

May 13, 2011

Forest Service Planning Draft Environmental Impact Statement  
C/O Bear West Company  
132 E 500 S  
Bountiful, UT 84010

Re: Department of Agriculture, Forest Service, National Forestry System Land Management Planning,  
Proposed Rule 2011

Submitted via <http://www.govcomments.com/>

On behalf of the Society of American Foresters (SAF), the national scientific and educational organization representing the forestry profession in the United States, and including over 14,000 professional foresters nationwide, please accept the following comments on the USDA Forest Service's proposed planning rule (PR). We are the organization chartered to advance the science, education, technology, and practice of forestry for the benefit of society, and as such have conscientiously participated in the evolution of land management planning for the national forests.

SAF began its work by developing principles that an effective PR should embody, as reflected in the following statements. An effective PR:

- enables forest plans that are simple and efficient to prepare and amend to account for changing conditions, rather than overly prescriptive and onerous to prepare;
- enables forest plans that reflect the aspirations of communities of place (i.e., local communities), communities of interest (i.e., groups interested in particular aspects of National Forest management regardless of their residence or direct use of the forest), and communities of use (i.e., groups of forest users);
- enables forest plans that facilitate, rather than impede, on-the-ground project implementation;
- provides clear criteria for determining whether projects are consistent with forest plans;
- requires forest plans to describe the types of projects needed to restore habitats and achieve other plan goals, and the forest conditions under which such projects are needed;
- requires forest plans to set realistic targets for production of commodities and ecosystem services upon which communities of place, interest, and use can rely;

- establishes appropriate scale and requirements for species surveys, thereby reducing the need for project-level species surveys, because such surveys often provide little information regarding either the quality of the project or the species' status;
- elevates the roles of resource monitoring and assessment at appropriate scales to evaluate achievement of forest plan objectives over time;
- encourages forest plan amendments as needed to reflect changing conditions, rather than encouraging forests to allow their plans to become obsolete, whereby plan revisions require excessive effort and resources; and
- enables forest plans that are flexible in the face of fluctuating Congressional appropriations and mandates, and responsive to emerging local/regional/national/global issues.

The proposed PR includes several progressive revisions that will improve national forest planning and management. SAF supports the following PR innovations:

- substitution of a predecisional objection process for administrative appeals of draft forest plans;
- changing the responsible official for forest plans from the regional forester to the forest supervisor;
- the requirement that forest plans prioritize watersheds for restoration or maintenance;
- adoption of an *assessment/develop-revise-amend/monitor* framework for forest planning; and
- the requirement for early engagement with agencies, governments, tribes, and the public by responsible officials.

SAF's main concerns with the proposed PR are summarized in the following points and expanded upon below.

- the lack of consideration of the need for sustainable forest management;
- the lack of substantive commitment to vibrant rural communities and private-sector partners;
- a continuing misplaced focus on maintaining viable species populations, which goes infeasibly beyond the National Forest Management Act's (NFMA's) focus on maintaining diverse communities;
- the proposed PR's failure to adequately clarify the standard for consistency between projects and forest plans;

- the implied complexity of forest plans and, in particular, the obstacles to project implementation resulting from the need to *consider the best available science*; and
- the disconnect between restoration of healthy forests and opportunities to reduce carbon emissions.

These concerns are explained below.

### **Need to Embrace Active Forest Management**

The proposed PR is unnecessarily abstract as it virtually ignores the fact that active, effective forest management is the overriding goal of forest planning. As a case in point, the term *silviculture* does not occur in the proposed PR. The proposed PR ignores the need to utilize sound forest management practices (such as silvicultural practices) to achieve the myriad objectives it touts for national forests, such as watershed and ecosystem restoration, enhancement of forest resilience, providing habitats suitable for species of concern, and maintenance of vibrant rural communities. Forests are dynamic systems that, in lieu of natural processes that society has altered (e.g., natural fire regimes), require periodic treatment to maintain their functionality and productivity. Since society cannot tolerate unfettered natural processes operating on our forests, including in designated wilderness, forest restoration only occurs through active management, and forest management only occurs through project implementation. This is true notwithstanding the dangerous misconception revealed on page 65 of the draft environmental impact statement (DEIS) for the PR that “[a] restored ecosystem should be able to sustain itself over time with minimal intervention.” The PR should be revised to focus on the need for forest plans to facilitate, rather than impede, implementation of projects including silvicultural treatments and prescribed fires.

### **Lack of Substantive Commitment to Vibrant Rural Communities and National Forest Partners**

The Federal Register (p. 8491) asserts that “[t]he proposed rule considers the ecological, social, and economic systems as interdependent systems, which cannot be ranked in order of importance”. However, it goes on to qualify its commitment to the latter two of these three pillars of sustainable forest management as follows: “...the Agency has more influence over the factors that impact ecological sustainability on National Forest System lands than it does for social and economic sustainability...”, and “National Forest System lands can provide valuable contributions to economic and social sustainability, but that contribution is just one in a broad array of factors that influence the sustainability of social and economic systems.” SAF concurs with this formulation, but considers the proposed PR’s focus on contributing to economic and social sustainability inadequate.

In Agriculture Secretary Tom Vilsack’s vision for the Forest Service, he states: “We must work towards a shared vision—a vision that conserves our forests and the vital resources important to our survival while wisely respecting the need for a forest economy that creates jobs and vibrant rural communities.” As quoted above, the Federal Register recognizes that national forests can make important contributions to the social and economic wellbeing of rural communities. Unfortunately, the proposed PR fails to encourage forest plans to include commitments or goals that would promote jobs or the vibrancy of rural

communities. We specifically request that the list of integrated resource management considerations in Section 219.10 (a) be expanded to include opportunities to enhance the socioeconomic wellbeing of local communities.

The private partners, including both for-profit and not-for-profit entities, on which the Forest Service depends to accomplish its mission, require reliable commitments regarding national forest supplies of commodities and ecosystem services upon which to base their capital investments, staffing decisions, and supply agreements. Since 1979, the PR has required that forest plans specify a planned timber harvest schedule and its associated allowable timber sale quantity. The proposed planning rule would eliminate these plan components and relegate them to the Forest Service Directive System. Although many national forests have consistently failed to meet their planned timber harvest schedules and targets, with little apparent accountability on the part of agency officials, removing such commitments from forest plans would only further reduce accountability for making socioeconomic contributions to rural communities. Section 219.11, *Timber requirements based on the NFMA*, contains only direction tending to limit or prohibit timber sales; it contains no direction promoting sustainable forest management or the socioeconomic interests of rural communities. There is no mandate or even encouragement to supply any timber or biomass for renewable electricity or biofuels. Section 219.11 should expressly acknowledge that silvicultural treatments and prescribed fire are essential practices for accomplishing ecosystem restoration.

The proposed PR represents a crucial opportunity for the Forest Service to realize Secretary Vilsack's vision for managing national forests to create jobs and vibrant rural communities. Persistent declines in active management have extensively degraded national forest health and the wellbeing of the forests' rural community neighbors and private partners. Yet the proposed PR provides no direction to address this problem. It should be revised to incorporate both a tone and direction that accurately reflect the unique opportunities that national forests have to work with rural communities, businesses, and partners to promote forest health.

Some western communities have lost their entire wood products manufacturing capacity during the recent period of declining national forest timber harvests, while elsewhere wood products manufacturing centers are approaching a threshold from which recovery would be highly unlikely. In all likelihood, this PR represents the last opportunity for many rural communities to retain or expand manufacturing as part of their economic base. If these manufacturing centers fail, so will the Forest Service. Americans need reassurance that their national forests are being managed to yield tangible benefits; if the Forest Service continues to supply inadequate goods and services from the national forests, the public and their elected representatives will question the wisdom of maintaining its funding level.

### **Misplaced Focus on Maintaining Viable Populations**

NFMA requires the PR to "...provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet multiple-use objectives..." (1604 (g)(3) (B)). Unfortunately, the 1982 PR diverged from the statutory focus on plant and animal communities by specifying that "[f]ish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area" (Sec. 219.19). As noted in

the Federal Register, the 1982 viability standard has proved to be infeasible. The proposed PR attempts to address some of the issues associated with the 1982 rule by recognizing the constraints within which the Forest Service operates and those imposed by nature. However, this revision is inadequate to enable the Forest Service to effectively manage the national forests. To be clear, SAF strongly supports maintenance of biodiversity and ecosystem-based forest management, but the PR (as well as forest plans and project-level analyses) should address habitat, as does NFMA, and leave population viability assessments to the federal and state agencies and non-government organizations responsible for wildlife populations.

NFMA is clearly speaking to habitat and ecological integrity, not individual species populations. The proposed PR's language would very likely perpetuate the ongoing single-species management conflicts and endless cycles of viability analysis, instead of focusing on the *ecological community* objective of NFMA. Stated another way, the Forest Service can influence habitats and ecological conditions to support diverse communities, but it cannot control plant and animal populations, nor are there any widely accepted analytical approaches to address species viability. The Forest Service is required to manage for suitable habitat within national forest units, in accordance with multiple use and sustained yield principles. Therefore, to avoid the management impasse that has resulted from purported inconsistencies between proposed projects and forest plans, the PR's viability standard needs to be expressed in terms of habitat to support diverse populations, not the populations themselves. The PR needs to reflect the intent of the legislation, not expand it. NFMA nowhere mentioned the viability of species; the PR needs to stay within these bounds.

SAF is aware of the loud alarm that many environmental organizations have raised over the alleged weakening of biodiversity protection implied by the proposed PR's viability standard, and we presume that the Forest Service considers the proposed standard to be a reasonable compromise between the existing infeasible standard and minimal compliance with NFMA's community diversity objective. However, while the new standard would clarify the diversity requirements of NFMA, we are concerned it will fail for the same reasons that have plagued project implementation under the 1982 PR, as is discussed in the next section. In particular, the wording at 219.9(b)(3) to "[m]aintain viable populations of species of conservation concern within the plan area" will likely be problematic at both the forest plan and project implementation levels. The objective of maintaining biodiversity and species viability is appropriate for public lands. The issue is not the objective; it is the level and complexity of analysis required to prove that the objective will be achieved. This requirement as written is inherently infeasible and will result in endless analysis at all levels of national forest planning.

SAF strongly supports science-based management; maintenance and perpetuation of biodiversity on the national forests; and the continuing engagement of the Forest Service with local, state, and other federal agencies to achieve that objective. As written however, the viability requirements of the proposed rule will create unsolvable analytical problems. When combined with the arguments likely to result over what constitutes *best available science* (see *Excessive Plan Complexity and Need to Consider Best Available Science*, below), which is also unprovable, the result will be continuation of the current gridlock imposed by appeals and litigation.

### **Lack of Clarity Regarding Consistency of Plans and Projects**

Demonstrating project consistency with forest plans has become increasingly difficult. Environmental documents are now routinely hundreds of pages and cost hundreds of thousands of dollars (sometimes millions) for projects that use scientifically sound methods and are clearly envisaged by NFMA and forest plans. The Forest Service cannot stay on this same path given likely budget trends. It is tempting to blame the *hard look* doctrine of the National Environmental Policy Act and the legions of attorneys employed in suing the Forest Service for the current project implementation impasse, but they are only part of the problem. The ultimate cause of the paralysis that currently grips the Forest Service is the level of analysis needed to demonstrate project compliance with the requirements of forest plans and the various federal laws that directly or indirectly affect plan compliance. Forest plans struggle to address issues that lie beyond the scale of the planning unit boundary such as climate change or species viability. Similarly, demonstrating plan consistency at the project level becomes impossible when projects must address plan requirements that inherently lie beyond the project scale, the most debilitating of which is the 1982 PR requirement to assess impacts of projects on species viability using management indicator species. This mandate has led to endless analysis and litigation because forests are required to prove something that cannot be proven at the project scale.

The provisions of Section 219.15, *Project and activity consistency with the plan*, are a step in the right direction in that they provide a standard for determining consistency with plans. However, this section needs to clarify what project planning *does not* need to consider to demonstrate consistency with forest plans. Plan elements that inherently exceed project-level considerations (e.g., forest-level objectives for species diversity and ecological sustainability) need to be explicitly excluded from project-level analysis. Section 219.15 must be revised to clarify that diversity, sustainability, and other forest-level requirements lie outside the scope of project planning.

As a bridge between sections 219.8 (*Sustainability*), 219.9 (*Diversity of plant and animal communities*), and 219.15, the PR should also require forest plans to specify the range of silvicultural treatments that may be applied to maintain or restore specific habitats or achieve broader ecological objectives. Such information would clarify what constitutes appropriate management and resolve issues regarding which project-level activities are consistent with forest plans.

### **Excessive Plan Complexity and Need to Consider Best Available Science**

This January, President Obama issued an executive order entitled *Improving Regulation and Regulatory Review* that requires federal regulations to “impose the least burden on society, consistent with regulatory objectives” and directs agencies to review, change, or eliminate rules that may be “outmoded, ineffective, insufficient, or excessively burdensome.” The proposed PR does not meet the intent of this order and in fact is too long, is overly detailed in some places and vague in others, includes requirements clouded by jargon and poorly defined terms, and is generally more complicated than what the average citizen has time to comprehend sufficiently to participate meaningfully in the collaborative processes called for.

Efficiency of this PR is immediately brought into question by the DEIS’s cost estimate of roughly \$104 million per year to implement the 1982 PR, while other alternatives that fully meet the purpose and need for the PR and the requirements of NFMA would be significantly less costly. The PR’s authors should carefully consider the difficulty of amending formally adopted and codified regulations, even when

changed conditions clearly warrant it. Moreover, much of the PR's contents most likely to become outdated are procedural details that would be better placed in the Directive System (i.e., Forest Service manual or handbook), where change is much easier to effect. The hierarchy of congressional intent, NFMA, the PR, and the Directive System has been confused in the proposed PR. Much of its detail correctly belongs in the manual or handbook where it would better inform, guide, and facilitate national forest planning. Left in the PR, such details burden agency planners, national forest system users, local communities, and the public-at-large with excessively complex text.

Adaptive management, as addressed in the PR, poses a particular effectiveness problem. The PR properly describes how the framework of *assess/develop-revise-amend/monitor* works to facilitate continuous learning. The problem is that the proposed PR appears to envisage plans that are perfect and answer all questions for all time. Instead, the PR should clearly recognize that nature holds no perfect answers and that, rather than aspiring for plan perfection, monitoring and assessment should be sufficiently nimble to enable rapid learning and adjustment to accommodate effective change in real time. Furthermore, the transparency of decisions made by responsible officials in collaboration with the public will be difficult to perceive if the process is difficult to understand. Transparency and effective collaboration are directly linked to the simplicity of the PR. SAF is concerned that the forest-level monitoring requirements imposed on forest plans by the proposed PR are overly onerous and likely to be fiscally infeasible. If monitoring activities that are mandatory forest plan elements prove too expensive to implement, they are likely to present legal obstacles to obtaining subsequent project approvals.

SAF supports science-based management; however the term *best available science* is inherently subjective because what constitutes *best* and *science* is a matter of opinion. Science is a process of inquiry, not an outcome, so there is no such thing as *best available science*. This requirement, though well intended, will not make forest planning more efficient; it will result in exhaustive contention and litigation over what science is best or newest or what constitutes *science*. Land managers need to use the process of scientific inquiry to inform their decisions, but many of the purposes for which national forests are managed have social or historic constructs that are questions of values and the human experience, and are not purely scientific in nature. Also, the *best available science* concept can conflict with the use of adaptive management, where the intent is to use the forest as a learning laboratory. Therefore, there needs to be recognition of the inherent limitations of science to direct management of the national forests. A better approach would be to require use of the *science-based management using currently available information* including the local expertise of professionals in the Forest Service and elsewhere. The 2008 Ninth Circuit Court of Appeals *en banc* decision in *Lands Council v. McNair* directed that Forest Service expertise deserves deference, and efficiency demands that such deference be fully put to use. For collaboration to have meaning, information used in planning must include Native American and other traditional local knowledge, local practices, the values of communities of place, and information obtained from collaborative dialogues, and not be limited to the findings of arcane or tangential scientific research.

### **Lack of Consideration of Opportunities to Reduce Carbon Emissions and Enhance Forest Resilience**

The efficiency of conducting mandated and recommended forest-level resource assessments can probably be increased if such assessments are undertaken as part of the assessment phase of forest planning. For

example, integrating the recently recommended National Roadmap and Performance Scorecard for Climate Change with forest planning assessment would probably increase the efficiency and relevance of performing such analysis. While substantial changes are undoubtedly forthcoming in the way the Forest Service addresses carbon emissions at all levels of decision making, the climate-change issue of overwhelming importance for the agency is the degree to which it can ameliorate excessive carbon emissions from unhealthy forest stands resulting from wildfires and pest outbreaks, and increase net carbon sequestration by restoring conditions conducive to achieving stand growth potential, especially in areas designated for timber harvest. Whereas healthy forests represent the world's best opportunity for reducing the global atmospheric carbon concentration, unhealthy forests are among the world's largest sources of carbon emissions.

Fortuitously, stand conditions consistent with net carbon sequestration generally coincide with conditions most resilient in the face of climate change. Stands with stocking levels resembling typical historical ranges of variability are much more likely to provide sustainable supplies of ecosystem services amid fluctuating air temperature and precipitation patterns than stands that are overstocked with small trees and brush, which are predominant on many national forests. This convergence of benefits from healthy forests emphasizes the critical need for active management of national forests, which is the central theme of this letter. To realize such benefits, the PR must facilitate forest management projects by simplifying forest plans, establishing reasonable and reliable targets for production of commodities and ecosystem services, and clarifying when projects are consistent with plans.

Thank you for considering these comments.

Sincerely,



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