

REVIEW OF THE CLASSIFICATION FOR MOTOR VEHICLE USE IN THE FOOT HILLS STATE FOREST AND SURROUNDING LANDS

Background and Classification Authority

Prior to the mid-1980's recreational motor vehicle use was generally allowed in most Minnesota State Forests. As the number of Off-Highway Vehicles (OHVs) increased, the DNR closed some forests to OHV use and began developing trails and other facilities for OHV use in other State Forests. In late 1996, the Department of Natural Resources (DNR) began to reassess its OHV management programs. The DNR proposed classifying State Forests as managed, limited, or closed with respect to motor vehicle use. In May 1998 a series of public open houses were held to discuss the proposed classifications of State Forests for motor vehicle use. On September 3, 1998 the Commissioner of Natural Resources issued a memorandum establishing interim classifications for all State Forests. The interim classifications were in effect until January 1, 2000 while OHV system plans were being developed. In 1999 the DNR revised the rules governing recreational use of State Forests.

After January 2000 changes to the classification of State Forests with respect to motor vehicle use must follow the process outlined in *Minnesota Rules Chapter 6100.1950, subparts 1 – 4*. Recently enacted legislation (*MN Laws 2003, Chapter 128, Article 1, Section 167*) requires the DNR to review the classification of all 'managed' lands and to change the classification to 'limited' or 'closed.' Appendix A contains the statutes and rules related to motor vehicle use classification of forest lands.

The motor vehicle use classifications are characterized as follows:

Managed Forest Lands. All state forest roads and forest trails are open to recreational motor vehicle use unless posted closed. These forest lands are characterized by a low intensity of use by OHVs, a variety of motorized and non-motorized recreational opportunities, widely dispersed use, and little competition among visitors for recreational use of the land. Signing and enforcement restrict motor vehicle use in sensitive resource areas and on non-motorized trails.

Limited Forest Lands. Forest roads are open to motor vehicle use unless posted closed. Forest trails are closed to motor vehicle use, except where designated and signed to permit specific motorized uses. These forest lands are characterized by moderate to high levels of motorized and non-motorized recreational use. It is necessary to designate OHV trails so that OHV use occurs only in suitable and sustainable locations.

Closed Forest Lands. Forest roads are open to motor vehicles licensed for highway use. No OHVs are permitted, except that OHVs may operate on frozen public waters (e.g., across lakes for ice fishing). These lands are characterized by high susceptibility to damage by motorized use or have a history that precludes motorized use. Areas closed to motor vehicle use by statute or regulations (e.g., State Forest lands within the BWCAW) are automatically classified as 'closed.'

Lands Covered by this Classification Review

The Foot Hills are a band of hills located on a glacial moraine that runs north and south through southern Cass County. The Foot Hills stand in contrast to the level sand plains to the east and west. The Foot Hills State Forest is located west of the cities of Pine River, Backus, and Hackensack and generally east of State Highway 64. This classification review covers state- and county-administered forest lands in and around the Foot Hills State Forest. The lands covered by the plan are DNR- and county-administered forest lands enclosed by a line starting at the junction on State Highway 64 and Cass CSAH 24, then east along CSAH 24 to the junction with CSAH 25, then north and east along CSAH 25 to the junction with State Highway 371, then north along Highway 371 through Backus and Hackensack to the north Birch Lake Township line, then west along the northern border of Birch Lake, Hiram, and White Oak townships to the junction with State Highway 64, then south along Highway 64 to Cass CSAH 24. Also included are state- and county-administered lands within the boundary of Foot Hills State Forest located west of State Highway 64; this includes about 520 acres of county land and 320 acres of state land in sections 22, 28, 33, and 34 of Ansel Township (T137N, R32W). There are about 22,000 acres of state land and 54,000 acres of county land covered by this classification review. The majority of the state- and county-administered lands are forestlands managed under a multiple-use policy for timber production, wildlife habitat, environmental protection, and outdoor recreation. Appendix B is a map showing the location of lands covered by this classification review.

Motor Vehicle Use Classification History in the Foot Hills Area

In May 1998 a series of public open houses were held to discuss the proposed classifications for State Forests in Minnesota. On September 3, 1998 the DNR Commissioner issued a memorandum establishing interim motorized use classifications for all State Forests. The interim classifications were in effect until January 1, 2000 while OHV system plans were being developed. The interim classification of all State Forest lands in Cass County was 'managed.' The DNR's proposed *Off Highway Vehicle System Plan for Crow Wing, Southern Cass, and Wadena Counties* recommended that State Forest lands in the Foot Hills area continue to be classified as 'managed' with respect to OHV use until experience indicated that some other OHV use classification was warranted. In April 2002, the DNR published a *Notice of Proposed Reclassification of a Portion of the Foot Hills State Forest with Respect to Recreational Motor Vehicle Use*. Following a public meeting and analysis of comments on the proposal the Commissioner of Natural Resources decided to change the classification of the portion of the Foot Hills State Forest south of CSAH 2 to 'limited' effective May 15, 2003. Cass County implemented a 'limited' or 'closed unless posted open policy' for OHV use on county-administered lands within an area bounded by CSAH 2, STH 64, CSAH 24, and CSAH 25 in 2003. Legislation passed in 2003 requires the Commissioner of Natural Resources to reclassify all 'managed' lands as either 'limited' or 'closed' by December 31, 2006 (MN Laws 2003, Chapter 128, Article I, Section 167).

Proposed Road and Trail Use Designations in the Foot Hills Area

Concurrent with this motor vehicle use classification review, staff from the DNR and Cass County Land Department have proposed forest road and trail use designations for the Foot Hills

area. Only roads and trails that are designated and signed will be open to recreational motor vehicle use. The proposed road and trail use designations are included in a draft *Foot Hills Area Recreation Management Plan*. The road and trail use designations and the motor vehicle use classification are related decisions. The classification and the use designations will move through the public review and comment process together. The proposed change in classification will be implemented when the roads and trails designated for motorized uses are signed as open to motorized use.

Consideration of Classification Criteria in the Foot Hills Area

The following criteria shall be considered when classifying forest lands for motor vehicle use:

- A. resource sensitivity and management objectives;
- B. resource impact by motorized and nonmotorized use, including erosion, rutting, and impacts on vegetation, wildlife, air, water, or natural habitats;
- C. motorized and nonmotorized recreational opportunity in area;
- D. user needs, such as trails, parking, signs, and access;
- E. the degree and trend of motor vehicle use in the area;
- F. the degree and trend of nonmotor vehicle use in the area;
- G. competing interests among different user groups; and
- H. public safety and law enforcement concerns.

(MN Rules Chapter 6100.1950, Subpart 2)

A. Resource Sensitivity and Management Objectives

The management objectives for the Foot Hills State Forest include timber production, wildlife habitat maintenance, and provision of a variety of recreational opportunities. Common recreational activities in the forest include hunting, trapping, fishing, hiking, OHV riding, dispersed camping, swimming, snowmobiling, and cross country skiing. As the number and popularity of recreational activities in the area increases so does the need to actively manage the area and control user behavior.

There are sensitive resources in the Foot Hills area. Lakes, ponds, wetlands, steep slopes, old growth forest stands, and special concern plant and animal species are among the sensitive resources that can be impacted by recreational motor vehicle use. As recreational use levels increase there is a need to keep recreational motor vehicle riders on designated trails. Controlling the location of motor vehicle use is facilitated by the 'closed unless posted open' management framework for trails in limited forests.

B. Resource Impact by Motorized and Nonmotorized Use

All recreational trails, both motorized and nonmotorized, have impacts on natural resources during construction, use, and maintenance of the trail. The type and extent of impacts vary by activity and season of use. The rolling topography of the glacial moraine that makes this area attractive for a variety of recreational uses, including skiing and OHV riding is also the main source of resource sensitivity. Sloping ground is more susceptible to erosion than level ground. Thus it is important to design and maintain trails to control water flow. Rutting is a problem in areas of wet soils when the ground is not frozen. The main impact on vegetation in this area is clearing of trees and shrubs along the trail route. These impacts occur on both motorized and

nonmotorized trails. All vegetative cover is removed on heavily used trails. This impact is more pronounced on OHV trails than on nonmotorized trails. The mechanical force of OHV tires displaces soil, especially on curves, requiring regular maintenance of the trail surface.

The natural resource related limitations on recreational trail design and maintenance in the area are not insurmountable for existing motorized or nonmotorized uses. Reclassification as limited would keep recreational motor vehicle riders on signed and maintained trails thereby limiting the extent of impacts.

C. Motorized and Nonmotorized Recreational Opportunity in Area

The opportunities for motorized and nonmotorized recreation need to be analyzed in a context larger than the Foot Hills area. In the broader context there are a number of public recreation areas where recreational motor vehicle use is prohibited, including Crow Wing, Cuyuna, and Itasca State Parks, Meadowbrook WMA, Deep Portage Conservation Reserve, the North Country Scenic Trail, and designated hunter walking and cross country ski trails on state and county forest lands in Cass and Crow Wing counties.

If the forest lands that are currently classified managed were reclassified as limited, recreational motor vehicle use would no longer be allowed on unsigned trails within the area. If the proposed road and trail use designations are implemented there will be a reduction of about 175 miles in routes open to recreational motor vehicle use. Under existing State Forest Rules, ATVs will still be allowed to use the undesignated trails and to travel off-trail for certain big game hunting and trapping related purposes if the lands are reclassified as limited. Prohibiting recreational motorized use of these undesignated trails except for certain hunting and trapping related uses does not automatically result in increased nonmotorized trail opportunities in the area. Some of the undesignated trails are short and are not particularly suited to most nonmotorized uses. The undesignated trails will not be signed, mapped, or maintained for nonmotorized uses.

D. User Needs, such as Trails, Parking, Signs, and Access

User need for trails, parking, signs, and access is more related to the types and level of development of recreational facilities provided in an area than it is to the motor vehicle use classification. If the area is reclassified as limited, about 80 miles of roads and trails that are currently unsigned but that are proposed to remain open to motorized use will have to be signed. There should be a decrease in the need for signs prohibiting OHV use off of the designated trail system, as the expectation in limited forests is that trails are closed to OHV use unless posted open. If the area is reclassified as limited, it will become slightly less accessible by OHV because motorized use of undesignated trails will no longer be allowed except for certain hunting and trapping related purposes. Nonmotorized access to the area will not be immediately affected by reclassification. However, over time vegetation will regrow on some of the currently undesignated trails that are used by OHVs. This will make nonmotorized access more difficult.

E. Degree and Trend of Motor Vehicle Use in the Area

The number of OHV users and the amount of OHV use has and will likely continue to increase as the number of OHVs sold increase. The designation, development, and promotion of the Spider Lake OHV Trails have contributed to the increasing level of OHV use in the area. The Spider Lake OHV Trails are very popular and receive heavy use. The amount of OHV use in the

area will be determined by miles of available trail, the quality of the riding experience, availability of ancillary facilities (campsites, toilets), and social factors. The level and types of motorized use will also be affected to some degree by reclassification. Those OHV users who want to explore unmapped trails will no longer use the area. Other management actions including enforcement, education, and user fees can also affect the amount of OHV use.

F. Degree and Trend of Nonmotor Vehicle Use in the Area

Non-trail related recreational uses (hunting, orienteering, etc.) take place in the area but should not be significantly affected by reclassification. These uses are sensitive to the level of motorized use in the area. There is anecdotal evidence that some nonmotorized users have been and will continue to be displaced from this area by motorized uses. Existing non-motorized trail use opportunities (i.e., x-c skiing, mountain biking, hunter walking, hiking) will continue to be provided in the Foot Hills area. Most trail-related nonmotorized recreational activities are showing moderate increases in the levels of participation. Many nonmotorized trail uses (e.g. hiking, biking, skiing) are highly dependent on available facilities.

G. Competing Interests among Different User Groups

There is a wide diversity of values and expectations related to use of public lands. The perceived or actual degree of incompatibility among users exists on a number of dimensions (hunting – nonhunting, motorized – nonmotorized, skate skiing – classical stride, etc.) The level of tolerance of other users also varies widely among individuals. In our diverse society there is no public land management approach that will fully satisfy all interests.

Classification of forest lands with respect to recreational motor vehicle use is not the only, or even the primary tool in managing conflicting interests among user groups. It is possible to provide both motorized and nonmotorized recreational opportunities in different portions or in different seasons within a single forest. The degree of structure and control imposed on all recreational users is generally greater in limited forests due to higher levels of recreational use and/or greater sensitivity of the natural resources to impacts from recreational use. The levels of recreational use in the Foot Hills area have increased to the point where the control provided by the limited classification is justified.

H. Public Safety and Law Enforcement Concerns

Public safety and law enforcement have been issues in the Spider Lake area for several years. The efforts to plan for and manage recreational use in the area in the late 1990s was prompted by public safety and enforcement concerns on the part of citizens and resource managers. Some of the concerns were related to OHV use (riding in inappropriate locations, erosion, non-registration) and others were of a general nature not specifically related to OHV use (littering, trespass, alcohol use, hunting violations). Enforcement and education efforts have been increased in conjunction with other trail management activities.

Reclassifying the area as limited would provide a clearer and more enforceable situation in that motor vehicles will be required to stay on designated and signed roads and trails. It will help keep OHV use out of inappropriate areas.

Proposed Classification for the Foot Hills Area

Given the anticipated levels of OHV use and resource conditions, the DNR and Cass County Land Department propose that all state- and county-administered forestlands in the Foot Hills area be classified as 'limited' in the future. The change in classification for lands north of CSAH 2 will be implemented after the road and trail system designated for continued use by motor vehicles is substantially signed and available for use.

Public Meeting and Request for Comments

There will be a public meeting on the proposed reclassification and trail use designations in the Foot Hills area from 6:00 PM to 9:00 PM on Monday, April 12, 2004 at the Pine River-Backus High School, 400 N Main St., Pine River, MN. The DNR will present information and receive public comments on the proposal. Written comments on the proposal can also be submitted to the following address until 4:30 PM on April 30, 2004.

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Appendix A: Statutes and Rules Related to Classification of Forests

MN Laws 2003, Chapter 128, Article 1, Section 167

Sec. 167. [FOREST LAND OFF-HIGHWAY VEHICLE USE RECLASSIFICATION.]

Subdivision 1. [FOREST CLASSIFICATION STATUS REVIEW.] (a) By December 31, 2006, the commissioner of natural resources shall complete a review of the forest classification status of all state forests classified as managed, all forest lands under the authority of the commissioner as defined in Minnesota Statutes, section 89.001, subdivision 13, and lands managed by the commissioner under Minnesota Statutes, section 282.011. The review must be conducted on a forest-by-forest and area-by-area basis in accordance with the process and criteria under Minnesota Rules, part 6100.1950. After each forest is reviewed, the commissioner must change its status to limited or closed, and must provide a similar status for each of the other areas subject to review under this section after each individual review is completed.

(b) If the commissioner determines on January 1, 2005, that the review required under this section cannot be completed by December 31, 2006, the completion date for the review shall be extended to December 31, 2008. By January 15, 2005, the commissioner shall report to the chairs of the legislative committees with jurisdiction over natural resources policy and finance regarding the status of the process required by this section.

(c) Until December 31, 2010, the state forests and areas subject to review under this section are exempt from Minnesota Statutes, section 84.777, unless an individual forest or area has been classified as limited or closed.

Minnesota Rules Chapter 6100.1950, subparts 1 – 4

6100.1950 MOTOR VEHICLES AND SNOWMOBILES; FOREST LANDS.

Subpart 1. **Classified forest lands.** The operation of motor vehicles and snowmobiles on forest lands classified by the commissioner for purposes of motor vehicle use according to subpart 2 and Minnesota Statutes, section 89.002, is regulated according to items A to C.

A. Motor vehicles may operate on forest lands classified as managed on forest roads and forest trails that are not posted and designated closed, subject to the limitations and exceptions in this part.

B. Motor vehicles may operate on forest lands classified as limited only on forest roads that are not posted and designated closed and on forest trails or areas that are posted and designated to allow motor vehicle use, subject to the limitations and exceptions in this part.

C. No person shall operate a motor vehicle or snowmobile on forest lands classified as closed, unless on frozen public waters where operation is not otherwise prohibited. Motor vehicles that are licensed for use on public highways may be operated on forest roads that are not posted or gated closed. Snowmobiles may operate on designated trails.

Subp. 2. **Criteria for classification.** The following criteria shall be considered when classifying forest lands for motor vehicle use:

- A. resource sensitivity and management objectives;
- B. resource impact by motorized and nonmotorized use, including erosion, rutting, and impacts on vegetation, wildlife, air, water, or natural habitats;
- C. motorized and nonmotorized recreational opportunity in area;
- D. user needs, such as trails, parking, signs, and access;
- E. the degree and trend of motor vehicle use in the area;
- F. the degree and trend of nonmotor vehicle use in the area;
- G. competing interests among different user groups; and

H. public safety and law enforcement concerns.

Subp. 3. **Notice and public meeting.** Before changing the classification of forest lands for motor vehicle use, the commissioner shall provide notice and a public meeting according to items A to C.

A. A public meeting shall be held in the county where the largest portion of the forest lands are located to provide information to and receive comment from the public regarding the proposed classification change.

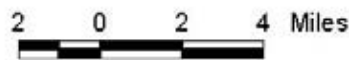
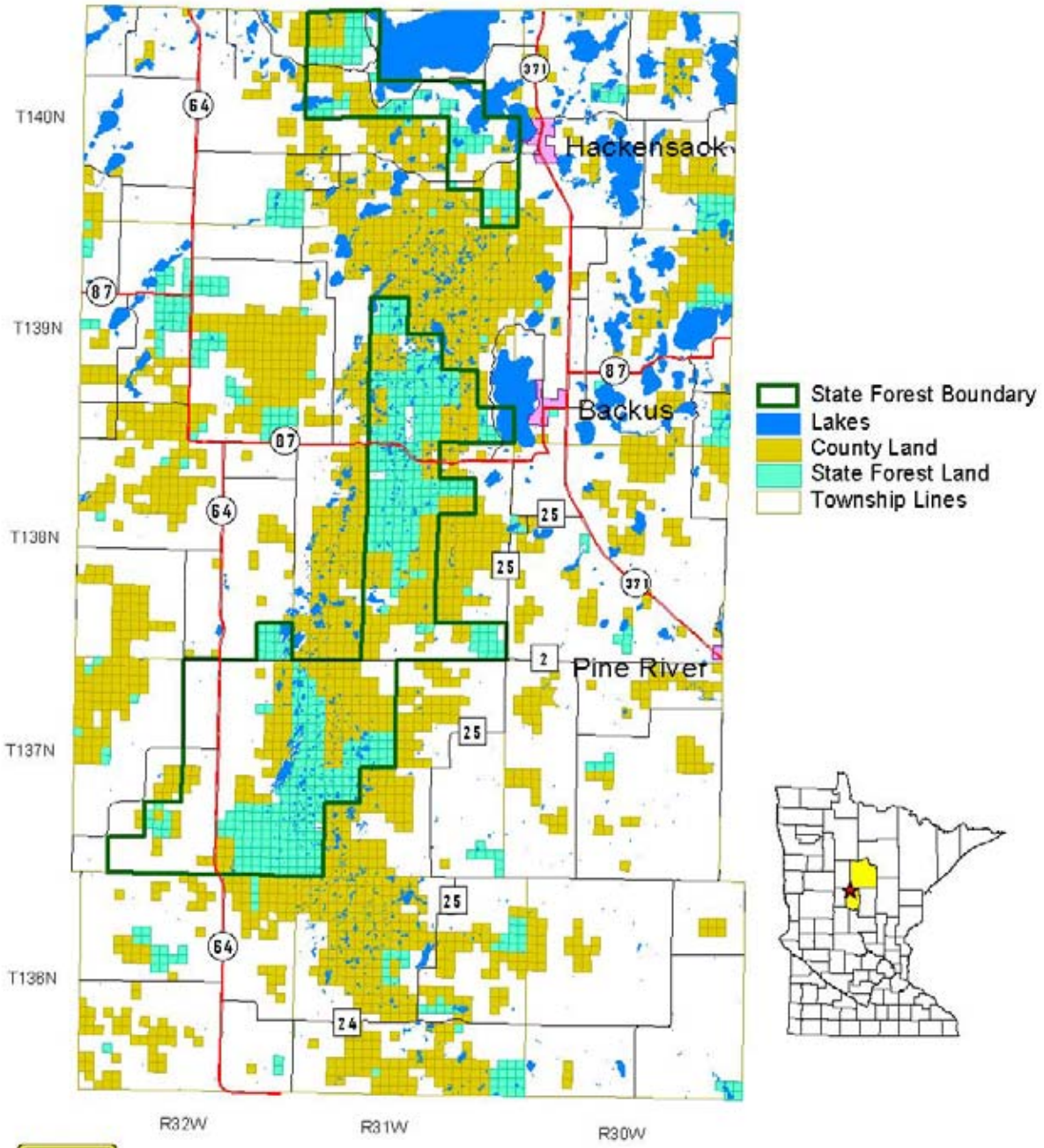
B. Sixty days before the public meeting, notice of the proposed classification change shall be published in legal newspapers that serve the counties in which the lands are located and in a statewide Department of Natural Resources news release and in the State Register. The notice shall include a summary of the proposed action, a request for public comment, and notice of the public meeting.

C. Twenty-one days before the public meeting, notice of the meeting shall be announced in a statewide Department of Natural Resources news release.

Subp. 4. **Commissioner's decision.** The commissioner shall make a decision about the proposed classification change after considering the criteria listed in subpart 2 and any public comment received and explaining how the nature and magnitude of the criteria and comments relate to the classification.

Appendix B: Foot Hills Map

Foot Hills Area Location Map



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