



[3411-15-P]

DEPARTMENT OF AGRICULTURE

Forest Service

Chugach National Forest; Alaska; Notice of a Proposed Amendment to the Chugach National Forest Land and Resource Management Plan, Applying Only to the Sterling Highway Milepost 45-60 Project

AGENCY: Forest Service, USDA.

ACTION: Notice; Project-specific amendment to the Chugach National Forest 2002 Land and Resource Management Plan.

SUMMARY: On May 31, 2018, the U.S. Department of Transportation, Federal Highway Administration (FHWA) signed a Record of Decision for the Sterling Highway MP 45-60 Project, which involves highway construction and reconstruction near Cooper Landing, Kenai Peninsula Borough, Alaska. The U.S. Department of Agriculture, Forest Service participated as a cooperating agency with FHWA and Alaska Department of Transportation and Public Facilities in the preparation of the draft and final Environmental Impact Statements (EIS). To support the FHWA decision, the Forest Service proposes a project-specific Land and Resource Management Plan (Forest Plan) amendment to make the selected route consistent with the Chugach Forest Plan.

DATES: Publication of this notice marks the initiation of a public comment period for the proposed action. Comments concerning the scope of the analysis must be received by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. The agency expects to release a draft Record of Decision for the proposed amendment in late 2018.

ADDRESSES: Send written comments to Chugach National Forest Supervisor's Office, Attn: Sterling Highway Plan Amendment, 161 East 1st Avenue, Door 8, Anchorage, AK 99501. Comments may also be sent via e-mail to *comments-alaska-chugach@fs.fed.us*, or via facsimile to 907-743-9476.

FOR FURTHER INFORMATION CONTACT: Detailed information about the Sterling Highway Project, including the FHWA's Record of Decision, FEIS, and related reports, is available at <http://sterlinghighway.net/>. For information related specifically to the Forest Plan amendment, please contact David Fitz-Enz, Forest Planner, Chugach National Forest at 907-743-9595 or *dfitzenz@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

This notice is specific to the Forest Service. The FHWA was the lead Federal agency for the Sterling Highway Mile 45-60 Project EIS and Record of Decision, which was signed on May 31, 2018. The decision, implementing the "Juneau Creek Alternative," requires 3.3 miles of new road construction across lands managed by the Chugach National Forest in the Kenai Peninsula Borough, Alaska. The Forest Service must determine whether to consent to the transfer of a highway easement for these lands under 23 U.S.C. 317. This consent is conditioned on the Forest Service completing a project-specific plan amendment because the new route is inconsistent with a Forest Plan standard prohibiting new road construction within a certain type of brown bear habitat. This notice pertains only to this project-specific

plan amendment.

The policy for project consistency with prior plans amended using the 2012 Planning Rule is set out at FSH 1909.12, Chapter 20, Section 21.33. For a plan developed or revised under a prior planning regulation (1982 Planning Rule) that is amended pursuant to the 2012 Planning Rule, the consistency requirement is that the 2012 Planning Rule consistency provisions at 36 CFR 219.15(d) apply only to plan component(s) added or modified in conformance with, and as defined by, the 2012 Planning Rule. With respect to other plan provisions, the Forest Service's prior interpretation of consistency applies, that projects need only be consistent with plan standards and guidelines. (See 2012 Final Rule 77 FR 21162, 21241 (April 9, 2012); 1991 Advanced Notice of Proposed Rulemaking 56 FR 6508, 6519-6520 (Feb 15, 1991) and the 1995 Proposed Rule, at 60 FR 18886, 18902, 18909 (April 13, 1995)).

As analyzed and disclosed in the Sterling final EIS, this project is also inconsistent with one guideline related to brown bear habitat. This inconsistency does not require a plan amendment (Forest Plan, p. 3-22), but is briefly mentioned here because it will be documented in the Forest Service's Record of Decision.

Purpose and Need for Action

The FHWA decision for the Sterling Highway MP 45-60 Project approves construction of new highway that crosses 3.3 miles of National Forest System land. The Forest Service must determine whether to consent to the transfer of a highway easement for construction and maintenance of the highway on these lands under 23 U.S.C. 317. This consent is conditioned on the Forest Service completing a project-specific Forest Plan

amendment because the new route is inconsistent with a Forest Plan standard prohibiting new road construction within important brown bear feeding areas.

These feeding areas were mapped for this project in collaboration with Alaska Department of Fish and Game, and the new highway employs many design features to minimize effects to brown bear habitat. The purpose of this plan amendment is to provide a project-specific variance exempting the requirement for full consistency with this one forestwide standard related to brown bear habitat. The variance would apply only to this project. Completion of this amendment is required for the Forest Service to consent to the appropriation of lands for highway construction.

Proposed Action

The proposed action is to exempt the Sterling Highway MP 45-60 Project from the following standard in the 2002 Chugach Forest Plan (Forest Plan, p. 3-29):

“Standard 1, Brown Bear Habitat Management. On the Kenai Peninsula geographic area, manage areas of forest cover approximately 750-feet from both sides of important bear feeding areas in specific areas of a stream where salmon are concentrated in pools, below falls, or where broad spawning flats result in localized feeding concentrations of bears to provide cover for brown bears while feeding, or between brown bears and humans.

Important brown bear feeding areas will be located with the advice of the Alaska Department of Fish and Game. Within the 750-foot brown bear management zone the following activities will not be allowed: a. new road construction; b. any vegetation management not intended to maintain or improve ecological conditions for brown bear. This standard does not prohibit relocation, reconstruction, or maintenance of existing roads and trails in these areas. During the process of reconstruction or relocation, emphasize opportunities to locate roads or

trails outside of these brown bear zones.”

The amendment would exempt this standard only for the Sterling Highway MP 45-60 Project. It is considered a project-specific amendment because it would not change the applicability of Forest Plan requirements for other projects.

The Forest Service’s decision will be supported by the environmental analysis contained within the FHWA final EIS. The FHWA has selected the “Juneau Creek Alternative” in their Record of Decision. The draft and final EIS issued by FHWA include a discussion of Forest Plan consistency, including the need for this project-specific amendment. They also disclose the environmental effects of this project on brown bear habitat. The draft and final EIS is available at http://sterlinghighway.net/SHWPI_New.html. The following are selected sections of the final EIS describing the effects of the selected alternative related to the need for the plan amendment and to effects on brown bear habitat: the Executive Summary, Section 3.2—Land Use Plans and Policies (pp. 3-50—52; 3-56), Section 3.7—Cumulative Effects (pp. 3-589—390), Section 3.22—Wildlife (pp. 3-456—457; 3-472—477; 3-478-482; 3-488—3-491).

Responsible Official

The Forest Supervisor for the Chugach National Forest is the Responsible Official for amending the 2002 Revised Land and Resource Management Plan.

Nature and Scope of Decision To Be Made

The Responsible Official will decide whether the project warrants a project-specific plan amendment and if so, the content of the amendment.

The scope of this amendment is a one-time exemption from Standard 1, Brown Bear Habitat Management, for the Sterling Highway MP 45-60 Project.

The scale of this amendment is limited to the important brown bear feeding areas where the Juneau Creek Alternative route impacts land mapped as Areas 8, 9, and 11 on Map 3.22-1 of the EIS (Chapter 3.22 Wildlife, p. 3-513). The highway easement would encompass less than 100 acres within the mapped feeding area of approximately 1,000 acres. The decision includes extensive mitigation, including a wildlife overpass and several underpasses, to mitigate the effects to wildlife.

The Responsible Official must ensure that the amendment is consistent with 36 CFR 219 regulations, as described below.

Planning Rule Requirements for Forest Plan Amendments

On December 15, 2016, the Department of Agriculture Under Secretary for Natural Resources and Environment issued a final rule that amended the 36 CFR 219 regulations pertaining to National Forest System Land Management Planning (Planning Rule) (81 FR 90723, 90737). The amendment to 36 CFR 219 clarified the Department's direction for amending Forest Plans. The Department also added a requirement for the responsible official amending a plan to provide notice "about which substantive requirements of § 219.8 through 219.11 are likely to be directly relate to the amendment" (36 CFR 219.13(b)(2), 81 FR 90738). Whether a rule provision is directly related to an amendment is determined by any one of the following: The purpose for the amendment, a beneficial effect of the amendment, a substantial adverse effect of the amendment, or a

lessening of plan protections by the amendment.

The substantive requirements of §219.8 through 219.11 that are likely to be directly related to amending the above standard are:

§219.9(a): (a) Ecosystem plan components. (1) Ecosystem integrity. As required by §219.8(a), the plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore their structure, function, composition, and connectivity.

§219.10(a)(3): Appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors

§219.10(a)(5): Habitat conditions, subject to the requirements of 219.9, for wildlife, fish, and plants commonly enjoyed and used by the public; for hunting, fishing, trapping, gathering, observing, subsistence and other activities

If the proposed amendment is determined to be “directly related” to a substantive rule requirement, the Responsible Official must apply that requirement within the scope and scale of the proposed amendment and, if necessary, make adjustments to the proposed amendment to meet the rule requirement (36 CFR 219.13(b)(5) and (6)).

Opportunities for Public Participation

The FHWA provided opportunities for public comment throughout the development of this project, including public comment periods and public meetings following issuance of the draft EIS and Final EIS. A history of public participation, including all public comments, is available at:

http://sterlinghighway.net/SHWPI_New.html. Both the draft and final EIS disclosed the

need for a Forest Plan amendment, depending on the alternative selected.

This notice initiates a 45-day comment period on the proposed amendment. This will be the final comment period for this proposed amendment prior to issuing the record of decision for administrative review. Instructions on how to provide comment, and where to find additional information, are described in the beginning of this notice.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

Administrative Review of Forest Plan Amendment Decisions

The decision for a plan amendment will be documented in a record of decision issued by the Forest Service. The decision will be subject to the predecisional administrative review process per 36 CFR 219 subpart B. Objections will be accepted only from those who have previously submitted substantive formal comments specific to the proposed plan amendment. The Reviewing Official for any objection is the Regional Forester for the Alaska Region.

Dated September 7, 2018.

Gregory C. Smith,
Acting Associate Deputy Chief,
National Forest System.

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