



[3411-15-P]

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596-AD06

National Forest System, Land Management Planning Directives

AGENCY: Forest Service, USDA.

ACTION: Notice of final directives.

SUMMARY: On February 29, 2013, the Forest Service (Agency) proposed to revise the Forest Service Handbook (FSH 1909.12) and Manual (FSM 1920) establishing procedures and responsibilities for implementing the National Forest System (NFS) land management planning regulation (collectively “planning directives”). The final issuance of planning directives, effective today, will provide consistent overall guidance to Forest Service Line Officers and Agency employees in developing, amending, or revising land management plans for units of the NFS. Public comment was accepted until May 24, 2013. The Agency considered all public comment, including recommendations from an advisory committee formed pursuant to the Federal Advisory Committee Act (FACA), in developing final planning directives.

DATES: These directives are effective January 30, 2015.

ADDRESSES: The Forest Service Manual and Handbook, including the planning directives, are available electronically via the World Wide Web/Internet at <http://www.fs.fed.us/im/directives>. Single paper copies are available by contacting Annie Eberhart Goode, Forest Service, USDA, Ecosystem Management Coordination Staff (Mail Stop 1104), 1400 Independence Avenue SW., Washington, DC 20250-1104. Additional information and analysis, including a description of

how the Agency considered public comment, can be found at

<http://www.fs.usda.gov/main/planningrule/home>.

FOR FURTHER INFORMATION CONTACT: Annie Eberhart Goode, Planning Specialist, Ecosystem Management Coordination staff, (202) 205-1056.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800) 877-8339 between 8:00 a.m. and 8:00 p.m. Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

On April 9, 2012, the U. S. Department of Agriculture (Department or USDA) adopted final planning regulations for the NFS at 36 CFR part 219 (77 FR 21161). These regulations, known collectively as the 2012 Planning Rule, provide broad programmatic direction in developing and implementing land management plans. The rule explicitly directs the Chief of the Forest Service to establish planning procedures in the Forest Service Directives System (36 CFR 219.2(b)(5)(i)). Those Responsible Officials that are implementing the 2012 Planning Rule shall follow the regulations at 36 CFR part 219 and the revised planning directives.

The Forest Service Directives System consists of the Forest Service Manual (FSM) and the Forest Service Handbook (FSH), which contain the Agency's policies, practices, and procedures, and serves as the primary basis for the internal management and control of programs and administrative direction to Forest Service employees. The directives are set out on the World Wide Web/Internet at *<http://www.fs.fed.us/im/directives>*. Specifically, the FSM contains legal authorities, objectives, policies, responsibilities, instructions, and guidance needed on a continuing basis by Forest Service Line Officers and primary staff to plan and execute programs

and activities. The FSH is the principal source of specialized guidance and instruction for carrying out the policies, objectives, and responsibilities contained in the FSM.

FSM 1920 and FSH 1909.12 (planning directives) provide policy direction, objectives, instructions, and guidance for Forest Service Line Officers and primary staff to plan and execute the process of developing, revising, amending, and making administrative changes to land management plans to provide for the sustainability of ecosystems and resources; meet the need for forest restoration and conservation, watershed protection, and species diversity and conservation; and assist the Agency in providing a sustainable flow of benefits, including economic benefits, services, and uses of NFS lands. The 2012 Planning Rule and the FSM 1920 and FSH 1909.12 together provide requirements and guidance for the Agency in land management planning pursuant to the National Forest Management Act.

On February 29, 2013, the Forest Service proposed to revise the planning directives (FSM 1920 and FSH 1909.12) to ensure that the Agency's planning directives are consistent with the 2012 Planning Rule. Issuance of planning directives will provide consistent overall guidance to Forest Service Line Officers and Agency employees in developing, amending, or revising land management plans pursuant to the 2012 Planning Rule. Public comment was accepted until May 24, 2013. The Agency considered all public comment in developing final planning directives.

In addition to seeking public comment on the proposed directives, the Agency considered recommendations from the Planning Rule Implementation Federal Advisory Committee (FACA Committee), established in June 2012 to advise the Secretary of Agriculture and the Chief of the Forest Service regarding implementation of the 2012 Planning Rule. The FACA Committee is comprised of 21 members who provide balanced and broad representation of public interests

including industry and user groups; environmental organizations; conservation organizations; recreation interests; members of the scientific community; State, County, or local elected officials (or designee); Tribal representatives; and other public interests. The initial FACA Committee provided its recommendations regarding the proposed Planning Directives in November, 2013. The previous committee's membership expired in June 2014. The Secretary announced August 12, 2014, the selection of 21 new members to the FACA committee. The charter, background information, and other information for the Planning Rule Advisory Committee can be found www.fs.usda.gov/main/planningrule/committee. The committee was rechartered in June, 2014 to continue in an advisory capacity for an additional 2 years. The text of the initial FACA Committee's recommendations can be found at <http://www.fs.usda.gov/detail/planningrule/home/?cid=stelprdb5346267>.

Content of Final Directives

The following is an overview of the content of the directives.

FSM 1920—Land Management Planning Manual. This Forest Service Manual describes the responsibilities of Agency Line Officers and staff regarding the process for developing, revising, amending, and making administrative changes to land management plans for the National Forest System (NFS). It includes authorities and responsibilities. It should be used in conjunction with the FSH.

FSH 1909.12—Land Management Planning Handbook. This FSH provides policy direction, objectives, instructions and guidance for the process of developing, revising, amending, and making administrative changes to plans for the NFS. It includes authorities and responsibilities.

Zero Code. The chapter known as the zero code contains authorities, responsibilities, and select definitions applicable to subsequent chapters, along with definitions and guidance applicable to all sections of FSH 1909.12, such as direction on best available scientific information (BASI) and adaptive management. The zero code also includes exhibits or references not easily found electronically.

Chapter 10—The Assessment. This chapter provides direction regarding the procedures for writing an assessment for development, amendment, or revision of land management plans.

Chapter 20—Land Management Plan. This chapter describes the land management plan under the 2012 Planning Rule and provides guidance for developing, amending, and revising land management plans.

Chapter 30—Monitoring. This chapter provides direction regarding the plan monitoring program, broader-scale monitoring strategy, and biennial evaluation of information obtained from implementation of the plan monitoring program.

Chapter 40—Public Participation. This chapter sets out direction regarding provision of public participation opportunities and for collaboration, intergovernmental participation, and Tribal consultation relating to land management planning.

Chapter 50—Objection Process. This chapter sets out direction regarding administration of the objection process that provides for administrative review of plans, plan revisions, and plan amendments before their approval.

Chapter 60—Forest Vegetation Resource Planning. This chapter provides procedures for developing plan components and other plan content to guide management of timber resources, including identification of lands that are not suitable for timber production, limitations on timber

harvest, display of the planned timber sale program, and components related to timber harvest for timber production or other purposes.

Chapter 70—Wilderness Evaluation. This chapter provides direction for identifying and evaluating lands that may be suitable for inclusion in the National Wilderness Preservation System and determining whether to recommend any such lands for wilderness designation.

Chapter 80—Wild and Scenic River Evaluation. This chapter provides direction for identifying and evaluating potential additions to the National Wild and Scenic Rivers System. This chapter also includes provisions on interim management of river segments determined to be eligible and suitable, documentation of study results, as well as the process for notifying Congress of Agency wild and scenic river recommendations.

Chapter 90—Reserved.

Public Comments

The availability of proposed directives for public review and comment was published in the Federal Register on February 27, 2013 (77 FR 35323). The public comment period closed on April 29, but the Agency reopened the comment period for an additional 15 days to provide an opportunity to gather additional public input to inform the Agency's development of final planning directives. The Forest Service received 17,449 responses to the proposed directives, consisting of letters, emails, Web-based submissions, and facsimiles. Of those, 370 were unique letters, and the remaining 17,079 responses were form letters. The responses were received from a wide variety of respondents from more than 40 states, and came from the public and non-governmental organizations as well as local governments and other State and Federal agencies.

Public comment on the proposed planning directives addressed a wide range of topics. Many people supported the proposed planning directives or favored stronger guidance in

particular areas, while others opposed the proposed directives or recommended limitations or alternate approaches to Agency policies related to land management planning. The Forest Service considered all the comments in finalizing the directives. This section provides a summary of revisions, by chapter, made in response to public comment. A more detailed description of public comments and the Agency's responses can be found at <http://www.fs.usda.gov/planningrule>.

The following is a chapter-by-chapter overview of the comments provided about the directives and the Forest Service's response to those comments.

Zero Code.

Many comments were received regarding the use of best available scientific information (BASI) and adaptive management. Some commenters felt there was a lack of clear direction on how to implement adaptive management, while other questions centered on the use of BASI. Questions about BASI included objections to the detailed process for its integration, questions about sources of scientific information, and questions about how the Responsible Official will determine BASI.

After considering these comments, the Forest Service clarified and modified the direction on BASI and adaptive management. The final directive simplifies the direction on considering the accuracy and reliability of information when making BASI determinations and clarifying sections on BASI documentation attributes. In addition, the direction on BASI and adaptive management was moved from Chapter 40 to the chapter on zero code since they are relevant to all chapters.

Chapter 10. Assessment. Some comments about the assessment chapter concerned recommendations for clarifying the purpose and scale of the assessment and minimizing

problems with data gaps. Other comments concerned specific assessment topics, such as socio-economic conditions, ecosystem services, and multiple uses. After considering comments, the Agency revised Chapter 10 so that the guidance for assessments more clearly defined terms and scale, reduced redundancy within the directives, and added sources of information. For example, the Agency clarified how to identify species of conservation concern and the use of natural range of variation in the assessment. In addition, the Agency clarified the guidance for assessing the major contributions of the plan area to social, cultural, and economic conditions from multiple uses, ecosystem services, infrastructure, and administrative operations of the plan area.

The Agency added a requirement for the Responsible Official to publish a notice in the Federal Register to announce the beginning of the assessment.

Chapter 20—Land Management Plan. Chapter 20 sets out the procedures for developing, amending, and revising land management plans under the 2012 Planning Rule. Comments on developing plans were extensive, and ranged from general observations about the process to specific comments about a variety of plan components and procedures. Comments covered topics such as direction on water resources management, fire management, and the role of recreation. For example, some of the recreational concerns were that recreation was not clearly addressed in the section that set out the matters to be considered during plan revision. Commenters also had concerns about requiring the inclusion of specific direction in plans, such as requiring plans to include project consistency guidelines.

After considering these comments, the Forest Service made many edits and clarifications. For example, the Agency clarified the direction on the need to change the plan, and the requirements for integrating plan components, such as desired conditions, standards, guidelines, and objectives. The Agency added the direction that the Responsible Official should complete

the plan development or plan revision, from the public notice of the assessment to final plan approval, within 4 years. Other parts of Chapter 20 were rewritten or replaced; for example, the section on recreation guidance was revised to require application of the Recreation Opportunity Spectrum tool in parts of the plan and to more clearly define sustainable recreation.

The Agency also enhanced guidance on how to coordinate required National Environmental Policy Act (NEPA) procedures with the required planning procedures. The Agency expanded sections for species of conservation concern to give guidance on the responsibilities of the Regional Forester, including guidance on managing new information. The Agency clarified how the Responsible Official should design plan components for ecological integrity and the influence of climate change. The Agency also added a section to clarify how land management plans give direction for designated areas.

Chapter 30—Monitoring. In general, comments on Chapter 30 emphasized the need to acknowledge and use consistent monitoring data generated throughout the plan's lifecycle. Questions were also raised about ensuring adequate funding to help ensure the success of monitoring programs. Some commenters suggested specific changes to information considered when identifying monitoring indicators. In response to these comments, edits were made throughout the chapter to improve clarity. The Agency added direction about questions and indicators for social, cultural, and economic sustainability to the guidance for monitoring progress toward meeting desired conditions and objectives

Chapter 40—Public Participation. Comments on Chapter 40 regarding adaptive management and best available science were reflected in revisions to the zero code.

With regard to public participation, some commenters sought an expanded discussion of how the Forest Service is to provide opportunities for public involvement in the planning

process. After considering these comments, and to improve clarity, the content of Chapter 40 was revised to focus on public participation only. Changes to Chapter 40 included providing guidance on working with other public agencies and tribes during the land management planning process. This guidance includes a section on the participation of and consultation with federally recognized Indian tribes, Alaska Native Corporations, other Federal agencies, and State and local governments. Also, Chapter 40 provides guidance on coordinating the public engagement processes required by both the 2012 Planning Rule and NEPA. The additional guidance identifies the requirements for formal notices and other forms of outreach to the public.

Chapter 50—Objection Process. There were few comments on the objection process, and the majority of these asked for clarifications regarding various parts of the objection process. In response, the Agency added definitions and clarifications throughout the chapter, including clarification of who is eligible to object or participate as an interested person. Some commenters wanted to see the entire objection process eliminated. The Agency responded that the objection process could not be eliminated, as the 2012 Planning Rule mandates it. Revisions to Chapter 50 were also made to clarify the Reviewing Officer’s discretion in managing resolution meetings.

Chapter 60—Forest Vegetation Resource Planning. Comments focused on various aspects of the guidance on National Forest Management Act (NFMA) requirements and 2012 Planning Rule requirements. This included aspects related to identifying lands suitable for timber production, and plan components needed to comply with NFMA requirements for timber harvest. The Forest Service was also asked to clarify various terms and definitions in the chapter, including the calculation of long-term sustained yield capacity and other measures of timber volume. After considering comments, the Forest Service made changes to the chapter to

improve clarity by revising narratives, adding displays, and adopting a new set of terminology and definitions for measures of timber volume.

Chapter 70—Wilderness Planning. A significant percentage of the comments received concerned Chapter 70, which describes the process during land management planning of inventorying, evaluating, and analyzing National Forest System lands for possible inclusion in the National Wilderness Preservation System. Many respondents sent a form letter which was generally supportive of the broadly inclusive nature of the procedure outlined for inventorying and evaluating potential wilderness lands. The letter also urged the Forest Service to go further in the preservation of potential wilderness areas by prohibiting all motorized uses from potential wilderness areas, pending designation decisions. Other respondents sent a form letter expressing views highly critical of the new inventory and evaluation process, and objecting to what was perceived as the creation of de facto wilderness without Congressional approval. Respondents also commented that identifying broad areas of Forest lands as potential wilderness and managing them for wilderness qualities would effectively eliminate motorized recreation uses across large sections of Forests.

Additional concerns focused on the inventory process, seeking clarification on how inventories would be conducted, whether existing inventory data could be included, and the criteria to be used for wilderness inventories. Concerns also focused on the management of recommended wilderness areas, including whether or not recommended areas should be managed as wilderness.

After considering comments, the Forest Service edited Chapter 70 to clarify the inventory process including the use of existing information, previous decisions, travel management, travel analysis, public engagement, and government to government engagement. In addition, the

Agency retained the approach included in the proposed directives to keep the inventory process broad, inclusive, and transparent to the public, but the final directives eliminate from the inventory areas that contain certain types of roads. Finally, the chapter was edited to clarify the range of management actions available to the Responsible Official once a decision is made to recommend an area for inclusion in the Wilderness Preservation System.

Chapter 80—Wild and Scenic River Planning. Some commenters were concerned about the process for identifying and evaluating potential Wild and Scenic Rivers during plan revisions. Most of these concerns focused on the inventory process, and commenters sought clarification on elements such as river segment eligibility. After considering comments, the Agency reorganized the chapter and made several clarifications, including clarifying the process for identifying river eligibility. Chapter 80 was also revised to clarify interim management of study rivers.

FACA Committee Recommendations

The FACA Committee provided recommendations regarding the proposed directives to the Agency for consideration. The Agency substantially incorporated the FACA Committee's recommendations into the final directives. A detailed description of the Agency's response to each recommendation from the FACA Committee can be found at

<http://www.fs.usda.gov/planningrule>.

The following is a chapter-by-chapter overview of the FACA Committee recommendations provided about the directives and the Agency's response.

Forest Service Manual --The final directives reflect the FACA Committee's recommendation to clarify intent for timing, objectives, policies, and Responsible Official obligations regarding planning.

Zero code --The FACA Committee recommended revision of definitions and inclusion of several new definitions, and the Agency both revised the definitions section and included additional language in other sections of the directives that support the definitions.

Chapter 10 – Changes to the assessment’s approach to social, cultural, and economic conditions were incorporated into the final directives, along with revisions recommended by the FACA Committee on ecological concepts, transparency, adaptive management, climate change, natural range of variation, recreation, and designation areas.

Chapter 20 – Revisions related to the description of plan components and the integration of multiple planning needs into land management plans were incorporated into the final directives, along with revisions recommended by the FACA Committee on social and economic sustainability, ecosystem integrity, natural range of variation, and water resources.

Chapter 30 – FACA Committee recommendations related to the monitoring program, including partnerships, were incorporated into the final directives.

Chapter 40 – Revisions recommended by the FACA Committee related to notifications, outreach to underserved communities, and interaction with Tribes, States, and local governments were incorporated into the final directives.

Chapter 50 – Revisions related to participation of interested persons in the objection process and provisions related to transparency were recommended by the FACA Committee and incorporated into the final directives.

Chapter 60 – Revisions related to monitoring timber management were incorporated into the final directives, based on recommendations by the FACA Committee.

Chapter 70 – The FACA Committee recommended provisions to clarify public participation opportunities, overall transparency in the wilderness evaluation process, the inventory process and evaluation; these approaches were included in the final directives.

Regulatory Certifications

Regulatory Impact

This notice has been reviewed under USDA procedures and Executive Order (E.O.) 12866, Regulatory Planning and Review. The Office of Management and Budget (OMB) has reviewed this notice and has determined that it is a significant action because of the high level of public interest in the Forest Service’s land management planning activities, which will be guided by the directives.

The final directives would not have an annual effect of \$100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. The final directives would not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, the final directives would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Moreover, the final directives have been considered in light of E.O. 13272 regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). No direct or indirect financial impact on small businesses or other entities has been identified. Therefore, it is hereby certified

that these final directives will not have a significant economic impact on a substantial number of small entities as defined by the act.

Environmental Impact.

These final directives provide the detailed direction to Agency employees necessary to carry out the final 2012 Planning Rule codified at 36 CFR part 219 governing land management planning. Forest Service NEPA procedures exclude from documentation in an environmental assessment or impact statement “rules, regulations, or policies to establish servicewide administrative procedures, program processes, or instructions.” 36 CFR 220.6 (d)(2). The Agency’s conclusion is that these final directives fall within this category of actions and that no extraordinary circumstances exist as currently defined that require preparation of an environmental assessment or an environmental impact statement.

No Takings Implications.

These final directives have been analyzed in accordance with the principles and criteria contained in E.O. 12360, Governmental Actions and Protected Property Rights, and it has been determined that they would not pose the risk of a taking of private property as they are limited to the establishment of administrative procedures.

Energy Effects.

These final directives have been analyzed under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that they do not constitute a significant energy action as defined in the Executive Order.

Civil Justice Reform.

These proposed directives have been reviewed under E.O. 12988, Civil Justice Reform. These final directives will guide the work of Forest Service employees and are not intended to preempt any State and local laws and regulations that might be in conflict or that would impede full implementation of these directives. The directives would not retroactively affect existing permits, contracts, or other instruments authorizing the occupancy and use of NFS lands and would not require the institution of administrative proceedings before parties may file suit in court challenging their provisions

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the effects of these final directives on State, local, and Tribal governments, and on the private sector have been assessed and do not compel the expenditure of \$100 million or more by any State, local, or Tribal government, or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Federalism

The Agency has considered these final directives under the requirements of E.O. 13132, Federalism. The Agency has made an assessment that they conform with the federalism principles set out in this Executive Order; would not impose any significant compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Moreover, these final directives address the land management planning process on National Forests, Grasslands or other units of

the NFS, and provide direction regarding the Agency's interaction with State, local and Tribal governments, to ensure consideration of concerns, impacts and opportunities.

Consultation and Coordination with Indian Tribal Governments.

The Forest Service conducted government-to-government consultation on the planning directives. The Forest Service considers Tribal consultation as an ongoing, iterative process that encompasses development of the proposed directives through the issuance of final directives. The Agency contacted all federally recognized Tribes and Alaska Native Corporations by mail to formally initiate consultation on the proposed directives and asked for comments within 120 days. Hopi Nation Tribal leaders requested consultation and met with the Deputy Regional Forester of Region 3 on June 6, 2013, to discuss the planning directives. Written comments were received from tribes in California and Oregon, the California Indian Water Commission and an Alaska native corporation. Comments were focused on coordination and consultation with tribes and Alaska native corporations.

Controlling Paperwork Burdens on the Public

These final directives do not contain any record keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 and, therefore, impose no paperwork burden on the public. While most land management planning activities do not involve information collection as defined in 5 CFR part 1320, the Agency recognizes that a wide variety of strategies may be used pursuant to the 2012 Planning Rule to engage the public in the planning process. To ensure compliance with the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and implementing regulations at 5 CFR part 1320 in a timely manner to support land management planning, the Agency has developed a generic information collection which is currently under review by OMB and has been assigned control

number 0596-0234. In addition, Chapter 50 of these final directives contains information collection requirements as defined in 5 CFR part 1320. The information collection requirements for the objection process to the land management plans has been approved by OMB and assigned control number 0596-0158.

Dated: January 30, 2015.

Robert Bonnie,

Under Secretary, NRE.

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