

LAND MANAGEMENT PLANNING AT THE FOREST SERVICE: OPPORTUNITIES FOR COLLABORATION

— A QUICK GUIDE —

INTRODUCTION

Land management is all too often a subject of intense conflict. In a situation in which many people have strong ties to the land, a number of players will get involved in the policymaking process, each working hard to advance a particular goal. The interests of different groups are often in conflict, however, and this can lead to a political impasse, or to a situation in which one group dominates the process, excluding the ideas and perspectives of others.

Collaboration is a means of working through such controversy and toward a solution that incorporates the perspectives of people from many backgrounds. Collaboration brings groups together so that they might identify common problems and interests, and create solutions that neither group could accomplish on its own. The goal in this process is not necessarily to achieve a consensus, but rather to allow different groups an opportunity to meet, communicate, and innovate on equal footing. By fostering such open communication, collaboration builds working relationships among the participants and encourages transparency in the policymaking process. In this sense, collaboration offers an opportunity to move beyond gridlock and inefficiency.

This document is one of a series of Collaboration Quick Guides intended to explain federal laws and regulations governing land management, and to inform citizens as to how they can contribute to the federal policymaking process both inside and outside of legislative protocols. Other topics to be covered in the series include the National Environmental Policy Act (NEPA) and stewardship contracting.

AN INTRODUCTION TO FOREST PLANNING

The National Forest Management Act of 1976 (NFMA) established a system of stewardship for national forests and grasslands that is designed to balance the interests of multiple groups while ensuring responsible, multi-use management. Among its many requirements, NFMA requires the USDA Forest Service to work with the public, tribal groups, and federal, state, and local government agencies to develop specific land use plans, called forest plans, to govern the management of forests in its jurisdiction. Forest plans, which are legally binding, generally pertain to a management period of 10 to 15 years. In the past, the revision process for forest plans has taken approximately six to eight years; recent changes (discussed in detail later in this guide), however, have shortened that time frame to two to three years.

To ensure the practice of responsible forestry on the national forests, NFMA prohibits harvesting that would cause extensive or irreparable harm to resources, watersheds, or

biological diversity. Moreover, NFMA limits the volume of trees that can be removed to a number that can be harvested sustainably. Also, until January 2005, NFMA regulations required the USDA Forest Service to subject all of its forest plans and plan revisions to the environmental review process outlined in the National Environmental Policy Act (NEPA). Among its stipulations, NEPA requires that agencies gather public input on proposals for projects that may have a significant impact on the human environment. However, pursuant to a Forest Service planning rule that went into effect on January 1, 2005, forest *plans* are no longer subject to NEPA. Instead, forest plans are to be developed according to an over-arching set of environmental management standards. This rule change and its subsequent effects are explored in greater detail later in this guide.

EMS AND THE FOREST SERVICE – THE 2005 PLANNING RULE

In January 2005, the USDA Forest Service introduced a new rule that, in the agency's view, represents "a paradigm shift in land management planning."¹ The ultimate goal of the new planning rule is to clarify and streamline the forest plan development process, while allowing agency officials more freedom to adapt forest plans to reflect changes in science, technology, land conditions, judicial orders, or legislative requirements.

The new planning rule directs the USDA Forest Service to take an iterative approach to land management planning. Using such a method, the agency's designated Responsible Official (usually the relevant Forest Supervisor) works with the public to successively develop and then whittle down a broad array of forest management options to include in the forest plan proposal. Each plan is made up of five components: (1) Desired Conditions; (2) Objectives; (3) Guidelines; (4) Suitability of Areas; and, (5) Special Areas.

The new rule states that the Responsible Official *must collaborate* with the public during this process (see the "Public Involvement" section of this guide), but it does not require the agency to perform comprehensive social, economic, or ecological analyses of all suggested management options. Such analysis is required only for the forest plan proposal that is ultimately developed through the collaborative process described above. While the Responsible Official has the final say on whether a forest plan is approved, any plan he or she considers will be reflective of the joint efforts of the agency and interested members of the public.

Under the new planning rule, forest plans are "strategic in nature" and generally do not include specific land management decisions. Instead, each plan focuses on establishing a "long-term management framework,"² also referred to as an "environmental management system," (see description on next page) to guide future management activities on national forests and grasslands.

¹ Text of the rule.

² Rule

Environmental Management Systems (EMS)

A significant feature of the new planning rule is its requirement that each national forest and grassland develop and implement its own environmental management system (EMS), which is defined as “a structure of connected elements that defines how an organization manages its environmental impacts.”¹ Those “elements,” which include the organization’s structure, communication strategy, regulatory requirements, documentation processes, and environmental policies and goals, must then come together in a cohesive management system that operates at all levels within the organization.

An EMS is structured to allow for continual improvement and adaptation. With this goal in mind, the organization that adopts an EMS makes a commitment to abide by the following management cycle:

- **PLAN:** Establish goals and identify priority issues
- **DO:** Implement the projects
- **CHECK:** Monitor results and evaluate project effectiveness
- **ACT:** Review overall progress and amend the EMS as needed

A key element of the EMS is that the organization is subject to regular independent audits to determine whether the EMS criteria are being met. In a National Forest, the Forest Supervisor will establish the EMS.

Additionally, the 2005 planning rule makes several other significant changes to the forest planning process:

- Forest plans are now subject to external audits. The purpose of the external audits is to “allow an unbiased and objective review of the EMS to determine if it conforms to the ISO 14001 standard and reflects the EMS in use.”³ The external audit may be performed by a private contractor or another unbiased party, or by USDA Forest Service personnel who are not affiliated with the administrative unit under review. At least one member of the audit team must be from a USDA Forest Service Regional Office or from the agency’s Washington Office.

ISO

The International Organization for Standardization (ISO) is a worldwide federation of institutions that creates national- and international-level voluntary standards for businesses and governments in a variety of contexts. The ISO works to standardize practices within a particular sector (for example, security, transportation, or environmental management), in part to set up guidelines along which the activities of different organizations might be compared and evaluated.

ISO 14001 is an internationally accepted standard for environmental management systems. Specifically, the standard includes requirements for establishing an environmental policy; determining environmental impacts; planning environmental objectives and measurable targets; implementing programs to meet objectives; and conducting management reviews and project monitoring.

THE NEW PLANNING RULE AND NEPA

From 1982 until the announcement of the new planning rule in 2005, the environmental review process under NEPA provided a means for the public to contribute to land management planning. Over the years, NEPA analysis of forest plans has, in some cases, proven to be slow and often expensive. As stated earlier, in an effort to streamline the planning process, the USDA Forest Service is exempting most forest plans from NEPA review (see last point in previous section). NFMA states that the USDA Forest Service's planning process must be in compliance with NEPA; however, it also gives the Secretary of Agriculture the authority to define the nature of the required "compliance." Under the new planning rule, forest plans are "categorically excluded" from NEPA. (In the context of NEPA, a categorical exclusion is a category of action that the agency has determined to have no significant effect on the human environment; any activity falling into that category is therefore exempt from further environmental review.)

The USDA Forest Service justifies the categorical exclusion for new forest plans by explaining how, under the new rule, a forest plan is regarded as a strategic document that does not specifically authorize on-the-ground activities. Therefore, the plan itself does not have any direct environmental effects and, thus, does not require NEPA review.⁴ Instead, specific projects and activities that fall under the forest plan are subject to NEPA analysis. In the rare event that a plan does authorize activities with direct, on-the-ground impact, the NEPA review process will be required.

WILL THE PUBLIC STILL BE INVOLVED IN FOREST PLANNING?

Yes. The USDA Forest Service's desire to streamline the planning process will not come at the expense of public input and review. The new planning rule clearly spells out how agency officials are to take a collaborative and participatory approach to forest planning. Specifically, the rule directs the USDA Forest Service to actively engage non-agency stakeholders—including private consultants and contractors, Indian tribes, state and local governments, and other affected groups, communities, or individuals—as it moves forward with establishing the components of the plan, designing a monitoring program for the plan, and developing a comprehensive evaluation report, a task to be completed every five years.

The USDA Forest Service hopes that opportunities for collaboration with interested parties will be even greater under the new planning rule than they were under the NEPA process employed by the old rule. The creation of the new EMS-based forest plans should be faster and more straightforward than the previous plan development process; as a result, interested members of the public should find the forest planning process more accessible and open to their involvement.

⁴ However, if a plan *does* include decisions that have on-the-ground effects, then it must still go through the NEPA review process.

Forest Service Directive 1909.12-2005-4, located in the USDA Forest Service Handbook, instructs agency staff to adhere to the following guidelines as they work with the public on forest plans under the new rule:

- Build relationships and trust throughout the planning process.
- Learn and build capacity for collaborative work, both inside and outside the agency.
- Make the planning process open.
- Facilitate agreement on defining the ground rules of the process.
- Emphasize and share leadership.
- Learn from participants and encourage them to learn from each other; share information as widely as possible to establish a common base of information.
- Recognize that completely collaborative processes may not be effective in every situation, and, when appropriate, proceed with project approval in a timely manner.
- Consider preparing a strategic communication plan for the planning process.

While the new planning rule *requires* the USDA Forest Service to engage outside groups and individuals in the forest planning process, it gives agency officials leeway to choose the timeline and the most appropriate methods for gathering public input. However, the new rule does specify that the Forest Service must to notify the public at the following stages in the development of a plan, revision, or amendment:

- At the initiation of the planning process;
- At the commencement of the 90-day comment period on the proposed plan;
- At the commencement of the 30-day objection period that follows the release of the proposed plan;
- When a plan is approved; and
- When plans that were begun under a previous planning rule are adjusted.

The agency may post this information in newspapers, on the USDA Forest Service Web site, and/or in *The Federal Register*, which can be accessed at www.gpoaccess.gov/fr/.

THE USDA FOREST SERVICE DIRECTIVE SYSTEM

In keeping with the over-arching goal of revising its planning process to be more strategic and less prescriptive, the USDA Forest Service's new planning rule is long on vision and short on procedural details. Instead, most of the rule's technicalities have been relegated to the Forest Service Directive System, the agency's primary source of administrative direction to its employees. So, for example, broad species protection goals are included in the text of the new rule, but the specific procedures on how to achieve those goals are explained in the Directive System.

The Directive System has two components: the Forest Service Manual (FSM) and the Forest Service Handbook (FSH). These resources, which themselves are not legally

enforceable, explain the agency's legal authorities, responsibilities, and delegations, and provide general instruction in program planning and execution. Because the procedural details of the new planning rule are outlined in the Directive System, as opposed to being included in the text of the rule itself, the Forest Service is allowed more flexibility as it goes about developing individual forest plans.

The Forest Service has issued its planning directives for the new planning process, which include guidance on everything from public participation and collaboration to wilderness evaluation and timber resource planning.

- **Forest Service Manual (FSM):** contains legal authorities, objectives, policies, responsibilities, instructions, and guidance needed on a continuing basis by the Forest Service to plan and execute programs and activities.
- **Forest Service Handbook (FSH):** serves as the principal source of specialized guidance and instruction for carrying out the directions in the FSM.

To view the directives for the 2005 planning rule, visit www.fs.fed.us/im/directives/dughtml/fsm1000.html and select the 1300 series, which is titled "Management."

WHAT IF I STILL HAVE CONCERNS WITH THE FOREST SERVICE'S DECISION?

Under the new planning rule, a pre-decisional objection process replaces the NEPA appeals process regarding the details of the forest plan itself. Before the agency signs off on a forest plan, a plan amendment, or a plan revision, it is required to give the public 30 days to review and, if need be, make objections to the proposed plan. As with NEPA, the only people allowed to make official objections are those who submitted comments during the planning process. Unlike the NEPA appeals process, however, pre-decisional objections are meant to serve as a collaborative way to resolve disputes before the Forest Service adopts a plan of action.

Pre-decisional objections must include the following items:

1. A statement of the issues of concern;
2. A list of the specific sections of the proposed document to which the objection applies;
3. An explanation of how the objector would be negatively affected; and
4. EITHER a statement explaining how the objector believes that the proposed document represents a violation of a law, regulation, or policy;
5. OR a statement explaining how the objector disagrees with the proposed document and what changes the objector advocates.

While the USDA Forest Service is obligated to render a prompt response to an objection, no specific timeframe is spelled out in the new planning rule. Ideally, this added

flexibility will lead to more in-person meetings between the agency and the objectors to work through issues of disagreement before an official response is delivered.

HOW CAN I START COLLABORATING ON FOREST PLANNING?

Once the Forest Service has announced the initiation of the planning process, the public may approach the agency with project ideas, policy initiatives, or recommendations on how management or services might be improved. At this stage, collaboration may take on many forms, including focus groups, field trips, workshops, forums, open houses, and one-on-one meetings. A good way to start collaborative dialogue is by identifying the desired conditions for the forest. With this foundation in place, it is easier to gradually work up to more detailed discussions of specific objectives, designations, and management strategies. *Keep in mind that the most useful public input is specific, backed up by research or personal experience, and supported by individuals from a variety of backgrounds.*

Officials at some national forests have indicated that they plan to initiate collaborative processes with groups and individuals that are interested in being involved in the planning process. Try checking in with your local Forest Service office to see if there are any opportunities in your area.

BIBLIOGRAPHY/RESOURCES

Partnership Resource Center:

<http://www.partnershipresourcecenter.org/resources/partnership-guide/chap8-2.html>

Forest Service Web site on the 2005 NFMA Planning Rule:

<http://www.fs.fed.us/emc/nfma/index2.html>

Boling, Edward. Published in the *Environmental Law Reporter*, "Environmental Management Systems and NEPA: A Framework for Productive Harmony"

http://www.fedcenter.gov/_kd/Items/actions.cfm?action=Show&item_id=595&destination=ShowItem

International Organization for Standardization Web site on Environmental Management Systems:

<http://www.iso14001.homestead.com/index.html>

Red Lodge Clearinghouse Web site on NFMA and the new planning rule:

<http://www.redlodgeclearinghouse.org/legislation/nationalforestmanagement3a.html>

Forest Service Web site on Appeals:

<http://www.fs.fed.us/emc/applit/includes/93appreform.pdf>

Forest Service Web site with FAQ's on Environmental Management Systems:

http://www.fs.fed.us/emc/nepa/ems/includes/ems_faq.pdf

LeMaster, Dennis C. 2005. "2005 Final Rule and the Process Predicament." Available at http://www.fs.fed.us/emc/nfma/includes/dlemaster_paper.pdf

"Understanding the Forest Service Directive System." Forest Service document, available at http://www.fs.fed.us/emc/nfma/includes/directives/understanding_fs_directives.pdf

To view the entire text of the new planning rule, visit http://www.fs.fed.us/emc/nfma/includes/rule_and_preamble_signed_version.pdf

CONTACTS AT THE FOREST SERVICE

Dave Barone
Acting Assistant Director for Planning
Ecosystem Management Coordination Staff
(202) 205-1019

Regis Tierney
Planning Specialist
Ecosystem Management Coordination Staff
(202) 205-1552