

National Trails System Act

ANALYSIS OF AUTHORITIES

The Act's authorities are divided into those which are compulsory (musts and shalls) and those which are discretionary (mays). They are broken down by topic, with the section and subsection shown in ()s. Authorities should not be implemented without full reference to the language of the section in which they are found.

MUSTS/SHALLS (REGULATORY)

Definition and Identity of National Trails System

The National Trails System is made up of National Scenic Trails (NSTs), National Historic Trails (NHTs), National Recreation Trails (nrts), and side/connecting trails (3a).

NSTs and NHTs may only be authorized by Congress (5a).

NSTs and NHTs must be extended trails (100+ miles in length, although shorter NHTs also allowed). Along NHTs, designation shall be continuous, but not development or preservation (3a3 and 3b).

NHTs must meet all three criteria given in subsection 5b11:

- a. actual route of historic use, well enough documented to be located.
- b. national significance.
- c. significant potential for public recreation and/or interpretation.

The National Trails System shall emphasize urban areas (2a).

The secretaries and Agriculture and Interior shall establish a uniform marker for trail system (3a4).

A uniform marker system shall be established, with a distinctive and appropriate marker for each national trail. These markers shall be provided by the appropriate secretary to non-Federal landowners who shall erect and maintain them to set standards (7c).

Planning Requirements

The secretaries of Interior and Agriculture shall conduct trail feasibility studies within 3 FYs for each proposed trail, according to outline given (5b). Trails to be studied are listed in subsection 5c, some with shortened due dates.

The secretaries of Interior and Agriculture shall complete comprehensive management and use plans for each trail within 2 FYs for each proposed trail, according to outline given (5e, 5f).

Administrative Responsibilities

NSTs and NHTs are assigned for administration to various agencies, by trail, and the official trail maps and documents shall be found in those agencies' Washington, DC, offices (5a).

Secretaries of agencies to which each trail is assigned shall appoint an advisory council for that trail within one year, each to last 10 years (Iditarod NHT 20 years). Scope of duties includes selection of ROW, marker standards, and trail administration. General membership qualifications are listed. Secretary appoints chairman. Up to 35 members, each appointed for 2 year terms without compensation (5d).

The administering agency shall develop and maintain NSTs, NHTs, and nrts within Federal areas and encourage States to operate, develop, and maintain non-Federal parts of these trails (7h).

Substantial trail right-of-way re-locations shall only be by Act of Congress (7b).

Along the Trail of Tears NHT, the secretary of the Interior shall give serious consideration to establishing interpretive sites at the places listed (5a16B).

Coordination and Consultation

Administering agencies shall consult with all affected State and Federal agencies (7a1A).

Consultations with and assistance to States and subdivisions shall encourage landowner protection from trespass, unreasonable liability, and property damage due to trail use, as well as compatible land use within or adjacent to trails (7h).

Interior should urge States to include trail needs in SCORPs, include NHT needs in comprehensive statewide historic preservation plans, and establish State and local historic trails (8a).

The HUD secretary directed to include recreation trails in metropolitan area plans under Housing Acts of 1954 and 1961 (8b).

Under the Railroad Revitalization and Regulatory Reform Act of 1976, Federal agencies should encourage State and local governments to convert abandoned railroads into recreation trails as an interim use pending future transportation uses. If a qualified management entity arises, the ICC shall aid conversion to trail use rather than abandonment (8d).

The secretary of Agriculture is directed to encourage State, local, and private trails (7c).

Trail Uses and Regulations

The secretaries of Interior and Agriculture shall develop and publish uniform trail use regulations as necessary, with fines and imprisonment as given (7i).

Sufficient access shall be provided along NSTs and NHTs, and incompatible activities shall be avoided (7c).

Motorized vehicles are prohibited on NSTs, with exceptions for emergency and adjoining landowner uses (7c).

On the Continental Divide NST, motorized vehicles shall be allowed on certain road sections (5a5).

Trail Lands Protection

Trail rights-of-way shall be selected by the appropriate secretary with broad input and published in the Federal Register. Such route selection shall minimize adverse impact on adjoining landowners and land uses and complement multiple use plans. Rights of way across other Federal lands shall be mutually agreed upon (7a2).

Fee acquisition is only a last resort if other methods of land protection do not suffice. After re-locations, original owners of old ROW shall be offered right of first refusal (7e).

Proceeds from disposed lands shall benefit that trail's land acquisition (7f).

Federal-side lwcf funds shall be used to buy trail lands (7g).

Federal agencies shall cooperate with Interior and Agriculture in disposing of properties useful to the national trails system (9b).

Any Federal interest in abandoned rights-of-ways described in 43 USC 912 shall be retained, unless used for a public highway within one year of abandonment. If these are within boundaries of a conservation system unit or national forest, they shall be added to and managed within such units. If they are outside such boundaries, but adjoin public lands, they shall be managed under the Federal Land Policy and Management Act of 1976. Such ROWs outside Federal boundaries determined useful for recreation or recreation trails shall be managed by Interior (9c-d).

All sales proceeds from Federal surplus ROWs shall be credited to the Land and Water Conservation Fund and reported annually to Congress (9e3-4).

Donation or conveyance of any interest in land for national trails is deemed to further Federal conservation policy and yield a significant public benefit (7k).

No Federal funds can be used for land acquisition outside Federal boundaries for 7 trails (Continental Divide, North Country, Ice Age, Oregon, Mormon Pioneer, Lewis and Clark, and Iditarod), except for one trail interpretation site and adjoining train in each State (10c).

Appalachian Trail land acquisition shall be completed within 3 years. Until completed, annual reports shall be submitted to Congress with amount bought in fiscal year, land remaining to be bought, and the projected amount and cost of future land acquisition (10a2).

Along NHTs, only lands associated with high potential segments may be Federally acquired. With certain exceptions, no NHT (or Continental Divide NST) segments are subject to DOT 4(f) provisions (7g).

Along the Potomac Heritage NST and the Nez Perce NHT no lands outside Federal boundaries may be acquired by the Government for the trail (5a11, 5a14).

Along the Florida NST and Santa Fe, Trail of Tears, Anza, California, and Pony Express NHTs, Federal land acquisition cannot use condemnation (5a13, 5a15, 5a16A, 5a17, 5a18, and 5a19).

Along the Santa Fe NHT, before easement or cooperative agreements consummated, landowners shall be notified of liability hazards (5a15).

Volunteers

Along the De Anza NHT, volunteer trail groups shall be encouraged to participate (5a17).

MAYS (DISCRETIONARY)

Definition and Identity of National Trails System

Trail lands management may be transferred from one Federal agency to another under memorandum of agreement (7a1B).

Methods and standards are given for adding additional components of the National Trails System (2b).

Federally owned high potential sites and segments of NHTs are to be considered "Federal protection components" (3a3).

The secretaries of Interior and Agriculture may establish nrts on their lands according to Act criteria and their own processes. They may also establish nrts on other lands with written landowner permission (4a and b).

Along the Nez Perce and Santa Fe NHTs, acceptable markers may be accepted as donations (5a14, 5a15).

Side and connecting trails on public lands may be established as a component of the trail. On other lands, written permission of the landowners is required (6).

Funding

Such sums as may be necessary to implement the Act may be appropriated for trails established in section 5(a) (with certain limitations (10c1, 10c2).

Planning

The State of Wisconsin may prepare the trails comprehensive management plan for the Ice Age NST (5a10).

Administrative Responsibilities

Secretaries may certify other lands as components of NHTs, as long as they are administered without Federal expense (3a3).

Advisory council members may be compensated for claimed expenses (5d).

Minor trail relocations may occur to preserve a trail's purpose or to promote sound land management (7b).

Trail lands management may be transferred from one Federal agency to another under memorandum of agreement (7a1B).

Along the Potomac Heritage and Florida NSTs and the Nez Perce NHT, non-Federal sections may be designated only upon application by States and local governments and meet Act's criteria (5a11, 5a13, 5a14).

Coordination and Consultation

Rail-trails may be designated and marked as part of the nationwide system of trails, with approval of the Secretary of the Interior (8e).

Trail Uses and Regulations

NSTs and NHTs may contain campsites, shelters, and other public use facilities, as well as other non-interfering uses. NHTs maybe marked along non-historic portions of the route. Other compatible uses along NHTs and the Continental Divide NST may be allowed. Trail interpretation sites may also be provided, at lowest possible cost, emphasizing State and best managed by the State (7c).

Regulations concerning national trails system use, protection, management, development, and administration may be issued after consultation with affected States and local organizations and jurisdictions (7i).

The secretary responsible for any segment of any component of a national trail may use appropriate national park or national forest authorities (7i).

Allowed uses, vehicles, and access are defined, subject to subsequent Federal and other State or local laws and regulations (7j).

Along the Ice Age NST, snowmobiles may be allowed (5a10).

Trail Lands Protection

Within Federal boundaries along NSTs, NHTs, and nrts, may use lands for trail purposes and acquire lands for trails (7d). Outside Federal boundaries, the secretaries of Agriculture and Interior shall encourage States and local governments to protect NST and NHT corridors. If this fails, the secretaries may work directly with landowners through cooperative agreements and easements or acquire lands provided that sale and donation of public lands is done with consent of sellers (7e).

Land exchanges to enhance trail corridors may be conducted using other Federal lands in that State (7f1).

Whole tracts may be acquired, and the acreage outside the trail corridor may be considered surplus. Later conveyance of these lands may include reservations and covenants to further the purposes of this Act (7f2).

Condemnation (where authorized) may be used only if all reasonable efforts by other means has failed. It shall be limited to an average of 125 acres per mile (7g).

A trail's administering secretary may enter into cooperative agreements with States and political subdivisions, landowners, organizations, and individuals to operate, develop, and maintain any portion of the trail. These agreements may include limited financial assistance and volunteer programs under VIP and VIF statutes (7h1).

In any conveyance of land, the secretary of the Interior may reserve a trail right-of-way to carry out the purposes of this Act (7h2).

The secretaries of Interior and Agriculture may grant easements and ROWs across any component of the national trails system, compatible with national park and forest laws, provided that easement conditions relate to policy and purposes of this Act (9a).

Federal ROWS outside conservation system units or national forests may be declared surplus, if application is made by a qualified State, local government or other organization, and only if it is to be used for public recreation, if the Federal government is held harmless for liability or hazard (9e1).

Interior may sell retained ROWs outside Federal boundaries if it is not adjacent to public lands and meets disposal criteria. Stat and local government shall be afforded right of first refusal (9e2).

Volunteers

This act encourages and assists volunteer citizen involvement (2c).

Federal agencies administering trails are to encourage volunteers to help plan, develop, maintain, and manage trails (11a1).

Administering secretaries are to use VIP, VIF, and SCORP Acts (11a2).

Trail agencies may assist volunteers and volunteer organizations to help with both components of the national trails system or trails which might qualify to be part of the system. A broad range of possible tasks listed (11b).

To assist volunteers, Federal facilities, equipment, tools, and technical assistance may be used (11c).

Prepared by
Steven Elkinton
Program Leader for National Trails System Programming
National Center for Recreation and Conservation
National Park Service
(202) 354-6938

April, 1992; revised May, 1997