access policy, resulting in administratively (and improperly) created de-facto wilderness. In such cases, it's important to work with local officials to: (1) make them substantiate reasons for their closure decisions, and (2) try to get them to reconsider access and management options while the area hangs in Congressional limbo – which could typically is for decades.

Additionally, it's important to keep in mind that, in the definition of Wilderness, the term *untrammeled* does **not** mean 'untrampled.' *Trammeled* means 'catching something in a net, preventing or impeding free play, or confine.' Therefore, *untrammeled* means 'unimpeded, unhindered, or free of restraint.' Clearly, the intent of Congress when establishing the Wilderness Act was **not** to exclude or impede human use; rather its intent was to ensure human use doesn't strangle the environment within Wilderness areas.

Wilderness Study Areas (WSA): are also created by Congress but do not have 'full' Wilderness status until further action by Congress (and only Congress) after a period of 'study' regarding the area's suitability for full Wilderness designation. Unfortunately this has created numerous situations where WSAs have existed in a state of limbo for more than 30 or 40 years – essentially managed as 'de facto' Wilderness – due to no follow-up action by Congress to either fully designate or release the study areas back to multiple use management.

Fortunately the enabling legislation for many WSAs specifically includes a statement that "*snowmobiling shall continue to be allowed in the same manner and degree as was occurring prior to the date of the enactment of this Act."* While the opportunity for continued snowmobile use in these areas is very specific, environmental and quiet-use groups often claim current snowmobile use is not comparable to what was occurring at the time of WSA enactment and should therefore be reduced or discontinued within the WSA. Consequently it's important to try to understand, or at least estimate, how current snowmobile use really does compare to the 'manner and degree' of snowmobile use which was occurring when the WSA was established by Congress.

Wyoming Case Study – Palisades WSA

A case study looked at this 'same manner and degree' issue for the Palisades WSA located along the Wyoming-Idaho border south of Jackson, Wyoming, which was established in 1984. It worked from a premise that two questions must be asked in respect to WSA conditions when attempting to compare current versus historic snowmobile use patterns:

1. **MANNER: does snowmobiling occur in the same 'way, means, method, style, or mode' and is it the same 'kind or sort' of use?** This case study concluded:

   Snowmobiling continues to be the same transportation mode, travel means, and 'sort' of motorized use it was in 1984. While modern technology may have refined, improved, and slightly changed the look of snowmobiles, the basic components and operational characteristics of a snowmobile remain essentially the same as they were on the 1984 and earlier model snowmobiles in use at the time this WSA was established. What has changed is that today's snowmobile models have markedly improved technology compared to 1984 and earlier snowmobiles. Technology and design improvements have actually resulted in significantly

lower effects ('impacts') compared to '1984 and earlier' era snowmobiles – so individual modern snowmobiles are, on average, considerably less impactful than earlier snowmobile models.

While snowmobile design and technology has obviously and steadily evolved since 1984, potential effects measurements were not generally available or consistently tracked until the International Snowmobile Manufacturers Association (ISMA) was formed in 1995. Consequently credible, science-based effects data for snowmobiles from pre-1995 from any source is either unavailable or fairly imprecise and superficial.

Since 1995, ISMA has invested heavily in developing proper scientific measurement protocols for snowmobile engine emissions and sound level monitoring. The U.S. Environmental Protection Agency (EPA) implemented the first-ever snowmobile engine emission regulations in 2002 for carbon monoxide and hydro-carbon emissions. Consequently snowmobile engines are much cleaner, as well as quieter, due to the implementation of these EPA regulations. And at the same time snowmobile redesign and retooling has resulted in significant weight and ground pressure reductions. Science-based data related to snowmobile effects is now readily available and shows general and specific impact reductions that include:

Sound Levels

- Pre-1969 snowmobiles emitted sound levels as high as 102 decibels.
- Since 1975, all snowmobiles have been certified by the Snowmobile Safety and Certification Committee (SSCC) to emit no more than 78 decibels from a distance of 50 feet while traveling at full throttle. Since sound levels are logarithmic (minus 3 decibels equals half as loud while plus 3 decibels equals twice as loud), this means sound levels for snowmobiles have been reduced 94% from early models. Consequently, it would take 256 78-decibel snowmobiles operating together at wide open throttle to equal the noise level of just one pre-1969 snowmobile.
- While the 2002 EPA engine emissions regulations did not directly regulate snowmobile sound levels, the retooling of snowmobile engines to meet emission regulations has had a noticeable complementary reduction to sound levels produced by most snowmobiles. The result is that sound emissions from many current snowmobile models has dropped to 75 decibels (half as loud as the 1975 baseline requirement), with some models documented to have sound levels as low as 66 decibels. All stock snowmobiles remain in compliance 'at or significantly below' the required maximum 78 decibel threshold.

Engine Emission Levels

- Pre-1995 (pre-ISMA) it is generally unknown exactly what engine emissions from snowmobiles really were since a scientific testing protocol specific to snowmobile engines had not yet been developed.
- Table 5 shows the progression of how hydrocarbon emissions for the average snowmobile have been reduced 62.7% while carbon monoxide emissions have been reduced 66.7% between 1995 and 2016.

Table 5: Average per Snowmobile Engine Emission Levels from Mountain & Cross-Over Model Snowmobiles (Source: ISMA)

Emissions Category	Year		Total Reduction	% of g/kWh Reduction
	1995 Average g/kWh	2016 Average g/kWh		
Hydrocarbons (HC)	169	63	106 g/kWh	62.7%
Carbon Monoxide (CO)	506	169	337 g/kWh	66.7%

Ground Pressure

- In 1984 snowmobiles were typically heavier and had shorter tracks with an average PSI around 0.55 pounds per square inch (PSI). Comparative recreationist PSIs include: an ATV – 1.5 PSI, a man hiking – 5 PSI, a fat tire bicycle – 3 to 6 PSI, a horse – 8 PSI, and a 4WD vehicle – 30 PSI.

- As snowmobile manufacturers began using more plastic, aluminum and other alloys, the weight of snowmobiles decreased significantly compared to early snowmobile models. This technology change coupled with the advent of mountain and cross-over model snowmobiles with longer tracks that further disperse weight resulted in an average 43.6% reduction in PSI compared to pre-1995 snowmobiles, as shown in Table 6.

Table 6: Average Ground Pressure (PSI) Levels for Mountain and Cross-Over Model Snowmobiles
(Source: ISMA)

Average Ground Pressure per Snowmobile – pounds per square inch (psi)	1984-1994 Snowmobiles	1995 Model Snowmobiles	2016 Model Snowmobiles	Total Reduction	% of PSI Reduction
	0.55 psi	0.50 psi	0.31 psi	0.24 psi	43.6%

CONCLUSION: While snowmobiling continues to be the same transportation mode, travel means, and 'sort' of motorized use it was in 1984, the sound, emissions and ground pressure effects from newer model snowmobiles have generally decreased by 44% to 67% compared to older model snowmobiles. Consequently it is likely that newer snowmobiles have about half the emissions/sound/ground pressure effects when compared to 1984-era snowmobiles. Said another way: ***it would likely take 1.5 to 2 newer snowmobiles to cause the same level of emissions/sound/ground pressure effects as what were contributed by one 1984-era snowmobile.***

2. DEGREE: does snowmobiling occur to the same 'extent, measure, or scope' and is it at the same 'relative intensity' of use?

National Trends
The International Snowmobile Industry Association (ISIA) estimated there were approximately 1.2 million snowmobiles registered in the United States in 1984. According to the International Snowmobile Manufacturers Association (ISMA), which replaced ISIA in 1995, U.S. snowmobile registrations peaked at slightly less than 1.8 million sleds in 2004 and has declined to about 1.3 million in 2015 (last year for which full U.S. data is currently available) – a 28% reduction in just eleven years to near 1984 levels. While there were over 100 different snowmobile manufacturers in the 1970's, only four remain today.

The ISIA dissolved in 1994 so unfortunately comprehensive snowmobile sales data is no longer available for pre-1995. Sales data compiled by ISMA since its formation in 1995 shows the sale of new snowmobiles in the United States totaled 168,000 to 170,000 units per year in 1995 and 1996. But since then new snowmobile sales have steadily and markedly declined – to a much lower range consistently between 48,000 and 58,000 per year since 2009. For Wyoming in particular, new sled sales were around 2,700 per year back in 1995 but have decreased to a range of 1,000 to 1,600 per year since 2009. Without doubt – nationally and locally – snowmobile ownership has been steadily declining as ownership costs have increased and personal interests changed; snowmobile ownership has been displaced by ATV/UTV ownership by many as well as affected by attrition as older sleds are not replaced. These trends suggest that overall future snowmobile ownership in the U.S. could likely end up at a level significantly below what it was in 1984.

Wyoming Snowmobile Registration Background and Permit Sales History
The first Wyoming snowmobile registration was authorized for 'Wyoming resident-owned snowmobiles' by the 1984 Legislature – so the 1984-85 winter was the first season of implementation. However, due to no law enforcement for registration compliance, registration sales were reportedly quite low for the first several years. While a Wyoming snowmobile registration was just in the process of being implemented in 1984, the ISIA estimated there were approximately 13,000 snowmobiles in Wyoming at that time – but it is unclear how they came up with this estimate.

The resident snowmobile registration permit was initially administered by the Wyoming Recreation Commission until it was replaced by the Wyoming Department of Commerce in 1990, which was

subsequently replaced by the Department of State Parks and Cultural Resources (SPCR) in 1998. Unfortunately this series of agency / registration administrative duty changes has resulted in very early sales records no longer being available, along with additional recordkeeping glitches along the way.

'Resident snowmobile registrations' represent the only long-term data available regarding snowmobiles in Wyoming – and is therefore likely the best indicator of long-term snowmobile use trends in the state. The history of statewide Resident and Non-Resident snowmobile permit sales is summarized in Table 7:

Table 7: History of WY Statewide Resident & Non-Resident Snowmobile Permit Sales (Source: WY SPCR)

Snowmobile Season Year	Resident (R)	Non-Resident (NR)	Total Permits
1984	R Registration Authorized by Wyoming Legislature		
1985-1986	Not Available	1st Year of Resident Sales	Unknown
1986-1987	Not Available		Unknown
1987-1988	Not Available		Unknown
1988-1989	14,767		14,767
1989-1990	15,270		15,270
1990-1991	14,506		14,506
1991-1992	15,917		15,917
1992-1993	17,398		17,398
1993-1994	17,205		17,205
1994-1995	16,361		16,361
1995-1996	17,490	NR permit authorized in 1996	17,490
1996-1997	17,956	7,340	25,296
1997-1998	17,800	10,448	28,248
1998-1999	17,305	12,662	29,967
1999-2000	18,043	17,131	35,174
2000-2001	18,413	16,604	35,017
2001-2002	18,062	19,764	37,826
2002-2003	18,359	20,963	39,322
2003-2004	19,031	19,461	38,492
2004-2005	18,018	17,312	35,330
2005-2006	17,756	18,266	36,022
2006-2007	17,106	19,394	36,500
2007-2008	17,492	18,160	35,652
2008-2009	16,605	15,506	32,111
2009-2010	15,743	14,955	30,698
2010-2011	16,762	16,158	32,920
2011-2012	15,762	17,356	33,118
2012-2013	14,817	17,402	32,219
2013-2014	14,958	18,444	33,402
2014-2015	14,212	18,429	32,641
2015-2016	13,772	18,439	32,211

Resident Snowmobile Registration Trends

- Resident snowmobile registrations are currently at an all-time low
- Snowmobile numbers in Wyoming peaked in 2002-2004 and have generally declined ever since
- Resident snowmobile registrations the past four years have been at nearly the same level, or at a lower level, than the previous 'lowest year' recorded clear back in1988-89

- The 5-Year Average for the first 5 years on record (1988-89 thru 1992-93) was 15,572 resident registrations per year, while the 5-Year Average for the last 5 years on record (2011-12 thru 2015-16) is 14,704 Resident registrations per year – so the current 5-Year Average is 5.6% lower than in the 1980's
- While the first three years of Resident registration data is unavailable, the first three years of Nonresident user fee permit sales demonstrates how this timeframe (first 3 years) is typically the length of time it takes for a new fee to be fully implemented; consequently 1988-89 numbers likely represent the most valid estimate of Resident snowmobile numbers for the 1984 to 1988 era

The Nonresident Snowmobile User Fee was instituted in the 1996-97 winter season. Just like initial implementation of the Resident registration fee in 1984, it took several years to build nonresident permit numbers to the point they could be viewed as a true indicator since there was low user fee law enforcement emphasis the first three years. Consequently the 1999-2000 winter season likely represents the most credible nonresident permit baseline. However it should be noted that extremely little Nonresident snowmobile use occurs in Palisades from Wyoming due to no developed parking access. While it should also be noted that Commercial snowmobile registrations have been sold in Wyoming since 1994-1995, none have ever been related to any snowmobile use in the Palisades WSA. Therefore Commercial permits are not included or relevant to this comparison exercise.

The 1996-97 winter season is also significant in that it was the first season permit sales were tracked solely by sales location. Previously Resident permit purchasers could 'designate' their fee toward up to two riding areas – which was highly subjective, so was replaced with more grooming-area-specific sales tracking.

Jackson Area Trends

In respect to snowmobile use trends in the Palisades WSA vicinity, permit sales data from Jackson based permit selling agents likely provides the best localized indicator of permit sale trends, as summarized in Table 8. (Again, pre-1996-97 area-specific data does not exist and area-specific breakdowns for 2001-02 and 2003-04 through 2006-07 are not available due to glitches with state data tracking systems).

Table 8: Jackson Selling Agents – Snowmobile Permit Sales History (Source: WY SPCR)

Year	Resident	% of State	Non-Resident	% of State	Total
Pre 1996-1997	Area-Specific Data Does Not Exist				
1996-97	1,140	6.3	214	2.9	1,354
1997-98	757	4.3	100	1.0	857
1998-99	1,003	5.8	172	1.4	1,175
1999-00	1,194	6.6	288	1.7	1,482
2000-01	Data is Unavailable		Data is Unavailable		NA
2001-02	1,328	7.2	435	2.2	1,763
2002-03	1,157	6.3	315	1.5	1,472
2003-04 thru 2006-07	Area-Specific Data Is Unavailable		Area-Specific Data Is Unavailable		NA
2007-08	854	4.9	168	0.9	1,022
2008-09	901	5.4	227	1.5	1,128
2009-10	825	5.2	177	1.2	1,002
2010-11	823	4.9	206	1.3	1,029
2011-12	702	4.5	220	1.3	922
2012-13	772	5.2	259	1.5	1,031
2013-14	584	3.9	248	1.3	832
2014-15	443	3.1	243	1.3	686
2015-16	516	3.7	273	1.5	789

CONCLUSION: There is no apparent definitive record of the actual extent or relative intensity of snowmobile use occurring in this area prior to 1984 WSA enactment – but there was obviously enough use to warrant inclusion of the 'continuing use' clause in the Congressional Act. Consequently resident snowmobile registration (which began shortly after this Act was passed) data is likely the only credible proxy from which to attempt reasoned use estimate comparisons.

The Statewide data shown in Table 7 demonstrates that, while overall popularity grew and peaked in the 2002 to 2004 time period, resident snowmobile ownership in Wyoming is currently at or below what it likely was in 1984. This same trend is also confirmed locally by the Jackson area data (likely the best true local use proxy) presented in Table 8. This is further confirmed by Use Assessment comparisons which have been summarized separately.

Additionally parking access to this WSA from Wyoming has purposely never been developed, which has kept use to primarily local residents who happen to get early morning parking at incidental highway pull-offs or access points. Consequently any supposition or claim that overall snowmobile use today is higher than in 1984 is likely off-base and inaccurate.

SUMMARY CONCLUSION STATEMENT: When actual area snowmobile registration and use trends are coupled with the fact it would likely take 1.5 to 2 newer snowmobiles to cause the same level of emissions/sound/ground pressure effects as what were contributed by one 1984-era snowmobile, the manner and degree of snowmobile use effects are rather unlikely to be any greater than what were present in 1984.

WORKING WITH THE BUREAU OF LAND MANAGEMENT (BLM)

Understanding the BLM Structure

The Bureau of Land Management (BLM) (www.blm.gov) is part of the U. S. Department of Interior; it manages 245 million surface acres, as well as 700 million acres of subsurface mineral estate. These public lands make up over ten percent of the total land surface of the United States and more than 40 percent of all land managed by the Federal government. Most BLM lands are located in Western States and are characterized predominantly by extensive grassland, forest, high mountains, arctic tundra, and desert landscapes. The BLM manages for multiple resources and uses, including energy and minerals; timber; forage; recreation; wild horse and burro herds; fish and wildlife habitat; wilderness areas; and archaeological, paleontological, and historical sites.

The BLM's national headquarters is in Washington, D.C. where it has staff organized into ten operational sections. Primary on-the-ground oversight is provided by twelve State Offices (Alaska, Arizona, California, Colorado, Idaho, Montana-Dakotas, Nevada, New Mexico, Oregon-Washington, Utah, Wyoming, along with an Eastern States office), and 184 district, field, or site offices at the local level. While BLM is not a large provider of snowmobiling opportunities, it's still an important public lands agency since its lands provide important trail linkages in many areas, particularly where BLM lands border U.S. Forest Service lands.

BLM Planning Process Overview – Resource Management Plans

Decisions regarding the establishment and management of snowmobile trails are made through the BLM planning process. It has been common for BLM to lump snowmobiles together with wheeled OHVs, so snowmobilers need to stay active in BLM planning processes to point out that there are major differences between snowmobiles and other OHVs (which their handbook states, but is often overlooked at local levels).

The BLM has Resource Management Plans (RMPs) that form the basis for every action and approved use on the lands it manages. Its planning emphasizes a collaborative environment in which local, State, and Tribal governments, the public, local user groups, and industry work with the agency to identify appropriate multiple uses of its lands. RMPs typically are updated every 15 to 20 years to stay current with changing conditions. In addition, RMPs are often amended between major revisions to address particular issues or respond to new

information. Plan amendments are written on both an Environmental Assessment and Environmental Impact Statement level of NEPA analysis, depending on the complexity of issues and level of environmental impacts.

Before 1985, BLM's land use plans were referred to as Management Framework Plans (MFPs). Since 1985, BLM's land use plans are called Resource Management Plans (RMPs). RMPs are prepared for relatively large areas of public lands, called planning areas, which tend to have similar resource characteristics. Development of a RMP is guided by a framework of Federal laws, regulations, and agency policies, as outlined below:

LAW: the Federal Land Policy and Management Act of 1976 (FLPMA) [available at https://www.blm.gov/sites/blm.gov/files/AboutUs_LawsandRegs_FLPMA.pdf] This BLM-specific law provides direction for land use planning, administration, range management, rights-of-way, designated management areas (including specific locations and general designation of wilderness areas), and effects on existing rights. Along with NEPA, it defines BLM direction.

Section 202 of FLPMA describes requirements for land use planning. FLPMA is fairly broad, and does not describe the steps by which BLM should generate and revise land use plans. However, FLPMA does set forth critical planning requirements such as:

- Observe principles of multiple use and sustained yield.
- Use a systematic interdisciplinary approach (physical, biological, economic, cultural).
- Give priority to the designation of areas of critical environmental concern (An Area of Critical Environmental Concern, ACEC, is an area 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).
- Rely on inventories of the public lands and their resources.
- Consider present and potential uses.
- Consider the relative scarcity of the values and alternatives for realizing those values.
- Weigh long versus short term benefits.
- Comply with pollution control laws.
- Coordinate with other Federal, State, Tribal, and local government entities.

REGULATION: 43 CFR 1601 and 1610: [available at www.access.gpo.gov/nara/cfr/waisidx_02/43cfr1600_02.html] These regulations complement FLPMA by establishing a high-level process for creating and revising BLM land use plans, and by citing the intended contents of land use plans.

- Renames FLPMA's "land use plan" as "Resource Management Plan" (RMP).
- States that an RMP must describe the following:
    - Designation of land uses (limited vs. restricted vs. exclusive; special management; transfers).
    - Allowable resource uses and related levels of production.
    - Resource condition goals and objectives.
    - Program constraints and general management practices.
    - Need for area(s) to be covered by more detailed plan(s).
    - Support actions such as resource protection, realty, access development, etc.
    - General implementation sequences.
    - Standards for monitoring and evaluating the plan.
- Permits the Director and/or the State Director to develop additional planning guidance.
- Requires the following:
    - Completion of an Environmental Impact Statement simultaneously with the development of an RMP.
    - Consideration of impacts to local economies and nearby non-Federal lands.
    - Public participation.
    - Coordination with other governments (Federal, State, local, Tribal).
    - Consistency of the RMP with resource plans of other government entities.
- Describes the steps in the planning process as follows:

1. Identify issues.
2. Develop planning criteria.
3. Inventory data and information collection.
4. Analyze the management situation.
5. Formulate alternatives.
6. Estimate impacts of alternatives.
7. Select the preferred alternative.
8. Select the RMP.
9. Establish monitoring and evaluation.

- Explains approval, use and modification of land use plans

POLICY: The Land Use Planning Handbook (H-1601-1). [available at https://www.blm.gov/style/medialib/blm/ak/aktest/planning/planning_general.Par.65225.File.dat/blm_lup_handbook.pdf] This handbook expands upon FLPMA and the regulations in 43 CFR 1600 to provide more specific direction for land use planning Bureau-wide. The land use planning handbook outlines the general process to comply with both FLPMA and NEPA for land use plans. The planning process is designed to meet requirements in both sets of laws and regulations. The handbook also gives further definition to the contents of an RMP.

Steps in the Process
The BLM uses a multi-step process when developing a land use plan. Some of the steps may occur concurrently. Some situations may require the manager to supplement previous work as additional information becomes available. These steps have been fully integrated with the NEPA process and the Council on Environmental Quality (CEQ) guidelines. The steps are:

Identification of Issues:
- Issue Notice of Intent (NOI) to begin the Scoping Process to identify issues and develop planning criteria and to begin public participation.
- Identify issues. This sets the tone and scope for the entire planning process and is done with full public participation.

Develop Planning Criteria:
- Establish constraints, guides, and determine what will or will not be done or considered during the planning process.
- Produce a scoping report for public review, including final planning criteria.

Inventory Data and Information Collection:
- Collection of inventory data and information is an ongoing activity and is not governed solely by the planning process.

Analyze the Management Situation:
- Information is gathered on the current management situation. Describes pertinent physical and biological characteristics and evaluates the capability and condition of the resources.

Formulate Alternatives:
- Alternative formulation is the step where the success of the planning effort hinges on clearly identified reasonable alternatives.

Estimate Effects of Alternatives:
- Once alternatives are developed, the next step is to estimate the impact or effects of each on the environment and management situation.

Select Preferred Alternative:
- In the judgment of management, the Preferred Alternative best resolves the planning issues and promotes balanced multiple use objectives.
- Issue a Notice of Availability (NOA) of a Draft Plan/Draft EIS; 90-day public review.

Select the Resource Management Plan:

- Public comments, opinions, suggestions, and recommendations are reviewed and analyzed and the important information/data are used in preparing the proposed RMP.
- Issue a Notice of Availability (NOA) of Proposed Plan/Final EIS; 30-day protest period; concurrent 60-day Governor's review.
- After protests are resolved, issue a Notice of Availability NOA for the ROD/Final Plan for actions of national interest.

Monitoring and Evaluation:

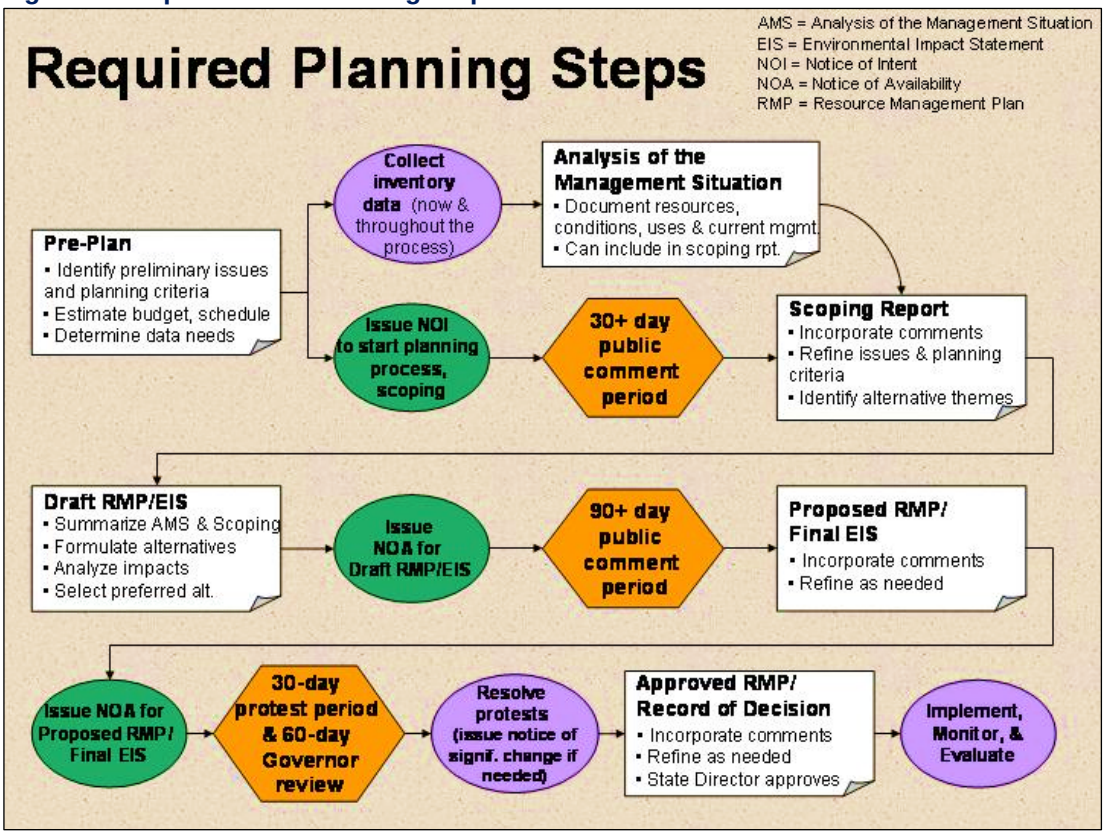
- Implement Decisions and Monitor and Evaluate the RMP (these actions - tracking changes and trends [both short and long-term] are taken to keep plans viable).

Figure 6 shows a conceptual view of the BLM planning process to show the order planning teams typically develop planning documents and complete other planning activities. The shapes in the image are minimum planning requirements. The different shapes represent different activities and documents:

- The white rectangles represent planning documents.
- The green ovals are when BLM is required to issue Federal Register Notices.
- The orange hexagons are minimum requirements for public comment and review.
- The purple ovals are other required steps.

The steps in Figure 6 are BLM's minimum requirements. They frequently try to go above and beyond these minimum requirements by, for example, involving the public throughout the planning process – not just during the formal comment periods. Additionally, Field Offices may produce a wide variety of documents in addition to those listed. While the documents are designed to build on one another (for example, it is important to finish the Analysis of the Management Situation prior to developing alternatives for the Draft Plan/Draft EIS), in many cases a Field Office will work on parts of multiple documents at once. The Analysis of the Management Situation is sometimes included as part of the scoping report. All other documents are distinct from one another.

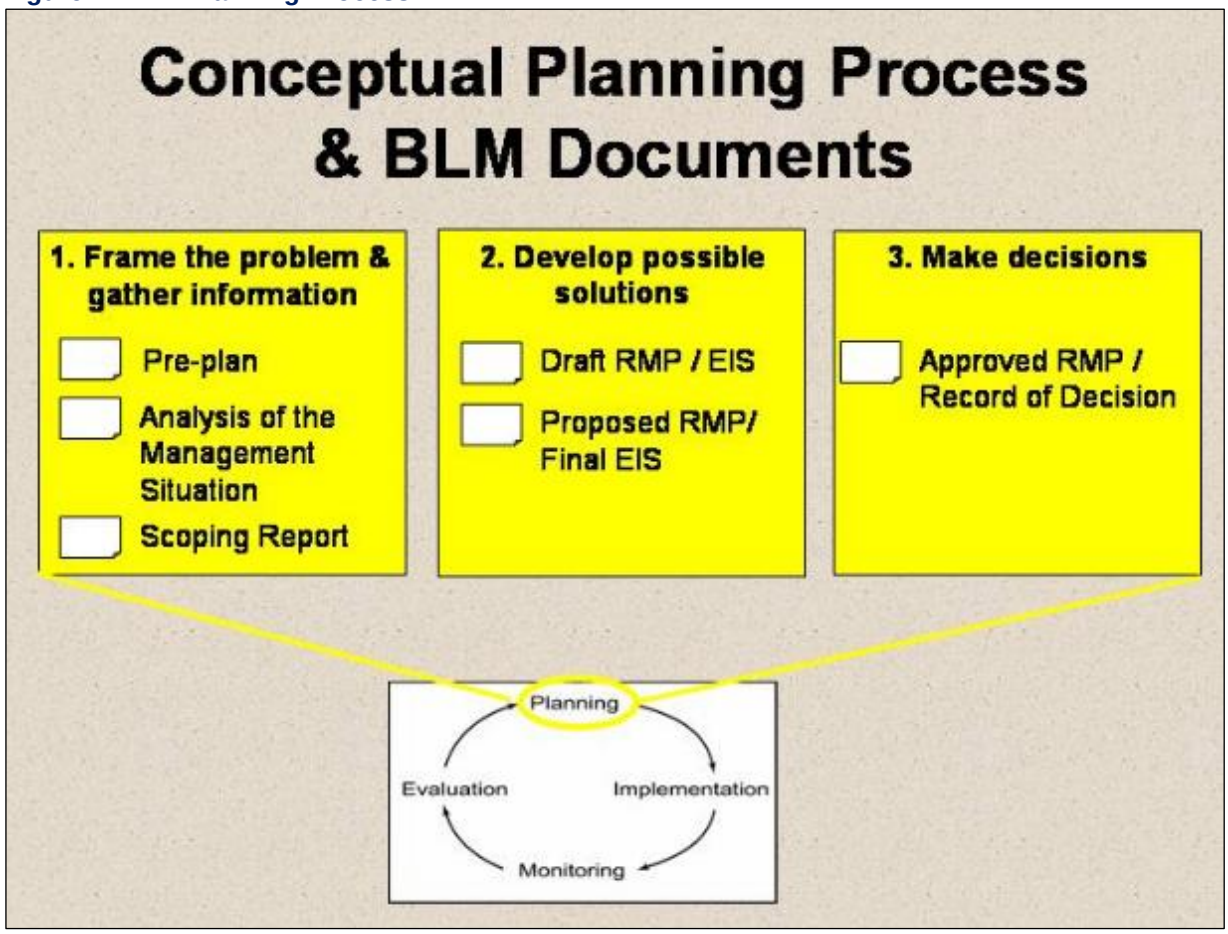
Figure 6: Required BLM Planning Steps



BLM's planning process can appear overwhelming given the many documents that are produced during the planning process. Figure 7 below shows that the planning process can be thought of in three basic steps into which the different planning documents can be grouped:

- Frame the problem and gather information – Pre-plan, AMS, and Scoping Report.
- Develop possible solutions – Draft RMP/EIS and Proposed RMP/Final EIS.
- Make decisions – Record of Decision.

Figure 7: BLM Planning Process



Public Involvement: The RMP provides numerous opportunities for the public to be involved:

- Public scoping meetings are initially held to assist the BLM in assessing the scope of the RMP proposed actions and alternatives to be considered;
- Public meetings are held once the draft RMP/EIS is released to collect public comments on the draft; and
- A public protest period is held after the Final EIS/Proposed RMP is finished to allow for public input before the decisions are finalized in the Record of Decision (ROD).

Figure 8 below shows typical players in a RMP planning process, both those who serve as core planning participants and those who provide plan support and approval. A wide variety of individuals both internal and external to BLM participate. While most of the work occurs at the Field Office level, many people at higher levels in the agency are involved in the planning process as well. Resource Advisory Council (RAC) members can provide key input to BLM staff during the planning process, so it is important that snowmobilers work to have a representative appointed to represent their interests in local RAC areas.

Figure 8: Key BLM Roles and Responsibilities

RMP Timeframe and Costs: It typically takes three or more years to complete a Resource Management Plan. The time frame depends on the complexity of the issues and the degree of public involvement. Twenty-four months is the shortest time frame that can reasonably be expected for completion of an RMP. The estimated cost for completing a comprehensive RMP is from $2.5 to over $4 million depending on the complexity of the plan.

BLM Policy Regarding Off-Highway Vehicle Designations and Travel Management in the Land Use Planning Process

BLM Manual 1626 – Travel and Transportation Management (September 27, 2016) [available at https://www.blm.gov/sites/blm.gov/files/documents/files/Media%20Center%20BLM%20Policy%20Manual%20MS%201626.pdf] provides detailed policy, direction and guidance. It stipulates that planning areas must be divided into areas that are open, limited, or closed to off-highway vehicle (OHV) travel. Those areas that are designated limited may have seasonal restrictions or travel limitations to either existing or designated roads or vehicle routes, or any combination of these.

BLM Handbook 8342 – Travel and Transportation (March 16, 2012) [available at https://www.blm.gov/sites/blm.gov/files/uploads/Media_Library_BLM_Policy_H-8342.pdf] provides specific guidance for preparing, amending, revising, maintaining, implementing, monitoring and evaluating BLM land use and travel management plans.

Road and Vehicle Route Designation Process for Limited to Designated OHV Areas

During the travel management planning period, the following will occur:

- ✓ Interim management guidelines for identification of the road and vehicle route network, including signing and maintenance, will be defined.
- ✓ Additional data needs and collection strategy will be outlined.
- ✓ A clear planning sequence, including public collaboration, criteria, and constraints for subsequent road and vehicle route selection and identification, will be established with a schedule not to exceed 5 years guideline.
- ✓ Collaboration on designation of roads and vehicle routes will occur, consistent with the goals, objectives, and other considerations described in the Resource Management Plan (RMP), according to the above planning sequence.
- ✓ A Travel Management Implementation Plan will be written.
- ✓ Signs and barriers will be installed where needed, and reclamation according to the plan will occur.
- ✓ Desirable roads may be reopened after repairs, recovery, or adequate mitigation has occurred.

Until the designation process is completed, travel in 'limited to designated areas' (LDA) will remain limited to existing roads and vehicle routes. Some portions of LDAs may receive other designations during the planning process outlined above. Travel on parcels of public land not having legal public access will remain limited to existing roads and vehicle routes.

The LDAs will be divided into geographic sub-areas in which specific roads and vehicle routes will be designated open to OHV travel. Geographic sub-areas and their order of consideration will be determined based on criteria such as current OHV use, areas with sensitive resources, and areas with special designations (i.e., Areas of Critical Environmental Concern [ACEC], wildlife habitat management areas, and Special Management Areas [SMA]). Roads and vehicle routes that are designated as open may have further restrictions placed on their use.

During the planning process, teams made up of the BLM, cooperating agencies, and members of the public will be used to ensure resource concerns and OHV user needs are properly addressed. Maps will be available to the teams that include all known roads to aid input for additional roads and vehicle routes to be considered for designation as open to OHV use. In addition to the sub-areas in general, these teams will address roads and vehicle routes in specific areas that have ongoing resource problems.

Criteria for road closures include the following:
• OHV use is causing, or will cause, considerable adverse impacts.
• A road or vehicle route poses a threat to public safety.
• Road and vehicle route density is adversely impacting resources.
• Closure is necessary for desired future conditions for access.
• Closure is necessary for visual resource protection.
• Closure is necessary for sensitive habitat management.

Example of BLM Planning Document Definitions

Off-Highway Vehicle (OHV): Any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain, excluding (1) any non-amphibious registered motorboat; (2) any military, fire, emergency, or law enforcement vehicle being used for emergency purposes; (3) any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved; (4) vehicles in official use; and (5) any combat or combat support vehicle when used in times of national defense emergencies.

Off-Highway Vehicle (OHV) Management Area Designations: These designations are made during the RMP planning process and apply to all off-road vehicles (ORVs) regardless of the purposes for which they are being used. Emergency vehicles are excluded. ORV designation definitions were developed cooperatively by representatives of the U.S. Forest Service, the National Park Service, and BLM state and field office personnel. The BLM recognizes the differences between ORVs and over-snow vehicles in terms of use and impact. Therefore, travel by over-snow vehicles will generally be permitted off existing routes and in all Open or

Limited areas (unless otherwise specifically limited or closed to over-snow vehicles) if they are operated in a responsible manner without damaging the vegetation or harming wildlife.

Closed: Vehicle travel is prohibited in the area. Access by means other than motorized vehicle is permitted. This designation is used if closure to all vehicular use is necessary to protect resources, to ensure visitor safety, or to reduce conflicts.

Open: Vehicle travel is permitted in the area (both on and off roads) if the vehicle is operated responsibly in a manner not causing, or unlikely to cause, significant undue damage to or disturbance of the soil, wildlife, wildlife habitats, improvements, cultural or vegetative resources, or other authorized uses of the public lands. These areas are used for intensive OHV use where there are no compelling resource needs, user conflicts, or public safety issues to warrant limiting cross-country travel.

Limited:

a. Vehicle travel is permitted only on roads and vehicle routes which were in existence prior to the date of designation in the *Federal Register*. Vehicle travel off of existing vehicle routes is permitted only to accomplish necessary tasks and only if such travel does not result in resource damage. Random travel from existing vehicle routes is not allowed. Creation of new routes or extensions and (or) widening of existing routes are not allowed without prior written agency approval.
b. Vehicle travel is permitted only on roads and vehicle routes designated by the BLM. In areas where final designation has not been completed, vehicle travel is limited to existing roads and vehicle routes as described above. Designations are posted as follows:
    1. Vehicle route is open to vehicular travel.
    2. Vehicle route is closed to vehicular travel.
c. Vehicle travel is limited by number or type of vehicle. Designations are posted as follows:
    1. Vehicle route limited to four-wheel drive vehicles only.
    2. Vehicle route limited to motorbikes only.
    3. Area is closed to over-snow vehicles.
d. Vehicle travel is limited to licensed or permitted use.
e. Vehicle travel is limited to time or season of use.
f. Where specialized restrictions are necessary to meet resource management objectives, other limitations also may be developed.

After the RMP, a Travel Management Plan sets the designated route network within OHV Areas with a 'Limited' designation; no further travel planning is necessary for OHV Areas whose 'Open' or 'Closed' designations were set by the RMP. BLM may also place other limitations, as needed, to protect other resources, particularly in areas that motorized OHV enthusiasts use intensely or where there are competitive events.

WORKING WITH THE NATIONAL PARK SERVICE (NPS)

There are about 40 units of the National Park System where some level of snowmobiling is allowed. This use ranges from high-profile Yellowstone National Park where approximately 160 miles of groomed roads are open to highly regulated snowmobile use to smaller park units where as little as one mile of park roads provide a connecting link to snowmobile trails on adjacent non-park lands.

Snowmobiling must conform to NPS Management Policy 8.2.3.2, which is shown below in Exhibit 8. Each park unit must use park planning (typically through the preparation of an EA or an EIS) to determine the merits of snowmobiling on a case-by-case basis in accordance to Executive Orders 11644 and 11989, as well as 36 CFR 2.18 (continental U.S.) and 36 CFR Part 13 and 43 CFR Part 36 (Alaska) [see Appendix 6 to view the two Executive Orders and 36 CFR 2.18]. It is important to understand that snowmobiling can only be allowed on routes and water surfaces used by motor vehicles and motorboats during other seasons in national parks. Additionally, each park that allows snowmobiling promulgates park-specific regulations to regulate snowmobiles.

Exhibit 8: NPS Management Policy Regarding Snowmobiles

National Park Service Management Policies (2006)

8.2.3.2 Snowmobiles

Snowmobile use is a form of off-road vehicle use governed by Executive Order 11644 (Use of Off-road Vehicles on Public Lands, as amended by Executive Order 11989), and in Alaska also by provisions of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121 and 3170). Implementing regulations are published at 36 CFR 2.18, 36 CFR Part 13, and 43 CFR Part 36. Outside Alaska, routes and areas may be designated for snowmobile and oversnow vehicle use only by special regulation after it has first been determined through park planning to be an appropriate use that will meet the requirements of 36 CFR 2.18 and not otherwise result in unacceptable impacts. Such designations can occur only on routes and water surfaces that are used by motor vehicles or motorboats during other seasons. In Alaska, the Alaska National Interest Lands Conservation Act provides additional authorities and requirements governing snowmobile use.

NPS administrative use of snowmobiles will be limited to what is necessary (1) to manage public use of snowmobile or oversnow vehicles routes and areas; (2) to conduct emergency operations; and (3) to accomplish essential maintenance, construction, and resource protection activities that cannot be accomplished reasonably by other means.

(Also See Unacceptable Impacts 1.4.7.1; Process for Determining New Appropriate Uses 8.1.2; Visitor Use 8.2; Recreational Activities 8.2.2; Minimum Requirement 6.3.5; Management Facilities 6.3.10; General Policy 6.4.1)

WORKING WITH THE BUREAU OF RECLAMATION

Established in 1902, the U.S. Department of Interior – Bureau of Reclamation (http://www.usbr.gov/) is best known for the dams, power plants, and canals it constructed in 17 western states. These water projects led to homesteading and promoted the economic development of the West. The Bureau of Reclamation has constructed more than 600 dams and reservoirs and is the largest wholesaler of water in the country. It brings water to more than 31 million people, and provides one out of five Western farmers with irrigation water for 10 million acres of farmland that produce 60% of the nation's vegetables and 25% of its fruits and nuts. The Bureau of Reclamation is also the second largest producer of hydroelectric power in the western United States, operating 53 power plants that produce electricity for 3.5 million homes.

While the mission of the Bureau of Reclamation is to "manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public," it has a minor involvement in providing recreational opportunities (which in the Snowbelt states may include snowmobiling) on water reservoirs it has created and the lands that surround its reservoirs and canals. Oftentimes it will enter into agreements with state park agencies or other local recreation providers to operate some of its properties as recreational areas. The Bureau of Reclamation refers to its properties as 'projects' and also works directly with groups to issue permits for trails across project lands. While it is a very small player in respect to snowmobiling access, its projects may provide important linkages and access points in some areas. Contact local project offices (contact information is available on its web site listed above) for more information about local opportunities.

WORKING WITH THE ARMY CORP OF ENGINEERS

The United States Army Corps of Engineers (http://www.usace.army.mil/) has a dual mission which includes providing engineering services for U.S. military construction projects, as well as providing engineering services to the nation for the planning, designing, building, and operation of water resources and other civil works projects (Navigation, Flood Control, Environmental Protection, Disaster Response, etc.) across the country. The

Corps has also been involved in regulating activities by others in navigable waterways through the granting of permits since passage of the Rivers and Harbors Act of 1899. Passage of the Clean Water Act in 1972 greatly broadened their regulatory role by giving the Corps authority over dredging and filling in the "waters of the United States," including many wetlands (which may affect some trail construction projects). It has approximately 37,000 civilian and military employees.

As part of its Water Resources mission, the Corps maintains direct control over 609 dams, maintains and/or operates 257 navigation locks, and operates 75 hydroelectric facilities which generate 24% of the nation's hydropower and three percent of its total electricity. Through these activities the Corps is the nation's largest provider of outdoor recreation, overseeing 5,700 recreation areas at 419 lakes in 43 States. It directly operates more than 2,500 recreation areas at 463 projects (mostly lakes), and leases an additional 1,800 sites to State or local park and recreation authorities or private interests. Since the vast majority of its recreation areas are located next to water (and many are outside the Snowbelt), the Corps is not a large provider of snowmobiling opportunities. However, its project area lands can be important to snowmobiling access and trail linkages in some local areas. Contact local Corps project offices (contact information is available on its web site listed above) for more information about local opportunities.

ACCESS TO STATE LANDS

State School Trust Lands

School Trusts Lands were granted by the United States to each State joining the union beginning with Ohio in 1803 through Alaska in 1959. These lands were granted in trust for the support of public education. Initially, each State received one square mile in each thirty-six square mile township. As western States were added, the grants expanded to two sections per township. When Utah, Arizona, and New Mexico entered the union they were granted four sections per township.

The grants were part of enabling legislation for statehood and are contained in each State’s Enabling Act. The Enabling Act was a bilateral compact that enabled each State to enter the union on equal footing with those States currently in the union. Presumably, the arid western desert States were less fertile and productive and so needed more land to achieve an equal footing. Because there were insufficient funds in the national treasury, Congress could not afford to pay taxes on the Federal domain. Thus Congress granted lands for education and other purposes to each State in exchange for an agreement that each State would not tax the Federal lands.

Because these lands were granted in trust, standard trust principles apply. This means the lands are to be managed for the support and benefit of the schools and each State owes undivided loyalty to the beneficiaries, which are the schools. Occasionally these lands are referred to as State lands or public lands. However, these lands are *not* State lands but rather are school lands managed by the State as trustee. The lands are also *not* public lands as the grant was not to the general public. Though noteworthy causes such as national parks, wilderness, open space, or other State interests may seek uncompensated uses for school trust lands, such uncompensated use is contrary to trust principles and fails to respect the beneficial owners of the lands, the schools. The legal decision related to ‘County of Skamania vs. The State of Washington’ states, “Our holding is consistent with a host of cases from other jurisdictions involving school trust lands. To our knowledge, every case that has considered similar issues has held that the State as trustee may not use trust assets to pursue other State goals.” If school lands are situated in areas that should be preserved, then by law the schools must be compensated as other private landowners would be or exchanged for other lands of comparable market value.

Despite this narrow interpretation of ‘trust responsibilities’ associated with trust lands, snowmobiling access may be available in some States (at low or no cost) simply by establishing good working relationships with the administering agency. Other States will hold a hard line and insist on formal easements and fees that optimize revenue for trust lands in return for consideration of granting snowmobiling access. Contact the State trust lands office in your State to determine what options, if any, may be open for your access needs on school trust lands.

Other State Lands

Other classifications of State lands which may be open to snowmobiling access include state parks and recreation areas, state forest lands, state wildlife areas, etc. Since policies and procedures vary greatly from State to State, this publication can only give general guidance as to issues and topics that are typical for access to State lands, as well as for State land planning processes. It is therefore important to research your State's specific requirements for obtaining snowmobiling access to lands owned or managed by State departments and agencies.

Generally, the success of gaining snowmobiling access is significantly influenced by the 'purpose' of the State lands: if the lands are owned and managed for recreation or multiple uses (state parks, state trails, state forests, etc.), the chances of obtaining access will be greater than if the State lands are owned and managed for special (and oftentimes restrictive or conflicting) uses such as wildlife rearing, agricultural production, education funding, etc. You will need to navigate your State's bureaucracy to determine not only the entity responsible for managing the properties you wish to cross with snowmobile trails, but also that entity's mission and purpose for owning particular lands. As with Federal lands, establishing good working relationships with State land managers is critically important to the success of obtaining permission for snowmobile trail access.

State Land Use Planning

State land use planning can also be very general or very project/site specific, similar to planning done by Federal land managers. General plans may include state park master plans or state forest resource management plans that outline general management parameters and uses that may be generally allowed or disallowed. However specific management prescriptions, specific designs, specific locations, etc. are typically deferred to project-specific decisions by State agencies. It's important that snowmobilers participate in big-picture master planning and resource planning processes if they hope to be able to have snowmobiling access considered at project-specific levels.

Many States also have their own environmental laws and permitting processes which must be followed in order to gain access to State lands. As with NEPA at the Federal level, State environmental laws stipulate very structured processes, which typically include public involvement, for State decision making regarding State lands access. These are the 'rules of the game' at the State level and must be followed if you wish to have requests for access approved.

Land Stewardship Guidelines

Many States emphasize "land stewardship" in their planning guidelines. Often this translates to the fact that motorized recreation is not welcomed on many categories of State-owned lands, which can create hurdles for snowmobiling access. State laws that require agencies to prepare resource management plans (RMPs) also often require that these plans include guidelines for operation and land stewardship, provide for the protection and stewardship of natural and cultural resources, and ensure consistency between recreation, resource protection, and sustainable forest management.

States sometimes develop Zoning Guidelines to provide a general land stewardship framework for RMPs. Zoning guidelines are intended to help guide the long term management of specific properties or facilities. They often define different types of management zones based generally on the sensitivity and uniqueness of the resources. The zones may be simply categorized as 1, 2, and 3 – ranging from highest to lowest levels of sensitivity and uniqueness. Significant Feature Overlays, identifying specific designated or recognized resource features (such as Forest Reserves, Areas of Critical Environmental Concern, or areas subject to historic preservation restrictions) and containing specific management requirements or recommendations, may be added to supplement these Zones.

Development of State Park or Forest Management Plans

Developing typical state comprehensive management plans can generally take anywhere from 12 to 24 months. Extensive input is usually sought from visitors, community stakeholders, other State agencies, and the managing agency's staff. The steps may include:

Phase One – Establishing the park's or forest's "Purpose and Significance":

- General management plan developed with 20-year goal for use.
- Careful examination of the parameters of the agency's Missions.
- Review of directives of law, policies, procedures, mandates, agreements, and understandings that will affect the use of the park or forest.
- Review and consideration of the natural, historical, cultural, and educational resources available.
- Collection of input from stakeholders and visitors.

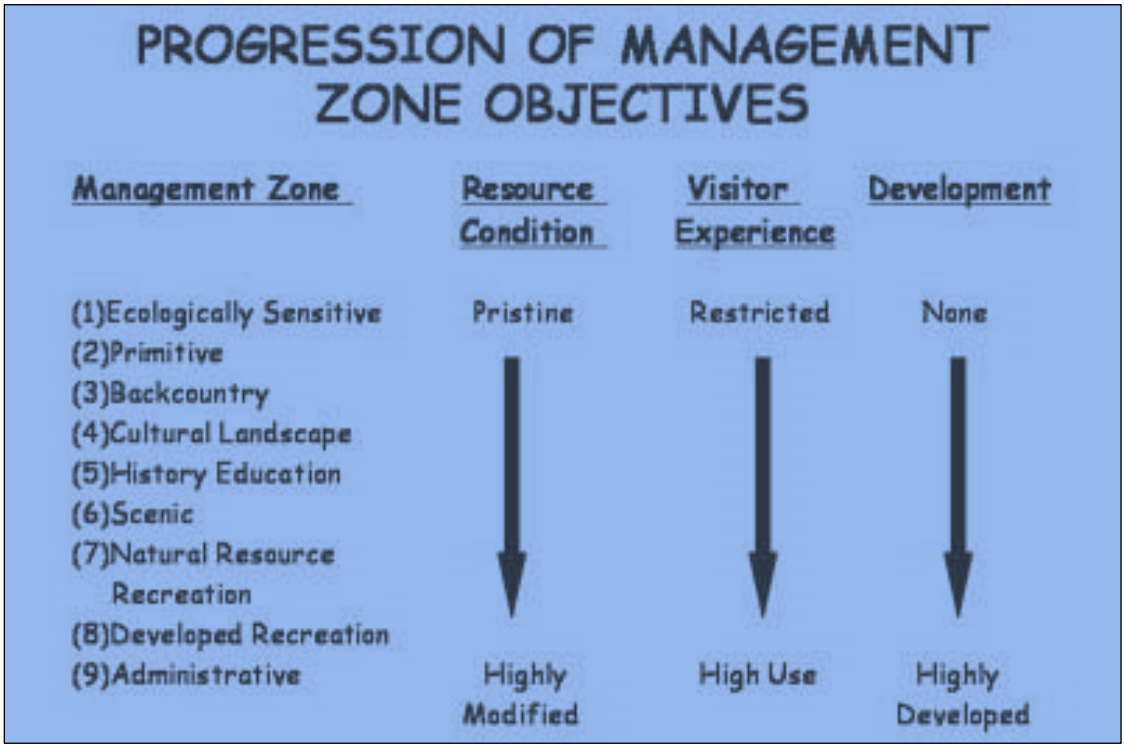
Phase Two – Long-Range (10 year) Action Plan
Phase Three – Five-Year Action Plan
Phase Four – Annual Performance Plan and Report

Management Zones

State plans sometimes tier to the identification and delineation of Management Zones. These are areas with defined characteristics and qualities for which there are related user expectations, management guidance, and defined levels of development.

In the order presented in Exhibit 9 below, these zones reflect a progression from that of the Environmentally Sensitive Zone, which is highly restrictive to use and wholly focused on attaining and maintaining a pristine natural resource environment, to the other end of the spectrum where the Developed Recreation Zone reflects conditions focused on development and visitor use with the natural resources still important, but secondary. Snowmobiling would typically be allowed in management zones 7 and 8 (if it is allowed at all in the park area).

Figure 9: Example of State Park Management Zone Objectives



Incorporated in each zone description is direct guidance as to how the four primary components of the agency's mission statement are addressed in each zone. In this example, those components are: "Acquire, protect and preserve (1) natural resources and (2) historic and cultural resources, and provide (3) recreation opportunities and (4) educational opportunities. Additionally, for each zone there will be descriptions of (5) visitor experience, (6) management focus, and (7) development guidance."

The general language found within these descriptions is used to establish zones of the park in Phase 1 planning. Once established, these zone descriptions are then written into the general management plan specific to the park and sensitive to the park's significance, unique attributes, and qualities.

LOCAL LAND USE PLANNING

Local zoning laws and ordinances typically guide where snowmobiling may or may not be allowed at local levels. Since there can be extreme variability between communities, it's essential to research local rules, as well as who the decision makers are, for every different local jurisdiction your trails may cross. While this variability makes it impossible to discuss this topic in-depth in this manual, examples of various local ordinances governing snowmobiles can be found in Chapter Three.

One thing to keep in mind with local access issues is that, typically, decisions are made by local elected officials and appointed boards that may turn over in their membership on a fairly regular basis. As a result the officials who granted permission for snowmobile trails last year or five years ago are often replaced by new members – who may or may not favor continued snowmobiling access. Since local access is highly influenced by local politics, you must get engaged – and stay engaged – with local governing boards to keep them educated about the importance of snowmobiling access to their communities.

TRAILS AND ROUTES WITHIN ROAD RIGHTS-OF-WAY

It may sometimes be desirable to locate snowmobile trails within road rights-of-way (ROWs), particularly to access businesses and services or to avoid having to cross parcels of private or public lands where there are challenges for snowmobiling access. Most often this involves using routes within the borrow ditch of ROWs – away from the main travelway/road surfaces used by wheeled vehicles. However, some States also allow snowmobiles to be operated upon the traveled portion of specially designated roads' travelway – jointly with wheeled motor vehicles – which are typically referred to as 'shared use roads' or 'snowmobile routes.' Some States require that snowmobiles operated within road rights-of-way carry liability insurance similar to what is required of automobiles, so be sure to check local requirements.

Both situations, as well as road crossings, require permission from the 'agency with jurisdiction over the roadway.' This can be the State department of transportation (DOT), county highway departments, local government street departments, or other agencies. It may also require resolutions from county commissioners, city councils, town boards, and other agencies with jurisdiction over the specific roadways. In some areas permission may be fairly easy or routine to obtain while in other circumstances it may be quite difficult. Safety is always the primary consideration: will it be safe for motorists and will it be safe for snowmobilers? DOTs and other road agencies typically require that a formal application and map be submitted to document specific locations (from milepost number __ to milepost number __) where snowmobiling use will be permitted to occur. This is often called a 'Permit to Occupy Right-of-Way.' These permits may be annual requirements or they may be issued for a certain number of years and then be subject to review prior to renewal. Such permits must be coordinated at local levels with DOT area or district engineers, county highway superintendents, township road supervisors, etc. Important information for various types of ROW access includes:

Road Crossings

Typical factors required or considered by road agencies in respect to road crossings:

- ✓ Adequate sight distances are essential and determined by a formula based upon highway speeds in the area.

- ✓ Flat approaches to road crossings are critical.
- ✓ Highway signing will typically be required to advise motorists of a "Snowmobile Crossing" ahead.
- ✓ "Stop" signs will be required on trails, as well as "Stop Ahead" signing on trails to advise snowmobilers.
- ✓ Snowmobiles with studded tracks may cause road and/or bridge damage, particularly when traffic volumes are large. Consequently, some States may require damage at road or bridge crossings to be managed or repaired by the trail manager, or even ban bridge crossings by studded snowmobiles.
- ✓ It is critical that trail grooming activities not drag snow onto the surface of roadways or the trail crossing may be prohibited or eliminated by road agencies.

Road Ditch Trails

Typical factors required or considered by road agencies in respect to road ditch trails:

- ✓ Exact locations of trail routes, including which side(s) of highways or roads the trails will occupy. Some areas allow two-way operation in both directions – against wheeled motor vehicle traffic – while other areas do not allow two-way operation in order to prevent snowmobile headlights shining at on-coming vehicle traffic. When two-way operation is not allowed, trail managers must have a trail route on both sides of the roadway, doubling trail mileage and also requiring special management considerations for one-way trails.
- ✓ Start and end dates of trails' occupancy (signing, grooming, public use, etc.) / use of ROW ditches.
- ✓ Typically, do not allow trails in 'controlled access' rights-of-way (interstates, freeways, expressways, etc.) where motor vehicle access is only from 'on and off ramps' and ROW boundaries are fully fenced.
- ✓ Often require snowmobile trails' routes or groomed paths to be located at the far outside edges of borrow ditches; this is particularly important when two-way nighttime traffic is allowed in order to minimize potential impacts from snowmobile headlights shining into on-coming traffic.
- ✓ Speed limits for roads typically also apply to snowmobiles (unless speed limits are posted lower on trails).
- ✓ May include additional specific conditions entirely at the discretion of road agencies.
- ✓ Some may allow snowmobile trail signing to remain in ROWs year-round; other areas require all signing materials to be removed after the snowmobiling season.

Shared Use Roads/Snowmobile Routes

Typical factors required or considered by road agencies in respect to shared use roads/snowmobile routes:

- ✓ Always requires special designation/permission by agencies with jurisdiction over the roads.
- ✓ Exact locations of open routes must be clearly stipulated.
- ✓ Speed limits may be the same or lower than what is posted for wheeled vehicles on roadways.
- ✓ Special conditions often apply and are set at the sole discretion of road agencies.

Exhibit 9: Example (Michigan) State statute regulating snowmobile operation on public highways

A snowmobile may operate on a public highway under the following conditions:

- A snowmobile may be operated on the right-of-way of a public highway (except a limited-access highway) if it is operated at the extreme right of the open portion of the right-of-way and with the flow of traffic on the highway. Snowmobiles operated on a road right-of-way must travel in single file and shall not be operated abreast except when overtaking or passing another snowmobile.

- A snowmobile may be operated on the roadway or shoulder when necessary to cross a bridge or culvert if the snowmobile is brought to a complete stop before entering onto the roadway or shoulder and the operator yields the right-of-way to any approaching motor vehicle on the highway.

- A snowmobile may be operated across a public highway, other than a limited access highway, at right angles to the highway for the purpose of getting from one area to another when the operation can be done safely and another vehicle is not crossing the highway at the same time in the immediate area. An operator must bring his/her snowmobile to a complete stop before proceeding across the public highway and must yield the right-of-way to all oncoming traffic.

- Snowmobiles may be operated on a highway in a county road system, which is not normally snowplowed for vehicular traffic; and on the right-of-way or shoulder when no right-of-way exists on a snowplowed highway in a county road system, outside the corporate limits of a city or village, which is designated and marked for snowmobile use by the county road commission having jurisdiction.

PROVIDING EFFECTIVE AND SUBSTANTIVE COMMENTS

When working for snowmobiling access to public lands, it's critical to provide comments into agency planning processes that are (1) substantive and (2) effectively communicate your needs, as well as any issues you may have with the management alternatives being proposed. To do this you need to know:

1. The type of document being prepared (EA, EIS, or other),
2. The stage of the planning process (scoping, draft, final) you are commenting on, and
3. How the input will be used by the agency and the decisionmaker.

"The world is run by those who show up"

Tom M. Crimmins – Retired USFS employee/Trails Consultant
Author of *Management Guidelines for OHV Recreation*

Tips for Commenting

The following tips will help to effectively communicate comments that will be deemed 'substantive' by agencies:

Be Specific with Your Comments

- ✓ Clearly identify the decision, document, or action being addressed by your comments.
- ✓ Address specific issues, statements, and/or inconsistencies in the document.
- ✓ Describe your specific desires and clearly explain what you want.
- ✓ Indicate what you support, as well as what you oppose.
- ✓ Avoid moral and emotional appeals.
- ✓ Don't threaten, get personal, or make accusations.

Be Clear and Concise

- ✓ Isolate separate points in separate paragraphs or with bullet points.
- ✓ Identify offending statements and concerning issues, and/or actions which are stated or proposed in the document.
- ✓ Describe the specific problems with the statements, issues, and/or actions.
- ✓ Keep it simple and to the point.

Provide Substantive Information

- ✓ Provide information as early in the process as possible.
- ✓ Continue to provide or reference as much information as possible throughout the process.
- ✓ Don't be afraid to develop your own alternatives and maps when proposed actions are ill-conceived.
- ✓ Provide pertinent supporting studies or other independent documents that may be available to help support your positions.
- ✓ Be very clear and specific when providing location information about existing trail routes, or desired new trail routes, when travel planning processes offer opportunities to comment or help build route inventories.

Request Action

- ✓ In all cases let agency planners know what changes you want to see.
- ✓ Try to give the agency choices, if possible.
- ✓ If you present 'new information,' make sure you ask the agency to include it in its analysis.

Stay Involved

- ✓ Don't wait to be asked for input – because the agency might never ask you.
- ✓ Get to know the people (agency staff, consultants, decision makers, etc.) involved in the process.
- ✓ Provide data and information whenever you get it versus waiting to provide it later in the process.
- ✓ Maintain regular, on-going dialogue with the agency's planning team.

Comments that are Effective *(in order of effectiveness)*

1. Personal letters or e-mails with very detailed and specific references to the plan, document, or issue are by far the most effective way to comment and participate in a planning process.
2. Individual letters or e-mails addressing less specific talking points regarding the issue.
3. Personal visits or phone calls to an ID Team member. (But it's far better to put your comments in writing since, with phone calls or personal visits, you run the risk that the agency employee doesn't properly document the conversation or may misinterpret or mischaracterize your remarks.)
4. Form letters or e-mails, with personal comments added (improves them only slightly).
5. Form letters or post cards; they are generally not substantive but are better than nothing.
6. Petitions are a waste of time; they are not effective in the NEPA process.

Comment Letter Content and Format

Comment letters should contain the following information to be most effective:

Paragraph 1:	Identify: who you represent (if writing on behalf of a club, association, etc.), the document/process (by the agency's title) you are commenting on, and a brief background about yourself or the organization you're commenting on behalf of.
Middle Paragraphs:	Use as many paragraphs as needed to clearly relate your message. List specific comments on the plan or process in bullet point format using the list of talking points your organization has developed or that you have made on your own.
Last Paragraph:	Thank the agency for the opportunity to comment and ask to be included on its contact list for the project.
Contact Information:	Be sure your name is written clearly (printed or typed) so the agency doesn't have to decipher your signature. Also, if your contact information (address, phone, and e-mail) is not clearly displayed at the top or bottom of your page or letterhead, add it under your signature line so the agency has it for its contact list.
Copies:	It's often good to carbon copy (cc:) others with your comments so they are aware of your positions. This can include members of your organization, politicians, and other important players within the agency.

Exhibit 10: Example Comment Letter Outline

Date

Name of Planning Process
Address

Dear Planning Team *or* Dear Planners *or* Dear District Ranger _____:

Paragraph 1: Option 1 for an organization
I am writing on behalf of the _____ Snowmobile Association in regard to the _____ National Forest Land and Resource Draft Management Plan/EIS. The_____ Snowmobile Association represents over __ individuals and families who regularly snowmobile in the ____ National Forest area. This area is very important to us and we are very concerned about continued access to these public lands for snowmobiling and other motorized recreation activities.

Paragraph 1: Option 2 for an individual
I am writing in regard to the _____ National Forest Land and Resource Draft Management Plan/EIS. I have snowmobiled in the ____ National Forest for over __ years. This area is very important to me and I am very concerned about continued access to these public lands for snowmobiling.

Paragraph 2
We (*or I*) support the following proposals in this draft plan:

- *List bullet points regarding what parts you support, based upon your own thoughts or from talking points developed by your organization, and why you support them or why they are important.*
-
-
-

Paragraph 3
We (*or I*) oppose the following proposals in this draft plan:

- *List bullet points regarding what parts you are opposed to, based upon your own thoughts or from talking points developed by your organization, and why you do not support them or why they are a bad idea.*
-
-
-

Paragraph 4 (optional)
We (*or I)* have the following specific comments (*or questions*) about this document:

- *Mention any specific problems you have found with the plan's accuracy.*
- *Offer any new information you may have that is pertinent to the planning process that is not mentioned in the draft plan and ask the planners to include it in the analysis.*
- *If there is information missing from the plan that you think is important (even if you don't know where to find it), point it out to the planning team and ask that they find it and include it in their analysis.*
-
-
-

Closing Paragraph
Thank you for the opportunity to comment on this draft plan. Please include our organization (*me*) on your distribution list as you proceed with this planning process. Our (*My*) address is _____ or you may also notify us (*me*) by e-mail at _____.

Sincerely,

Joey Sledder *or*
Joan Sledder, President
_____ Snowmobile Club

cc: _____ Snowmobile Association Board of Directors
Congressional Delegation
Governor
DNR Director
Forest Supervisor
Recreation Staff Officer

Making Electronic Comments

The Internet has changed the way public comments are sought by agencies as well as delivered by the public. In the past everything was done by paper – from agencies printing hundreds of copies of their thick EA and EIS documents, to their mailing letters announcing public meetings, to the public mailing their comment letters back to agencies. While it can still happen that way, the mailing of hard copies of documents and letters is now done on a very limited basis. Electronic copies have largely replaced printed copies while e-mail is routinely used for meeting notifications from agencies as well as planning comments by the public back to agencies.

While a NEPA-related public comment process is not a vote, you can be assured decisionmakers are aware of total comment numbers and may sometimes be influenced by public opinion, particularly when issues are on the bubble. The Electronic Age has significantly changed public participation and commenting in the NEPA process, so it's critical that snowmobilers participate effectively in this process if they hope to retain access.

One challenge is that environmental and anti-motorized groups have become extremely adept at loading the NEPA process with electronic comments – so they can tout they 'represent the majority' of public opinion. But since the NEPA process really isn't about 'the numbers,' the best strategy for snowmobilers is to ensure they've offered 'substantive comments' into the process versus simply a large number of moral or emotional pleas.

Using e-mail more effectively can help snowmobilers gain ground in the commenting process. First of all it is instantaneous and can immediately enter into and impact processes. Second, by copying others within agencies, politicians, and others within your own organization or support networks, you can have everyone on the same page and up to speed with your positions – immediately. This then allows others within your networks to copy, forward, or build upon your messages and positions.

Additionally, comment letters that are snail-mailed or e-mailed to agencies at their stipulated 'comment address' (planrevision@fs.fed.us for example) are nearly always batched for 'summary and analysis' by a 'comment analysis team' – oftentimes consultants from outside the agency – so decision makers never actually see actual comments but rather are only given summaries at the end of the comment period that categorize all comments into bullet points. So by including decision makers and key members of the planning team in your e-mail (in addition to the agency-designated comment e-mail address), you increase the odds that they will see your comments or at least become aware of the volume of comments which are being generated – even if they delete e-mail messages without ever opening them.

Tips to Increase the Effectiveness of E-Mail Comments

- Clearly identify the subject, as well as your positions (oppose or support), in the "Subject" block of your e-mail (examples: Forest Plan Scoping Comments; Support Alternative 2; Oppose Big Park Snowmobile Closure; etc.) This shows recipients what you're advocating for, even if they never open your message.

- Most Internet providers allow you to have multiple e-mail "screen names" at no extra cost. If the screen name you commonly use does not readily identify you, your company, or your organization (examples: skidoo800@wild.net or powderking@snow.org , etc.), consider establishing an alternate screen name that is either your complete name or initials with your full last name – just for commenting to agencies and politicians. This will help them easily recognize your name (because they have hopefully met you by this point in the process) versus wondering who the heck 'skidoo800' is and what they want. If they recognize the sender, the odds of their opening a message increase. But if they don't readily recognize the sender – since public employees and politicians are often flooded with e-mails – the odds that the message is either deleted or passed off to an underling without being opened are greatly increased.

- Put your message in the body of the e-mail versus having it as an attachment they will have to download and open (chances are slim they will take the time to open and read an attachment unless they know you – and even then, these folks are often inundated – so make it easy and simple for them to get your message). The

best option is always to write your own message in your own words. Or if you have a form letter, position paper, or bullet points your network is using, you can copy and paste that message directly into the body/message section of your e-mail. You can still attach your complete message (Word document, PDF file, etc.) to your e-mail, but it's not required.

To transfer a Word document to your e-mail message, with the document open in the Word program: click on "Edit" on the top toolbar menu, scroll down and click on "Select All," then either click on "Copy" on the toolbar or click on "Edit" again and scroll down to "Copy" and click on it. Then go to your e-mail program/message. Place the cursor in your message/body section and click on it. Then go to "Edit" on the e-mail program's toolbar, click on it, scroll down to "Paste" and click on it. The message from the Word document should now be in the body of your e-mail message. Finally, go through the message in the e-mail to make sure formatting transferred okay; if not, edit the spacing, etc. as needed to ensure the message is clear and not garbled.

- Do not use sensationalist rhetoric or exaggeration and ensure your facts are supported with actual evidence. Use standard, polite, English grammar. Use words correctly and check proper noun and verb agreement. Check your punctuation, using apostrophes correctly. And avoid exclamations, they come across as sensationalist.

- Copy people who have a role in the decisionmaking process. In the "Send To" section, include the designated comment address (example: plan@agency.com) as well as e-mail addresses that go directly to decision makers and key members of the agency's planning team (because sending it to just plan@agency.com dumps it only into the big 'official comment basket' where they may never directly see your message – just a summary of everyone's comments). In the "Copies To" section, include members of your networks and other key individuals connected to the process whom you want to see your message and positions.

  Sometimes it may be desirable to "blind copy" some on this list if you want them to see your information but don't necessarily want everyone on the list (which means potentially 'the whole world' given the ease and propensity for forwarding e-mail messages…) to know that you're working with them behind the scenes. Broad distribution on the "Copies To" list helps make it easy for others to copy and forward your comments, therefore broadening and enhancing your comment efforts.

- Use your group's website to post your 'official' comments. This helps educate others regarding the issues and also shows what the organization is doing to work for their interests. Also use your website to make comment information (addresses, deadlines, background information, form letters, talking points, etc.) available to help rally more public comments that support your positions.

- Develop your comments early in the comment process to maximize support from individuals and other organizations. If you wait until the last day or last hour to distribute your comments, you lose all opportunities for others to echo or expand upon your comments. If 'other comments' emerge during the process, you can still submit them as 'supplemental comments' near the end of the comment period.

Get involved early – communicate often – and stay in the process until the end

CHAPTER 3 – TOOLS FOR IMPROVING AND RETAINING ACCESS

As mentioned in the Introduction, the placement of any trails (snowmobile or otherwise) on the landscape has the potential to create some level of environmental or social impacts. Therefore it's important that trail sponsors and managers use best management practices and consider options that help eliminate or mitigate concerns private landowners and public land agencies may have with snowmobiling on the lands they own or control.

If you have access, you need to do everything possible to keep it. And if you're trying to obtain new access, it can be increasingly more difficult with each passing year. It's important to recognize changing times and the need for long term visions and sometimes even new approaches. Growth of communities and rural subdivisions makes it continually harder to find through-routes for trails. Local ordinances that have been in effect for years allowing 'snowmobilers to take the most direct route out of town' can now mean having to go through several new neighborhoods versus it having been only a short distance from the rider's neighborhood to the edge of town when the ordinance was passed years ago. As neighborhoods grow there can be more homeowners inclined to complain – which may turn the tide against continued snowmobile access. Consequently it's critically important to take landowners', neighborhoods', and agencies' concerns and complaints seriously – and to take quick action which demonstrates that you're a responsible trail manager.

It may be necessary to 'bend over backwards' and make concessions to keep or gain access, particularly when routes are needed to access fuel or other services or when trails must cross through sensitive areas and multiple use areas. Trail sponsors must sometimes accept new routes 'on a trial basis' to prove that conflicts or issues will be minimal – and then must work hard to ensure that things go well.

This chapter presents a variety of tools proven to help improve and retain access in various areas and situations across the Snowbelt. Since snowmobiling occurs in a wide range of local settings, some tools may be more useful than others based upon specific local issues and complexities. Nonetheless, these tools have collectively proven to enhance access and should be considered where applicable and feasible to help solidify short- and long-term access partnerships.

TRAIL SYSTEM LAYOUT AND DESIGN

Where trail routes and parking areas are located in respect to topography of the land, natural features, and other activities and uses of properties can have significant impacts on gaining and retaining long term access. This can be critically important for access to private lands, as well as public lands. Try to be as flexible as possible with trail locations – while trying to avoid accepting sites that don't hold snow well, create safety issues, or otherwise fail to provide good trail routes or parking. Specific trail system layout and design tools to consider include:

Residential and Occupied Areas

- Route trails behind hills or ridgelines when possible to provide a degree of sight screening as well as sound baffling. This can be particularly important if there are residences or other occupied buildings on or adjacent to properties.

- Route trails along the outer fringes of properties to provide separation between trails and other uses of properties, particularly if it helps provide separation of trail routes from landowners' buildings or other improvements. But try to avoid placement on the outer fringe of properties if it unnecessarily infringes upon the privacy or uses of other adjacent properties.

- Take advantage of existing trees and shrubs to help provide natural screening and sound buffering between trail routes and other uses on properties.

- If high speed operation is a concern, lay out trail routes so they curve or weave through trees to avoid long, straight-away sections that invite higher speeds. Designing turns and curves into a trail can also be used to help slow down riders in advance of driveway or road crossings.

- It may be a good investment for long term access to build permanent fences or plant trees in particularly sensitive areas to help control trail traffic or screen trail use and sounds from adjacent residential areas. Temporary fences can be used to help provide short term traffic control.

Agricultural and Forest Areas

- Be considerate of agricultural landowners' needs for crop production and/or rotation. This may require using less direct access routes to minimize interference. It may also require accepting routes that are subject to relocation each year based upon crop rotation needs. Consider all known variables and then look for routes that may help minimize needs to relocate year after year if at all possible.

- Route trails to keep snowmobiles away from and out of unharvested fields to avoid crop damage.

- Be understanding of timber companies' requirements to reroute trails around timber sales and other harvest or thinning activities. These disruptions are generally short term and often beneficial to snowmobiling since (1) new roads or skid trails may be constructed and (2) the forest's canopy is opened up, which helps more snowfall reach the ground.

- Avoid routing trails through wetlands if at all possible. If it is necessary to cross wetlands, be certain it's agreed to by landowners and that parameters are in place to ensure routes will be used only when the areas are sufficiently frozen. There must also be controls in place (removal of trail signing, gates, barriers, etc.) to ensure snowmobiles or other vehicles do not follow these routes when the ground is not frozen.

- Avoid routing trails through creeks and streams that do not have safe and dependable crossings. While 'snow bridges' can sometimes provide acceptable crossings, they must be continually monitored to ensure they provide safe public travel. If there are no alternatives, work with landowners to install culverts or bridges – which may also benefit them during other seasons and provide added benefits to your partnership.

General Practices

- Ensure sight distances provide safe routes to help manage liability concerns.

- Use signing and temporary or permanent traffic control devices (gates, barriers, fences, etc.) to control winter and off-season unauthorized vehicle uses – and plan for it when laying out trail routes.

- If possible, select trail routes that minimize the need for ground disturbance (grading, dozing, etc.). But at the same time, it can be a good investment to construct good trail treads that have proper drainage and a solid base if routes will be used long term.

Multiple Use Trailheads and Parking Areas

Public land managers can sometimes be reluctant to expand, grant new, or even continue snowmobiling access due to concerns about 'conflicts' between winter recreationists. Since trailheads and parking areas are where conflicts between snowmobilers and nonmotorized winter recreationists most typically begins if it is going to occur, addressing this issue at its origin is the single best management tool for managers and recreationists to consider.

Parking truly is *the* 'root stressor' for winter recreation. While a nonmotorized family of four can easily park their vehicle in about 20 feet or less, a motorized family of four will need close to 60 feet of room to park their 4-place trailer and tow vehicle – plus they need extra room for loading and unloading, as well as room to pull in and out with their extended length vehicle. Some snowmobilers travel with even longer trailers – for six or more snowmobiles – which increases their needs for adequate parking and maneuverability even more. The result is that, if parking is not designed and managed well, winter recreationists (motorized or nonmotorized) can begin to become stressed the minute they turn into poor parking areas – and their stress and 'conflict' builds from that point on for the remainder of their outing.

This issue is often driven by needs for 'more and better winter parking,' which ultimately requires project-specific NEPA analysis. It can also be addressed by separating uses for a short distance out of trailhead areas. When working with land managers to address multiple use conflict issues, consider the following:

- When space allows, it can be beneficial to provide separate parking areas for motorized and nonmotorized recreationists to eliminate the necessity for interaction between the groups while loading and unloading. When this is done, good on-the-ground signing is critically important to help guide recreationists to the staging area appropriate for their recreation choice. If possible, egress and ingress routes should also have some degree of separation between user groups to minimize interaction versus immediately placing them together in the same areas or onto the same trail routes.
- If available space does not allow for separate parking areas, staging areas should be zoned for nonmotorized and motorized parking areas. Again, good on-the-ground signing is critical to help guide recreationists to their designated parking zones.
- When designing and/or zoning winter parking and staging areas, it is critical to remember that motorized users require much more room for parking and maneuvering their vehicles with trailers than what nonmotorized users require – so parking zones should be arranged and allocated accordingly.
- When staging areas must be shared, it can be helpful to provide separate egress/ingress access routes that are designated to disperse nonmotorized users and snowmobilers to recreational areas beyond staging areas. Cross-use should not be allowed on designated trail routes (No snowmobiles permitted on nonmotorized routes, as well as no nonmotorized use permitted on snowmobile routes.) and this restriction should be signed and enforced.
- If possible, have the motorized and nonmotorized egress/ingress routes depart from separate sections of parking areas, correlating to the separate parking zones. If topography or ultimate destinations for both groups make it necessary to depart staging areas from the same location, still designate separate motorized and nonmotorized routes and delineate them with on-the-ground snow poles and signing – and enforce it.
- If feasible, it's often advantageous to route nonmotorized users along or slightly into the tree line (if adjacent to open areas), while simultaneously routing snowmobile traffic either along the opposite side of openings or through the middle of open areas. If access routes must be located entirely within woods, consider cutting two trail routes with a degree of separation between them if possible.
- When designing or zoning staging areas for snowmobilers, it's important to recognize the need for snowmobile 'warm-up' areas close to parking areas. Oftentimes, older snowmobiles that have been hauled any distance on trailers tend to have their carburetors 'load-up' (flood), which requires that the machines be run a bit to clear their engines. While newer sleds with fuel injection have fewer problems with this, cold weather conditions can still create needs to warm up all snowmobiles. It's therefore important to have either open areas or extra trail space adjacent to parking areas so snowmobiles can be properly 'warmed up' prior to families and groups departing on their outings.

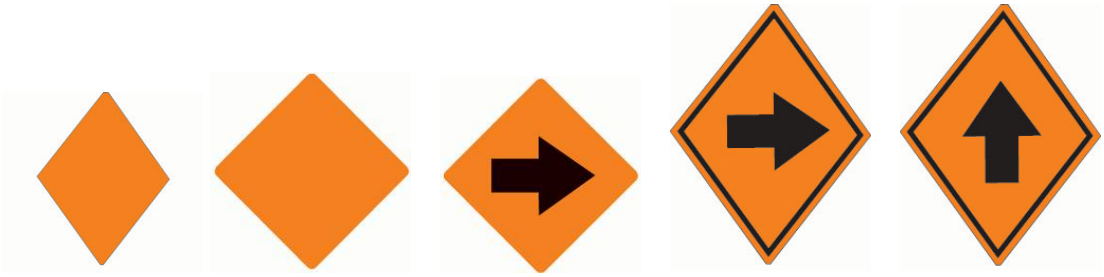
SIGNING FOR SNOWMOBILE MANAGEMENT

On-the-ground signing that clearly identifies expectations of snowmobilers is an important management tool which is critically important when trails cross private property or are routed through or adjacent to sensitive areas such as winter wildlife ranges, designated nonmotorized areas, etc. And whenever signing is placed on a trail, it's vital that all signing be properly and regularly maintained. Snowmobile regulatory and warning trail signs are typically 12" x 12" in size, although 18" x 18" or larger signs may be used for increased visibility in

special circumstances. All regulatory or warning signs placed in highway or road rights-of-way must comply with the Manual of Uniform Traffic Control Devices (MUTCD) standards; otherwise the MUTCD generally does not apply to snowmobile trails. Guidelines for posting signs are available at http://www.snowmobileinfo.org/snowmobile-access-docs/IASA-Sign-Guideline.pdf. Many types of signs are available from commercial sign companies that can be used to address a variety of issues; examples include:

Trail Route Markers

Snowmobile trail routes should be delineated by using either 5” x 7” or 6” x 6” Orange Trail Blazers. Sometimes a 6” x 6”, 5” x 7”, or 9” x 12” Blazer with Directional Arrow can also be used to both delineate trail routes and indicate changes in the direction of trail routes. These blazers can be mounted on wooden or metal posts. With landowners’ permission, they may also be mounted on utility poles, existing fence posts, or trees (*Should use aluminum nails when fastening to trees*.) as long as they are within three- to eight-feet from the edge of trail routes. Be certain you have landowners’ permission if you leave snowmobile trail blazers up year-round. If non-winter motorized uses (ATVs, jeeps, etc.) are not desired on snowmobile trail routes, blazers may need to be removed (or at least the ones closest to road crossings or access points) to prevent attracting unauthorized uses.



5” x 7” 6” x 6” 6” x 6” 9” x 12” 9” x 12”

Plastic snow poles or wooden stakes can also be useful to help delineate snowmobile trail routes across open fields and meadows, particularly in deep snow areas where permanent route markers may become buried in snow as the winter season progresses. This type of signing requires regular maintenance to ensure marker poles remain in place and are not removed by vandals or covered by snowfall or wind. It’s also important that temporary snow poles and stakes be removed in a timely manner at the end of the season – so they don’t fall over, become lost, and ultimately interfere with agricultural or other non-winter uses of properties.

Prohibitive and Permissive Signs

Prohibitive signs typically have ‘red’ colored text or a ‘red circle with a slash’ over a graphic of the prohibited use to indicate that the vehicle or use is not allowed in that area or on that trail segment. They can be important management tools when used strategically at access points. A ‘green’ colored text, background, or circle typically indicates the use is allowed. Sometimes it’s useful to add ‘plain language’ signs which explain the reason uses are prohibited.

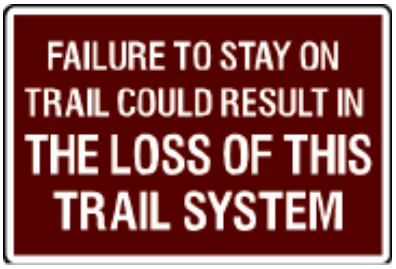






Stay on Trail

‘Stay on Trail’ signs can be very important on-the-ground management tools and are available in many variations. Oftentimes ‘Stay on Trail’ is sufficient to get the message across to riders. However if riders don’t follow the short version of this message, don’t be afraid to use more aggressive versions – including telling them to ‘stay home’ since it is far more important to keep access for trails open versus worrying about offending riders with harsh signing. It can also be helpful to identify who landowners are with special signing that incorporates the importance of staying on trails to help retain continued access.



Trespassing

Trespassing on private lands is the number one complaint against snowmobilers by private landowners. Whether intrusion occurs on properties which are directly adjacent to trails – or if it's on properties away from trails – it can result in snowmobiling access being lost. Controlling unauthorized snowmobiling on lands adjacent to trails is imperative since it quickly causes landowners to close trail routes through their properties. Controlling unauthorized snowmobiling on properties removed from trail routes can be just as important – whether they are owned by landowners who authorize snowmobile trails on other properties they own, or whether the violated properties are owned by their friends or neighbors. Neighbors stick together and often expect trail managers to help address other snowmobiler-caused problems in exchange for granting permission for trail routes. This can require aggressive signing and enforcement efforts. Examples of special signing, beyond the common 'no trespassing' signs, include:

Speed Limits

Landowners sometimes have concerns about high speed snowmobile operation across their properties – especially if trails are close to occupied buildings or high use areas. Consider using speed limit signs to help reduce speeds and control reckless snowmobile operation that can jeopardize sensitive access.

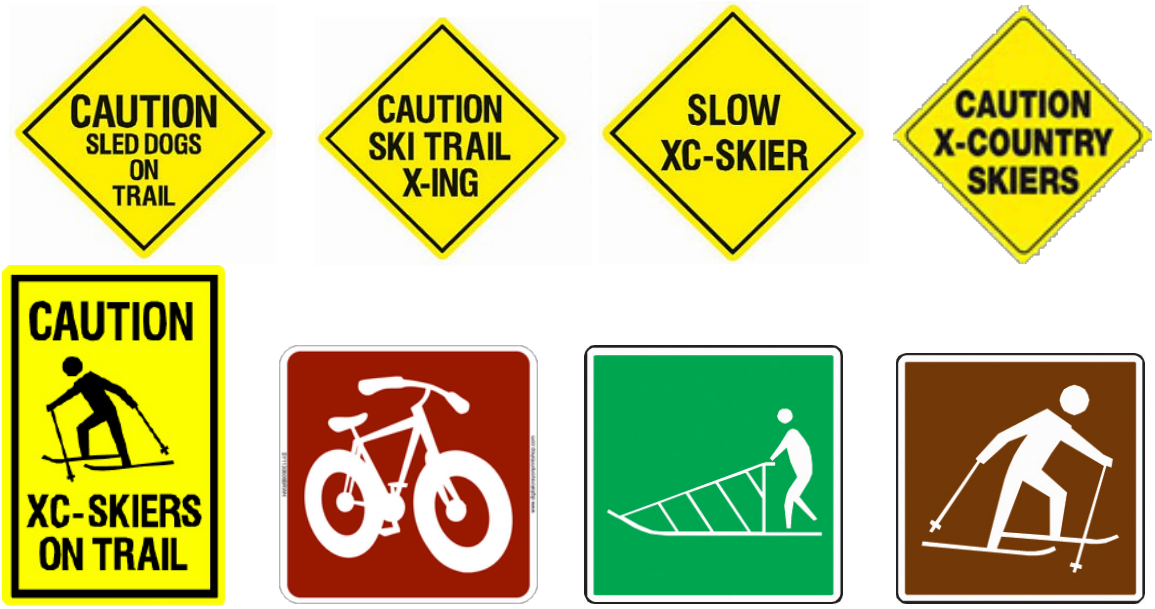
Stop or Yield Signs

'Stop' or 'Yield' signs should be used at all driveway and road crossings within landowners' properties, based upon traffic levels or landowners' options (Use a Yield sign, at a minimum, in low traffic areas; use a Stop sign at 'medium to high traffic' crossings, or if requested by landowners.) This helps provide increased safety for snowmobilers and motorists, helps manage liability concerns, and reduces high speed snowmobile operation.

Multiple Use Trail Signs

When trails are shared with other recreational users, signing should be used to advise snowmobilers that other recreationists may also be present on trails. These warning and cautionary signs also serve to enhance positive working relationships amongst groups by encouraging slower and more responsible operation when in the

presence of nonmotorized users. This can be particularly important when multiple use trails are located on public lands where land managers have to balance many competing multiple uses.



Special Landowner Signs

Landowners often request special signing to address what they feel are ‘special circumstances’ they want recreationists who access their properties to be aware of. Oftentimes extra efforts to post ‘special request’ informational signs for landowners can make the difference between receiving a ‘yes’ or ‘no’ from individual landowners. Examples of commercially available specialty signs include:

Farm Crossing

Livestock Crossing

Trail Closed

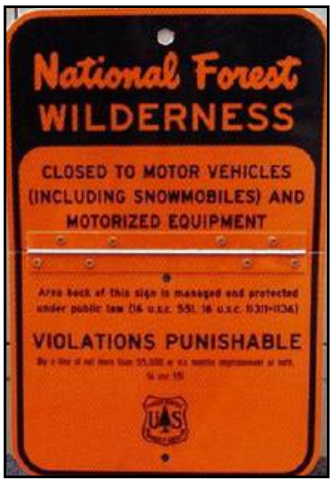
Whether during the off-season (non-winter) or during the snowmobiling season, trail routes sometimes need special signing to inform trail users that trail routes are not currently open to public use.

Winter Wildlife Range or Special Wildlife Management Areas

Trail routes on public lands must sometimes cross through or adjacent to wildlife winter ranges, deer yards, and other sensitive areas. It's critical that snowmobilers and other winter recreationists stay on designated routes and out of closure areas to protect wildlife and continued snowmobiling access through these areas. Signing should clearly designate open travel routes, as well as indicate closure boundaries, entry and exit points, and reasons why (interpretive signs) the closures/restrictions are important to wildlife and/or natural resources in these areas.

Wilderness Areas

Congressionally designated Wilderness Areas are closed to all mechanized and motorized access. This is a closure law which snowmobilers must respect since illegal Wilderness trespass behavior is illegal and also harms keeping future snowmobiling access open on public lands adjacent to designated Wilderness. It can be very helpful for snowmobilers to be proactive by helping agencies post and maintain Wilderness boundary signing, particularly in known problem areas.



SOUND LAWS

Improperly modified exhaust systems on snowmobiles emit excessive sound levels that can cause conflicts and ultimately result in trail closures. Consequently excessive sound levels from modified snowmobiles can very negatively influence gaining or retaining snowmobiling access – irrespective of whether on public lands, private lands near residences, or within communities.

EXCESSIVE SOUND LEVELS from modified exhaust systems = the #1 cause of LOST snowmobiling access in many areas
LESS SOUND = MORE GROUND

Stationary Test: a stationary sound test, SAE J-2567, developed by the Society of Automotive Engineers (SAE) working in conjunction with the International Snowmobile Manufacturers Association (ISMA) and the Wisconsin Department of Natural Resources was first adopted in 2004 and provides an important new tool for sound level management. The original test procedure involved conducting the test at 4000 RPM and allowed a maximum 88 decibel threshold; however since the transmission of several newer snowmobile models is fully engaged at 4000 RPM, SAE approved a new test protocol in 2015 allowing for the test to be conducted at only 2500 RPM with an accompanying 82 decibel threshold.

This allows enforcement officers to test snowmobiles in a stationary mode – as compared to older sound test protocols (SAE J-192 and SAE J-1161) which require either full-throttle or 15 mph snowmobile pass-bys respectively, and which aren't safe or easily used as an on-trail enforcement tool. Very importantly for snowmobiling access, the J-2567 stationary test procedure allows enforcement officers to more easily differentiate between snowmobiles that may have been improperly modified and/or improperly maintained, and those that are compliant with sound laws.

The SAE J-2567 stationary test procedure has been adopted by several States as part of new sound laws aimed at removing noncompliant snowmobiles from riding areas to help protect future snowmobiling access. This is an important management tool for snowmobiling access that should be considered by all jurisdictions. Exhibit 11 provides the Wisconsin snowmobile sound law, which is based on the original 2004 test procedure conducted at 4000 RPM with an 88 decibel threshold, as an example of an enforceable sound law featuring J-2567:

Exhibit 11: Example State (Wisconsin) Snowmobile Sound Law

Wisconsin Statute 350.095 Noise level requirements.
(1) NOISE LEVEL STANDARDS; TOTAL VEHICLE NOISE.

(a) Every snowmobile that is manufactured on or after July 2, 1975, and that is offered for sale or sold in this state as a new snowmobile shall be manufactured so as to limit total vehicle noise to not more than 78 decibels of (A) sound pressure, as measured by Society of Automotive Engineers standards.

(b) No snowmobile may be modified by any person in any manner that shall amplify or otherwise increase total vehicle noise above that emitted by the snowmobile as originally manufactured, regardless of date of manufacture.

(2) NOISE LEVEL STANDARDS; EXHAUST AND ENGINE NOISE.

(a) No snowmobile may be manufactured, sold, offered for sale, or operated unless it is equipped with a muffler in good working order.

(b) For snowmobiles manufactured after July 1, 1972, a muffler that is in good working order is one that blends the exhaust noise into the overall engine noise and is in constant operation to prevent exhaust and engine noise that exceeds the applicable noise level standards established under paragraphs (c) and (d).

(c) For every snowmobile manufactured after July 1, 1972, and before July 2, 1975, the noise level standard for exhaust and engine noise shall be 90 decibels as measured in accordance with the procedures established for the measurement of exhaust sound levels of stationary snowmobiles in the January 2004 Society of Automotive Engineers Standard J2567.

(d) 1. Except as provided in subdivision 2, for every snowmobile manufactured on or after July 2, 1975, the noise level standard for exhaust and engine noise shall be 88 decibels as measured in accordance with the procedures established for the measurement of exhaust sound levels of stationary snowmobiles in the January 2004 Society of Automotive Engineers Standard J2567.

2. After consulting with the snowmobile recreational council, the department may promulgate a rule that establishes a noise level standard for exhaust and engine noise that is other than 88 decibels.

J-2567 stationary sound test guidelines are outlined in Exhibit 12 below and are available from SAE at http://standards.sae.org/j2567_201511/ .

Exhibit 12: SAE J-2567 Stationary Sound Test Guidelines

SAE J-2567 Stationary Sound Test Guidelines
(11-24-2015 update)

This test is used by enforcement officers to measure the exhaust sound level of a stationary snowmobile suspected of being too loud due to poor maintenance or modification of the exhaust system from the original that was installed and tested for compliance by the manufacturer.

The limit use to enforce noise levels by snowmobile trail officers was 88 dB when performing the test at 4000 rpm. When testing at 2500 rpm the limit should be 82 dB. The limits are taken on very hard pack snow conditions typical of a snow covered parking lot in the winter.

For a complete copy of the SAE J-2567 sound test standard, please contact SAE International, 400 Commonwealth Drive, Warrendale, PA 15096-0001, Tel: 877-606-7323 (in US and Canada) or +1 724-776-4970 (outside USA), www.sae.org .

Use a sound level meter with an accuracy of ±0.2 dB, a microphone of the free-field type, a windscreen which does not affect microphone response more than ±1.o dB for frequency in the 63-4000 Hz range and ±1.5 dB for 4000-10000 Hz range.

Test in a flat, open surface free of large sound-reflecting surfaces. The test site should be clear within 5 m (16 ft.) of snowmobile being tested and the location of the microphone. The test surface shall be grass or snow. The ground condition is considered and taken into account when testing on hard packed snow.

The snowmobile shall be parked with rider seated in normal operating position and the forward traveling path of the snowmobile is clear of obstructions with the brake set throughout the test. The engine shall be started and run until reaching normal operating temperature range. The snowmobile operator will then slowly open throttle until a steady 2500 rpm speed is reached – while holding the snowmobile stationary by applying brakes for not less than 4 seconds. Record average reading and repeat test. A test is valid if two readings are within 2 dB of each other. The record will be the average of the two test values. If readings are not within 2 dB of each other, repeat test procedure until two reading are within 2 dB of each other.

The sound level meter is set for A-weighing network and slow dynamic response. It shall be calibrated and adjusted if necessary. Record the value.

The microphone shall be located on the side of the snowmobile towards exhaust outlet is directed parallel to ground and perpendicular to snowmobile with no physical attachment between snowmobile, microphone/ sound level meter, 4.00 m (157.5 inches) from snowmobile and 1.22 m (48.0 inches) off the ground. If exhaust has more than one outlet, use the centermost point of multiple outlets. Only the snowmobile operator and person performing measurement shall be within 3 m (10 feet) of the snowmobile or microphone. Anyone else must be in fixed position behind sound level meter to minimize effect on the measurement.

Before conducting test, the person conducting the test must observe ambient sound level at the measurement location and record this level (to include wind effects). To be a valid test the measured sound level of the snowmobile shall be at least 10 dB higher than recorded ambient sound level.

After test repeat ambient sound level measurement. Repeat calibration. Record measured value before performing any adjustment. If calibration has shifted more than 0.2 dB the test shall be invalid.

The test must be performed by persons knowledgeable of the test procedure and use of instrumentation. Proper use of all test instruments is essential to obtain valid measurements.

Items for consideration when running the test:

Type of microphone
Effects of ambient temperature
Proper acoustical calibration procedures

LOCAL ORDINANCES

Access to or through communities often requires special local ordinances or regulations that specifically permit generalized or route-specific snowmobile access routes. These ordinances are extremely important and should never be taken for granted. Other local ordinances often define specific places where snowmobiles are prohibited within communities. Such ordinances help balance reasonable access with helping ensure that snowmobiles don't unduly interfere with other needs within communities. Examples of typical local ordinances and regulations include:

Snowmobile Operation Prohibited

It is common for communities to prohibit all snowmobile operation in the following areas:

- On public sidewalks or boulevards.
- In the downtown or business districts.
- Private properties without the permission of landowners or occupants.
- School grounds.
- Park properties, play grounds, recreational areas and golf courses without permission.
- Cemeteries.
- On county roads or State highways within city limits, except when no other route to city limits or to trails exist (and this exception is specifically permitted by ordinance or law).
- On city or town streets, except for using the most direct route from your residence to the nearest departure point from the city or snowmobile trail (only if this exception is specifically permitted by ordinance or law).

If snowmobilers hope to retain permission for access routes to and through communities, it's important that these types of general snowmobile prohibitions within communities be respected and are strictly enforced.

Snowmobile Operation Permitted with Restrictions

Some communities and agencies allow limited snowmobile operation with specific restrictions that may include:

- Speed limits: may be set by communities as low as only 10 or 20 miles per hour for snowmobiles, or may require snowmobiles to 'obey posted speed limits' intended for other vehicles operating on dual-use streets and roads.
- Curfews: examples include language that is as complex as not allowing snowmobile operation 'during the hours of 10 PM to 7 AM the next day following Sunday through Thursday, and midnight and 7 AM of the day following Friday and Saturday;' other communities' regulations simply 'prohibit the operation of snowmobiles between midnight and 7 AM,' or 'prohibit snowmobiling between 1 AM and 8 AM.'
- Age restrictions: examples range from 'persons under the age of 14 are banned from operating snowmobiles in the city,' to 'persons aged 14-18 must have completed a snowmobile safety certification course,' to 'snowmobilers under the age of 18 must be accompanied by parent or guardian at all times.'

- Snowmobiles 'may be operated on the outside bank of road ditches along county roads, but cannot be operated on the road except to cross at a right angle.'
- Limited access: some communities identify only very specific streets and roads through town or to services where snowmobile operation may be permitted; others regulate that snowmobile operation inside the city is prohibited except on a direct line from the operator's residence to the city limits, using the shortest route possible.
- Some communities stipulate that 'when traveling on city streets, snowmobiles should travel in single file, as close as possible to the right-hand curb or edge of the road, and at speeds no greater than 10 miles per hour.'
- County commissioners sometimes pass a resolution 'to permit snowmobiles on the non-maintained portions of specific county roads.'
- Snowmobilers 'shall observe a speed limit of 10 mph when operating a snowmobile within 100 feet of a skier or other nonmotorized (trail or road) user.'
- Ordinances affecting other vehicles also apply to snowmobiles.
- Require that there 'must be at least three inches of snow on the ground before snowmobiles can be operated.'

OTHER MANAGEMENT TOOLS

Various other management actions and policies may be useful tools in some areas for retaining or improving snowmobile access:

Fencing

Seasonal or year-round fences can be very effective trail management tools, particularly in problem areas with high levels of trespass or unauthorized off-trail snowmobile operation. Solid fences can also be used to mitigate 'loss of privacy' concerns and to reduce sound levels. Since fencing (short or long term) is an 'improvement' to property, prior landowner permission and coordination is required. If trail routes are secure for long term use, it may be beneficial to work with landowners to install permanent fencing to reduce annual labor efforts and to ensure fencing is always in place when it's needed to control unauthorized uses. Sometimes fencing just one side of trails provides adequate traffic control; in other situations it may be necessary to fence both sides so a confined 'travel lane' is established.

Plastic snow fence is often the easiest and most economical short term fencing solution for controlling unwanted traffic. At the other end of the spectrum, a solid wood or commercial synthetic fence is typically the most expensive fencing option, but can be a good investment for addressing privacy or sound issues where the goal is long term access. Other effective fencing solutions include various types of wood rail, buck and pole, or wire fences. If wire fences are built – and snowmobiles must travel close to the fence – consider using smooth wire rather than barbed wire to provide a safer, less intimidating obstruction.

In some areas, planting trees or shrubs can be used to provide a more aesthetically pleasing 'natural fence;' however it may require several years of growth before a screen planting is effective.

Gates and Barriers

It can be beneficial to install gates or barriers in problem areas to help control unauthorized vehicle uses on trail routes during the off-season. Since this is an 'improvement' on the property, prior landowner permission and coordination is required. Since a wide range of gates can be effective (steel panel, steel or pipe beam, wood beam, wire, etc.), gate type is often driven by adjacent land uses (agricultural, industrial, residential, etc.) and the desire of landowners. A reflective 'closed' sign (chevrons, trail closed, no trespassing, no vehicles, etc.) should be mounted in the center of gates to give warning that routes are not open.

Cables are sometimes used as closure barriers or gates. While they can be an effective control method, two-sided reflective signing should clearly mark cable closures to help prevent injuries. Do not use thin, single strand wires without reflective signing attached as trail closure gates. When trail routes are open, ensure that cables are fully stored outside travel ways to avoid being snagged by passing snowmobiles or groomers.

Barriers such as rocks or parking bollards can sometimes provide effective off-season trail closures as long as they don't create crash dangers. Keep in mind that such closures often need to be removed prior to the grooming season, before they freeze in place.

Portable barricades (saw horse type, buck and pole, etc.) can be useful for restricting unauthorized vehicles from groomed snowmobile trails during the winter season. All barricades should have reflective signs on both sides, as well as signing that advises what type of closure is intended (closed to wheeled vehicles, etc.). Position barricades where they will be most effective while keeping in mind that groomers may also need to access trail routes in that location. Portable barricades require frequent inspections and maintenance to ensure they remain in the correct locations and are providing the intended closures or traffic controls.

Some areas use crossed wood or plastic snow poles (an X) with bright-colored flags or ribbons attached to designate driveways not to be crossed or to direct riders around locations where they may cause conflicts.

Timing or Spatial Restrictions

Timing restrictions are management policies that divide recreational use of public lands by the 'time' of season. One example involves allowing snowmobiles in defined areas early and late in the season, while not allowing them in those same areas during mid-winter – which means snowmobilers must recreate in different riding areas during the heart of the snow season. Another example would be allowing snowmobiling on trail routes on alternating days or alternating weeks – with the routes being open to only nonmotorized recreation on the alternate days or weeks.

Spatial restrictions segregate recreational uses by zoning public lands into separate areas for motorized and nonmotorized recreation.

Timing and spatial restrictions provide reduced recreational opportunities and should be pursued (or agreed to) only as last-resort attempts to keep some degree of (reduced) snowmobiling access open.

Inventory Trail Routes

Having good information about exactly where snowmobile trail routes are located can be a good defensive tool. GPS all of your current trail routes (as well as important old routes not currently in use) to have clear understandings and documentation of exactly where they are located on the ground.

Photo documentation/inventory of trail routes can also be a good defensive tool. Photograph the same segments of trails on a regular basis (pre-season, during the season, after the season, and during the summer season) to document 'impacts' (or the lack of impacts) from snowmobiling over a period of years.

Avoid Sensitive Areas

It is critical to keep snowmobiles out of unharvested fields to avoid crop damage. It is also important to protect areas for wintering wildlife.

If possible, avoid sensitive areas all together; otherwise 'restrict snowmobiles to trails' with heavy signing and enforcement. It may also require placing a curfew on trails to prohibit late night traffic.

Motorized Use on Nonmotorized Trails and Pedestrian Walkways

In general, motorized use is prohibited on nonmotorized trails and pedestrian walkways that use Federal transportation funds, except for snowmobiles. (23 U.S.C. 217(h)). The snowmobile excerpt reads: "Use of Motorized Vehicles. -- Motorized vehicles may not be permitted on trails and pedestrian walkways under this section, except for -- when snow conditions and State or local regulations permit, snowmobiles;

The Federal Highway Administration has a *Framework for Considering Motorized Use on Nonmotorized Trails and Pedestrian Walkways under 23 U.S.C. §217* which is available at https://www.fhwa.dot.gov/environment/bicycle_pedestrian/guidance/framework.cfm.

LAW ENFORCEMENT AND EDUCATION

It's very important that laws, regulations, and ordinances be enforced at local levels to help ensure future snowmobiling access. Most certainly, the enforcement of trespass laws and restrictions requiring snowmobiles to stay on trails through private property or sensitive areas have a direct impact upon landowners' and agencies' willingness to provide future access. Also, don't underestimate the indirect importance that compliance with sound laws, speed limits, curfews, responsible operation on shared use roads or trails, minimum age restrictions, etc. can also have upon continued permission for access. If agencies and landowners have a positive image of snowmobilers behaving responsibly they will be more inclined to allow access. But if they routinely experience snowmobilers behaving badly and ignoring laws, they can quickly become inclined to eliminate access to their properties.

Snowmobile trail managers, clubs, and associations need to make funding and partnerships for law enforcement and education a high priority because – beyond its importance for public safety – it also directly affects access. Law enforcement and user ethics education can be provided by local, State, or Federal agency partnerships. Education about important rules and regulations, as well as responsible use ethics, can also be provided through volunteer trail patrols.

LANDOWNER RECOGNITION PROGRAMS

It's extremely important to recognize landowners for their support, whether by sending them simple written 'thank you' notes or cards, hosting special recognition events, inviting them to participate in club or association events at no cost to them or their families, providing them with small gifts, or presenting them with 'awards' for their partnerships. Any small token of appreciation will help strengthen good working relationships and demonstrate that they are important to snowmobilers – and that their support by providing access is not unnoticed or taken for granted.

Special Events

Special events like landowner dinners and picnics can be important relationship building tools. Besides showing appreciation to landowners, some events can also provide landowners with opportunities to inform riders about changes to their properties or special stipulations to the access being granted. Events can also be used to inform everyone present (landowners and riders) about changes in laws, regulations, or policies that may be important to partnerships and recreational use of their properties. More than anything, events help put faces to names and provide a forum for two-way dialogue amongst snowmobilers and their landowner hosts. It's important to invite ALL your landowners (private, corporate, and public), regardless of whether they choose to participate or not.

Keep in mind how important it is to continually show landowners and other partners that snowmobilers are responsible recreationists. Therefore ensure that activities during special events are always done in good taste and that group conduct is respectful of mixed audiences. Always promote positive images of snowmobiling and snowmobilers.

Timing of events can vary based upon local situations and goals, as well as the best time to attract local landowners. Some hold dinners in the spring, right after the season ends. Others hold picnics in the summer, which also provides opportunities to get clubs together in the off-season. In other areas fall events work best to provide forums to present changes and help generate interest (and volunteer help from club members for fall trail work) just prior to the winter season. There is no right or wrong way, rather what's important is that you do *something* to show appreciation to your landowners.

Examples of successful landowner appreciation events include:

- Free meals hosted specifically just for landowners and club members: steakfrys, picnics, spaghetti suppers, pancake breakfasts, banquets, garbage can or milk can dinners, fish boils, pig roasts, etc.
- Fund raising events where landowners and their families are admitted free: spaghetti suppers, pancake breakfasts, pig roasts, dances, etc.
- Special guests at statewide or local rides or snowmobiling events.

Exhibit 13: Example Invite to Landowners' Appreciation Dinner

Friends:

Wow, what a good ole snowy winter. It has provided us with much needed moisture for our soil and hopefully will raise the water table; in addition we were allowed some great snowmobiling opportunities. Through your generosity our local economy received a boost with many people spending money for fuel and food as they rode throughout the area. In appreciation of your allowing the snowmobile trails to cross your property, we invite you to share a meal with us on Saturday evening, March 29th, at the Cambria Conservation Club. We will be serving food from 5:30 until 7:30 p.m. We hope that you will be able to find time to attend.

Please call ***-***-8888 by Monday, March 24th, and let me know if you will be able to join us. You are welcome to just leave a message on the answering machine, but be sure to include your name.

We look forward to a good night of food and fellowship. Spring is on its way!

With our sincere thanks,

The Moonlighters, Inc.
D. W., Treasurer

P.S. The _____ Firemen will be sponsoring their dance and silent auction starting at 8 p.m. that same evening at the fire station downtown – so plan to join us and then come support the Firemen!

Small Gifts

Small gifts can be important tokens of appreciation to private landowners, particularly in States that do not allow cash incentive payments to landowners. Oftentimes gift giving is timed to coincide with the Christmas season. Others choose to distribute gifts after the snowmobiling season or at summer picnics.

Gifts should generally not be given to employees of public land managing agencies since this may be a violation of ethics laws that govern public employees and officials. The exception to this guideline is that small appreciation awards, plaques, or certificates can be an appropriate way to recognize public employees and officials for their partnerships.

Examples of appreciation gifts often given to landowners:

- Cheese, butter, ice cream, hams, frozen turkeys.
- Fruit boxes or baskets.
- Christmas gift baskets or wreaths.

- Gift certificates.
- Calendars.
- Easter lilies.
- Appreciation certificates or plaques.

RESEARCH INFORMATION ON IMPACT TOPICS

Concerns about impacts from snowmobiles to the environment, wildlife, other recreationists, or their local community can sometimes be a barrier to landowners granting permission for access to their lands. An extensive collection of peer-reviewed Library of Research Studies Related to Snowmobiling Impacts is located at http://www.snowmobileinfo.org/snowmobiling-access-resources.aspx#Research-Studies-Related-to-Snowmobiling-Impacts. This library is based upon *Research Studies Related to Snowmobile Impacts* which is also downloadable at http://www.snowmobileinfo.org/snowmobile-access-docs/Research-Studies-Related-to-Snowmobiling-Impacts.pdf. The on-line Library and the Research Studies publication provides abstracts, summaries, and web links for over 190 impact studies related to snowmobiling, approximately 150 of which can be downloaded in their entirety. This is an important tool that all trail providers and managers should become familiar with and use in their negotiations for access. While some studies may be old they still remain relevant to present day concerns and discussions about snowmobiling impacts. And while all studies will not apply to every local situation, many of them can be extrapolated for use where local situations are similar.

Some research studies date back to the 1970s and 1980s – when snowmobiling was fairly new, growing rapidly in popularity, and concerns by land managers and citizens were high. Study after study either disproved many of the concerns or showed that impacts were less than had been feared. Since funding for scientific research is generally sparse and increasingly hard to come by for researchers – and previous research showed snowmobiling impacts to be minimal – the focus of scientific research in subsequent years turned to higher concern topics.

Renewed interest in snowmobile impacts surfaced in the late 1990s with public debate over continued snowmobiling access to Yellowstone National Park. During the same time period ATV use was exploding, which created an interest in (and subsequently funding for) ATV/OHV impact studies. While the setting for snowmobiling in Yellowstone is quite different from other snowmobiling areas – and ATVs/OHVs have distinctly different operational characteristics than snowmobiles – these two situations have driven most recent scientific studies regarding motorized recreation impacts. And while different, there are often enough similarities that make it acceptable to use this data to make informed inferences. The standard is referred to as "best available information" – so make use of the best information you have to combat unsubstantiated claims and biased opinions from snowmobiling opponents.

While the list of existing snowmobile related studies and information is long and fairly all encompassing, there is always a need for more and better data to help fill information gaps and facilitate more informed decision making. Look for opportunities to invest in research partnerships that will help expand the body of available science. Keep in mind that good scientific research can be extremely costly – so choose partnerships wisely based upon cost effective methodologies that can be independently peer reviewed and have good likelihood to reach favorable conclusions for snowmobiling and snowmobiling access.

WORKING WITH VIPs

What is a VIP (very important person)? It's anyone who should know about your snowmobiling organization and your goals, and who may be in a position to help you achieve those goals. This can include agency staff and decision makers, politicians, government officials, landowners, businesses, and even adversaries. Go out of your way to invite VIPs to participate in your events and outings. VIPs, particularly politicians and government officials, need to be able to put faces to the activity – so your seeking their participation in your activities provides a forum for them to become educated about your issues. When they know you, it is harder for them to

vote against you. And continued successful access for snowmobiling depends upon VIPs understanding your specific access needs.

VIP Snowmobile Rides

One of the best ways to educate and establish working relationships with agency staff, decision makers, landowners, politicians, or other important people (VIPs) is to take them for snowmobile rides. For many this may be their first exposure to snowmobiling, so always make sure outings are well planned, paying close attention to detail to ensure favorable impressions are made. It can be helpful to keep the following in mind:

Tips for Organizing VIP Rides

- Establish a steering committee of 2 to 4 people to coordinate your VIP rides.
- Develop an agenda of issues you want to highlight, both by discussions at stops and experiences you want them to have during their ride.
- Develop your list of invitees based upon what you're trying to accomplish. Discuss the VIP Ride with your VIPs prior to sending out invite letters, preferably face-to-face.
- Choose locations to host events that accommodate: 1) the total number of people you plan to have involved, 2) appropriate meeting facilities, 3) sleeping rooms, if applicable, and 4) availability of snowmobiles and related equipment.
- Determine potential routes for rides, keeping in mind: 1) distances – keep it comfortable, 2) stopping points for discussions, 3) the desired experiences and goals of the ride, and 4) stops for refreshments, meals, and warming.
- Determine costs and who will be responsible.
- Provide invitees safety education materials they can review before they arrive for their ride (the on-line Safe Riders Snowmobile Safety Awareness Program is an excellent tool used by many and available at http://www.saferiderssafetyawareness.org/).
- After VIP rides, follow up with thank you notes to attendees.

Points for the Day of the Ride

- Always include appropriate instruction on snowmobile operation and safety to, above all, ensure it is a safe experience, not a nightmare. Review safety information with each guest rider immediately before you leave on the ride. It may be wise to find an area where they can ride around and become comfortable on their snowmobiles before heading for the trail.
- Quality versus Quantity: above all, ensure VIPs experience a QUALITY snowmobile outing that is fun since your goal is to impress them so they will talk and act positively for snowmobiling.
- Ensure each VIP is properly equipped: warm clothing, clean face shield, properly tuned snowmobile.
- Appoint one person to be in charge of caring for each VIP; make them all feel important.
- Set rides commensurate with experience levels: keep it to gentle terrain, stop often to assess comfort levels, and no long distance marathons; this is not the time to show them how great of a rider you are or how tough the trails can be.
- Always keep VIPs at the front of the group since this will: provide a better view and experience for them; make it easier for them to communicate with the ride leader; be a slower pace than at the rear of the group (avoids the 'whiplash' effect); and have a smoother trail than if further back in the group.
- Plan routes that allow plenty of time for frequent stops to talk about issues and snowmobiling in general; avoid routes that are tough, rough, or in sensitive areas. Be prepared to adjust (shorten) planned routes based upon poor snow or weather conditions, severe cold, or the group (particularly guest riders) having a slower pace than what was planned or anticipated.
- If VIP rides involve off-trail riding: keep group sizes small (preferably 10 or smaller, absolutely no larger than 20); if necessary, break into several groups who travel different routes to a central rendezvous point for a meal or event; use bibs or arm bands to identify group members. DO NOT LOSE THE VIP!!!
- Always focus on positives and try to showcase successes; there will be time later once working relationships become better established to tackle issues and concerns.

LOCAL EDUCATION AND PUBLIC RELATIONS

A simple yet very effective education tool can be for local clubs or individuals to submit press releases or a 'Letter to the Editor' to local newspapers expressing the importance of respecting landowners, staying on designated trails where it is required, etc. It's the responsibility of trail sponsors and local clubs to inform riders of special requirements or sensitive local issues – otherwise how can you expect them to behave as is desired to retain or improve access. Exhibit 14 shows an example Letter to the Editor that stresses important local issues.

Exhibit 14: Example 'Letter to the Editor' expressing the importance of caring for trails

Care of Snowmobile Trails Important for Future Use of Trails

Snowmobilers take heed; your time to ride snowmobile trails in _____ County may be nothing but a memory.

Lack of participation in local snowmobile clubs, lack of help in setting up trails, and a complete disregard for the rules on trails is going to lead to the demise of our local clubs. Riding snowmobile trails is a privilege, not a right. It's a privilege granted to us by our generous landowners. And riding does come with some responsibilities, even though some people don't think this applies to them.

The _____ County Snowmobile Alliance and area snowmobile clubs work hard to maintain the snowmobile trails and to gain permission from landowners to put up trails every year. We set up and mark the trails for a reason, so that we stay off the areas where landowners don't want us to go. If you're going to ride on the trails, please keep in mind you're riding on private property. Riding off the trail is trespassing for which you can get a ticket.

This year has been a gift with great snow on our trails! Let's not ruin a great snowmobile season with careless disregard for the rules of the trail. Our landowners deserve more respect than what is being shown for them by riding all over their property. Stay on the marked trails. The club would like to extend kudos to those of you who are following the rules, who care about our trails, our clubs, and our landowners. You know who you are. Remember: United We Trail, Divided We Fail.

Signed: Your Name (or your name and title if an officer of the local club or association – *but make sure you have the authority and blessing to speak on behalf of the organization if you add your title and affiliation*)

COMMUNITY GOODWILL

Access can sometimes be increased or strengthened through goodwill efforts made by snowmobilers in their local communities. This can range from reaching out to other recreation groups to form partnerships to volunteering to assist public agencies within communities. Examples of goodwill efforts include:

- ◊ Grooming cross-country ski trails to help build positive working relationships.
- ◊ Building partnerships to gain support for the construction of new multi-use trails – more groups working together will have more success than a single group working by themselves.
- ◊ Providing funding and/or volunteer labor to help build, improve, and maintain multi-use trails.
- ◊ Participating in Adopt-a-Trail programs.
- ◊ Providing volunteer labor to sign, clear, or maintain snowmobile trails.
- ◊ Providing snowmobile trail grooming.
- ◊ Participating in community and public agency tree planting programs.
- ◊ Providing assistance for local search and rescue efforts.
- ◊ Providing local assistance to law enforcement and medical personnel during and after blizzards.
- ◊ Participating in highway or community cleanup efforts.

Include Snowmobile Access Funds in Your Charitable Giving: Snowmobilers are well known for their generous efforts in raising money for charities. But while those charitable fundraising efforts may help promote

a positive image of snowmobilers (to some), it's a misconception to believe charitable efforts have a substantive effect upon snowmobiling access. While it may positively impact access negotiations with a few private landowners, it's truly a very small factor. Corporate lands access is driven more and more by corporate business decisions or their need to show their own goodwill within communities. And in respect to public lands access, charitable giving by snowmobilers is totally a non-factor since public agencies are required to operate under NEPA and other guiding laws.

So when it comes to snowmobilers – as individuals or clubs and associations – understand that giving your cash to support snowmobiling organizations' own legal defense or access funds will do more for keeping and enhancing snowmobiling access than donating to any other groups or organizations.

FUNDING FOR ACCESS

Snowmobilers have as many assets as any recreational group to bring to the table to help fund (buy) access for snowmobiling. This is important because access is often acquired or enhanced through investments of money and volunteer hours spent developing riding areas and maintaining trails. Access can also be expensive – especially when looking at long term easements or land acquisition – so partnerships are almost always essential. Various ways to help fund snowmobiling access include:

Traditional State Funding Sources

Traditional State funding sources include fees paid by snowmobilers and deposited in State accounts for the management of snowmobile trail related programs. These monies may include snowmobile registration fees, snowmobile user fees, State gas tax funds, or other tax monies depending upon the State. While these funds have historically been used to fund mainly trail grooming, signing, education, and law enforcement, spending for access is often also eligible; it just hasn't been a top priority in many areas.

If there are critical needs to fund access, whether for leases (if State law permits) or acquisition, work with State snowmobile fund managers and State advisory committees to move your access-related projects up the priority list as future budget allocations are considered. This often requires long-term planning and sustained efforts measured in years versus months since it can require reeducating fund managers and advisory board members about new or changing priorities in the State or your local area.

Keep in mind that acquiring funds for access from these dedicated accounts often means taking funding away from traditional spending for trail grooming, safety education, law enforcement, etc. To avoid having to rob funds from trail maintenance and other on-going efforts to instead fund access, some State and local jurisdictions have either (A) established a 'special tax or fee' dedicated toward acquiring new lands for recreational trails or (B) earmarked a portion of registration or user fees increases to fund special efforts such as access and land acquisition.

Federal Recreational Trails Program (RTP) Grants

The Federal Recreational Trails Program (RTP) is the single best opportunity for grants to fund recreational trails in the United States. It's an assistance program of the Department of Transportation's Federal Highway Administration (FHWA) [https://www.fhwa.dot.gov/environment/recreational_trails/] which makes funds available to States to develop and maintain recreational trails and trail-related facilities for both nonmotorized and motorized recreational trail uses. One of the Federal project categories eligible for funding by RTP is "acquisition of easements or property for trails or riding areas." There is a Federal stipulation that all acquisitions must be from willing sellers (condemnation is prohibited) and must also comply with the Uniform Act (discussed at the end of Chapter One). Some States opt to not fund acquisition projects with their RTP funds while channeling their funding priorities toward trail maintenance, trailhead, or development projects that don't include property acquisition or easement.

RTP funds come from the Federal Highway Trust Fund and represent a portion of the motor fuel excise tax collected from nonhighway recreational fuel use: fuel used for off-highway recreation by snowmobiles, all-terrain vehicles, off-highway motorcycles, and off-highway light trucks. These funds are distributed to the States according to funding levels which were in place in 2009.

While the program is administered nationally by FHWA, it is managed at the State level by a State agency designated by the Governor. Most often, RTP is managed by the State parks, recreation, or natural resources agency, but may also be administered by the State transportation department. Federal guidelines also require that a State Trails Advisory Committee or Council advise the responsible State agency regarding operation of the grant program. The State agencies and advisory groups who oversee these funds set the annual application procedures, which can be stricter than the Federal rules. As a result, there can be differences from State to State as to what types of projects are ultimately funded. This requires that State-specific questions about funding for access, as well as other types of projects, must be deciphered based upon the State-specific guidelines. For example, some States may give maintenance projects higher priority than acquisition projects, while other States may treat them the same.

State contacts for RTP can be found at https://www.fhwa.dot.gov/environment/recreational_trails/rtpstate.cfm. Obtain your State's RTP grant application and guidelines to see what specific rules and timelines have been set for your State in respect to access projects. If access projects have been assigned a low priority in your State's ranking system, you'll have to work to try to convince the agency and advisory committee to raise its importance in their project selection criteria.

Partnerships

Since long term access can be expensive, partnerships can be important to making the difference between having success or not. Successful partnerships take time, a lot of effort, and considerable trust building to bear fruit. They also often require compromise. Partners to help make an access project successful can include:

- Other recreation groups.
- Land trusts or foundations.
- Communities.
- Government agencies (local, State, and Federal).
- Non-profit organizations.
- Schools.
- Corporations.
- Private landowners.
- Individual benefactors.

Special Appropriations

Special appropriations are funds granted by Congress or State legislatures for special projects. This funding may come through stand-alone legislative bills or through special earmarks where funding is 'attached' to other bills (which may have nothing to do with the special project). Special appropriations require lots of patience, broad coalitions of support for the project, multiple legislative sponsors, and sustained long term commitments to educate and lobby politicians to support funding the project.

Volunteer Work

Snowmobilers have a long heritage of providing volunteer labor and donated materials to support their snowmobile trail systems. Oftentimes volunteer work done providing trail maintenance, signing, warming huts, or grooming, as well as improving trailheads can be packaged with access projects. These efforts are important since they often qualify as 'noncash' or 'in-kind' match for grant programs.

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PART 2: APPENDIX OF RESOURCES

APPENDIX 1: STATE RECREATIONAL USE STATUTES

ALASKA RECREATIONAL USE STATUTE

Alaska Statutes
Title 9. Code of Civil Procedure.
Chapter 65. Actions, Immunities, Defenses, and Duties.

Sec. 09.65.200 Tort immunity for personal injuries or death occurring on unimproved land.
(a) An owner of unimproved land is not liable in tort, except for an act or omission that constitutes gross negligence or reckless or intentional misconduct, for damages for the injury to or death of a person who enters onto or remains on the unimproved portion of land if

(1) the injury or death resulted from a natural condition of the unimproved portion of the land or the person entered onto the land for recreation; and

(2) the person had no responsibility to compensate the owner for the person's use or occupancy of the land.

(b) This section does not enhance or diminish rights granted under former 43 U.S.C. 932 (R.S. 2477).
(c) In this section, "unimproved land" includes land that contains

(1) a trail;

(2) an abandoned aircraft landing area; or

(3) a road built to provide access for natural resource extraction, but which is no longer maintained or used.

Title 34. Property.
Chapter 17. Uniform Conservation Easement Act.

Sec. 34.17.055 Tort immunity from personal injuries or death arising out of the use of land subject to a conservation easement.
(a) In addition to the immunity provided by AS 09.65.200, an owner of land, a portion of which is subject to a conservation easement that is 50 feet or less in width, that has been granted to and accepted by the state or a municipality, and that provides public access for recreational purposes on the land subject to the conservation easement is not liable in tort, except for an act or omission that constitutes gross negligence or reckless or intentional misconduct, for damages to a person who uses the easement to enter onto or remain on the land if

(1) the person had no responsibility to compensate the owner for the person's use of the easement or the land; and

(2) the damages arise out of the person's use of the easement for recreational purposes on the land.

(b) The immunity under (a) of this section extends to the grantee of the conservation easement providing public access to the land for recreational purposes.

Enacted in 1980, last amended in 1999.
http://www.akleg.gov/basis/statutes.asp#09.65.200
http://www.akleg.gov/basis/statutes.asp#34.17.055

CALIFORNIA RECREATIONAL USE STATUTE

CIVIL CODE
DIVISION 2. Property
PART 2. Real or Immovable Property
TITLE 3. Rights and Obligations of Owners
CHAPTER 2. Obligations of Owners

Section 846 An owner of any estate or any other interest in real property, whether possessory or nonpossessory, owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on those premises to persons entering for a recreational purpose, except as provided in this section.

A “recreational purpose,” as used in this section, includes activities such as fishing, hunting, camping, water sports, hiking, spelunking, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, hang gliding, private noncommercial aviation activities, winter sports, and viewing or enjoying historical, archaeological, scenic, natural, or scientific sites.

An owner of any estate or any other interest in real property, whether possessory or nonpossessory, who gives permission to another for entry or use for the above purpose upon the premises does not thereby (a) extend any assurance that the premises are safe for that purpose, or (b) constitute the person to whom permission has been granted the legal status

of an invitee or licensee to whom a duty of care is owed, or (c) assume responsibility for or incur liability for any injury to person or property caused by any act of the person to whom permission has been granted except as provided in this section.

This section does not limit the liability which otherwise exists (a) for willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or (b) for injury suffered in any case where permission to enter for the above purpose was granted for a consideration other than the consideration, if any, paid to said landowner by the state, or where consideration has been received from others for the same purpose; or (c) to any persons who are expressly invited rather than merely permitted to come upon the premises by the landowner.

Nothing in this section creates a duty of care or ground of liability for injury to person or property.
(Amended by Stats. 2014, Ch. 52, Sec. 1. Effective January 1, 2015.)

Section 846.1. (a) Except as provided in subdivision (c), an owner of any estate or interest in real property, whether possessory or nonpossessory, who gives permission to the public for entry on or use of the real property pursuant to an agreement with a public or nonprofit agency for purposes of recreational trail use, and is a defendant in a civil action brought by, or on behalf of, a person who is allegedly injured or allegedly suffers damages on the real property, may present a claim to the Department of General Services for reasonable attorney's fees incurred in this civil action if any of the following occurs:

(1) The court has dismissed the civil action upon a demurrer or motion for summary judgment made by the owner or upon its own motion for lack of prosecution.

(2) The action was dismissed by the plaintiff without any payment from the owner.

(3) The owner prevails in the civil action.

(b) Except as provided in subdivision (c), a public entity, as defined in Section 831.5 of the Government Code, that gives permission to the public for entry on or use of real property for a recreational purpose, as defined in Section 846, and is a defendant in a civil action brought by, or on behalf of, a person who is allegedly injured or allegedly suffers damages on the real property, may present a claim to the Department of General Services for reasonable attorney's fees incurred in this civil action if any of the following occurs:

(1) The court has dismissed the civil action upon a demurrer or motion for summary judgment made by this public entity or upon its own motion for lack of prosecution.

(2) The action was dismissed by the plaintiff without any payment from the public entity.

(3) The public entity prevails in the civil action.

(c) An owner of any estate or interest in real property, whether possessory or nonpossessory, or a public entity, as defined in Section 831.5 of the Government Code, that gives permission to the public for entry on, or use of, the real property for a recreational purpose, as defined in Section 846, pursuant to an agreement with a public or nonprofit agency, and is a defendant in a civil action brought by, or on behalf of, a person who seeks to restrict, prevent, or delay public use of that property, may present a claim to the Department of General Services for reasonable attorney's fees incurred in the civil action if any of the following occurs:

(1) The court has dismissed the civil action upon a demurrer or motion for summary judgment made by the owner or public entity or upon its own motion for lack of prosecution.

(2) The action was dismissed by the plaintiff without any payment from the owner or public entity.

(3) The owner or public entity prevails in the civil action.

(d) The Department of General Services shall allow the claim if the requirements of this section are met. The claim shall be paid from an appropriation to be made for that purpose. Reasonable attorney's fees, for purposes of this section, may not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made, and may not exceed an aggregate amount of twenty-five thousand dollars ($25,000). This subdivision shall not apply if a public entity has provided for the defense of this civil action pursuant to Section 995 of the Government Code. This subdivision shall also not apply if an owner or public entity has been provided a legal defense by the state pursuant to any contract or other legal obligation.

(e) The total of claims allowed by the Department of General Services pursuant to this section shall not exceed two hundred thousand dollars ($200,000) per fiscal year.
(Amended by Stats. 2016, Ch. 31, Sec. 8. Effective June 27, 2016.)

Enacted in 1963, last amended in 2016.
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=846.
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=846.1.

COLORADO RECREATIONAL USE STATUTE

TITLE 33. PARKS AND WILDLIFE
RECREATIONAL AREAS AND SKI SAFETY
ARTICLE 41. OWNERS OF RECREATIONAL AREAS - LIABILITY

C.R.S. 33-41-101. Legislative declaration

The purpose of this article is to encourage owners of land to make land and water areas available for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

33-41-102. Definitions

As used in this article, unless the context otherwise requires:

(1) "Charge" means a consideration paid for entry upon or use of the land or any facilities thereon or adjacent thereto; except that, in a case of land leased to a public entity or in which a public entity has been granted an easement or other rights to use land for recreational purposes, any consideration received by the owner for such lease, easement, or other right shall not be deemed a charge within the meaning of this article nor shall any consideration received by an owner from any federal governmental agency for the purposes of admitting any person constitute such a charge.

(2) "Land" also means roads, water, watercourses, private ways, and buildings, structures, and machinery or equipment thereon, when attached to real property.

(3) "Owner" includes, but is not limited to, the possessor of a fee interest, a tenant, lessee, occupant, the possessor of any other interest in land, or any person having a right to grant permission to use the land, or any public entity as defined in the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., which has an interest in land.

(4) "Person" includes any individual, regardless of age, maturity, or experience, or any corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, or association, or any other legal entity.

(4.5) "Public entity" means the same as defined in section 24-10-103(5), C.R.S.

(5) "Recreational purpose" includes, but is not limited to, any sports or other recreational activity of whatever nature undertaken by a person while using the land, including ponds, lakes, reservoirs, streams, paths, and trails appurtenant thereto, of another and includes, but is not limited to, any hobby, diversion, or other sports or other recreational activity such as: Hunting, fishing, camping, picnicking, hiking, horseback riding, snowshoeing, cross country skiing, bicycling, riding or driving motorized recreational vehicles, swimming, tubing, diving, spelunking, sight-seeing, exploring, hang gliding, rock climbing, kite flying, roller skating, bird watching, gold panning, target shooting, ice skating, ice fishing, photography, or engaging in any other form of sports or other recreational activity.

33-41-103. Limitation on landowner's liability

(1) Subject to the provision of section 33-41-105, an owner of land who either directly or indirectly invites or permits, without charge, any person to use such property for recreational purposes does not thereby:

(a) Extend any assurance that the premises are safe for any purpose;

(b) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed;

(c) Assume responsibility or incur liability for any injury to person or property or for the death of any person caused by an act or omission of such person.

(2) (a) To the extent liability is found, notwithstanding subsection (1) of this section, the total amount of damages that may be recovered from a private landowner who leases land or a portion thereof to a public entity for recreational purposes or who grants an easement or other rights to use land or a portion thereof to a public entity for recreational purposes for injuries resulting from the use of the land by invited guests for recreational purposes shall be:

(I) For any injury to one person in any single occurrence, the amount specified in section 24-10-114 (1) (a) (I), C.R.S.;

(II) For an injury to two or more persons in any single occurrence, the amount specified in section 24-10-114 (1) (a) (II), C.R.S.

(b) The limitations in this subsection (2) shall apply only when access to the property is limited, to the extent practicable, to invited guests, when the person injured is an invited guest of the public entity, when such use of the land by the injured person is for recreational purposes, and only during the term of such lease, easement, or other grant.

(c) Nothing in this subsection (2) shall limit, enlarge, or otherwise affect the liability of a public entity.

(d) In order to ensure the independence of public entities in the management of their recreational programs and to protect private landowners of land used for public recreational purposes from liability therefor, except as otherwise agreed by the public entity and a private landowner, a private landowner shall not be liable for a public entity's management of the land or portion thereof which is used for recreational purposes.

(e) For purposes of this subsection (2) only, unless the context otherwise requires:

(I) "Invited guests" means all persons or guests of persons present on the land for recreational purposes, at the invitation or consent of the public entity, and with or without permit or license to enter the land, and all persons present on the land at the invitation or consent of the public entity or the landowner for business or other purposes relating to or arising from the use of the land for recreational purposes if the public entity receives all of the revenues, if any, which are collected for entry onto the land. "Invited guests" does not include any such persons or guests of any person present on the land for recreational purposes at the invitation or consent of the public entity or the landowner if the landowner retains all or a portion of the revenue collected for entry onto the land or if the landowner shares the revenue collected for entry onto the land with the public entity. For the purposes of this subparagraph (I), "revenue collected for entry" does not include lease payments, lease-purchase payments, or rental payments.

(II) "Land" means real property, or a body of water and the real property appurtenant thereto, or real property that was subject to mining operations under state or federal law and that has been abandoned or left in an inadequate reclamation status prior to August 3, 1977, for coal mining operations, or July 1, 1976, for hard rock mining operations, which is leased to a public entity or for which an easement or other right is granted to a public entity for recreational purposes or for which the landowner has acquiesced to public use of existing trails that have historically been used by the public for recreational purposes. "Land", as used in this subsection (2), does not include real property, buildings, or portions thereof which are not the subject of a lease, easement, or other right of use granted to a public entity; except that land on which a landowner has acquiesced to public use of existing trails that have historically been used by the public for recreational purposes need not be subject to a lease, easement, or other right of use granted to a public entity. Nothing in this subparagraph (II) shall be construed to create a prescriptive easement on lands on which a landowner has acquiesced to public use of existing trails that have historically been used by the public for recreational purposes. The incidental use of such private property for recreational purposes shall not establish or presume facts to support land use classification or zoning.
(II.5) "Lease" or "leased" includes a lease-purchase agreement containing an option to purchase the property. Any lease in which a private landowner leases land or a portion thereof to a public entity for recreational purposes shall contain a disclosure advising the private landowner of the right to bargain for indemnification from liability for injury resulting from use of the land by invited guests for recreational purposes.
(II.7) "Management" means the entire range of activities, whether undertaken or not by the public entity, associated with controlling, directing, allowing, and administering the use, operation, protection, development, repair, and maintenance of private land for public recreational purposes.
(III) "Recreational purposes" includes, but is not limited to, any sports or other recreational activity of whatever nature undertaken by an invited guest while using the land, including ponds, lakes, reservoirs, streams, paths, and trails appurtenant to, of another and includes, but is not limited to, any hobby, diversion, or other sports or other recreational activity such as: Fishing, picnicking, hiking, horseback riding, snowshoeing, cross country skiing, bicycling, swimming, tubing, diving, sight-seeing, exploring, kite flying, bird watching, gold panning, ice skating, ice fishing, photography, or engaging in any other form of sports or other recreational activity, as well as any activities related to such sports or recreational activities, and any activities directly or indirectly resulting from such sports or recreational activity.
(f) Nothing in this subsection (2) shall limit the protections provided, as applicable, to a landowner under section 13-21-115, C.R.S.

33-41-104. When liability is not limited

(1) Nothing in this article limits in any way any liability which would otherwise exist:
(a) For willful or malicious failure to guard or warn against a known dangerous condition, use, structure, or activity likely to cause harm;
(b) For injury suffered by any person in any case where the owner of land charges the person who enters or goes on the land for the recreational use thereof; except that, in case of land leased to a public entity or in which a public entity has been granted an easement or other rights to use land for recreational purposes any consideration received by the owner for such lease, easement, or other right shall not be deemed a charge within the meaning of this article nor shall any consideration received by an owner from any federal governmental agency for the purpose of admitting any person constitute such a charge;
(c) For maintaining an attractive nuisance; except that, if the property used for public recreational purposes contains mining operations that were abandoned or left in an inadequate reclamation status as provided in section 33-41-103 (2) (e) (II) or was constructed or is used for or in connection with the diversion, storage, conveyance, or use of water, the property and the water or abandoned mining operations within such property shall not constitute an attractive nuisance;
(d) For injury received on land incidental to the use of land on which a commercial or business enterprise of any description is being carried on; except that in the case of land leased to a public entity for recreational purposes or in which a public entity has been granted an easement or other rights to use land for recreational purposes, such land shall not be considered to be land upon which a business or commercial enterprise is being carried on.

33-41-105. Article not to create liability or relieve obligation

(1) Nothing in this article shall be construed to:
(a) Create, enlarge, or affect in any manner any liability for willful or malicious failure to guard or warn against a known dangerous condition, use, structure, or activity likely to cause harm, or for injury suffered by any person in any case where the owner of land charges for that person to enter or go on the land for the recreational use thereof;
(b) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this article to exercise care in his use of such land and in his activities thereon or from the legal consequences of failure to employ such care;
(c) Limit any liability of any owner to any person for damages resulting from any occurrence which took place prior to January 1, 1970.

33-41-105.5. Prevailing party--attorney fees and costs

The prevailing party in any civil action by a recreational user for damages against a landowner who allows the use of the

landowner's property for public recreational purposes shall recover the costs of the action together with reasonable attorney fees as determined by the court.

Enacted in 1970, last amended in 2015.
http://www.lexisnexis.com/hottopics/Colorado/

IDAHO RECREATIONAL USE STATUTE

IDAHO CODE
GENERAL LAWS
TITLE 36. FISH AND GAME
CHAPTER 16. RECREATIONAL TRESPASS -- LANDHOLDER LIABILITY LIMITED

36-1604. LIMITATION OF LIABILITY OF LANDOWNER.
(a) Statement of Purpose. The purpose of this section is to encourage owners of land to make land, airstrips and water areas available to the public without charge for recreational purposes by limiting their liability toward persons entering thereon for such purposes.
(b) Definitions. As used in this section:
1. "Airstrips" means either improved or unimproved landing areas used by pilots to land, park, take off, unload, load and taxi aircraft. Airstrips shall not include landing areas which are or may become eligible to receive federal funding pursuant to the federal airport and airway improvement act of 1982 and subsequent amendments thereto.
2. "Land" means private or public land, roads, airstrips, trails, water, watercourses, irrigation dams, water control structures, headgates, private or public ways and buildings, structures, and machinery or equipment when attached to or used on the realty.
3. "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.
4. "Recreational purposes" includes, but is not limited to, any of the following activities or any combination thereof: hunting, fishing, swimming, boating, rafting, tubing, camping, picnicking, hiking, pleasure driving, the flying of aircraft, bicycling, running, playing on playground equipment, skateboarding, athletic competition, nature study, water skiing, animal riding, motorcycling, snowmobiling, recreational vehicles, winter sports, and viewing or enjoying historical, archeological, scenic, geological or scientific sites, when done without charge of the owner.
(c) Owner Exempt from Warning. An owner of land owes no duty of care to keep the premises safe for entry by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes. Neither the installation of a sign or other form of warning of a dangerous condition, use, structure, or activity, nor any modification made for the purpose of improving the safety of others, nor the failure to maintain or keep in place any sign, other form of warning, or modification made to improve safety, shall create liability on the part of an owner of land where there is no other basis for such liability.
(d) Owner Assumes No Liability. An owner of land or equipment who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:
1. Extend any assurance that the premises are safe for any purpose.
2. Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.
3. Assume responsibility for or incur liability for any injury to person or property caused by an act of omission of such persons.
(e) Provisions Apply to Leased Public Land. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.
(f) Provisions Apply to Land Subject to a Conservation Easement. Unless otherwise agreed in writing, the provisions of this section shall be deemed applicable to the duties and liability of an owner of land subject to a conservation easement to any governmental entity or nonprofit organization.
(g) Owner Not Required to Keep Land Safe. Nothing in this section shall be construed to:
1. Create a duty of care or ground of liability for injury to persons or property.
2. Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of such land and in his activities hereon, or from legal consequences or failure to employ such care.
3. Apply to any person or persons who for compensation permit the land to be used for recreational purposes.
(h) User Liable for Damages. Any person using the land of another for recreational purposes, with or without permission, shall be liable for any damage to property, livestock or crops which he may cause while on said property.

Enacted in 1976, last amended in 2006. https://legislature.idaho.gov/statutesrules/idstat/Title36/T36CH16/SECT36-1604/

ILLINOIS RECREATIONAL USE STATUTE

ILLINOIS COMPILED STATUTES
CHAPTER 745. CIVIL IMMUNITIES
RECREATIONAL USE OF LAND AND WATER AREAS ACT

745 ILCS 65/1. [Short title; purpose]

Sec. 1. This Act shall be known and may be cited as the "Recreational Use of Land and Water Areas Act". The purpose of this Act is to encourage owners of land to make land and water areas available to any individual or members of the public for recreational or conservation purposes by limiting their liability toward persons entering thereon for such purposes.

745 ILCS 65/2. [Definitions]

Sec. 2. As used in this Act, unless the context otherwise requires:

(a) "Land" includes roads, land, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty, but does not include residential buildings or residential property.

(b) "Owner" includes the possessor of any interest in land, whether it be a tenant, lessee, occupant, the State of Illinois and its political subdivisions, or person in control of the premises.

(c) "Recreational or conservation purpose" means:

(1) Entry onto the land of another to conduct hunting or recreational shooting or a combination thereof or any activity solely related to the aforesaid hunting or recreational shooting; or

(2) Entry by the general public onto the land of another for any activity undertaken for conservation, resource management, educational or outdoor recreational use.

(d) "Charge" means an admission fee for permission to go upon the land, but does not include: the sharing of game, fish or other products of recreational use; or benefits to or arising from the recreational use; or contributions in kind, services or cash made for the purposes of properly conserving the land.

(e) "Person" includes any person, regardless of age, maturity, or experience, who enters upon or uses land for recreational purposes.

(f) "Invites", for the purposes of this Act, means the words or conduct of the owner would lead a reasonable person to believe that the owner desires the particular person to enter the land to the exclusion of the general public. No economic interest on the part of the owner is required.

(g) "Permits", for the purposes of this Act, means the words or conduct of the owner would lead a reasonable person to believe that the owner is willing to allow the general public to enter the land. The words or conduct of the owner in inviting (i) the general public to enter the land or (ii) particular persons to enter the land for recreational or conservation purpose as defined in paragraph (1) of subsection (c) of this Section shall be construed as "permits" for purposes of this Act.

The changes to this Section made by this amendatory Act of the 98th General Assembly apply only to causes of action accruing on or after the effective date of this amendatory Act of the 98th General Assembly.

(Source: P.A. 98-522, eff. 1-1-14.)

745 ILCS 65/3. [Landowner's duty of care; duty to warn of dangerous conditions]

Sec. 3. Except as specifically recognized by or provided in Section 6 of this Act, an owner of land owes no duty of care to keep the premises safe for entry or use by any person for recreational or conservation purposes, or to give any warning of a natural or artificial dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

745 ILCS 65/4. [Effect of invitation or permission to use premises]

Sec. 4. Except as specifically recognized by or provided in Section 6 of this Act, an owner of land who permits without charge any person to use such property for recreational or conservation purposes does not thereby:

(a) Extend any assurance that the premises are safe for any purpose.

(b) (Blank).

(c) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such person or any other person who enters upon the land.

(d) Assume responsibility for or incur liability for and injury to such person or property caused by any natural or artificial condition, structure or personal property on the premises.

The changes to this Section made by this amendatory Act of the 98th General Assembly apply only to causes of action accruing on or after the effective date of this amendatory Act of the 98th General Assembly.

(Source: P.A. 98-522, eff. 1-1-14.)

745 ILCS 65/5. [Application to lands leased to State or subdivisions thereof]

Sec. 5. Unless otherwise agreed in writing, the provisions of Sections 3 and of this Act are applicable to the duties and liability of an owner of land leased to the State or any subdivision thereof for recreational or conservation purposes.

745 ILCS 65/6. [Limits of immunity; willful and wanton failure to guard or warn; lands subject to user fees]

Sec. 6. Nothing in this Act limits in any way any liability which otherwise exists:

(a) For willful and wanton failure to guard or warn against a dangerous condition, use, structure, or activity.

(b) For injury suffered in any case where the owner of land invites, as defined in subsection (f) of Section 2 of this Act, or charges the person or persons who enter or go on the land for the recreational use thereof.

The changes to this Section made by this amendatory Act of the 98th General Assembly apply only to causes of action accruing on or after the effective date of this amendatory Act of the 98th General Assembly.

(Source: P.A. 98-522, eff. 1-1-14.)

745 ILCS 65/7. [Construction]

Sec. 7. Nothing in this Act shall be construed to:

(a) (Blank).

(b) Relieve any person using the land of another for recreational purposes from any obligation which he may have in absence of this Act to exercise care in his use of such land and his activities thereon, or from the legal consequences of failure to employ such care.

The changes to this Section made by this amendatory Act of the 98th General Assembly apply only to causes of action accruing on or after the effective date of this amendatory Act of the 98th General Assembly.

(Source: P.A. 98-522, eff. 1-1-14.)

Enacted in 1965, last amended in 2014.

http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2081&ChapAct=745%26nbsp%3BILCS%26nbsp%3B65%2F&ChapterID=58&ChapterName=CIVIL+IMMUNITIES&ActName=Recreational+Use+of+Land+and+Water+Areas+Act%2E

INDIANA RECREATIONAL USE STATUTE

BURNS INDIANA STATUTES
TITLE 14. NATURAL AND CULTURAL RESOURCES
ARTICLE 22. FISH AND WILDLIFE
CHAPTER 10. WILDLIFE REGULATION

14-22-10-2 Restrictions on land-owner liability to recreational users

Sec. 2. (a) As used in this section and section 2.5 of this chapter, "governmental entity" means any of the following:

(1) The government of the United States of America.

(2) The state of Indiana.

(3) A county.

(4) A city.

(5) A town.

(6) A township.

(7) The following, if created by the Constitution of the United States, the Constitution of the State of Indiana, a statute, an ordinance, a rule, or an order:

(A) An agency.

(B) A board.

(C) A commission.

(D) A committee.

(E) A council.

(F) A department.

(G) A district.

(H) A public body corporate and politic.

(b) As used in this section and section 2.5 of this chapter, "monetary consideration" means a fee or other charge for permission to go upon a tract of land. The term does not include:

(1) the gratuitous sharing of game, fish, or other products of the recreational use of the land;

(2) services rendered for the purpose of wildlife management; or

(3) contributions in kind made for the purpose of wildlife management.

(c) As used in this section and section 2.5 of this chapter, "owner" means a governmental entity or another person that:

(1) has a fee interest in;

(2) is a tenant, a lessee, or an occupant of; or

(3) is in control of;

a tract of land.

(d) A person who goes upon or through the premises, including caves, of another:

(1) with or without permission; and

(2) either:

(A) without the payment of monetary consideration; or

(B) with the payment of monetary consideration directly or indirectly on the person's behalf by an agency of the state or federal government; for the purpose of swimming, camping, hiking, sightseeing, or any other purpose (other than the purposes described in section 2.5 of this chapter) does not have an assurance that the premises are safe for the purpose.

(e) The owner of the premises does not:

(1) assume responsibility; or

(2) incur liability;

for an injury to a person or property caused by an act or failure to act of other persons using the premises.

(f) This section does not affect the following:

(1) Existing Indiana case law on the liability of owners or possessors of premises with respect to the following:

(A) Business invitees in commercial establishments.

(B) Invited guests.

(2) The attractive nuisance doctrine.

(g) This section does not excuse the owner or occupant of premises from liability for injury to a person or property caused by a malicious or an illegal act of the owner or occupant.

Enacted in 1969, last amended in 1998. http://iga.in.gov/legislative/laws/2016/ic/titles/014/

IOWA RECREATIONAL USE STATUTE

CODE OF IOWA
TITLE XI NATURAL RESOURCES
SUBTITLE 2 LANDS AND WATERS
CHAPTER 461C PUBLIC USE OF PRIVATE LANDS AND WATERS

461C.1 Purpose

The purpose of this chapter is to encourage private owners of land to make land and water areas available to the public for recreational purposes and for urban deer control by limiting an owner's liability toward persons entering onto the owner's property for such purposes.

461C.2 Definitions

As used in this chapter, unless the context otherwise requires:

1. "Charge" means any consideration, the admission price or fee asked in return for invitation or permission to enter or go upon the land.
2. "Holder" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises; provided, however, holder shall not mean the state of Iowa, its political subdivisions, or any public body or any agencies, departments, boards or commissions thereof.
3. "Land" means private land located in a municipality including abandoned or inactive surface mines, caves, and land used for agricultural purposes, including marshlands, timber, grasslands and the privately owned roads, water, water courses, private ways and buildings, structures and machinery or equipment appurtenant thereto.
4. "Municipality" means any city or county in the state.
5. "Recreational purpose" means the following or any combination thereof: Hunting, trapping, horseback riding, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, motorcycling, nature study, water skiing, snowmobiling, other summer and winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites while going to and from or actually engaged therein.
6. "Urban deer control" means deer hunting with a bow and arrow on private land in a municipality, without charge, as authorized by a municipal ordinance, for the purpose of reducing or stabilizing an urban deer population in the municipality.

461C.3 Liability of owner limited

Except as specifically recognized by or provided in section 461C.6, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes or urban deer control, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

461C.4 Users not invitees or licensees

Except as specifically recognized by or provided in section 461C.6, a holder of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes or urban deer control does not thereby:

1. Extend any assurance that the premises are safe for any purpose.
2. Confer upon such person the legal status of an invitee or licensee to whom the duty of care is owed.
3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

461C.5 Duties and liabilities of owner of leased land

Unless otherwise agreed in writing, the provisions of sections 461C.3 and 461C.4 shall be deemed applicable to the duties and liability of an owner of land leased, or any interest or right therein transferred to, or the subject of any agreement with, the United States or any agency thereof, or the state or any agency or subdivision thereof, for recreational purposes or urban deer control.

461C.6 When liability lies against owner

Nothing in this chapter limits in any way any liability which otherwise exists:

1. For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.
2. For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof or for deer hunting, except that in the case of land or any interest or right therein, leased or transferred to, or the subject of any agreement with, the United States or any agency thereof or the state or any agency thereof or subdivision thereof, any consideration received by the holder for such lease, interest, right or agreement, shall not be deemed a charge within the meaning of this section.

461C.7 Construction of law

Nothing in this chapter shall be construed to:

1. Create a duty of care or ground of liability for injury to persons or property.
2. Relieve any person using the land of another for recreational purposes or urban deer control from any obligation which the person may have in the absence of this chapter to exercise care in the use of such land and in the person's activities thereon, or from the legal consequences of failure to employ such care.
3. Amend, repeal or modify the common law doctrine of attractive nuisance.

Enacted in 1967, last amended in 2006.
http://coolice.legis.iowa.gov/Cool-ICE/default.asp?category=billinfo&service=IowaCode&ga=83&input=461C.

MAINE RECREATIONAL USE STATUTE

MAINE REVISED STATUTES
TITLE 14. COURT PROCEDURE; CIVIL
PART 1. GENERAL PROVISIONS
CHAPTER 7. DEFENSES GENERALLY

159-A. Limited liability for recreational or harvesting activities

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Premises" means improved and unimproved lands, private ways, roads, any buildings or structures on those lands and waters standing on, flowing through or adjacent to those lands.

B. "Recreational or harvesting activities" means recreational activities conducted out-of-doors, including, but not limited to, hunting, fishing, trapping, camping, environmental education and research, hiking, rock climbing, ice climbing, bouldering, rappelling, recreational caving, sight-seeing, operating snow-traveling and all-terrain vehicles, skiing, hang-gliding, noncommercial aviation activities, dog sledding, equine activities, boating, sailing, canoeing, rafting, biking, picnicking, swimming or activities involving the harvesting or gathering of forest, field or marine products. It includes entry of, volunteer maintenance and improvement of, use of and passage over premises in order to pursue these activities. "Recreational or harvesting activities" does not include commercial agricultural or timber harvesting.

C. "Occupant" includes, but is not limited to, an individual, corporation, partnership, association or other legal entity that constructs or maintains trails or other improvements for public recreational use.

2. Limited duty. An owner, lessee, manager, holder of an easement or occupant of premises does not have a duty of care to keep the premises safe for entry or use by others for recreational or harvesting activities or to give warning of any hazardous condition, use, structure or activity on these premises to persons entering for those purposes. This subsection applies regardless of whether the owner, lessee, manager, holder of an easement or occupant has given permission to another to pursue recreational or harvesting activities on the premises.

3. Permissive use. An owner, lessee, manager, holder of an easement or occupant who gives permission to another to pursue recreational or harvesting activities on the premises does not thereby:

A. Extend any assurance that the premises are safe for those purposes;

B. Make the person to whom permission is granted an invitee or licensee to whom a duty of care is owed; or

C. Assume responsibility or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted even if that injury occurs on property of another person.

4. Limitations on section. This section does not limit the liability that would otherwise exist:

A. For a willful or malicious failure to guard or to warn against a dangerous condition, use, structure or activity;

B. For an injury suffered in any case where permission to pursue any recreational or harvesting activities was granted for a consideration other than the consideration, if any, paid to the following:

(1) The landowner or the landowner's agent by the State; or
(2) The landowner or the landowner's agent for use of the premises on which the injury was suffered, as long as the premises are not used primarily for commercial recreational purposes and as long as the user has not been granted the exclusive right to make use of the premises for recreational activities; or
C. For an injury caused, by acts of persons to whom permission to pursue any recreational or harvesting activities was granted, to other persons to whom the person granting permission, or the owner, lessee, manager, holder of an easement or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.
5. No duty created. Nothing in this section creates a duty of care or ground of liability for injury to a person or property.
6. Costs and fees. The court shall award any direct legal costs, including reasonable attorneys' fees, to an owner, lessee, manager, holder of an easement or occupant who is found not to be liable for injury to a person or property pursuant to this section.

Enacted in 1979, last amended in 2015. http://janus.state.me.us/legis/statutes/14/title14sec159-A.html

MASSACHUSETTS RECREATIONAL USE STATUTE

MASSACHUSETTS GENERAL LAWS
PART I. ADMINISTRATION OF THE GOVERNMENT
TITLE II. EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE COMMONWEALTH
CHAPTER 21. DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF WATER RESOURCES

§ 17C. Public use of land for recreational, conservation, scientific educational and other purposes; landowner's liability limited; exception
(a) Any person having an interest in land including the structures, buildings, and equipment attached to the land, including without limitation, wetlands, rivers, streams, ponds, lakes, and other bodies of water, who lawfully permits the public to use such land for recreational, conservation, scientific, educational, environmental, ecological, research, religious, or charitable purposes without imposing a charge or fee therefore, or who leases such land for said purposes to the commonwealth or any political subdivision thereof or to any nonprofit corporation, trust or association, shall not be liable for personal injuries or property damage sustained by such members of the public, including without limitation a minor, while on said land in the absence of willful, wanton, or reckless conduct by such person. Such permission shall not confer upon any member of the public using said land, including without limitation a minor, the status of an invitee or licensee to whom any duty would be owed by said person.
(b) The liability of any person who imposes a charge or fee for the use of his land by the public for the purposes described in subsection (a) shall not be limited by any provision of this section. The term "person" as used in this section shall be deemed to include the person having an interest in the land, his agent, manager, or licensee and shall include without limitation, any governmental body, agency or instrumentality, nonprofit corporation, trust or association, and any director, officer, trustee, member, employee or agent thereof. A contribution or other voluntary payment not required to be made to use such land shall not be considered a charge or fee within the meaning of this section.

Enacted in 1972, last amended in 1998. https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter21/Section17C

MICHIGAN RECREATIONAL USE STATUTE

MICHIGAN COMPILED LAWS
CHAPTER 324. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT
ARTICLE III. NATURAL RESOURCES MANAGEMENT
CHAPTER 4. RECREATION
SUBCHAPTER 1. RECREATION
RECREATIONAL TRESPASS
PART 733. LIABILITY OF LANDOWNERS

324.73301. Liability of landowner, tenant, or lessee for injuries to persons on property for purpose of outdoor recreation or trail use, using Michigan trailway or other public trail, gleaning agricultural or farm products, fishing or hunting, or picking and purchasing agricultural or farm products at farm or "u-pick" operation; definition.
(1) Except as otherwise provided in this section, a cause of action shall not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration for the purpose of fishing, hunting, trapping, camping, hiking, sightseeing, motorcycling, snowmobiling, or any other outdoor recreational use or trail use, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.

(2) A cause of action shall not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration for the purpose of entering or exiting from or using a Michigan trailway as designated under part 721 or other public trail, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee. For purposes of this subsection, a Michigan trailway or public trail may be located on land of any size including, but not limited to, urban, suburban, subdivided, and rural land.
(3) A cause of action shall not arise against the owner, tenant, or lessee of land or premises for injuries to a person who is on that land or premises for the purpose of gleaning agricultural or farm products, unless that person's injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.
(4) A cause of action shall not arise against the owner, tenant, or lessee of a farm used in the production of agricultural goods as defined by section 35(1)(h) of the former single business tax act, 1975 PA 228, or by section 207(1)(d) of the Michigan business tax act, 2007 PA 36, MCL 208.1207, for injuries to a person who is on that farm and has paid the owner, tenant, or lessee valuable consideration for the purpose of fishing or hunting, unless that person's injuries were caused by a condition which involved an unreasonable risk of harm and all of the following apply:
(a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.
(b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe, or to warn the person of the condition or risk.
(c) The person injured did not know or did not have reason to know of the condition or risk.
(5) A cause of action shall not arise against the owner, tenant, or lessee of land or premises for injuries to a person, other than an employee or contractor of the owner, tenant, or lessee, who is on the land or premises for the purpose of picking and purchasing agricultural or farm products at a farm or "u-pick" operation, unless the person's injuries were caused by a condition that involved an unreasonable risk of harm and all of the following apply:
(a) The owner, tenant, or lessee knew or had reason to know of the condition or risk.
(b) The owner, tenant, or lessee failed to exercise reasonable care to make the condition safe, or to warn the person of the condition or risk.
(c) The person injured did not know or did not have reason to know of the condition or risk.
(6) As used in this section, "agricultural or farm products" means the natural products of the farm, nursery, grove, orchard, vineyard, garden, and apiary, including, but not limited to, trees and firewood.

Enacted in 1995, last amended in 2007.
http://www.legislature.mi.gov/(S(5gqa5q3ghm45sojkdcaowkbw))/mileg.aspx?page=getObject&objectName=mcl-324-73301&highlight=73301

MINNESOTA RECREATIONAL USE STATUTE

MINNESOTA STATUTES
CHAPTER 604A TORT LIABILITY; GOOD SAMARITANS; CHARITABLE AND PUBLIC BENEFIT ACTIVITIES
PUBLIC BENEFIT OR FUNCTION ACTIVITIES

604A.20. Policy
It is the policy of this state, in furtherance of the public health and welfare, to encourage and promote the use of land owned by a municipal power agency and privately owned lands and waters by the public for beneficial recreational purposes, and the provisions of sections 604A.20 to 604A.27 are enacted to that end.

604A.21. Recreational land use; definitions
Subdivision 1. **General.** For the purposes of sections 604A.20 to 604A.27, the terms defined in this section have the meanings given them, except where the context clearly indicates otherwise.
Subd. 2. **Charge.** "Charge" means any admission price asked or charged for services, entertainment, recreational use, or other activity or the offering of products for sale to the recreational user by a commercial for profit enterprise directly related to the use of the land.
Subd. 2a. **Dedicated.** "Dedicated" means made available by easement, license, permit, or other authorization.
Subd. 3. **Land.** "Land" means any of the following which is privately owned or leased or in which a municipal power agency has rights: land, easements, rights-of-way, roads, water, watercourses, private ways and buildings, structures, and other improvements to land, and machinery or equipment when attached to land.
Subd. 4. **Owner.** "Owner" means the possessor of a fee interest or a life estate, tenant, lessee, occupant, holder of a utility easement, or person in control of the land.
Subd. 5. **Recreational purpose.** "Recreational purpose" includes, but is not limited to, hunting; trapping; fishing; swimming; boating; camping; picnicking; hiking; rock climbing; cave exploring; bicycling; horseback riding; firewood gathering; pleasure driving, including snowmobiling and the operation of any motorized vehicle or conveyance upon a road or upon or across land in any manner, including recreational trail use; nature study; water skiing; winter sports;

noncommercial aviation activities; and viewing or enjoying historical, archaeological, scenic, or scientific sites. "Rock climbing" means the climbing of a naturally exposed rock face. "Cave exploring" means the planned exploration of naturally occurring cavities in rock, including passage through any structures placed for the purpose of safe access, access control, or conservation, but does not include the exploration of other manmade cavities such as tunnels, mines, and sewers. “Noncommercial aviation activities” means the use of private, nonstaffed airstrips for takeoffs and landings related to other recreational purposes under this subdivision that are not commercial operations under section 360.013, subdivision 45.

Subd. 6. **Recreational trail use.** "Recreational trail use" means use on or about a trail, including but not limited to, hunting, trapping, fishing, hiking, bicycling, skiing, horseback riding, snowmobile riding, and motorized trail riding.

604A.22 Owner's duty of care or duty to give warnings

Except as provided in section 604A.25, an owner who gives written or oral permission for the use of the land for recreational purposes without charge:

(1) owes no duty of care to render or maintain the land safe for entry or use by other persons for recreational purpose;

(2) owes no duty to warn those persons of any dangerous condition on the land, whether patent or latent;

(3) owes no duty of care toward those persons except to refrain from willfully taking action to cause injury; and

(4) owes no duty to curtail use of the land during its use for recreational purpose.

604A.23 Owner's liability

An owner who gives written or oral permission for the use of the land for recreational purposes without charge does not by that action:

(1) extend any assurance that the land is safe for any purpose;

(2) confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed; or

(3) assume responsibility for or incur liability for any injury to the person or property caused by an act or omission of the person.

604A.24. Liability; leased land, water-filled mine pits; municipal power agency land

Unless otherwise agreed in writing, sections 604A.22 and 604A.23 also apply to the duties and liability of an owner of the following land:

(1) land leased to the state or any political subdivision for recreational purpose; or

(2) idled or abandoned, water-filled mine pits whose pit walls may slump or cave, and to which water the public has access from a water access site operated by a public entity;

(3) land of which a municipal power agency is an owner and that is used for recreational trail purposes, and other land of a municipal power agency which is within 300 feet of such land if the entry onto such land was from land that is dedicated for recreational purposes or recreational trail use; or

(4) land leased to the state or otherwise subject to an agreement or contract for purposes of a state-sponsored walk-in access program.

604A.25 Owner's liability; not limited

Except as set forth in this section, nothing in sections 604A.20 to 604A.27 limits liability that otherwise exists:

(1) for conduct which, at law, entitles a trespasser to maintain an action and obtain relief for the conduct complained of; or

(2) for injury suffered in any case where the owner charges the persons who enter or go on the land for the recreational purpose, except that in the case of land leased to the state or a political subdivision, any consideration received from the state or political subdivision by the owner for the lease is not considered a charge within the meaning of this section.

Except for conduct set forth in section 604A.22, clause (3), a person may not maintain an action and obtain relief at law for conduct referred to by clause (1) if the entry upon the land is incidental to or arises from access granted for the recreational trail use of land dedicated, leased, or permitted by the owners for recreational trail use.

604A.26 Land user's liability

Nothing in sections 604A.20 to 604A.27 relieves any person using the land of another for recreational purpose from any obligation that the person may have in the absence of sections 604A.20 to 604A.27 to exercise care in use of the land and in the person's activities on the land, or from the legal consequences of failure to employ that care.

604A.27 Dedication; easement

No dedication of any land in connection with any use by any person for a recreational purpose takes effect in consequence of the exercise of that use for any length of time except as expressly permitted or provided in writing by the owner, nor shall the grant of permission for the use by the owner grant to any person an easement or other property right in the land except as expressly provided in writing by the owner.

Enacted in 1961, last amended in 2012.
https://www.revisor.mn.gov/statutes/?id=604A

MONTANA RECREATIONAL USE STATUTE

MONTANA CODE
TITLE 70 PROPERTY
CHAPTER 16 RIGHTS AND OBLIGATIONS INCIDENTAL TO OWNERSHIP IN REAL PROPERTY
Part 3 Gratuitous Permittee for Recreation

70-16-301. Recreational purposes defined.
"Recreational purposes", as used in this part, includes hunting, fishing, swimming, boating, waterskiing, camping, picnicking, pleasure driving, biking, winter sports, hiking, touring or viewing cultural and historical sites and monuments, spelunking, or other pleasure expeditions. The term includes the private, noncommercial flying of aircraft in relation to private land.

70-16-302. Restriction on liability of landowner.
(1) A person who uses property, including property owned or leased by a public entity, for recreational purposes, with or without permission, does so without any assurance from the landowner that the property is safe for any purpose if the person does not give a valuable consideration to the landowner in exchange for the recreational use of the property. The landowner owes the person no duty of care with respect to the condition of the property, except that the landowner is liable to the person for any injury to person or property for an act or omission that constitutes willful or wanton misconduct. For purposes of this section, valuable consideration does not include the state land recreational use license fee imposed under 77-1-802.

(2) As used in this part, the following definitions apply:

(a) (i) "Airstrip" means either improved or unimproved landing areas on private land used by pilots to land, park, take off, unload, load, and taxi aircraft.

(ii) The term does not include municipal airports governed under Title 67, chapter 10, part 1.

(b) "Flying of aircraft" means the operation of aircraft, including but not limited to landing, parking, taking off, unloading, loading, and taxiing of aircraft at an airstrip.

(c) "Landowner" means a person or entity of any nature, whether private, governmental, or quasi-governmental, and includes the landowner's agent, tenant, lessee, occupant, grantee of conservation easement, water users' association, irrigation district, drainage district, and persons or entities in control of the property or with an agreement to use or occupy property.

(d) "Property" means land, roads, airstrips, water, watercourses, and private ways. The term includes any improvements, buildings, structures, machinery, and equipment on property.

(3) The department of fish, wildlife, and parks, when operating under an agreement with a landowner or tenant to provide recreational snowmobiling opportunities, including but not limited to a snowmobile area, subject to the provisions of subsection (1), on the landowner's property and when not also acting as a snowmobile area operator on the property, does not extend any assurance that the property is safe for any purpose, and the department, the landowner, or the landowner's tenant may not be liable to any person for any injury to person or property resulting from any act or omission of the department unless the act or omission constitutes willful or wanton misconduct.

Enacted in 1965, last amended in 2007.
http://www.leg.mt.gov/bills/mca/title_0700/chapter_0160/part_0030/sections_index.html

NEBRASKA RECREATIONAL USE STATUTE

REVISED STATUTES
CHAPTER 37 GAME AND PARKS
ARTICLE 7. RECREATIONAL LANDS.
(D) RECREATION LIABILITY

§ 37-729. Terms, defined.
For purposes of sections 37-729 to 37-736:
(1) Land includes roads, water, watercourses, private ways, and buildings, structures, and machinery or equipment thereon when attached to the realty;
(2) Owner includes tenant, lessee, occupant, or person in control of the premises;
(3) Recreational purposes includes, but is not limited to, any one or any combination of the following: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, waterskiing, winter sports, and visiting, viewing, or enjoying historical, archaeological, scenic, or scientific sites, or otherwise using land for purposes of the user; and
(4) Charge means the amount of money asked in return for an invitation to enter or go upon the land.

§ 37-730. Limitation of liability; purpose of sections.
The purpose of sections 37-729 to 37-736 is to encourage owners of land to make available to the public land and water

areas for recreational purposes by limiting their liability toward persons entering thereon and toward persons who may be injured or otherwise damaged by the acts or omissions of persons entering thereon.

§ 37-731. Landowner; duty of care.

Subject to section 37-734, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

§ 37-732. Landowner; invitee; permittee; liability; limitation.

Subject to section 37-734, an owner of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby (1) extend any assurance that the premises are safe for any purpose, (2) confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

§ 37-733. Land leased to state; duty of landowner.

Unless otherwise agreed in writing, an owner of land leased to the state for recreational purposes owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering or going upon such land of any hazardous conditions, uses, structures, or activities thereon. An owner who leases land to the state for recreational purposes shall not by giving such lease (1) extend any assurance to any person using the land that the premises are safe for any purpose, (2) confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of a person who enters upon the leased land. The provisions of this section shall apply whether the person entering upon the leased land is an invitee, licensee, trespasser, or otherwise.

§ 37-734. Landowner; liability.

Nothing in sections 37-729 to 37-736 limits in any way any liability which otherwise exists (1) for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity or (2) for injury suffered in any case where the owner of land charges the person or persons who enter or go on the land.

§ 37-735. Sections, how construed.

Nothing in sections 37-729 to 37-736 creates a duty of care or ground of liability for injury to person or property.

§ 37-736. Obligation of person entering upon and using land.

Nothing in sections 37-729 to 37-736 limits in any way the obligation of a person entering upon or using the land of another for recreational purposes to exercise due care in his or her use of such land in his or her activities thereon.

Enacted in 1965, last amended in 2005. http://www.nebraskalegislature.gov/laws/statutes.php?statute=37-729

NEVADA RECREATIONAL USE STATUTE

NEVADA REVISED STATUTES
TITLE 3. REMEDIES; SPECIAL ACTIONS AND PROCEEDINGS
CHAPTER 41. ACTIONS AND PROCEEDINGS IN PARTICULAR CASES CONCERNING PERSONS
LIABILITY OF OWNERS, LESSEES AND OCCUPANTS OF PREMISES TO PERSONS USING PREMISES FOR RECREATIONAL PURPOSES

NRS 41.510 Limitation of liability; exceptions for malicious acts if consideration is given or other duty exists.

1. Except as otherwise provided in subsection 3, an owner of any estate or interest in any premises, or a lessee or an occupant of any premises, owes no duty to keep the premises safe for entry or use by others for participating in any recreational activity, or to give warning of any hazardous condition, activity or use of any structure on the premises to persons entering for those purposes.

2. Except as otherwise provided in subsection 3, if an owner, lessee or occupant of premises gives permission to another person to participate in recreational activities, upon his premises:

(a) He does not thereby extend any assurance that the premises are safe for that purpose or assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

(b) That person does not thereby acquire any property rights in or rights of easement to the premises.

3. This section does not:

(a) Limit the liability which would otherwise exist for:

(1) Willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity.

(2) Injury suffered in any case where permission to participate in recreational activities was granted for a consideration other than the consideration, if any, paid to the landowner by the State or any subdivision thereof. For the purposes of this subparagraph, the price paid for a game tag sold pursuant to NRS 502.145 by an owner, lessee or manager of the premises shall not be deemed consideration given for permission to hunt on the premises.

(3) Injury caused by acts of persons to whom permission to participate in recreational activities was granted, to other persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

(b) Create a duty of care or ground of liability for injury to person or property.

4. As used in this section, “recreational activity” includes, but is not limited to:

(a) Hunting, fishing or trapping;

(b) Camping, hiking or picnicking;

(c) Sightseeing or viewing or enjoying archaeological, scenic, natural or scientific sites;

(d) Hang gliding or paragliding;

(e) Spelunking;

(f) Collecting rocks;

(g) Participation in winter sports, including cross-country skiing, snowshoeing or riding a snowmobile, or water sports;

(h) Riding animals, riding in vehicles or riding a road or mountain bicycle;

(i) Studying nature;

(j) Gleaning;

(k) Recreational gardening; and

(l) Crossing over to public land or land dedicated for public use.

Enacted in 1963, amended in 2007. http://www.leg.state.nv.us/NRS/NRS-041.html#NRS041Sec510

NEW HAMPSHIRE RECREATIONAL USE STATUTE

NEW HAMPSHIRE REVISED STATUTES
TITLE XVIII. FISH AND GAME
CHAPTER 212. PROPAGATION OF FISH AND GAME LIABILITY OF LANDOWNERS

212:34. Duty of Care

I. In this section:

(a) "Charge" means a payment or fee paid by a person to the landowner for entry upon, or use of the premises, for outdoor recreational activity.

(b) "Landowner" means an owner, lessee, holder of an easement, occupant of the premises, or person managing, controlling, or overseeing the premises on behalf of such owner, lessee, holder of an easement, or occupant of the premises.

(c) "Outdoor recreational activity" means outdoor recreational pursuits including, but not limited to, hunting, fishing, trapping, camping, horseback riding, bicycling, water sports, winter sports, snowmobiling as defined in RSA 215-C:1, XV, operating an OHRV as defined in RSA 215-A:1, V, hiking, ice and rock climbing or bouldering, or sightseeing upon or removing fuel wood from the premises.

(d) "Premises" means the land owned, managed, controlled, or overseen by the landowner upon which the outdoor recreational activity subject to this section occurs.

(e) "Ancillary facilities" means facilities commonly associated with outdoor recreational activities, including but not limited to, parking lots, warming shelters, restrooms, outhouses, bridges, and culverts.

II. A landowner owes no duty of care to keep the premises safe for entry or use by others for outdoor recreational activity or to give any warning of hazardous conditions, uses of, structures, or activities on such premises to persons entering for such purposes, except as provided in paragraph V.

II-a. Except as provided in paragraph V, a landowner who permits the use of his or her land for outdoor recreational activity pursuant to this section and who does not charge a fee or seek any other consideration in exchange for allowing such use, owes no duty of care to persons on the premises who are engaged in the construction, maintenance, or expansion of trails or ancillary facilities for outdoor recreational activity.

III. A landowner who gives permission to another to enter or use the premises for outdoor recreational activity does not thereby:

(a) Extend any assurance that the premises are safe for such purpose;

(b) Confer to the person to whom permission has been granted the legal status of an invitee to whom a duty of care is owed; or

(c) Assume responsibility for or incur liability for an injury to person or property caused by any act of such person to whom permission has been granted, except as provided in paragraph V.

IV. Any warning given by a landowner, whether oral or by sign, guard, or issued by other means, shall not be the basis of liability for a claim that such warning was inadequate or insufficient unless otherwise required under subparagraph V(a).

V. This section does not limit the liability which otherwise exists:

(a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity;

(b) For injury suffered in any case where permission to enter or use the premises for outdoor recreational activity was

granted for a charge other than the consideration if any, paid to said landowner by the state;

(c) When the injury was caused by acts of persons to whom permission to enter or use the premises for outdoor recreational activity was granted, to third persons as to whom the landowner owed a duty to keep the premises safe or to warn of danger; or

(d) When the injury suffered was caused by the intentional act of the landowner.

VI. Except as provided in paragraph V, no cause of action shall exist for a person injured using the premises as provided in paragraph II, engaged in the construction, maintenance, or expansion of trails or ancillary facilities as provided in paragraph II-a, or given permission as provided in paragraph III.

VII. If, as to any action against a landowner, the court finds against the claimant because of the application of this section, it shall determine whether the claimant had a reasonable basis for bringing the action, and if no reasonable basis is found, shall order the claimant to pay for the reasonable attorneys' fees and costs incurred by the landowner in defending against the action.

VIII. It is recognized that outdoor recreational activities may be hazardous. Therefore, each person who participates in outdoor recreational activities accepts, as a matter of law, the dangers inherent in such activities, and shall not maintain an action against an owner, occupant, or lessee of land for any injuries which result from such inherent risks, dangers, or hazards. The categories of such risks, hazards, or dangers which the outdoor recreational participant assumes as a matter of law include, but are not limited to, the following: variations in terrain, trails, paths, or roads, surface or subsurface snow or ice conditions, bare spots, rocks, trees, stumps, and other forms of forest growth or debris, structures on the land, equipment not in use, pole lines, fences, and collisions with other objects or persons.

Enacted in 1961, last amended in 2015. http://www.gencourt.state.nh.us/rsa/html/XVIII/212/212-34.htm

NEW YORK RECREATIONAL USE STATUTE

New York Consolidated Laws
GENERAL OBLIGATIONS LAW
ARTICLE 9 Obligations of Care
TITLE 1 Conditions on Real Property

9-103. No duty to keep premises safe for certain uses; responsibility for acts of such users

1. Except as provided in subdivision two,

a. an owner, lessee or occupant of premises, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep the premises safe for entry or use by others for hunting, fishing, organized gleaning as defined in section seventy-one-y of the agriculture and markets law, canoeing, boating, trapping, hiking, cross-country skiing, tobogganing, sledding, speleological activities, horseback riding, bicycle riding, hang gliding, motorized vehicle operation for recreational purposes, snowmobile operation, cutting or gathering of wood for non-commercial purposes or training of dogs, or to give warning of any hazardous condition or use of or structure or activity on such premises to persons entering for such purposes;

b. an owner, lessee or occupant of premises who gives permission to another to pursue any such activities upon such premises does not thereby (1) extend any assurance that the premises are safe for such purpose, or (2) constitute the person to whom permission is granted an invitee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

c. an owner, lessee or occupant of a farm, as defined in section six hundred seventy-one of the labor law, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep such farm safe for entry or use by a person who enters or remains in or upon such farm without consent or privilege, or to give warning of any hazardous condition or use of or structure or activity on such farm to persons so entering or remaining. This shall not be interpreted, or construed, as a limit on liability for acts of gross negligence in addition to those other acts referred to in subdivision two of this section.

2. This section does not limit the liability which would otherwise exist

a. for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity; or

b. for injury suffered in any case where permission to pursue any of the activities enumerated in this section was granted for a consideration other than the consideration, if any, paid to said landowner by the state or federal government, or permission to train dogs was granted for a consideration other than that provided for in section 11-0925 of the environmental conservation law; or

c. for injury caused, by acts of persons to whom permission to pursue any of the activities enumerated in this section was granted, to other persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

3. Nothing in this section creates a duty of care or ground of liability for injury to person or property.

Enacted in 1963. http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS

ADDITIONALLY: NYS Office of Parks, Recreation, and Historic Preservation; Title D

§ 25.23 Duties and liability for negligence. 1. Negligence in the use or operation of a snowmobile shall be attributable to the owner. Every owner of a snowmobile used or operated in this state shall be liable and responsible for death or injury to person or damage to property resulting from negligence in the use or operation of such snowmobile by any person using or operating the same with the permission, express or implied, of such owner, provided, however, that such operator's negligence shall not be attributed to the owner as to any claim or cause of action accruing to the operator or his legal representative for such injuries or death.

2. Duties of snowmobile owners and operators. It is recognized that snowmobiling is a voluntary activity that may be hazardous. It shall be the duty of snowmobile owners and operators:

(a) To keep their snowmobiles in proper working order.

(b) To follow any and all other rules of conduct as are prescribed pursuant to section 25.03 of this article.

(c) Not to operate a snowmobile in any area not designated for snowmobiling.

(d) Not to operate a snowmobile in a manner beyond their limits or ability and speed to overcome variations in trail conditions and configuration and surface or subsurface conditions which may be caused or altered by weather, slope or trail maintenance work or snowmobile use.

(e) To familiarize themselves with signage and trail markers before operating.

(f) Not to snowmobile on a trail or portion thereof that has been designated as "closed".

(g) Not leave the scene of any accident resulting in personal injury to another party until such time as assistance arrives, except for the purpose of summoning aid.

(h) Not to willfully stop on any trail where such stopping is likely to impede the use of that trail by others.

(i) Not to willfully remove, deface, alter or otherwise damage signage, warning devices or implements, or other safety devices.

NORTH DAKOTA RECREATIONAL USE STATUTE

NORTH DAKOTA CENTURY CODE
TITLE 53. SPORTS AND AMUSEMENTS
CHAPTER 53-08. LIABILITY LIMITED FOR OWNER OF RECREATION LANDS

53-08-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Charge" means the amount of money asked in return for an invitation to enter or go upon the land. "Charge" does not include vehicle, parking, shelter, or other similar fees required by any public entity.
2. "Commercial purpose" means a deliberative decision of an owner to invite or permit the use of the owner's property for normal business transactions, including the buying and selling of goods and services. The term includes any decision of an owner to invite members of the public onto the premises for recreational purposes as a means of encouraging business transactions or directly improving the owner's commercial activities other than through good will. "Commercial purpose" does not include the operation of public lands by a public entity except any direct activity for which there is a charge for goods or services.
3. "Land" includes all public and private land, roads, water, watercourses, and ways and buildings, structures, and machinery or equipment thereon.
4. "Owner" includes tenant, lessee, occupant, or person in control of the premises.
5. "Recreational purposes" includes any activity engaged in for the purpose of exercise, relaxation, pleasure, or education.

53-08-02. Duty of care of owner.

1. Subject to the provisions of section 53-08-05, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, regardless of the location and nature of the recreational purposes and whether the entry or use by others is for their own recreational purposes or is directly derived from the recreational purposes of other persons, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.
2. This section does not apply to:
   a. A person that enters land to provide goods or services at the request of, and at the direction or under the control of, an owner; or
   b. An owner engaged in a for-profit business venture that directly or indirectly invites members of the public onto the premises for commercial purposes or during normal periods of commercial activity in which members of the public are invited.

53-08-03. Not invitee or licensee of landowner.

Subject to the provisions of section 53-08-05, an owner of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:

1. Extend any assurance that the premises are safe for any purpose;
2. Confer upon such persons, or any other person whose presence on the premises is directly derived from those recreational purposes, the legal status of an invitee or licensee to whom a duty of care is owed other than a person that enters land to provide goods or services at the request of, and at the direction or under the control of, the owner; or
3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

53-08-04. Leased land to state or political subdivisions.

Unless otherwise agreed in writing, an owner of land leased to the state or its political subdivisions for recreational purposes owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering or going upon such land of any hazardous conditions, uses, structures, or
activities thereon. An owner who leases land to the state or its political subdivisions for recreational purposes does not by giving such lease:

1. Extend any assurance to any person using the land that the premises are safe for any purpose;
2. Confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed; or
3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of a person who enters upon the leased land.

The provisions of this section apply whether the person entering upon the leased land is an invitee, licensee, trespasser, or otherwise.

53-08-05. Failure to warn against dangerous conditions - Charge to enter.

This chapter does not limit in any way any liability that otherwise exists for:

1. Willful and malicious failure to guard or warn against a dangerous condition, use, structure, or activity; or
2. Injury suffered in any case in which the owner of land:
   a. Charges the person for entry onto the land other than the amount, if any, paid to the owner of the land by the state; and
   b. The total charges collected by the owner in the previous calendar year for all recreational use of land under the control of the owner are more than:
      (1) Twice the total amount of property taxes imposed on the land for the previous calendar year; or
      (2) In the case of agricultural land, four times the total amount of property taxes imposed on the land for the previous calendar year.

53-08-06. Duty of care or liability for injury. Nothing in this chapter may be construed as creating a duty of care or grounds of liability for injury to person or property. Nothing herein limits in any way the obligation of a person entering upon or using the land of another for recreational purposes to exercise due care in that person's use of such land and in that person's activities thereon.

Enacted in 1965, amended in 2011. http://www.legis.nd.gov/cencode/t53c08.pdf

OHIO RECREATIONAL USE STATUTE

OHIO REVISED CODE
TITLE XV [15] CONSERVATION OF NATURAL RESOURCES
CHAPTER 1533: HUNTING; FISHING [RECREATIONAL USER]

1533.18 Recreational User Definitions

As used in sections 1533.18 and 1533.181 of the Revised Code:

(A) “Premises” means all privately owned lands, ways, and waters, and any buildings and structures thereon, and all privately owned and state-owned lands, ways, and waters leased to a private person, firm, or organization, including any buildings and structures thereon.

(B) “Recreational user” means a person to whom permission has been granted, without the payment of a fee or consideration to the owner, lessee, or occupant of premises, other than a fee or consideration paid to the state or any agency of the state, or a lease payment or fee paid to the owner of privately owned lands, to enter upon premises to hunt, fish, trap, camp, hike, or swim, or to operate a snowmobile, all-purpose vehicle, or four-wheel drive motor vehicle, or to engage in other recreational pursuits.

(C) “All-purpose vehicle” has the same meaning as in section 4519.01 of the Revised Code.

1533.181 Immunity

(A) No owner, lessee, or occupant of premises:

(1) Owes any duty to a recreational user to keep the premises safe for entry or use;

(2) Extends any assurance to a recreational user, through the act of giving permission, that the premises are safe for entry or use;
(3) Assumes responsibility for or incurs liability for any injury to person or property caused by any act of a recreational user.
(B) Division (A) of this section applies to the owner, lessee, or occupant of privately owned, nonresidential premises, whether or not the premises are kept open for public use and whether or not the owner, lessee, or occupant denies entry to certain individuals.

Enacted in 1963, last amended in 2007. http://codes.ohio.gov/orc/1533.18

OREGON RECREATIONAL USE STATUTE

OREGON REVISED STATUTES
TITLE 10. PROPERTY RIGHTS AND TRANSACTIONS
CHAPTER 105. PROPERTY RIGHTS
PUBLIC USE OF LANDS

105.672 Definitions for ORS 105.672 to 105.696. As used in ORS 105.672 to 105.696:

(1) "Charge":

(a) Means the admission price or fee requested or expected by an owner in return for granting permission for a person to enter or go upon the owner's land.

(b) Does not mean any amount received from a public body in return for granting permission for the public to enter or go upon the owner's land.

(c) Does not include the fee for a winter recreation parking permit or any other parking fee of $15 or less per day.

(2) "Harvest" has that meaning given in ORS 164.813.

(3) "Land" includes all real property, whether publicly or privately owned.

(4) "Owner" means the possessor of any interest in any land, such as the holder of a fee title, a tenant, a lessee, an occupant, the holder of an easement, the holder of a right of way or a person in possession of the land.

(5) "Recreational purposes" includes, but is not limited to, outdoor activities such as hunting, fishing, swimming, boating, camping, picnicking, hiking, nature study, outdoor educational activities, waterskiing, winter sports, viewing or enjoying historical, archaeological, scenic or scientific sites or volunteering for any public purpose project.

(6) "Special forest products" has that meaning given in ORS 164.813.

(7) "Woodcutting" means the cutting or removal of wood from land by an individual who has obtained permission from the owner of the land to cut or remove wood.

Note: Section 2, chapter 372, Oregon Laws 2007, provides:

Sec. 2. The amendments to ORS 105.672 by section 1 of this 2007 Act apply to an entry or going upon land by the public on or after the effective date of this 2007 Act [June 12, 2007], regardless of whether the owner in return receives an amount from a public body before, on or after the effective date of this 2007 Act. [2007 c.372 §2]

105.676. Public policy.

The Legislative Assembly hereby declares it is the public policy of the State of Oregon to encourage owners of land to make their land available to the public for recreational purposes, for gardening, for woodcutting and for the harvest of special forest products by limiting their liability toward persons entering thereon for such purposes and by protecting their interests in their land from the extinguishment of any such interest or the acquisition by the public of any right to use or continue the use of such land for recreational purposes, gardening, woodcutting or the harvest of special forest products.

105.682. Liabilities of owner of land used by public for recreational purposes, woodcutting or harvest of special forest products.

(1) Except as provided by subsection (2) of this section, and subject to the provisions of ORS 105.688, an owner of land is not liable in contract or tort for any personal injury, death or property damage that arises out of the use of the land for recreational purposes, gardening, woodcutting or the harvest of special forest products when the owner of land either directly or indirectly permits any person to use the land for recreational purposes, gardening, woodcutting or the harvest of special forest products. The limitation on liability provided by this section applies if the principal purpose for entry upon the land is for recreational purposes, gardening, woodcutting or the harvest of special forest products, and is not affected if the injury, death or damage occurs while the person entering land is engaging in activities other than the use of the land for recreational purposes, gardening, woodcutting or the harvest of special forest products.

(2) This section does not limit the liability of an owner of land for intentional injury or damage to a person coming onto land for recreational purposes, gardening, woodcutting or the harvest of special forest products.

105.688. Applicability of immunities from liability for owner of land; restrictions.

(1) Except as specifically provided in ORS 105.672 to 105.696, the immunities provided by ORS 105.682 apply to:

(a) All land, including but not limited to land adjacent or contiguous to any bodies of water, watercourses or the ocean shore as defined by ORS 390.605;
(b) All roads, bodies of water, watercourses, rights of way, buildings, fixtures and structures on the land described in paragraph (a) of this subsection;
(c) All paths, trails, roads, watercourses and other rights of way while being used by a person to reach land for recreational purposes, gardening, woodcutting or the harvest of special forest products, that are on land adjacent to the land that the person intends to use for recreational purposes, gardening, woodcutting or the harvest of special forest products, and that have not been improved, designed or maintained for the specific purpose of providing access for recreational purposes, gardening, woodcutting or the harvest of special forest products; and
(d) All machinery or equipment on the land described in paragraph (a) of this subsection.

(2) The immunities provided by ORS 105.682 apply to land if the owner transfers an easement to a public body to use the land.

(3) Except as provided in subsections (4) to (7) of this section, the immunities provided by ORS 105.682 do not apply if the owner makes any charge for permission to use the land for recreational purposes, gardening, woodcutting or the harvest of special forest products.

(4) If the owner charges for permission to use the owners land for one or more specific recreational purposes and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to any use of the land other than the activities for which the charge is imposed. If the owner charges for permission to use a specified part of the owners land for recreational purposes and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owners land.

(5) The immunities provided by ORS 105.682 for gardening do not apply if the owner charges more than $25 per year for the use of the land for gardening. If the owner charges more than $25 per year for the use of the land for gardening, the immunities provided by ORS 105.682 apply to any use of the land other than gardening. If the owner charges more than $25 per year for permission to use a specific part of the owners land for gardening and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owners land.

(6) The immunities provided by ORS 105.682 for woodcutting do not apply if the owner charges more than $75 per cord for permission to use the land for woodcutting. If the owner charges more than $75 per cord for the use of the land for woodcutting, the immunities provided by ORS 105.682 apply to any use of the land other than woodcutting. If the owner charges more than $75 per cord for permission to use a specific part of the owners land for woodcutting and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owners land.

(7) The immunities provided by ORS 105.682 for the harvest of special forest products do not apply if the owner makes any charge for permission to use the land for the harvest of special forest products. If the owner charges for permission to use the owners land for the harvest of special forest products, the immunities provided by ORS 105.682 apply to any use of the land other than the harvest of special forest products. If the owner charges for permission to use a specific part of the owners land for harvesting special forest products and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owners land.

(8) Notices under subsections (4) to (7) of this section may be given by posting, as part of a receipt, or by such other means as may be reasonably calculated to apprise a person of:
(a) The limited uses of the land for which the charge is made, and the immunities provided under ORS 105.682 for other uses of the land; or
(b) The portion of the land the use of which is subject to the charge, and the immunities provided under ORS 105.682 for the remainder of the land.

105.692. No right to continued use of land if owner of land permits use of land; no presumption of dedication or other rights.

(1) An owner of land who either directly or indirectly permits any person to use the land for recreational purposes, gardening, woodcutting or the harvest of special forest products does not give that person or any other person a right to continued use of the land for those purposes without the consent of the owner.

(2) The fact that an owner of land allows the public to use the land for recreational purposes, gardening, woodcutting or the harvest of special forest products without posting, fencing or otherwise restricting use of the land does not raise a presumption that the landowner intended to dedicate or otherwise give over to the public the right to continued use of the land.

(3) Nothing in this section shall be construed to diminish or divert any public right to use land for recreational purposes acquired by dedication, prescription, grant, custom or otherwise existing before October 5, 1973.

(4) Nothing in this section shall be construed to diminish or divert any public right to use land for woodcutting acquired by dedication, prescription, grant, custom or otherwise existing before October 3, 1979.

105.696. No duty of care or liability created; exercise of care still required of person using land.

ORS 105.672 to 105.696 do not:
(1) Create a duty of care or basis for liability for personal injury, death or property damage resulting from the use of land for recreational purposes, for woodcutting or for the harvest of special forest products.
(2) Relieve a person using the land of another for recreational purposes, for gardening, for woodcutting or the harvest of special forest products from any obligation that the person has to exercise care in use of the land in the activities of the person or from the legal consequences of failure of the person to exercise that care.

105.699. Rules applicable to state lands.

The State Forester, under the general supervision of the State Board of Forestry, may adopt any rules considered necessary for the administration of the provisions of ORS 105.672 to 105.696 on state land.

105.700. Prohibiting public access to private land; notice requirements; damages.

(1) In addition to and not in lieu of any other damages that may be claimed, a plaintiff who is a landowner shall receive liquidated damages in an amount not to exceed $1,000 in any action in which the plaintiff establishes that:

(a) The plaintiff closed the land of the plaintiff as provided in subsection (2) of this section; and

(b) The defendant entered and remained upon the land of the plaintiff without the permission of the plaintiff.

(2) A landowner or an agent of the landowner may close the privately owned land of the landowner by posting notice as follows:

(a) For land through which the public has no right of way, the landowner or agent must place a notice at each outer gate and normal point of access to the land, including both sides of a body of water that crosses the land wherever the body of water intersects an outer boundary line. The notice must be placed on a post, structure or natural object in the form of a sign or a blaze of paint. If a blaze of paint is used, it must consist of at least 50 square inches of fluorescent orange paint, except that when metal fence posts are used, approximately the top six inches of the fence post must be painted. If a sign is used, the sign:

(A) Must be no smaller than eight inches in height and 11 inches in width;

(B) Must contain the words "Closed to Entry" or words to that effect in letters no less than one inch in height; and

(C) Must display the name, business address and phone number, if any, of the landowner or agent of the landowner.

(b) For land through which or along which the public has an unfenced right of way by means of a public road, the landowner or agent must place:

(A) A conspicuous sign no closer than 30 feet from the center line of the roadway where it enters the land, containing words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF ROAD NEXT ___ MILES"; or

(B) A sign or blaze of paint, as described in paragraph (a) of this subsection, no closer than 30 feet from the center line of the roadway at regular intervals of not less than one-fourth mile along the roadway where it borders the land, except that a blaze of paint may not be placed on posts where the public road enters the land.

(3) Nothing contained in this section prevents emergency or law enforcement vehicles from entering upon the posted land.
(4) An award of liquidated damages under this section is not subject to ORS 31.725, 31.730 or 31.735.
(5) Nothing in this section affects any other remedy, civil or criminal, that may be available for a trespass described in this section.

Enacted in 1971, last amended in 2010. https://www.oregonlaws.org/?search=105.672

PENNSYLVANIA RECREATIONAL USE STATUTE

Act of Feb. 2, (1966) 1965, P.L. 1860, No. 586
AN ACT
Encouraging landowners to make land and water areas available to the public for recreational purposes by limiting liability in connection therewith, and repealing certain acts.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:
Section 1. The purpose of this act is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability. (1 amended June 30, 2007, P.L.42, No.11)
Section 2. As used in this act:
(1) "Land" means land, roads, water, watercourses, private ways and buildings, structures and machinery or equipment when attached to the realty.
(2) "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises.
(3) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, recreational noncommercial aircraft operations or recreational noncommercial ultralight

operations on private airstrips, camping, picnicking, hiking, pleasure driving, nature study, water skiing, water sports, cave exploration and viewing or enjoying historical, archaeological, scenic, or scientific sites. ((3) Amended July 7, 2011, P.L.254, No.47)
(4) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land.
Section 3. Except as specifically recognized or provided in section 6 of this act, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.
Section 4. Except as specifically recognized by or provided in section 6 of this act, an owner of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby:
(1) Extend any assurance that the premises are safe for any purpose.
(2) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.
(3) Assume responsibility for or incur liability for any injury to persons or property caused by an act of omission of such persons.
(4) Assume responsibility for or incur liability for any injury to persons or property, wherever such persons or property are located, caused while hunting as defined in 34 Pa.C.S. § 102 (relating to definitions).
(4 amended June 30, 2007, P.L.42, No.11)
Section 5. Unless otherwise agreed in writing, the provisions of sections 3 and 4 of this act shall be deemed applicable to the duties and liability of an owner of land leased to the State or any subdivision thereof for recreational purposes.
Section 6. Nothing in this act limits in any way any liability which otherwise exists:
(1) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.
(2) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the State or a subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of its section.
Section 7. Nothing in this act shall be construed to:
(1) Create a duty of care or ground of liability for injury to persons or property.
(2) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this act to exercise care in his use of such land and in his activities thereon, or from the legal consequences of failure to employ such care.
Section 8. The act of September 27, 1961 (P.L.1696), entitled "An act limiting the liability of landowners of agriculture lands or woodlands for personal injuries suffered by any person while hunting or fishing upon the landowner's property," is repealed.
All other acts or parts of acts are repealed in so far as inconsistent herewith.

Enacted in 1965, last amended 2011.
http://www.legis.state.pa.us/cfdocs/legis/LI/uconsCheck.cfm?txtType=HTM&yr=1965&sessInd=0&smthLwInd=0&act=0586.

SOUTH DAKOTA RECREATIONAL USE STATUTE

SOUTH DAKOTA CODIFIED LAWS
TITLE 20. PERSONAL RIGHTS AND OBLIGATIONS
CHAPTER 20-9. LIABILITY FOR TORTS

20-9-12. Definition of terms
Terms used in 20-9-12 to 20-9-18, inclusive, mean:
1) "Charge," the admission price or fee asked in return for invitation or permission to enter or go upon the land. Any nonmonetary gift to an owner that is less than one hundred dollars in value may not be construed to be a charge;
2) "Land," land, trails, water, watercourses, private ways and agricultural structures, and machinery or equipment if attached to the realty;
3) "Outdoor recreational purpose," includes any of the following activities, or any combination thereof: hunting, fishing, swimming other than in a swimming pool, boating, canoeing, camping, picnicking, hiking, biking, off-road driving, aviation activity, nature study, water skiing, winter sports, snowmobiling, viewing, or enjoying historical, archaeological, scenic, or scientific sites;
4) "Agritourism activity," any activity carried out on a farm, on a ranch, in a forest, or on an agribusiness operation that allows members of the general public, for recreational, entertainment, or educational purposes, to view or participate in agricultural activities, including farming, ranching, historical, cultural, harvest-your-own, or nature-based activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity. An activity is not an agritourism activity if the participant is paid to participate in the activity;
5) "Owner," the possessor of a fee interest, a tenant, lessee, occupant, or person in control of the premises.

20-9-13. Landowner not obligated to keep land safe for outdoor recreation or agritourism or to give warning -- Exception
Except as provided in s 20-9-16, an owner of land owes no duty of care to keep the land safe for entry or use by others for outdoor recreational purposes or agritourism activities, or to give any warning of a dangerous condition, use, structure, or activity on the owner's land to persons entering for outdoor recreational purposes.
20-9-14. Liability of landowner for invitation to use property for outdoor recreation or agritourism -- Exception
Except as provided in s 20-9-16, an owner of land who either directly or indirectly invites or permits without charge any person to use the owner's property for outdoor recreational purposes or agritourism activities, including any person who is on the property pursuant to s 41-9-8, does not thereby:
(1) Extend any assurance that the land is safe for any purpose;
(2) Confer upon any person the legal status of an invitee or licensee to whom a duty of care is owed; or
(3) Assume responsibility for, or incur liability for, any injury to persons or property caused by an act of omission of the owner as to maintenance of the land.
20-9-15. Liability of owner of land leased to state or its political subdivisions for outdoor recreation or agritourism.
Unless otherwise agreed in writing, the provisions of 20-9-13 and 20-9-14 apply to the duties and liability of an owner of land leased to the state or any political subdivision of the state for outdoor recreational purposes or agritourism activities.
20-9-16. Landowner Liability for gross negligence or injury suffered where consideration charged or law violated
Nothing in 20-9-12 to 20-9-18, inclusive, limits in any way any liability which otherwise exists:
(1) For gross negligence or willful or wanton misconduct of the owner;
(2) For injury suffered in any case where the owner of land charges any person who enters or goes on the land for the outdoor recreational use of the land or for agritourism activity, except that in the case of land leased to the state or a political subdivision of the state, any consideration received by the owner for the lease may not be deemed a charge within the meaning of this section nor may any incentive payment paid to the owner by the state or federal government to promote public access for outdoor recreational purposes or agritourism activities e considered a charge; or
(3) For injury suffered in any case where the owner has violated a county or municipal ordinance or state law which violation is a proximate cause of the injury.
20-9-17. Liability for injury to persons or property or failure to exercise care in use of land for outdoor recreation or agritourism
Sections 20-9-12 to 20-9-18, inclusive, may not be construed to create a duty of care or ground of liability for injury to persons or property, or relieve any person using the land of another for outdoor recreational purposes or agritourism activities from any obligation which he may have in the absence of 20-9-12 to 20-9-18, inclusive, to exercise care in his or her use of the land and in his or her activities on the land, or from the legal consequences of failure to employ such care.
20-9-18. Doctrine of attractive nuisance not affected
Sections 20-9-12 to 20-9-18, inclusive, does not affect the doctrine of attractive nuisance or other legal doctrines relating to liability arising from artificial conditions highly dangerous to children.

Enacted in 1987, last amended in 2012. http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=20-9

UTAH RECREATIONAL USE STATUTE

UTAH CODE
TITLE 57. REAL ESTATE
CHAPTER 14. LIMITATIONS ON LANDOWNER LIABILITY

57-14-101. Title -- Purpose.
(1) **This chapter is known as "Limitations on Landowner Liability."**
(2) The purpose of this chapter is to limit the liability of public and private land owners toward a person entering the owner's land as a trespasser or for recreational purposes, whether by permission or by operation of Title 73, Chapter 29, Public Waters Access Act
57-14-102. Definitions.
As used in this chapter:
(1) "Charge" means the admission price or fee asked in return for permission to enter or go upon the land.
(2) "Child" means an individual who is 16 years of age or younger.
(3) "Inherent risks" means those dangers, conditions, and potentials for personal injury or property damage that are an integral and natural part of participating in an activity for a recreational purpose.
(4) (a) "Land" means any land within the state boundaries.
(b) "Land" includes roads, railway corridors, water, water courses, private ways and buildings, structures, and machinery or equipment when attached to the realty.

(5) "Owner" means the possessor of any interest in the land, whether public or private land, including a tenant, a lessor, a lessee, an occupant, or person in control of the land.
(6) "Person" includes any person, regardless of age, maturity, or experience, who enters upon or uses land for recreational purposes.
(7) "Recreational purpose" includes, but is not limited to, any of the following or any combination thereof:
(a) hunting;
(b) fishing;
(c) swimming;
(d) skiing;
(e) snowshoeing;
(f) camping;
(g) picnicking;
(h) hiking;
(i) studying nature;
(j) waterskiing;
(k) engaging in water sports;
(l) engaging in equestrian activities;
(m) using boats;
(n) mountain biking;
(o) riding narrow gauge rail cars on a narrow gauge track that does not exceed 24 inch gauge;
(p) using off-highway vehicles or recreational vehicles;
(q) viewing or enjoying historical, archaeological, scenic, or scientific sites;
(r) aircraft operations; and
(s) equestrian activity, skateboarding, skydiving, paragliding, hang gliding, roller skating, ice skating, walking, running, jogging, bike riding, or in-line skating.
(8) "Serious physical injury" means any physical injury or set of physical injuries that:
(a) seriously impairs a person's health;
(b) was caused by use of a dangerous weapon as defined in Section 76-1-601;
(c) involves physical torture or causes serious emotional harm to a person; or
(d) creates a reasonable risk of death.
(9) "Trespasser" means a person who enters on the land of another without:
(a) express or implied permission; or
(b) invitation.

57-14-201. Owner owes no duty of care or duty to give warning -- Exceptions.

Except as provided in Subsections 57-14-204(1) and (2), an owner of land owes no duty of care to keep the land safe for entry or use by any person entering or using the land for any recreational purpose or to give warning of a dangerous condition, use, structure, or activity on the land.

57-14-202. Use of private land without charge -- Effect.

Except as provided in Subsection 57-14-204(1), an owner of land who either directly or indirectly invites or permits without charge, or for a nominal fee of no more than $1 per year, any person to use the owner's land for any recreational purpose, or an owner of a public access area open to public recreational access under Title 73, Chapter 29, Public Waters Access Act, does not:
(1) make any representation or extend any assurance that the land is safe for any purpose;
(2) confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed;
(3) assume responsibility for or incur liability for any injury to persons or property caused by an act or omission of the person or any other person who enters upon the land; or
(4) owe any duty to curtail the owner's use of the land during its use for recreational purposes.

57-14-203. Land leased to state or political subdivision for recreational purposes.

Unless otherwise agreed in writing, Sections 57-14-201 and 57-14-202 are applicable to the duties and liability of an owner of land leased to the state or any subdivision of the state for recreational purposes.

57-14-204. Liability not limited where willful or malicious conduct involved or admission fee charged.

(1) Nothing in this part limits any liability that otherwise exists for:
(a) willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity;
(b) deliberate, willful, or malicious injury to persons or property; or
(c) an injury suffered where the owner of land charges a person to enter or go on the land or use the land for any recreational purpose.
(2) For purposes of Subsection (1) (c), if the land is leased to the state or a subdivision of the state, any consideration received by the owner for the lease is not a charge within the meaning of this section.

(3) Any person who hunts upon a cooperative wildlife management unit, as authorized by Title 23, Chapter 23, Cooperative Wildlife Management Units, is not considered to have paid a fee within the meaning of this section.

(4) Owners of a dam or reservoir who allow recreational use of the dam or reservoir and its surrounding area and do not themselves charge a fee for that use, are considered not to have charged for that use within the meaning of Subsection (1) (c), even if the user pays a fee to the Division of Parks and Recreation for the use of the services and facilities at that dam or reservoir.

(5) The state or a subdivision of the state that owns property purchased for a railway corridor is considered not to have charged for use of the railway corridor within the meaning of Subsection (1) (c), even if the user pays a fee for travel on a privately owned rail car that crosses or travels over the railway corridor of the state or a subdivision of the state:

(a) allows recreational use of the railway corridor and its surrounding area; and

(b) does not charge a fee for that use.

57-14-205. Person using land of another not relieved from duty to exercise care.

This part may not be construed to relieve any person, using the land of another for recreational purposes, from any obligation which the person may have in the absence of this chapter to exercise care in use of the land and in activities on the land, or from the legal consequences of failure to employ care.

57-14-301. Owner liability to trespasser.

(1) Except as provided in Subsection (2), with respect to a trespasser, an owner does not:

(a) make any representation or extend any assurance that the land is safe for any purpose;

(b) owe any duty of care to the trespasser;

(c) assume responsibility for or incur liability for any injury to, the death of, or damage to property of, a trespasser; or

(d) owe any duty to curtail the owner's use of the land.

(2) Notwithstanding Subsection (1) and except as provided in Subsection (3), an owner may be subject to liability for serious physical injury or death to a trespasser if:

(a) (i) the trespasser is a child;

(ii) the serious physical injury or death is caused by an artificial condition on the land;

(iii) the owner knows or reasonably should know that:

(A) the artificial condition exists;

(B) the artificial condition poses an unreasonable risk of serious physical injury or death to a child; and

(C) a child is likely to trespass at the location of the artificial condition;

(iv) the artificial condition is not of a type that a child, because of the child's youth, would discover exists or would not realize that the artificial condition poses a risk of serious physical injury or death; and

(v) the owner fails to take reasonable measures to eliminate, or to protect against serious physical injury or death from, the artificial condition;

(b) (i) the serious physical injury or death:

(A) occurs on a limited area of the land that the owner knows, or reasonably should know, is constantly intruded upon by trespassers; and

(B) is caused by an activity conducted by the owner that poses a risk of serious physical injury or death to a trespasser; and

(ii) the owner fails to conduct the activity described in Subsection (2)(b)(i)(B) with reasonable care for a trespasser's safety.

(3) (a) An owner is not subject to liability for serious physical injury or death to a trespasser if the conduct of the owner that results in serious physical injury or death is permitted or justified under Title 76, Chapter 2, Part 4, Justification Excluding Criminal Responsibility, or any other provision of law.

(b) An owner is not subject to liability for serious physical injury or death to a trespasser under Subsection (2) if the burden on the owner to eliminate, or to protect against serious physical injury or death from, the artificial condition outweighs the risk of serious physical injury or death posed by the artificial condition.

(c) An owner is not subject to liability for serious physical injury or death to a trespasser under Subsection (2) if the serious injury or death is caused by an irrigation canal or ditch.

(d) A public transit district is not subject to liability for a serious physical injury or death to a trespasser under Subsection (2) if the serious injury or death is caused by a trespasser entering into a fixed guideway, railroad right-of-way, or on transit facilities or premises in violation of Section 56-1-18.5 or Section 41-6a-1005.

(4) Nothing in this chapter shall impose liability on an owner except to the extent liability existed as of May 14, 2013.

57-14-401. Inherent risks of activities with a recreational purpose on certain lands.

(1) Notwithstanding Section 57-14-202 to the contrary, a person may not make a claim against or recover from an owner of any land, as defined in this chapter, including land in developed or improved, urban or semi-rural areas opened to

the general public without charge, such as a lake, pond, park, trail, waterway, or other recreation site, for personal injury or property damage caused by the inherent risks of participating in an activity with a recreational purpose on the land.
(2) Nothing in this section may be construed to relieve a person participating in a recreational purpose from an obligation that the person would have in the absence of this section to exercise due care or from the legal consequences of a failure to exercise due care.

Enacted in 1971, last amended in 2013.
http://www.le.utah.gov/xcode/Title57/Chapter14/57-14-P1.html?v=C57-14-P1_1800010118000101

VERMONT RECREATIONAL USE STATUTE

VERMONT STATUTES ANNOTATED
TITLE TWELVE. Court Procedure
CHAPTER 203. Limitations on Landowner Liability

§ 5791 Purpose
The purpose of this chapter is to encourage owners to make their land and water available to the public for no consideration for recreational uses by clearly establishing a rule that an owner shall have no greater duty of care to a person who, without consideration, enters or goes upon the owner's land for a recreational use than the owner would have to a trespasser.
§ 5792 Definitions
As used in this chapter:
(1) "Consideration" means a price, fee or other charge paid to or received by the owner in return for the permission to enter upon or to travel across the owner's land for recreational use. Consideration shall not include:
(A) compensation paid to or a tax benefit received by the owner for granting a permanent recreational use easement;
(B) payment or provision for compensation to be paid to the owner for damage caused by recreational use; or
(C) contributions in services or other consideration paid to the owner to offset or insure against damages sustained by an owner from the recreational use or to compensate the owner for damages from recreational use.
(2) (A) "Land" means:
(i) open and undeveloped land, including paths and trails;
(ii) water, including springs, streams, rivers, ponds, lakes and other water courses;
(iii) fences; or
(iv) structures and fixtures used to enter or go upon land, including bridges and walkways.
(B) "Land" does not include:
(i) areas developed for commercial recreational uses,
(ii) equipment, machinery or personal property, and
(iii) structures and fixtures not described in subdivision (2)(A)(iii) or (iv) of this section.
(3) "Owner" means a person who owns, leases, licenses or otherwise controls ownership or use of land, and any employee or agent of that person.
(4) "Recreational use" means an activity undertaken for recreational, educational or conservation purposes, and includes hunting, fishing, trapping, guiding, camping, biking, in-line skating, jogging, skiing, swimming, diving, water sports, rock climbing, hang gliding, caving, boating, hiking, riding an animal or a vehicle, picking wild or cultivated plants, picnicking, gleaning, rock collecting, nature study, outdoor sports, visiting or enjoying archeological, scenic, natural, or scientific sites, or other similar activities. "Recreational use" also means any noncommercial activity undertaken without consideration to create, protect, preserve, rehabilitate or maintain the land for recreational uses.
§ 5793 Liability limited
(a) Land. An owner shall not be liable for property damage or personal injury sustained by a person who, without consideration, enters or goes upon the owner's land for a recreational use unless the damage or injury is the result of the willful or wanton misconduct of the owner.
(b) Equipment, fixtures, machinery or personal property.
(1) Unless the damage or injury is the result of the willful or wanton misconduct of the owner, an owner shall not be liable for property damage or personal injury sustained by a person who, without consideration and without actual permission of the owner, enters or goes upon the owner's land for a recreational use and proceeds to enter upon or use:
(A) equipment, machinery or personal property; or
(B) structures or fixtures not described in subdivision 5792(2)(A)(iii) or (iv) of this title.
(2) Permission to enter or go upon an owner's land shall not, by itself, include permission to enter or go upon structures or to go upon or use equipment, fixtures, machinery or personal property.

§ 5794 Landowner protection

(a) The fact that an owner has made land available without consideration for recreational uses shall not be construed to:

(1) limit the property rights of owners;

(2) limit the ability of an owner and a recreational user of the land to enter into agreements for the recreational use of the land to vary or supplement the duties and limitations created in this chapter;

(3) support or create any claim or right of eminent domain, adverse possession or other prescriptive right or easement or any other land use restriction;

(4) alter, modify or supersede the rights and responsibilities under chapters 191, animal control, and 193, domestic pet or wolf-hybrid control, of Title 20; under chapters 29, snowmobiles, and 31, all-terrain vehicles, of Title 23; under chapter 23, bicycle routes, of Title 19; and under chapter 20, Vermont trail system, of Title 10;

(5) extend any assurance that the land is safe for recreational uses or create any duty on an owner to inspect the land to discover dangerous conditions;

(6) relieve a person making recreational use of land from the obligation the person may have in the absence of this chapter to exercise due care for the person's own safety in the recreational use of the land.

(b) Nothing in this chapter shall create any presumption or inference of permission or consent to enter upon an owner's land for any purpose.

(c) For the purposes of protecting landowners who make land available for recreational use to members of the public for no consideration pursuant to this chapter, the presence of one or more of the following on land does not by itself preclude the land from being "open and undeveloped": posting of the land, fences, or agricultural or forestry related structures.

§ 5795 Exceptions

This chapter shall not apply to lands owned by a municipality or the state.

Enacted in 1967, last amended in 1997. http://legislature.vermont.gov/statutes/fullchapter/12/203

WASHINGTON RECREATIONAL USE STATUTE

REVISED CODE
TITLE 4. CIVIL PROCEDURE
CHAPTER 4.24. SPECIAL RIGHTS OF ACTION AND SPECIAL IMMUNITIES

4.24.200. Liability of owners or others in possession of land and water areas for injuries to recreation users -- Purpose

The purpose of RCW 4.24.200 and 4.24.210 is to encourage owners or others in lawful possession and control of land and water areas or channels to make them available to the public for recreational purposes by limiting their liability toward persons entering thereon and toward persons who may be injured or otherwise damaged by the acts or omissions of persons entering thereon.

4.24.210. Liability of owners or others in possession of land and water areas for injuries to recreation users—Known dangerous artificial latent conditions—Other limitations.

(1) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowners, hydroelectric project owners, or others in lawful possession and control of any lands whether designated resource, rural, or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting, fishing, camping, picnicking, swimming, hiking, bicycling, skateboarding or other nonmotorized wheel-based activities, aviation activities including, but not limited to, the operation of airplanes, ultra-light airplanes, hang gliders, parachutes, and paragliders, rock climbing, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, kayaking, canoeing, rafting, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefore, shall not be liable for unintentional injuries to such users.

(2) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowner or others in lawful possession and control of any lands whether rural or urban, or water areas or channels and lands adjacent to such areas or channels, who offer or allow such land to be used for purposes of a fish or wildlife cooperative project, or allow access to such land for cleanup of litter or other solid waste, shall not be liable for unintentional injuries to any volunteer group or to any other users.

(3) Any public or private landowner, or others in lawful possession and control of the land, may charge an administrative fee of up to twenty-five dollars for the cutting, gathering, and removing of firewood from the land.

(4)(a) Nothing in this section shall prevent the liability of a landowner or others in lawful possession and control for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted.

(i) A fixed anchor used in rock climbing and put in place by someone other than a landowner is not a known dangerous artificial latent condition and a landowner under subsection (1) of this section shall not be liable for unintentional injuries resulting from the condition or use of such an anchor.

(ii) Releasing water or flows and making waterways or channels available for kayaking, canoeing, or rafting purposes pursuant to and in substantial compliance with a hydroelectric license issued by the federal energy regulatory commission, and making adjacent lands available for purposes of allowing viewing of such activities, does not create a known dangerous artificial latent condition and hydroelectric project owners under subsection (1) of this section shall not be liable for unintentional injuries to the recreational users and observers resulting from such releases and activities.

(b) Nothing in RCW 4.24.200 and this section limits or expands in any way the doctrine of attractive nuisance.

(c) Usage by members of the public, volunteer groups, or other users is permissive and does not support any claim of adverse possession.

(5) For purposes of this section, the following are not fees:

(a) A license or permit issued for statewide use under authority of chapter 79A.05 RCW or Title 77 RCW;

(b) A pass or permit issued under RCW 79A.80.020, 79A.80.030, or 79A.80.040;

(c) A daily charge not to exceed twenty dollars per person, per day, for access to a publicly owned ORV sports park, as defined in RCW 46.09.310, or other public facility accessed by a highway, street, or nonhighway road for the purposes of off-road vehicle use; and

(d) Payments to landowners for public access from state, local, or nonprofit organizations established under department of fish and wildlife cooperative public access agreements if the landowner does not charge a fee to access the land subject to the cooperative agreement.

Enacted in 1967, last amended in 2017. http://apps.leg.wa.gov/RCW/default.aspx?cite=4.24.200

WISCONSIN RECREATIONAL USE STATUTE

WISCONSIN STATUTES
PROVISIONS COMMON TO ACTIONS AND PROCEEDINGS IN ALL COURTS
CHAPTER 895. MISCELLANEOUS GENERAL PROVISIONS

895.52 Recreational activities; limitation of property owners' liability

(1) DEFINITIONS. In this section:

(ag) “Agricultural tourism activity" means an educational or recreational activity that takes place on a farm, ranch, grove, or other place where agricultural, horticultural, or silvicultural crops are grown or farm animals or farmed fish are raised, and that allows visitors to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural production, harvesting, or husbandry that occurs on the farm, ranch, grove, or other place.

(ar) “Governmental body" means any of the following:

1. The federal government.

2. This state.

3. A county or municipal governing body, agency, board, commission, committee, council, department, district or any other public body corporate and politic created by constitution, statute, ordinance, rule or order.

4. A governmental or quasi-governmental corporation.

5. A formally constituted subunit or an agency of subd. 1., 2., 3. or 4.

(b) "Injury" means an injury to a person or to property.

(c) "Nonprofit organization" means an organization or association not organized or conducted for pecuniary profit.

(d) "Owner" means either of the following:

1. A person, including a governmental body or nonprofit organization, that owns, leases or occupies property.

2. A governmental body or nonprofit organization that has a recreational agreement with another owner.

(e) "Private property owner" means any owner other than a governmental body or nonprofit organization.

(f) "Property" means real property and buildings, structures and improvements thereon, and the waters of the state, as defined under s. 281.01(18).

(g) “Recreational activity" means any outdoor activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. “Recreational activity" includes hunting, fishing, trapping, camping, picnicking, exploring caves, nature study, bicycling, horseback riding, bird-watching, motorcycling, operating an all-terrain vehicle or utility terrain vehicle, operating a vehicle, as defined in s. 340.01 (74), on a road designated under s. 23.115, recreational aviation, ballooning, hang gliding, hiking, tobogganing,

sledding, sleigh riding, snowmobiling, skiing, skating, water sports, sight-seeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, participating in an agricultural tourism activity, sport shooting and any other outdoor sport, game or educational activity. "Recreational activity" does not include any organized team sport activity sponsored by the owner of the property on which the activity takes place.

(h) "Recreational agreement" means a written authorization granted by an owner to a governmental body or nonprofit organization permitting public access to all or a specified part of the owner's property for any recreational activity.

(hm) "Recreational aviation" means the use of an aircraft, other than to provide transportation to persons or property for compensation or hire, upon privately owned land. For purposes of this definition, "privately owned land" does not include a public-use airport, as defined in s. 114.002 (18m).

(i) "Residential property" means a building or structure designed for and used as a private dwelling accommodation or private living quarters, and the land surrounding the building or structure within a 300-foot radius.

(2) NO DUTY; IMMUNITY FROM LIABILITY.

(a) Except as provided in subs. (3) to (6), no owner and no officer, employee or agent of an owner owes to any person who enters the owner's property to engage in a recreational activity:

1. A duty to keep the property safe for recreational activities.
2. A duty to inspect the property, except as provided under s. 23.115(2).
3. A duty to give warning of an unsafe condition, use or activity on the property.

(b) Except as provided in subs. (3) to (6), no owner and no officer, employee or agent of an owner is liable for the death of, any injury to, or any death or injury caused by, a person engaging in a recreational activity on the owner's property or for any death or injury resulting from an attack by a wild animal.

(3) LIABILITY; STATE PROPERTY. Subsection (2) does not limit the liability of an officer, employee or agent of this state or of any of its agencies for either of the following:

(a) A death or injury that occurs on property of which this state or any of its agencies is the owner at any event for which the owner charges an admission fee for spectators.

(b) A death or injury caused by a malicious act or by a malicious failure to warn against an unsafe condition of which an officer, employee or agent knew, which occurs on property designated by the department of natural resources under s. 23.115 or designated by another state agency for a recreational activity.

(4) LIABILITY; PROPERTY OF GOVERNMENTAL BODIES OTHER THAN THIS STATE. Subsection (2) does not limit the liability of a governmental body other than this state or any of its agencies or of an officer, employee or agent of such a governmental body for either of the following:

(a) A death or injury that occurs on property of which a governmental body is the owner at any event for which the owner charges an admission fee for spectators.

(b) A death or injury caused by a malicious act or by a malicious failure to warn against an unsafe condition of which an officer, employee or agent of a governmental body knew, which occurs on property designated by the governmental body for recreational activities.

(5) LIABILITY; PROPERTY OF NONPROFIT ORGANIZATIONS. Subsection (2) does not limit the liability of a nonprofit organization or any of its officers, employees or agents for a death or injury caused by a malicious act or a malicious failure to warn against an unsafe condition of which an officer, employee or agent of the nonprofit organization knew, which occurs on property of which the nonprofit organization is the owner.

(6) LIABILITY; PRIVATE PROPERTY. Subsection (2) does not limit the liability of a private property owner or of an employee or agent of a private property owner whose property is used for a recreational activity if any of the following conditions exist:

(a) The private property owner collects money, goods or services in payment for the use of the owner's property for the recreational activity during which the death or injury occurs, and the aggregate value of all payments received by the owner for the use of the owner's property for recreational activities during the year in which the death or injury occurs exceeds $2,000. The following do not constitute payment to a private property owner for the use of his or her property for a recreational activity:

1. A gift of wild animals or any other product resulting from the recreational activity.
2. An indirect nonpecuniary benefit to the private property owner or to the property that results from the recreational activity.
3. A donation of money, goods or services made for the management and conservation of the resources on the property.
4. A payment of not more than $5 per person per day for permission to gather any product of nature on an owner's property.

5. A payment received from a governmental body.
6. A payment received from a nonprofit organization for a recreational agreement.
7. A payment made to purchase products or goods offered for sale on the property.

(b) The death or injury is caused by the malicious failure of the private property owner or an employee or agent of the private property owner to warn against an unsafe condition on the property, of which the private property owner knew.

(c) The death or injury is caused by a malicious act of the private property owner or of an employee or agent of a private property owner.

(d) The death or injury occurs on property owned by a private property owner to a social guest who has been expressly and individually invited by the private property owner for the specific occasion during which the death or injury occurs, if the death or injury occurs on any of the following:

1. Platted land.
2. Residential property.
3. Property within 300 feet of a building or structure on land that is classified as commercial or manufacturing under s. 70.32(2)(a)2. or 3.

(e) The death or injury is sustained by an employee of a private property owner acting within the scope of his or her duties.

(7) NO DUTY OR LIABILITY CREATED. Except as expressly provided in this section, nothing in this section or s. 101.11 nor the common law attractive nuisance doctrine creates any duty of care or ground of liability toward any person who uses another's property for a recreational activity.

895.525. Participation in recreational activities; restrictions on civil liability, assumption of risk.

(1) LEGISLATIVE PURPOSE. The legislature intends by this section to establish the responsibilities of participants in recreational activities in order to decrease uncertainty regarding the legal responsibility for deaths or injuries that result from participation in recreational activities and thereby to help assure the continued availability in this state of enterprises that offer recreational activities to the public.

(2) DEFINITIONS. In this section:

a) “Agricultural tourism activity" means an educational or recreational activity that takes place on a farm, ranch, grove, or other place where agricultural, horticultural, or silvicultural crops are grown or farm animals or farmed fish are raised, and that allows visitors to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural production, harvesting, or husbandry that occurs on the farm, ranch, grove, or other place.

(b) “Recreational activity" means any activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. “Recreational activity" does not include participating in an alpine sport at a ski area, as those terms are defined in s. 167.33, but includes hunting, fishing, trapping, camping, bowling, billiards, picnicking, exploring caves, nature study, dancing, bicycling that is not biking, as defined in s. 167.33 (1) (ar), horseback riding, horseshoe-pitching, bird-watching, motorcycling, operating an all-terrain vehicle or utility terrain vehicle, recreational aviation, as defined in s. 895.52 (1) (hm), ballooning, curling, throwing darts, hang gliding, hiking, sleigh riding, snowmobiling, skating, participation in water sports, weight and fitness training, sight-seeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, participating in an agricultural tourism activity, sport shooting, and participating in an alpine sport outside a ski area, as those terms are defined in s. 167.33, and any other sport, game or educational activity.

(3) APPRECIATION OF RISK. A participant in a recreational activity engaged in on premises owned or leased by a person who offers facilities to the general public for participation in recreational activities accepts the risks inherent in the recreational activity of which the ordinary prudent person is or should be aware. In a negligence action for recovery of damages for death, personal injury or property damage, conduct by a participant who accepts the risks under this subsection is contributory negligence, to which the comparative negligence provisions of s. 895.045 shall apply.

(4) RESPONSIBILITIES OF PARTICIPANTS. (a) A participant in a recreational activity engaged in on premises owned or leased by a person who offers facilities to the general public for participation in recreational activities is responsible to do all of the following:

1. Act within the limits of his or her ability.
2. Heed all warnings regarding participation in the recreational activity.
3. Maintain control of his or her person and the equipment, devices or animals the person is using while participating in the recreational activity.
4. Refrain from acting in any manner that may cause or contribute to the death or injury to himself or herself or to other persons while participating in the recreational activity.

(b) A violation of this subsection constitutes negligence. The comparative negligence provisions of s. 895.045 apply to negligence under this subsection.

(4m) LIABILITY OF CONTACT SPORTS PARTICIPANTS. (a) A participant in a recreational activity that includes

physical contact between persons in a sport involving amateur teams, including teams in recreational, municipal, high school and college leagues, may be liable for an injury inflicted on another participant during and as part of that sport in a tort action only if the participant who caused the injury acted recklessly or with intent to cause injury.

(b) Unless the professional league establishes a clear policy with a different standard, a participant in an athletic activity that includes physical contact between persons in a sport involving professional teams in a professional league may be liable for an injury inflicted on another participant during and as part of that sport in a tort action only if the participant who caused the injury acted recklessly or with intent to cause injury.

(5) EFFECT ON RELATED PROVISION. Nothing in this section affects the limitation of property owners' liability under s. 895.52.

Enacted in 1983, last amended in 2015. http://docs.legis.wisconsin.gov/statutes/statutes/895/II/52

WYOMING RECREATIONAL USE STATUTE

WYOMING STATUTES
TITLE 34. PROPERTY, CONVEYANCES AND SECURITY TRANSACTIONS
CHAPTER 19. LIABILITY OF OWNERS OF LAND USED FOR RECREATION PURPOSES

34-19-101. Definitions

(a) As used in this act:

(i) "Land" means land, including state land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty;

(ii) "Owner" means the possessor of a fee interest, a tenant, lessee, including a lessee of state lands, occupant or person in control of the premises;

(iii) "Recreational purpose" includes, but is not limited to, any one (1) or more of the following: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, bicycling, mountain biking, horseback riding and other equine activities as defined in W.S. 1-1-122 (a) (iv), noncommercial aviation activities and viewing or enjoying historical, archaeological, scenic or scientific sites;

(iv) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land;

(v) "This act" means W.S. 34-19-101 through 34-19-106.

34-19-102. Landowner's duty of care or duty to give warnings

Except as specifically recognized by or provided in W.S. 34-19-105, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure or activity on such premises to persons entering for recreational purposes.

34-19-103. Limitations on landowner's liability

(a) Except as specifically recognized by or provided in W.S. 34-19-105, an owner of land who either directly or indirectly invites or permits without charge any person to use the land for recreational purposes or a lessee of state lands does not thereby:

(i) Extend any assurance that the premises are safe for any purpose;

(ii) Confer upon the person using the land the legal status of an invitee or licensee to whom a duty of care is owed;

(iii) Assume responsibility for or incur liability for any injury to person or property caused by an act of omission of the person using the land.

34-19-104. Application to land leased to state or political subdivision thereof

(a) Unless otherwise agreed in writing W.S. 34-19-102 and 34-19-103 shall be deemed applicable to the duties and liability of:

(i) An owner of land leased to the state or any subdivision of this state for recreational purposes;

(ii) An owner of land on which the state or any subdivision of the state has an easement for vehicle parking and land access for recreational purposes.

34-19-105. When landowner's liability not limited

(a) Nothing in this act limits in any way any liability which otherwise exists:

(i) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity, except an owner whose land is adjacent to a national scenic trail designated by the United States congress and who has conveyed an easement across his lands for purposes of a designated national scenic trail shall owe no duty of care to keep the adjacent lands safe or to give any warning of a dangerous condition, use, structure or activity on the adjacent lands. The installation of a sign, other form of warning or modification made to improve safety shall not create liability on the part of an owner of the adjacent land if there is no other basis for liability;

(ii) For injury suffered in any case where the owner of land charges the persons who enter or go on the land for recreational purposes, except that in the case of land leased to the state or a subdivision of this state, any consideration received by the owner for the lease shall not be deemed a charge within the meaning of this section.
(iii) Under W.S. 1-39-107.

34-19-106. Duty of care, not created; duty of care of persons using land

(a) Nothing in this act shall be construed to:

(i) Create a duty of care or ground of liability for injury to persons or property;
(ii) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this act to exercise care in his use of the land and in his activities on the land, or from the legal consequences of failure to employ such care.

34-19-107. User liability for damages.

Any person using the land of another for recreational purposes, with or without permission, shall be liable for any damage to property, livestock or crops which may be caused by the person while on the property.

Enacted in 1965, last amended in 2005. http://legisweb.state.wy.us/NXT/gateway.dll?f=templates&fn=default.htm

APPENDIX 2: SAMPLE MOTORIZED LAND TRUST – ARTICLES OF INCORPORATION AND BY-LAWS, SNOW COUNTRY TRAILS CONSERVANCY (Michigan snowmobile example)

ARTICLES OF INCORPORATION

For use by Domestic Nonprofit Corporations

Pursuant to the provisions of Act 162, *Public Acts of* 1982, *the undersigned corporation executes the following Articles:*

ARTICLE I

The name of the corporation is: Snow Country Trails Conservancy.

ARTICLE II

The purpose or purposes for which the corporation is organized are: This Corporation is organized for educational and charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 19811, as amended, which purposes shall include, without limitation, the enhancement of the State of Michigan snowmobile trail system for use by the general public by promoting and facilitating the expansion and improvement of the existing State of Michigan snowmobile trail system with permanent snowmobile trails, and to do all other things not expressly noted above to promote and encourage the charitable and educational purpose of the Corporation. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, or by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986.

ARTICLE III

1. The corporation is organized upon a Nonstock basis.
(Stock or Nonstock)

2. If organized on a stock basis, the total number of shares which the corporation has authority to issue is _____. If the shares are, or are to be, divided into classes, the designation of each class, the number of shares in each class, and the relative rights, preferences and limitations of the shares of each class are as follows:

3. a. If organized on a nonstock basis, the description and value of its real property assets are: (if none, insert "none") None
b. The description and value of its personal property assets are: (if none, insert "none") None
c. The corporation is to be financed under the following general plan: Contributions from the general public and grants from governmental and nonprofit and tax exempt organizations
d. The corporation is organized on a Directorship basis.
(Membership or Directorship)

ARTICLE IV

1. The address of the registered office is: 4543 Division Ave. S, Wyoming, MI 49458
2. The mailing address of the registered office if different than above:
3. The name of the resident agent at the registered office is: WDM, Jr.

ARTICLE V

The name(s) and address(es) of the incorporator(s) is (are) as follows: 4543 Division Ave. S, Wyoming, MI 49458

ARTICLE VI
In the event of dissolution or final liquidation of the Corporation, the board of directors shall, after paying or making provision for the payment of all the lawful debts and liability of the Corporation, distribute all the assets of the Corporation to one or more of the following categories of recipients as the board of directors of the Corporation shall determine:

(a) a nonprofit organization or organization that may have been created to succeed the Corporation, as long as such organization shall then qualify as a governmental Unit under section 170(c) of the Internal Revenue Code of 1986 or as an organization exempt from federal income taxation under section 501(a) of such Code as an organization described in section 501(c)(3) of such Code; and/or

(b) a nonprofit organization or organization having similar aims and objects as the Corporation and which may be selected as an appropriate recipient of such assets, as long as such organization shall then qualify as a governmental unit under section 170(c) of the Internal Revenue Code of 1986 or as an organization exempt from federal income taxation under section 501 (a) of such Code as an organization described in section 501 (c)(3) of such Code.

Any assets not disposed of in accordance with this provision shall be disposed of by the circuit court of the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations that the court shall determine and that are organized and operated exclusively for such purposes.

ARTICLE VII
When a compromise, an arrangement, or a plan of reorganization is proposed between this Corporation and its creditors, a court of equity jurisdiction within this state may order a meeting of the affected creditors. The Corporation, a creditor or a receiver appointed for the Corporation may apply to the court for a meeting. The meeting shall be summoned in such manner as the court directs, if a majority in number representing 3/4 in value of the affected creditors agree to a compromise or arrangement, the compromise, arrangement, or reorganization of the Corporation resulting from the compromise or arrangement, if approved by the court, shall be binding on all the creditors and also on this Corporation.

ARTICLE VIII
No member of the board of directors of the Corporation who is a volunteer director, as that term is defined in the Michigan Nonprofit Corporation Act (the "Act"), or a volunteer officer shall not be personally liable to this Corporation for monetary damages for a breach of the director's or officer's fiduciary duty, provided, however, that this provision shall not eliminate or limit the liability of a director or officer for any of the following:

1. a breach of the director's or officer's duty of loyalty to the Corporation;
2. acts Or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
3. a violation of section 551(1) of the Act;
4. a transaction from which the director or officer derived an improper personal benefit; or
5. an act or omission occurring before the effective date of the provision granting limited liability
6. an act or omission that is grossly negligent.

The Corporation assumes all liability to any person, other than the Corporation, for all acts or omissions of a director who is a volunteer director, as defined in the Act, or a volunteer officer incurred in the good faith performance of the director's or officer's duties. However, the Corporation shall not be considered to have assumed any liability to the extent that such assumption is inconsistent with the status of the Corporation as an organization described in IRC 501(c)(3) or the corresponding section of any future federal tax code or any state law regulating equine activities.

If the Act is amended after the filing of these Articles of Incorporation to authorize the further elimination or limitation of the liability of directors or officers of nonprofit Corporations, then the liability of members of the board of directors or officers, in addition to that described in this article VIII, shall be assumed by the Corporation or eliminated or limited to the fullest extent permitted by the Act as so amended. Such an elimination, limitation, or assumption of liability is not effective to the extent that it is inconsistent with the status of the Corporation as an organization described in IRC 501(c)(3) or corresponding section of any future federal tax code or any state law regulating equine activities.

ARTICLE IX

The Corporation assumes the liability for all acts or omissions of a volunteer director, volunteer officer and other volunteers, if all of the following conditions are met:

1. The volunteer was acting or reasonably believed he or she was acting within the scope of his or her authority.
2. The volunteer was acting in good faith.
3. The volunteer's conduct did not amount to gross negligence or willful and wanton misconduct.
4. The volunteer's conduct was not an intentional tort.
5. The volunteer's conduct was not a tort arising out of the ownership, maintenance, or use of a motor vehicle for which tort liability may be imposed as provided in section 3135 of the Insurance Code of 1956, Act No. 218 of the Public Acts of 1956, being section 500.3135 of the Michigan Compiled Laws.

However, the Corporation may not be considered to have assumed any liability to the extent that such assumption is consistent with the status of the Corporation as an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986 or corresponding section of any subsequent tax code.

ARTICLE X

The Corporation may indemnify each director and officer, employee, non-director volunteer or agent of the Corporation for all attorney fees, judgments, penalties, fines, settlements and reasonable expenses incurred for acts or omissions to the fullest extend allowed under the Act, provided, however, that the indemnification is consistent with the status of the Corporation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding section of any subsequent tax code.

Dated: June 26, *2003*

WDM, Jr.
Incorporator

SNOW COUNTRY TRAILS CONSERVANCY
a Michigan nonprofit corporation

BY-LAWS

ARTICLE I
OFFICE

Section 1.01 Principal Office. The principal office of the Corporation shall be 4543 Division Ave. S, Wyoming, MI 49458.

Section 1.02 Other Offices. The Corporation may also have an office or offices in such other place or places as, the business of the Corporation may require and the Board of Directors may from time to time appoint.

ARTICLE II
PURPOSE

Section 2.01 General Purpose. This Corporation is organized for educational and charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which purposes shall include, without limitation, the enhancement of the State of Michigan snowmobile trail system for use by the general public by promoting and facilitating the expansion and improvement of the existing State of Michigan snowmobile trail system with permanent snowmobile trails and to do all other things not expressly noted above to promote and encourage the charitable and educational purpose of the Corporation.

Section 2.02 Specific Purpose. The snowmobile trail system for the State of Michigan will be expanded and improved by such methods and in such manner as determined by the Board of Directors of the Corporation from time to time, but in all events consistent with, and in furtherance of, the charitable non-profit purpose of the Corporation, including:

(1) Acquiring title to land that may or may not be existing snowmobile trails and permanently dedicating that land for use as snowmobile trails by the general public;

(2) Acquiring permanent easements over land that may or may not be under existing temporary easements for snowmobile trails and permanently dedicating those easements for use as snowmobile trails by the general public; and

(3) Improving signage, intersection infrastructure, safety and funding other capital improvements for existing and new snowmobile trails.

Section 2.03 Use by General Public. All snowmobile trails established by the Corporation, whether by acquiring legal title or the grant of permanent easements, may be donated or dedicated to the State of Michigan, or other organizations tax exempt under Section 501(c)(3) of the Internal Revenue Code, provided that any such donation or dedication shall require the use of the donated snowmobile trails for the benefit of the general public.

ARTICLE III
CORPORATION DIRECTOR BASED

Section 3.01 No Members. The Corporation shall be a non-stock director based nonprofit corporation within the meaning of the Michigan Non-Profit Corporation Act. It shall not have members.

ARTICLE IV
DIRECTORS AND LIAISONS

Section 4.01 General Powers. The property and business of the Corporation shall be managed under the direction of the Board of Directors of the Corporation. The Board of Directors shall consist of Directors elected or appointed in accordance with these Bylaws.

Section 4.02 Number and Qualification. The number of Directors shall be not less than five (5) nor more than nine (9). The number of Directors may be increased or decreased by resolution of the Directors. All new Directors shall be appointed by those remaining duly qualified Directors. Persons who would be described in Section 4946(a)(A) or (C) through (G) of the Internal Revenue Code of 1986, as now enacted or as hereafter amended, if this Corporation were a "private Foundation" as defined in Section 509(a) of the Internal Revenue Code of 1986, or as hereafter amended, shall never constitute more than one-third of the Directors of this Corporation; and such persons, together with representatives of banks or trust companies which serve as Directors, investment advisors, custodians, or agents for or with respect to funds of or held for the benefit of this Corporation, shall never constitute more than one-half of the Directors of this Corporation.

Section 4.03 Nomination and Election of Directors. The Board may appoint a Nominating Committee which, if appointed, shall decide upon a slate of proposed Directors to replace vacancies, and shall propose such slate to the Board of Directors at the annual meeting each year. Any Director at the meeting when the nominees are considered may nominate additional person(s) for consideration by the Board of Directors. The Directors shall vote in accordance with Section 4.10 to appoint or not to appoint each person named on the slate of proposed Directors at the annual meeting, or the next convenient meeting.

Section 4.04 Filling of Vacancies. In the case of any vacancy in the Board of Directors through death, resignation, disqualification, removal, or other cause, the vacancy shall be filled for the un-expired portion of the term of the Director whose place is vacant by the recommendation of the Nominating Committee and a proper resolution of the Board of Directors at the next regular meeting of the Directors or at a duly called special meeting for such purpose.

In the event of the replacement of a Director, or if the number of Directors is being increased as provided in these Bylaws, the replacement or additional Directors shall hold office for the balance of the term designated by the Board of Directors.

Section 4.05 Removal. Any Director may be removed from office with or without cause by the affirmative vote of a majority of all Directors then holding office. Such vote shall be taken at a special meeting of Directors properly called for that purpose.

Section 4.06 Place of Meeting. The Board of Directors may hold their meetings and have one or more offices, and shall keep the books of the Corporation, at such place or places as they may from time to time determine by resolution of the Board of Directors. The Board of Directors may hold their meetings by conference telephone or other similar electronic communications equipment in accordance with the provisions of the Michigan Non-Profit Corporation Act.

Section 4.07 Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place as shall from time to time be determined by resolution of the Board, provided that notice of every resolution of the Board fixing or changing the time or place for the holding of regular meetings of the Board shall be given in person with at least three (3) days' notice, or may be mailed to each Director at least ten (10) days before the first meeting held pursuant thereto. Any business may be transacted at any regular meeting of the Board of Directors

Section 4.08 Special Meetings. Special meetings of the Board of Directors shall be held whenever called by the President of the Board of Directors or by any three (3) Directors. The Secretary shall give notice of

each special meeting of the Board of Directors in person with three (3) days' notice or by mailing the same at least ten (10) days prior to the meeting to each Director. Only that business as disclosed in the notice may be transacted at any special meetings. Any Director may in writing waive notice of the time, place, and objectives of any special meeting.

Section 4.09 Quorum. One-half (1/2) of the total number of Directors then in office shall constitute a quorum for the transaction of business at all meetings of the Board of Directors, but, if at any meeting less than a quorum shall be present, a majority of those present may adjourn the meeting from time to time, and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by law or by the Articles of the Corporation or by these Bylaws.

Section 4.10 Voting. All Directors shall be entitled to vote as Directors. An affirmative vote of a majority of the Directors present and entitled to vote at a properly called meeting at which a quorum is present shall be necessary for the passage of any resolution.

Section 4.11 Compensation of Directors. Directors shall not receive any compensation for their services.

Section 4.12 Term Limits. Each duly elected Director will serve a term of three (3) years. Directors may be nominated and elected to serve a maximum of two (2) terms. Directors who are officers or chairperson of a committee may be nominated and elected for a third term.

ARTICLE V
OFFICERS AND EXECUTIVE DIRECTOR

Section 5.01 Election, Tenure, and Compensation. The Corporation shall have a President, a Vice President, a Secretary, and a Treasurer, and such other officers, including one or more assistants to the foregoing officers, as the Board of Directors from time to time may consider necessary for the proper conduct of the business of the Corporation. All officers shall be members of the Board of Directors. The officers shall be appointed by the Board of Directors at its June meeting, or at the next convenient monthly meeting.

All officers will serve a two (2) year term. Officers may be re-nominated for a second two (2) year term. Officers will serve for one (1) year term as an Ex-Officio at the end of their final term to facilitate the transition to the new Officer. The Ex-Officio term may be served concurrently with a different Officer term (e.g. Ex-Officio VP-first term President).

Section 5.02 Powers and Duties of the President. The President shall be the chief executive officer of the Corporation and shall have general charge and control of all its business affairs and properties. The President shall preside at all meetings of the Directors. The President may sign and execute all authorized bonds, contracts, or other obligations in the name of the Corporation. The President shall have the general powers and duties of supervision and management usually vested in the office of president of a non-profit corporation. The President shall be ex-officio a member of all committees. The President shall report directly to the Board of Directors.

Section 5.03 General Powers and Duties of the Vice-President. The Board of Directors shall appoint a Vice President and may appoint additional vice presidents. Each Vice-President may sign and execute all authorized bonds, contracts, or other obligations in the name of the Corporation upon proper resolution of the Board, and shall have such other powers and shall perform such other duties as may be assigned to him or her by the Board of Directors or by the President from time to time. In case of the absence or disability of the President, the duties of that office shall be performed by the Vice-President.

Section 5.04 Secretary. The Secretary shall give, or cause to be given, notice of all meetings of Directors and all other notices required by law or by these Bylaws, and in case of the Secretary's absence or refusal or neglect to do so, any such notice may be given by any person thereunto directed by the President, or by the Directors upon whose written request the meeting is called as provided in these Bylaws. The Secretary shall record all the proceedings of the meetings of the Directors in books provided for that purpose, and shall perform such other duties as may be assigned by the Board of Directors. The Secretary shall perform all other duties generally incident to the office of Secretary, subject to the control of the Board of Directors.

Section 5.05 Treasurer. The Treasurer shall have custody of all the funds and securities of the Corporation, and the Treasurer shall keep full and accurate account of receipts and disbursements in books belonging to the Corporation. The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the Corporation in such depository or depositories as may be designated by the Board of Directors.

(1) The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements. The Treasurer shall render to the President and the Board of Directors, whenever either of them so requests, an account of all the transactions as Treasurer and of the financial condition of the Corporation.

(2) The Treasurer shall give the Corporation a bond, if required by the Board of Directors, in a sum, and with one or more sureties, satisfactory to the Board of Directors, for the faithful performance of the duties of the office and for the restoration to the Corporation in case of death, resignation, retirement, or removal from office of all books, papers, vouchers, moneys, and other properties of whatever kind in the Treasurer's possession or control belonging to the Corporation.

(3) The Treasurer shall perform all other duties generally incident to the office of the Treasurer, subject to the control of the Board of Directors.

(4) The Treasurer of the Corporation will be responsible for the financial books and records, the Corporations relationship with its accountants, banks and financial institutions, applicable insurance, payables and all other activities relating to the financial operations of the Corporation. The Treasurer will present a monthly statement of the Corporation's cash flow, fund balances and grants payable to each regularly scheduled meeting of the Board. In addition the Treasurer will be responsible for coordinating the annual review of the Corporation's books and records and their presentation to the Board of Directors.

Section 5.06 Executive Director. The Board of Directors may appoint an Executive Director. The Executive Director shall not be a Director nor an officer of the Corporation, but shall be an employee of the Corporation. The primary duty of the Executive Director shall be to assist all officers of the Corporation in the performance of their duties to the Corporation, and shall also perform such other duties and responsibilities as may be assigned by the President from time to time. The Executive Director shall report directly to the President.

Section 5.07 Resignations. Any officer may resign at any time by giving written notice of his or her resignation to the Board of Directors, to the President or the Secretary of the Corporation. Any such resignation shall take effect at the time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5.08 Removal. Any officer may be removed, with or without cause, by resolution of the Board of Directors at a regularly scheduled meeting of the Board, or at a special meeting called for that purpose, and such purpose shall be stated in the notice of such special meeting.

Section 5.09 Vacancies. A vacancy in any office because of death, resignation, removal or any other cause shall be filled for the unexpired portion of the term by resolution of the Board of Directors.

Section 5.10 Other Officers. The Corporation may have such other officers and agents as may be deemed necessary by the Board of Directors, who shall be appointed in such manner, have such duties and hold their offices for such terms as may be determined by resolution of the Board of Directors.

Section 5.11 Other Agents. The Board of Directors may establish a body of other agents to assist in the development and operation of the Corporation. The agents may be appointed by the Board of Directors in any number the Directors may from time to time deem necessary. The agents shall not be Directors, shall have no vote in Corporation matters and shall have no authority to effect Corporation policy.

ARTICLE VI
COMMITTEES

Section 6.01 Committees. The Board of Directors may, by proper resolution, designate one or more committees, each committee to consist of one or more of the Directors of the Corporation and such other persons as selected by the Board, which, to the extent provided in the resolution, shall have and may exercise the powers of the Board of Directors. The Board of Directors shall establish by resolution the scope of responsibilities for each committee and each such committee shall at all times be subject to the direction of the Board of Directors, provided that no committee shall have the power to:

(1) Amend the articles of incorporation;

(2) Adopt an agreement of merger or consolidation;

(3) Amend the bylaws of the Corporation; or

(4) Fill vacancies on the Board.

Section 6.02 Nominating Committee. The President may recommend to the Board of Directors the members of the Nominating Committee, all of which shall be Directors. The President shall be a standing member of the Nominating Committee. The Nominating Committee shall not exceed three (3) persons and each (other than the President) shall serve a three (3) year staggered term. The Nominating Committee shall have the responsibility to establish criteria for nomination (each criterion to be approved by resolution of the Board), and to nominate all Directors, officers and chairperson of all committees. The Nominating Committee shall be selected by the Board of Directors at a regular meeting of the Board of Directors.

Section 6.03 Miscellaneous. A member of the Board of Directors shall sit as the chairperson of each committee. Individuals other than Directors may be members of committees. The chairman of each committee may establish the time for its regular meetings and may change that time as he or she deems advisable. Special meetings of any committee of this Corporation may be called by the chairperson of that committee or by the President. Notice thereof shall be given in accordance with these Bylaws. At all meetings of any committee of this Corporation each committee member thereof shall be entitled to cast one vote on any question coming before such meeting. The presence of one-third of the membership of any committee of this Corporation shall constitute a quorum at any meeting thereof but the members of a committee present at any of such committee meeting, although less than a quorum, may adjourn the meeting. A majority vote of the members of a committee of the Corporation present at any meeting thereof, if there be a quorum, shall be sufficient for the transaction of the business of such committee. All action of committees shall be subject to the approval of the Board of Directors.

ARTICLE VII
POLICIES WITH RESPECT TO ASSETS AND RELATED MATTERS

Section 7.01 No Self-Dealing. It shall be the policy of the Corporation that the Corporation shall not engage in any act which would constitute "self-dealing" as defined in Section 4941 (d) of the Internal Revenue

Code of 1986, as now enacted or as hereafter amended, if the Corporation were a "private foundation" as defined in Section 509(a) of the Internal Revenue Code of 1986, as now enacted or as hereafter amended.

Section 7.02 No Jeopardy Investments. It shall be the policy of the Corporation to assure that no funds, whether title thereto is vested in the Corporation or is vested in a Director of a trust for the benefit of the Corporation, are invested or reinvested in such a manner as to jeopardize this carrying out the purposes for which the Corporation is organized.

Section 7.03 Expenditure Responsibility. It shall be the policy of the Corporation that the Corporation, through its Board of Directors, will exercise "expenditure responsibility", as defined in Section 4945(h)(l) and (2) of the Internal Revenue Code of 1986, as now enacted or as hereafter amended, with respect to all grants and distributions made by the Corporation which would otherwise constitute a "taxable expenditure" as defined in Section 4945(d)(4) of the Internal Revenue Code of 1986, as now enacted or as hereafter amended, if the Corporation were a "private foundation".

ARTICLE VIII
BOOKS OF RECORD, AUDIT, FISCAL YEAR, NOTICE

Section 8.01 Fiscal Year. The fiscal year of the Corporation shall end as of December 31 of each calendar year.

Section 8.02 Notices. Whenever, under the provisions of these Bylaws, notice is required to be given to any Director, officer, or member, unless otherwise provided, it shall not be construed to mean personal notice, but such notice shall be given in writing, by mail, by depositing the same in a post office or letter box, in a postpaid sealed wrapper, addressed to each member officer or Director at such address as appears on the books of the Corporation, or in default of any other address, to such Director, officer or member at the general post office in the City of Grand Rapids, Michigan, and such notice shall be deemed to be given at the time the same shall be thus mailed. Any member, Director or officer may waive any notice required to be given under these Bylaws. Whenever any notice whatsoever is required to be given by these Bylaws or any of the corporate laws of the State of Michigan, such notice may be waived in writing, signed by the person or persons entitled to said notice, whether before, at, or after the time stated therein, or before, or at the meeting.

Section 8.03 Books and Records. The Board of Directors of the Corporation shall cause to be kept:

(1) records of all proceedings of Directors, and Committees; and

(2) such other records and books of account as shall be necessary and appropriate to the conduct of the corporate business.

Section 8.04 Documents Kept at Registered Office. The Board of Directors shall cause to be kept at the registered office of the Corporation originals or copies of:

(1) records of all proceedings of Directors, and committees;

(2) all financial statements of the Corporation; and

(3) Articles of Incorporation and Bylaws of this and all amendments thereto and restatements thereof.

Section 8.05 Audit and Publication. The Board of Directors may, in its discretion, cause the records and books of account of the Corporation to be reviewed or audited at least once in each fiscal year in such a manner as may be deemed necessary or appropriate, and also shall make such inquiry as the Board of Directors deems necessary and advisable into the condition of all trusts and funds held by any Director, agent, or

custodian for the benefit of the Corporation, and shall retain such person or firm for such purposes as it may deem appropriate. No later than six (6) months after the close of each fiscal year of the Corporation, the Board of Directors of the Corporation shall, if determined necessary or appropriate by the Board of Directors, cause its financial statement to be published in one or more local newspapers having general circulation and distribution, as may be selected by the Board of Directors.

ARTICLE IX
EARNINGS TO BENEFIT CORPORATION, DISSOLUTION OF CORPORATION

Section 9.01 Earning Inure to the **Benefit of the Purpose of the Corporation.** No part of the net earnings of the Corporation shall inure to the benefit or be distributable to, its members, Directors, officers, or other private persons except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distribution in furtherance of the purpose as set forth in Article II hereof. No substantial part of the activities of the Corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on by (1) a corporation exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue
Code or any corresponding future section, or (2) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code or any corresponding future section.

ARTICLE X
INDEMNIFICATION

10.01 Nonderivative Actions. Subject to all of the other provisions of this Article, the Corporation shall indemnify any person who was or is a party, or is threatened to be made a party to, any threatened, pending, or completed action, suit, or proceeding. This includes any civil, criminal, administrative, or investigative proceeding, whether formal or informal (other than an action by or in the right of the Corporation). Such indemnification shall apply only to a person who was or is a director or officer of the Corporation or is or was serving at the request of the Corporation as a director, officer, partner or trustee of another foreign or domestic corporation, business corporation, partnership, joint venture, trust or other enterprise, whether for profit or not for profit. The person shall be indemnified and held harmless against expenses (including attorney fees), judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit, or proceeding, if the person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation. With respect to any criminal action or proceeding, the person must have had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction or on a plea of nolo contendere or its equivalent, shall not by itself create a presumption that (a) the person did not act in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Corporation, or (b) with respect to any criminal action or proceeding, the person had reasonable cause to believe that his or her conduct was unlawful.

10.02 Derivative Actions. Subject to all of the provisions of this Article, the Corporation shall indemnify any person who was or is a party to, or is threatened to be made a party to, any threatened, pending, or completed action or suit by or in the right of the corporation to procure a judgment in its favor because (a) the person was or is a director or officer of the Corporation, or is or was serving at the request of the Corporation as director, officer, partner or trustee of another foreign or domestic corporation, business corporation, partnership, joint venture, trust or other enterprise whether for profit or not. The person shall be indemnified and held harmless against expenses (including actual and reasonable attorney fees) and amounts paid in settlement incurred by the person in connection with such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Corporation.

However, indemnification shall not be made for any claim, issue, or matter in which the person has been found liable to the Corporation unless and only to the extent that the court in which such action or suit was brought has determined on application that, despite the adjudication of liability but in view of all circumstances of the case, the person is fairly and reasonably entitled to indemnification for the expenses that the court considers proper.

10.03 Expenses of Successful Defense. To the extent that a person has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Sections 10.01 or 10.02 of this Article, or in defense of any claim, issue, or matter in the action, suit, or proceeding, the person shall be indemnified against expenses (including actual and reasonable attorney fees) incurred in connection with the action and in any proceeding brought to enforce the mandatory indemnification provided by this Article.

10.04 Contract Right; Limitation on Indemnity. The right to indemnification conferred in this Article shall be a contract right and shall apply to services of a director or officer as an employee or agent of the Corporation as well as in such person's capacity as a director or officer. Except as provided in Section 10.03 of this Article, the Corporation shall have no obligations under this Article to indemnify any person in connection with any proceeding, or part thereof, initiated by such person without authorization by the Board.

10.05 Determination That Indemnification Is Proper. Any indemnification under Sections 10.01 or 10.02 of this Article (unless ordered by a court) shall be made by the corporation only as authorized in the specific case. The Corporation must determine that indemnification of the person is proper in the circumstances because the person has met the applicable standard of conduct set forth in Sections 10.01 or 10.02, whichever is applicable. Such determination shall be made in any of the following ways:

(1) By a majority vote of a quorum of the Board consisting of Directors who were not parties to such action, suit, or proceeding.

(2) If the quorum described in clause (a) above is not obtainable, then by a committee of Directors who are not parties to the action. The committee shall consist of not less than two disinterested Directors.

(3) By independent legal counsel in a written opinion.

10.06 Proportionate Indemnity. If a person is entitled to indemnification under Sections 10.01 or 10.02 of this Article for a portion of expenses, including attorney fees, judgments, penalties, fines, and amounts paid in settlement, but not for the total amount, the corporation shall indemnify the person for the portion of the expenses, judgments, penalties, fines, or amounts paid in settlement for which the person is entitled to be indemnified.

10.07 Expense Advance. Expenses incurred in defending a civil or criminal action, suit, or proceeding described in Sections 10.01 or 10.02 of this Article may be paid by the corporation in advance of the final disposition of the action, suit, or proceeding, on receipt of an undertaking by or on behalf of the person involved to repay the expenses, if it is ultimately determined that the person is not entitled to be indemnified by the Corporation. The undertaking shall be an unlimited general obligation of the person on whose behalf advances are made, but need not be secured.

10.08 Nonexclusivity of Rights. The indemnification or advancement of expenses provided under this Article is not exclusive of other rights to which a person seeking indemnification or advancement of expenses may be entitled under a contractual arrangement with the Corporation. However, the total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement of expenses.

10.09 Indemnification of Employees and Agents of the Corporation. The Corporation may, to the extent authorized from time to time by the Board, grant rights to indemnification and to the advancement of

expenses to any employee or agent of the Corporation to the fullest extent of the provisions of this Article with respect to the indemnification and advancement of expenses of directors and officers of the Corporation.

10.10 Former Directors and Officers. The indemnification provided in this Article continues for a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors, and administrators of that person.

10.11 Insurance. The Corporation may purchase and maintain insurance on behalf of any person who (a) was or is a director, officer, employee, or agent of the Corporation, or (b) was or is serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise. Such insurance may protect against any liability asserted against the person and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Corporation would have power to indemnify against such liability under this Article or the laws of the state of Michigan.

10.12 Changes in Michigan Law. If there are any changes in the Michigan statutory provisions applicable to the Corporation and relating to the subject matter of this Article, then the indemnification to which any person shall be entitled shall be determined by such changed provisions, but only to the extent that any such change permits the Corporation to provide broader indemnification rights than such provisions permitted the Corporation to provide before any such change.

ARTICLE XI
AMENDMENTS

The Board of Directors may amend the Corporation's Articles of Incorporation, as amended or restated from time to time, and these Bylaws, as amended or restated from time to time, to include or omit any provision that could be lawfully included or omitted at the time the amendment is made. Any number of amendments, or an entire revision or restatement of the Articles of Incorporation of Bylaws, either may be submitted for discussion purposes at any regular or special meeting called for that purpose. The amendment or amendments may be voted upon at the next regular or special meeting of the Board of Directors provided however that no such meeting be had sooner than two (2) weeks after the amendments are presented for discussion. No amendment may be presented and voted upon in a single meeting. Amendments shall be adopted at a meeting of the Board of Directors, a quorum being present, upon receiving the affirmative vote of not less than two-thirds of the whole number of Directors of the
Corporation or may be adopted, by a writing signed by all of the Directors of the Corporation; provided, however, that no amendment of Article II of the Articles of Incorporation shall be made if such amendment would cause the Corporation to lose its tax exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

CERTIFICATE OF ADOPTION

The undersigned is the President of the Snow Country Trails Conservancy and hereby certifies that these Bylaws were duly adopted by an appropriate majority vote of the Board of Directors present at a duly called meeting of the Board of Directors.

Dated: June 26, 2003 WDM, Jr., President

Attention Snowmobilers Everywhere ...

and All the Ships at Sea

by Jim Duke

Last year, (L to R) Bill Manson received a $20,000 check from Brad Potter on behalf of the Flat River Snowmobile Club. The club has now issued a challenge to all snowmobilers. The club will match up to $32,000 in donations made to the Snow Country Trails Conservancy.

It has long been the dream of snowmobilers everywhere to have a permanent trail system that was not subject to reroutes every year because of timber sales, the loss of easements from private property owners or any number of other reasons. Regardless of the cause, the result is always the same. Your current maps are no longer valid. Your travel time and distance is altered, and usually your snowmobiling experience is less enjoyable because of it.

Several years ago, various organized snowmobile groups united under the name of Snow Country Trails Conservancy (SCTC). The SCTC has been feverishly laboring to remedy the situation. Some progress has been made, but there's still much yet to do. There have been several instances where large tracts of land became available for sale and the possibility of purchasing permanent corridors through them, prior to the total sale was discussed. Unfortunately, when the SCTC coffers are near empty and the demand for "cash up front" is the only avenue, negotiations break down and these corridors are lost. Many times, there are designated trails crossing these tracts and, once sold, those trails are lost as well.

> *Here's the challenge. For a limited time only, the Flat River Snowmobile Club will match every donation to the SCTC, dollar for dollar, up to $32,000.*

Money Talks

What can we as individual snowmobilers, clubs or councils do about it? We can come to the aid of the Conservancy with financial contributions. It is a proven fact that money talks. These days it seems that every other organization in the national has their hand out for donations while offering you little in return.

Well, SCTC is also looking for contributions, but they are offering the possibility of permanent trails for your hard earned donations. Thanks to the positive donation, $20,000 from the Flat River Snowmobile Club (FRSC), and their challenge to all snowmobilers everywhere, the SCTC has a bright future ahead.

A Challenge Issued

Here's the challenge. For a limited time only, the Flat River Snowmobile Club will match every donation to the SCTC, dollar for dollar,up to $32,000. Why are they being so generous? Well, FRSC directors Brad Potter and Ed Marshall explained it in this way. Due to the declining membership and the increasing age of those members still active, it was decided to dissolve the Flat River Snowmobile Club. Those wishing to continue to enjoy snowmobiling can join other local clubs. The club's 501 (c) (3) status requires that, upon dissolution, all assets be distributed to other nonprofit organizations.

Because of their enthusiasm for snowmobile activities and the many friendships they've fostered during the club's existence, members unanimously voted to consider the snowmobiler's needs first. Their pledge to match donations from other snowmobilers — clubs and councils — dollar for dollar will provide the means for all snowmobilers who ride Michigan trails to take advantage of this generous offer and effectively "double" their donation. Whether it's $10 or a $100, they have pledged to match up to $32,000.

Flat river Snowmobile Club officials haven't placed a firm time limit on the length of this offer, but have indicated that all club transactions must be completed prior to the end of the year. They also indicated that if there is no interest shown by snowmobilers to accept their challenge, there are many other worthy organizations in need that will be considered.

Recognizing the Flat River Snowmobile Club

The Snow Country Trails Conservancy and the Michigan Snowmobile Association wish to extend a huge thank you to all the members of the Flat River Snowmobile Club for last year's generous $20,000 contribution and the opportunity for all snowmobilers to take part in the procurement of permanent snowmobile trails through the FRSC Challenge.

SCTC President Bill Manson would like to remind everyone that all donations are tax deductible and that checks should be made payable to the SCTC or Snow Country Trails Conservancy. Donations can be mailed to SCTC President Bill Manson at the MSA office, 4336 Plainfield Ave., N.E. Suite F, Grand Rapids, MI 49525. ❄

APPENDIX 3: MINNESOTA FORESTS FOR THE FUTURE PROGRAM – Authorizing State Legislation

(*Note: A report with additional information about the Forests for the Future Program can be found at* http://www.dnr.state.mn.us/forestlegacy/index.html.)

Section 1. **[84.66] MINNESOTA FORESTS FOR THE FUTURE PROGRAM.**

Subdivision 1. **Purpose.** The Minnesota forests for the future program identifies and protects private, working forest lands for their timber, scenic, recreational, fish and wildlife habitat, threatened and endangered species, and other cultural and environmental values.

Subd. 2. **Definitions.** For the purpose of this section, the following terms have the meanings given:

(1) "forest land" has the meaning given under section 89.001, subdivision 4;

(2) "forest resources" has the meaning given under section 89.001, subdivision 8;

(3) "guidelines" has the meaning given under section 89A.01, subdivision 8;

(4) "riparian land" has the meaning given under section 103F.511, subdivision 8a; and

(5) "working forest land" means land that provides a broad range of goods and services, including forest products, recreation, fish and wildlife habitat, clean air and water, and carbon sequestration.

Subd. 3. **Establishment.** The commissioner shall establish and administer a Minnesota forests for the future program. Land selected for inclusion in the program shall be evaluated on the land's potential for:

(1) producing timber and other forest products;

(2) maintaining forest landscapes;

(3) providing public recreation; and

(4) providing ecological, fish and wildlife habitat, other cultural 2.1 and environmental values, and values consistent with working forest lands.

Subd. 4. **Land eligibility.** Land may be placed in the Minnesota forests for the future program if it:

(1) is:

(i) forest land;

(ii) desirable land adjacent to forest land, as determined by the commissioner; or

(iii) beneficial to forest resource protection;

(2) is at least five acres in size, except for a riparian area or an area providing access to state forest land; and

(3) is not set aside, enrolled, or diverted under another federal or state program, unless enrollment in the Minnesota forests for the future program would provide additional conservation benefits or a longer enrollment term than under the current federal or state program.

Subd. 5. **Land interests.** The commissioner may acquire permanent interests in lands by fee title, easement acquisition, gift, or donation. An acquired easement shall require a forestry management plan unless such requirement is waived or modified by the commissioner. The plan will guide forest management activities consistent with the purposes and terms of the easement and shall incorporate guidelines and other forest management practices as determined by the commissioner to provide perpetuation of the forest. The plan shall be developed in accordance with the guidelines.

Subd. 6. **Application.** The commissioner shall accept applications from owners of eligible lands at such time, in such form, and containing such information as the commissioner may prescribe. If the number of applications exceeds the ability to fund them all, priority shall be given to those applications covering lands providing the greatest public benefits for timber productivity, public access, and ecological and wildlife values.

Subd. 7. **Landowner responsibilities.** The commissioner may enroll eligible land in the program by signing an easement in recordable form with a landowner in which the landowner agrees to:

(1) convey to the state a permanent easement that is not subject to any prior title, lien, or encumbrance; and

(2) manage the land in a manner consistent with the purposes for which the land was selected for the program and not convert the land to other uses.

Subd. 8. **Correction of easement boundary lines.** To correct errors in legal descriptions for easements that affect the ownership interests in the state and adjacent landowners, the commissioner may, in the name of the state, convey without consideration, interests of the state necessary to correct legal descriptions of boundaries. The conveyance must be by quitclaim deed or release in a form approved by the attorney general.

Subd. 9. **Terminating or changing an easement.** The commissioner may terminate an easement, with the consent of the property owner, if the commissioner determines termination to be in the public interest. The commissioner may modify the terms of an easement if the commissioner determines that modification will help implement the Minnesota forests for the future program or facilitate the program's administration.

Subd. 10. **Payments.** Payments to landowners under the Minnesota forests for the future program shall be made in accordance with law and Department of Natural Resources acquisition policies, procedures, and other funding requirements.

Subd. 11. **Monitoring, enforcement, and damages.** (a) The commissioner shall establish a long-term program for monitoring and enforcing Minnesota forests for the future easements.

(b) A landowner who violates the terms of an easement under this section or induces, assists, or allows another to do so is liable to the state for damages due to the loss of timber, scenic, recreational, fish and wildlife habitat, threatened and endangered species, and other cultural and environmental values.

(c) Upon request of the commissioner, the attorney general may commence an action for specific performance, injunctive relief, damages, including attorney's fees, and any other appropriate relief to enforce this section in district court in the county where all or part of the violation is alleged to have been committed or where the landowner resides or has a principal place of business.

Subd. 12. **Rulemaking exemption.** Easements agreed to under this section are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

APPENDIX 4: THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA), as amended

(Public Law 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), Sept. 13, 1982)

An Act to establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Environmental Policy Act of 1969."

Purpose

Sec. 2 [42 U.S.C. § 4321]. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

TITLE I

CONGRESSIONAL DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

Sec. 101 [42 U.S.C. § 4331].

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may --

1. fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
3. attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
4. preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice;
5. achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
6. enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

Sec. 102 [42 U.S.C. § 4332]. The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall --

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

(i) the State agency or official has statewide jurisdiction and has the responsibility for such action,

(ii) the responsible Federal official furnishes guidance and participates in such preparation,

(iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and

(iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this Act; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by title II of this Act.

Sec. 103 [42 U.S.C. § 4333]. All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

Sec. 104 [42 U.S.C. § 4334]. Nothing in section 102 [42 U.S.C. § 4332] or 103 [42 U.S.C. § 4333] shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

Sec. 105 [42 U.S.C. § 4335]. The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

TITLE II

COUNCIL ON ENVIRONMENTAL QUALITY

Sec. 201 [42 U.S.C. § 4341]. The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban an rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

Sec. 202 [42 U.S.C. § 4342]. There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in title I of this Act; to be conscious of and responsive to the scientific, economic, social, aesthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

Sec. 203 [42 U.S.C. § 4343].

(a) The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(b) Notwithstanding section 1342 of Title 31, the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.

Sec. 204 [42 U.S.C. § 4344]. It shall be the duty and function of the Council --

a. to assist and advise the President in the preparation of the Environmental Quality Report required by section 201 [42 U.S.C. § 4341] of this title;
a. to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in title I of this Act, and to compile and submit to the President studies relating to such conditions and trends;
a. to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in title I of this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;
a. to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;
a. to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;
a. to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;
a. to report at least once each year to the President on the state and condition of the environment; and
a. to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

Sec. 205 [42 U.S.C. § 4345]. In exercising its powers, functions, and duties under this Act, the Council shall --

1. consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order No. 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and
2. utilize, to the fullest extent possible, the services, facilities and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

Sec. 206 [42 U.S.C. § 4346]. Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates [5 U.S.C. § 5313]. The other members of the Council shall be compensated at the rate provided for Level IV of the Executive Schedule Pay Rates [5 U.S.C. § 5315].

Sec. 207 [42 U.S.C. § 4346a]. The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.

Sec. 208 [42 U.S.C. § 4346b]. The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the support of international exchange programs in the United States and in foreign countries.

Sec. 209 [42 U.S.C. § 4347]. There are authorized to be appropriated to carry out the provisions of this chapter not to exceed $300,000 for fiscal year 1970, $700,000 for fiscal year 1971, and $1,000,000 for each fiscal year thereafter.

The Environmental Quality Improvement Act, as amended (Pub. L. No. 91- 224, Title II, April 3, 1970; Pub. L. No. 97-258, September 13, 1982; and Pub. L. No. 98-581, October 30, 1984.

42 U.S.C. § 4372.

(a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this chapter referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91-190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Office of Management and Budget.

(c) The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions ;under this chapter and Public Law 91-190, except that he may employ no more than ten specialists and other experts without regard to the provisions of Title 5, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of Title 5.

(d) In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by --

1. providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91- 190;
2. assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;
3. reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;
4. promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encouraging the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;
5. assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;
6. assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established throughout the Federal Government;
7. collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to section 3324(a) and (b) of Title 31 and section 5 of Title 41 in carrying out his functions.

42 U.S.C. § 4373. Each Environmental Quality Report required by Public Law 91-190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

42 U.S.C. § 4374. There are hereby authorized to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality not to exceed the following sums for the following fiscal years which sums are in addition to those contained in Public Law 91- 190:

(a) $2,126,000 for the fiscal year ending September 30, 1979.

(b) $3,000,000 for the fiscal years ending September 30, 1980, and September 30, 1981.

(c) $44,000 for the fiscal years ending September 30, 1982, 1983, and 1984.

(d) $480,000 for each of the fiscal years ending September 30, 1985 and 1986.

42 U.S.C. § 4375.

(a) There is established an Office of Environmental Quality Management Fund (hereinafter referred to as the "Fund") to receive advance payments from other agencies or accounts that may be used solely to finance --

1. study contracts that are jointly sponsored by the Office and one or more other Federal agencies; and
2. Federal interagency environmental projects (including task forces) in which the Office participates.

(b) Any study contract or project that is to be financed under subsection (a) of this section may be initiated only with the approval of the Director.

(c) The Director shall promulgate regulations setting forth policies and procedures for operation of the Fund.

APPENDIX 5: U.S. FOREST SERVICE – SERVICE-WIDE MOU WITH SNOWMOBILE ASSOCIATIONS

USDA, Forest Service | OMB 0596-0217 FS-1500-15

FS Agreement No. 16MU-1113-2424-141

Cooperator Agreement No. _____

MEMORANDUM OF UNDERSTANDING
Between The
AMERICAN COUNCIL OF SNOWMOBILE ASSOCIATIONS
and the
INTERNATIONAL SNOWMOBILE MANUFACTURERS ASSOCIATION
And The
USDA, FOREST SERVICE
WASHINGTON OFFICE

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the American Council of Snowmobile Association (ACSA), International Association of Snowmobile Administration (ISMC), and the International Snowmobile Manufacturer Association (ISMA), hereinafter referred to as "Cooperators," and the United States Department of Agriculture (USDA), Forest Service, Washington Office, hereinafter referred to as the "U.S. Forest Service."

I. **PURPOSE:** The purpose of this MOU is to document the cooperation between the parties to actively promote public-private partnership that encourage responsible use of public land by visitors participating in over-snow travel and recreational activities. The purpose of this MOU is to establish a general framework of cooperation upon which mutually benefits programs, work projects, and snowmobile activities may be planned and accomplished on National Forest System lands. Such programs, projects and activities complement the FS mission and are in the best interests of the public in accordance with the following provisions.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The FS is a land management organization dedicated to the wise management of the Nation's natural resources for a variety of uses and activities, including outdoor recreation, and is interested in providing over-snow opportunities that are environmentally sensitive, educational, enjoyable, and provide economic stimulus.

The Cooperators represent the organized snowmobiling public/industry and are recognized leaders in establishing snowmobile ethics, safety standards, volunteerism, and fostering appropriate land use management on Federal and non-Federal lands. The Cooperators may desire to use National Forest System lands for recreational purposes, provide support, and volunteer labor to the FS accomplishment of mutually beneficial projects or activities.

In consideration of the above premises, the parties agree as follows:

III. COOPERATORS SHALL:

A. Provide technical assistance to land manager and communities involved in work projects, educational activities, and snowmobile opportunities.

B. Encourage its members to work with local FS officials to discuss and identify opportunities for cooperative work on mutually beneficial project or activities.

C. Promote Tread Lightly! Ethics by providing training and instruction's to its members.

D. Use the name "USDA Forest Service" when referring to the Forest Service and submit to the Forest Service for approval, prior to production, the final layout of all promotional materials which use the Forest Service's name and insignia, any employee by name or title, or this agreement, as requested by the Travel Management Program Manager, Recreation, Heritage, and Volunteer Resources staff.

E. Not publicize, or otherwise circulate, material (such as advertisements, sales brochures, press release, speeches, still and motion pictures, articles, manuscripts or other publications, including world wide web sites or other social media sites) which states or implies Governmental, Department, Agency, or Government employee endorsement of a Cooperator product, service, or position. No release of information relating to this agreement may state or imply that the Government considers a special Cooperator's work product or service to be superior to other products and services.

F. Complete Job Hazard Analyses for Cooperator project activities on National Forest System lands and conduct safety training sessions prior to each individual project activity. These sessions will review hazards anticipated and measure that should be taken to reduce the hazard.

IV. THE U.S. FOREST SERVICE SHALL:

A. Provide the Cooperators information regarding the development and presentation of training materials related to snowmobile safety and ethics, management direction guidance and the availability of snowmobiling opportunities on National Forest System lands.

B. Encourage local FS officials to participate with snowmobile club and associations in the development of mutually beneficial work project, educational activities, and snowmobile opportunities.

C. Make National Forest System land available for the furtherance of this MOU, subject to applicable Federal laws, regulations, Forest plans, and other management direction.

D. Provide information on completing Job Hazard Analyses and conduction safety training sessions for Cooperator project activities on National Forest System lands.

V. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Program Contact
Name: Christine Jourdain American Council for Snowmobile Associations Address: 271 Woodland Pass City, State, Zip: East Lansing, MI 48823 Telephone: 517.351.4362 FAX: 517.351.1363 Email: Cajourdain@aol.com	Name: Ed Klim International Snowmobile Manufacturers Association Address: 1640 Haslett Road, Suite 170 City, State, Zip: Haslett, MI 48840 Telephone: 517.339.7788 FAX: 517.339.7798 Email: eklim@aol.com

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Name: Chris Sporl Address: 1400 Independence Ave., S.W. City, State, Zip: Washington, DC 20250 Telephone: 303.275.5168 FAX: 303.275.5407 Email: cfsporl@fs.fed.us	Name: Crystal Merica Address: 1400 Independence Ave., S.W. City, State, Zip: Washington, DC 20250 Telephone: 202.205.3562 FAX: Email: ckmerica@fs.fed.us

B. ASSURANCE REGARDING FELONY CONVICTION OR TAX DELINQUENT STATUS FOR CORPORATE ENTITIES. This agreement is subject to the provisions contained in the Department of Interior, Environment, and Related Agencies Appropriations Act, 2012, P.L. No. 112-74, Division E, Section 433 and 434 regarding corporate felony convictions and corporate federal tax delinquencies. Accordingly, by entering into this agreement Cooperators acknowledges that it: 1) does not have a tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that

is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal violation under any Federal law within 24 months preceding the agreement, unless a suspending and debarring official of the USDA has considered suspension or debarment is not necessary to protect the interests of the Government. If Cooperators fails to comply with these provisions, the U.S. Forest Service will annul this agreement and may recover any funds Cooperators has expended in violation of sections 433 and 434.

C. NOTICES. Any communications affecting the operations covered by this agreement given by the U.S. Forest Service or Cooperators is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the MOU.

To Cooperators, at Cooperator's address shown in the MOU or such other address designated within the MOU.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

D. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts the U.S. Forest Service or Cooperators from participating in similar activities with other public or private agencies, organizations, and individuals.

E. ENDORSEMENT. Any of Cooperator 's contributions made under this MOU do not by direct reference or implication convey U.S. Forest Service endorsement of Cooperators products or activities.

F. NONBINDING AGREEMENT. This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable by law or equity. The parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a party requires the execution of separate agreements and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperator availability of funds and other resources; agency and cooperator administrative and legal requirements (including agency authorization by statute); etc. This MOU neither provides, nor meets these criteria. If the

parties elect to enter into an obligation agreement that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective agreement, each party operates under its own laws, regulations, and/or policies, and any Forest Service obligation is subject to the availability of appropriated funds and other resources. The negotiation, execution, and administration of these prospective agreements must comply with all applicable law.

Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

G. USE OF U.S. FOREST SERVICE INSIGNIA. In order for Cooperators to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.

H. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no U.S. member of, or U.S. delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.

I. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).

J. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

K. TRIBAL EMPLOYMENT RIGHTS ORDINANCE (TERO) The U.S. Forest Service recognizes and honors the applicability of the Tribal laws and ordinances developed under the authority of the Indian Self-Determination and Educational Assistance Act of 1975 (PL 93-638).

L. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. Cooperators is/are

encouraged to give public notice of the receipt of this agreement and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:

" Recreation, Heritage and Volunteer Resources of the U.S. Forest Service, Department of Agriculture, Travel Management program is interested in providing a variety of motorized recreation opportunities that are environmentally sensitive, educational, and support community's objectives that contribute to local and regional economies and quality of life."

Cooperators may call on the U.S. Forest Service's Office of Communication for advice regarding public notices. Cooperators is/are requested to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to The U.S. Forest Service's Office of Communications as far in advance of release as possible.

M. U.S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS AND ELECTRONIC MEDIA. Cooperators shall acknowledge U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this MOU.

N. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. Cooperators shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

> ***In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)***
>
> **To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.**

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

> ***"This institution is an equal opportunity provider."***

O. TERMINATION. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.

P. DEBARMENT AND SUSPENSION. Cooperators shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should Cooperators or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.

Q. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.

R. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective through April 15, 2021 at which time it will expire.

S. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this MOU.

In witness whereof, the parties hereto have executed this MOU as of the last date written below.

APRIL 18, 2016
Date

BOB KIRCHNER, President
American Council of Snowmobile Associations

April 15, 2016
Date

ED KLIM, President
International Snowmobile Manufacturers Association

Andrea R. Brehler
April 18, 2016
Date

for JOE L. MEADE, Director for Recreation, Heritage and Volunteers Resources
U.S. Forest Service, Washington Office

The authority and format of this agreement have been reviewed and approved for signature.

JACQUELINE HENRY Digitally signed by JACQUELINE HENRY DN: c=US, o=U.S. Government, ou=Department of Agriculture, cn=JACQUELINE HENRY, 0.9.2342.19200300.100.1.1=12001000001896 Date: 2016.03.28 16:32:54 -04'00'

3/28/2016

JACKIE HENRY
U.S. Forest Service Grants Management Specialist

Date

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

APPENDIX 6: OFF-ROAD VEHICLES EXECUTIVE ORDERS AND NPS SNOWMOBILE REGULATION 36 CFR 2.18

EXECUTIVE ORDER 11644--Use of off-road vehicles on the public lands

Source: The provisions of Executive Order 11644 of Feb. 8, 1972, appear at 37 FR 2877, 3 CFR, 1971-1975 Comp., p. 666, unless otherwise noted.

An estimated 5 million off-road recreational vehicles--motorcycles, mini-bikes, trail bikes, snowmobiles, dune-buggies, all-terrain vehicles, and others--are in use in the United States today, and their popularity continues to increase rapidly. The widespread use of such vehicles on the public lands--often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity--has demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands.

NOW, THEREFORE, 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 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.

Section 2. *Definitions.* As used in this order, the term:
(1) "public lands" means (A) all lands under the custody and control of the Secretary of the Interior and the Secretary of Agriculture, except Indian lands, (B) lands under the custody and control of the Tennessee Valley Authority that are situated in western Kentucky and Tennessee and are designated as "Land Between the Lakes," and (C) lands under the custody and control of the Secretary of Defense;
(2) "respective agency head" means the Secretary of the Interior, the Secretary of Defense, the Secretary of Agriculture, and the Board of Directors of the Tennessee Valley Authority, with respect to public lands under the custody and control of each;
(3) "off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; except that such term excludes (A) any registered motorboat, (B) any fire, military, emergency or law enforcement vehicle when used for emergency purposes, and any combat or combat support vehicle when used for national defense purposes, and (C) any vehicle whose use is expressly authorized by the respective agency head under a permit, lease, license, or contract; and
(4) "official use" means use by an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his employment, agency, or representation.

[Sec. 2 amended by Executive Order 11989 of May 24, 1977, 42 FR 26959, 3 CFR, 1977 Comp., p. 120]

Section 3. *Zones of Use.* (a) Each respective agency head shall develop and issue regulations and administrative instructions, within six months of the date of this order, to provide for administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted, and set a date by which such designation of all public lands shall be completed. Those regulations shall direct that the designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands. The regulations shall further require that the designation of such areas and trails shall be in accordance with the following--

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.

(b) The respective agency head shall ensure adequate opportunity for public participation in the promulgation of such regulations and in the designation of areas and trails under this section.
(c) The limitations on off-road vehicle use imposed under this section shall not apply to official use.

Section 4. *Operating Conditions.* Each respective agency head shall develop and publish, within one year of the date of this order, regulations prescribing operating conditions for off-road vehicles on the public lands. These regulations shall be directed at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts.

Section 5. *Public Information.* The respective agency head shall ensure that areas and trails where off-road vehicle use is permitted are well marked and shall provide for the publication and distribution of information, including maps, describing such areas and trails and explaining the conditions on vehicle use. He shall seek cooperation of relevant State agencies in the dissemination of this information.

Section 6. *Enforcement.* The respective agency head shall, where authorized by law, prescribe appropriate penalties for violation of regulations adopted pursuant to this order, and shall establish procedures for the enforcement of those regulations. To the extent permitted by law, he may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.

Section 7. *Consultation.* Before issuing the regulations or administrative instructions required by this order or designating areas or trails as required by this order and those regulations and administrative instructions, the Secretary of the Interior shall, as appropriate, consult with the Secretary of Energy and the Nuclear Regulatory Commission.

[Sec. 7 amended by Executive Order 12608 of Sept. 9, 1987, 52 FR 34617, 3 CFR, 1987 Comp., p. 245]

Section 8. *Monitoring of Effects and Review.* (a) The respective agency head shall monitor the effects of the use of off-road vehicles on lands under their jurisdictions. On the basis of the information gathered, they shall from time to time amend or rescind designations of areas or other actions taken pursuant to this order as necessary to further the policy of this order.
(b) The Council on Environmental Quality shall maintain a continuing review of the implementation of this order.

Section 9. *Special Protection of the Public Lands.* (a) Notwithstanding the provisions of Section 3 of this Order, the respective agency head shall, whenever he determines that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicle causing such effects, until such time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence.
(b) Each respective agency head is authorized to adopt the policy that portions of the public lands within his

jurisdiction shall be closed to use by off-road vehicles except those areas or trails which are suitable and specifically designated as open to such use pursuant to Section 3 of this Order.

[Sec. 9 added by Executive Order 11989 of May 24, 1977, 42 FR 26959, 3 CFR, 1977 Comp., p. 120]

EXECUTIVE ORDER 11989

DATE: May. 24, 1977

(Amendment to E.O. 11644)

Off-Road Vehicles on Public Lands

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to clarify agency authority to define zones of use by off-road vehicles on public lands, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), Executive Order No.11644 of February 8, 1972, is hereby amended as follows:

Section 1. Clause (B) of Section 2 (3) of Executive Order No.11644, setting forth an exclusion from the definition of off-road vehicles, is amended to read "(B) any fire, military, emergency or law enforcement vehicle when used for emergency purposes, and any combat or combat support vehicle when used for national defense purposes, and".

Section 2. Add the following new Section to Executive Order No.11644:

"Section 9. Special Protection of the Public lands.

(a) Notwithstanding the provisions of Section 3 of this Order; the respective-agency- head shall, whenever he determines that the-use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands immediately close such areas or trails to the type of off-road vehicle causing such effects, until such time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence."

"(b) Each respective agency head is authorized to adopt the policy that portions of the public lands within his jurisdiction shall be closed to use by off-road vehicles except those areas or trails which are suitable and specifically designated as open to such use pursuant to Section 3 of this order."

NATIONAL PARK SERVICE REGULATION: 36 CFR 2.18 Snowmobiles

a. Notwithstanding the definition of vehicle set forth in § 1.4 of this chapter, the provisions of §§ 4.4, 4.12, 4.13, 4.14, 4.20, 4.21, 4.22 and 4.23 of this chapter apply to the operation of a snowmobile.
b. Except as otherwise provided in this section, the laws of the State in which the exterior boundaries of a park area or a portion thereof is located shall govern equipment standards and the operation of snowmobiles. Non-conflicting State laws are adopted as a part of these regulations.
c. The use of snowmobiles is prohibited, except on designated routes and water surfaces that are used by motor vehicles or motorboats during other seasons. Routes and water surfaces designated for snowmobile use shall be promulgated as special regulations. Snowmobiles are prohibited except where designated and only when their use is consistent with the park's natural, cultural, scenic and aesthetic values, safety considerations, park management objectives, and will not disturb wildlife or damage park resources.
d. The following are prohibited:
   (1) Operating a snowmobile that makes excessive noise. Excessive noise for snowmobiles manufactured after July 1, 1975 is a level of total snowmobile noise that exceeds 78 decibels measured on the A-weighted scale measured at 50 feet. Snowmobiles manufactured between July 1, 1973 and July 1, 1975 shall not register more than 82 decibels on the A-weighted scale at 50 feet. Snowmobiles manufactured prior to July 1, 1973 shall not register more than 86 decibels on the A-weighted scale at 50 feet. All decibel measurements shall be based on snowmobile operation at or near full throttle.
   (2) Operating a snowmobile without a lighted white headlamp and red taillight from one half-hour after sunset to one half-hour before sunrise, or when persons and vehicles are not clearly visible for a distance of 500 feet.
   (3) Operating a snowmobile that does not have brakes in good working order.
   (4) Racing, or operating a snowmobile in excess of 45 mph, unless restricted in accordance with § 4.22 of this chapter or otherwise designated.
e. Except where State law prescribes a different minimum age or qualification for the person providing direct supervision and accompaniment, the following are prohibited:
   (1) The operation of a snowmobile by a person under 16 years of age unless accompanied and supervised within line of sight by a responsible person 21 years of age or older;
   (2) The operation of a snowmobile by a person under 12 years of age, unless accompanied on the same machine by a responsible person 21 years of age or older; or
   (3) The supervision by one person of the operation of snowmobiles by more than one person under 16 years of age.

[48 FR 30282, June 30, 1983, as amended at 52 FR 10683, Apr. 2, 1987]