

**Written Public Testimony of John Shannon, Vice President
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**Submitted to the House Committee on Agriculture
Subcommittee on Conservation, Energy, and Forestry**

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The National Association of State Foresters (NASF) appreciates the opportunity to submit written public testimony to the House Committee on Agriculture, Subcommittee on Conservation, Energy, and Forestry regarding the USDA Forest Service Proposed Rulemaking for a new National Forest System Land Management Planning Rule. NASF represents the directors of the state forestry agencies in all fifty states, eight territories and associated states, and the District of Columbia. State Foresters manage and protect state and private forests across the U.S., which encompass two-thirds of the nation's forests and enjoy a longstanding working relationship with the USDA Forest Service. We offer the following general comments on the planning rule as well as state perspectives on coordinating planning decisions with non-federal ownerships, the role of science in planning and decision-making, the interdependent elements of sustainability, and monitoring and adaptive management.

General Comments

The Forest Service manages 155 national forests and 20 grasslands encompassing an area of 193 million acres that comprise the National Forest System (NFS). State Foresters have a strong interest in the planning rule given the threat of wildfire and insect and disease outbreaks that face the national forest system also pose risks to adjacent forest land owned and managed by states, tribes, forest industry, families and other owners. A coordinated approach that spans across ownerships is necessary to ensure these challenges do not further impair the ability of *the nation's* forests to deliver clean and abundant water, clean air, wildlife habitat, wood products, recreation and other important values that all Americans appreciate. State Foresters stand ready to work with the USFS to help ensure management activities within the NFS are coordinated with other non-federal ownerships.

The ultimate measure of success of any planning rule will be on-the-ground accomplishments that improve forest health and the economic well-being of local communities. To be successful, a planning rule must afford enough flexibility for regions and each national forest to address their unique set of issues while providing a solid framework for management activities needed to ensure ecological, social and economic sustainability. We believe that State Foresters should play a unique role in the USFS planning process. As outlined below, we have several suggestions as the Forest Service finalizes a new planning rule that will help the agency take advantage of local expertise while implementing Secretary Vilsack's "All-lands" vision.

Coordinating Planning Decisions with Non-federal Ownerships

The threat of wildfire and insect and disease outbreaks that face the national forest system also pose risks to adjacent forest land owned and managed by states, tribes, forest industry, families and other owners. A coordinated approach that spans across ownerships is necessary to ensure these challenges do not further impair the ability of *the nation's* forests to deliver clean and

abundant water, clean air, wildlife habitat, wood products, recreation and other important values that all Americans appreciate.

An important outcome of the 2008 Farm Bill called for state forestry agencies to complete Statewide Forest Resource Assessments and Strategies (Forest Action Plans). The assessments provide an analysis of forest conditions and trends in the state (regardless of ownership) and delineate priority rural and urban forest landscape issues and areas. The strategies provide long-term plans for investing state, federal, and other resources to where they can most effectively stimulate or leverage desired action and engage multiple partners. These Forest Action Plans were developed through a collaborative process involving other federal agencies (including responsible officials from the NFS), state and local government, Indian tribes, citizens and interest groups and will be updated periodically. Addressing priority issues related to impairments to forest watersheds; fire, fuel loads and the wildland-urban interface; and forest health, resilience, and sustainability will take a coordinated effort across ownerships and landscapes. We strongly believe that activities on the NFS should be coordinated with those outside of NFS boundaries in a way that responds to these (and other) priority issues identified in the Forest Action Plans.

NASF supports language found in the 1982 planning rule which states that “[t]he responsible line officer shall coordinate regional and forest planning with the equivalent and related planning efforts of other Federal agencies, State and local governments, and Indian tribes.” We also believe the Resource Management Planning regulations for the Bureau of Land Management (43 CFR §1610.3-1) provide an example of stronger language relative to coordination and collaboration with other federal, state and local governments and Indian tribes. The BLM planning regulations provide flexibility to address inconsistencies between federal and non-federal government plans, to develop management plans in collaboration with cooperating agencies, and further mandates that plan developers invite outside agencies to participate as cooperating agencies and that other federal, state and local and Indian tribes are provided “opportunity for review, advice, and suggestion on issues and topics which may affect or influence other agency or other government programs.”

Role of Science in Planning

Forestry has been defined as the *science, art and practice of creating, managing, using, and conserving forests and associated resources for human benefit and in a sustainable manner to meet desired goals, needs, and values.*¹ Science provides the essential foundation in forest planning; yet, our understanding of the ecological, economic and social components of forestry is continually evolving as conditions change across the landscape. We fully endorse the use of science by responsible officials on the NFS and believe the planning rule should not discount the experience and training of professional resource managers to deal with changing conditions in light of incomplete information.

The proposed rule introduces a new standard that requires the responsible official to consider the best available scientific information in decision-making. Responsible officials are to document the process, sources and type of information considered in reaching the determination as to what constitutes the most accurate, reliable and relevant scientific information. While the

¹ Helms, J.A. (Ed.) 1998. *Dictionary of Forestry*. Bethesda, MD: Society of American Foresters.

acknowledgment of the important role of science in preparing forest plans is laudable, we have concerns that the best available science standard will introduce legal challenges that will stand in the way of improving the management of NFS lands and create a new and substantial workload for the responsible official.

Disputes over competing science have significant potential to further delay the planning process. These disputes will often be driven by uncertainty in the extrapolation and application of science to large landscapes such as the National Forests. There is often more than one divergent scientific viewpoint that can be used to inform management decisions. While we agree that scientific debate is healthy in trying to determine a measure of certainty in management planning, we hold concerns that these disputes will be settled through litigation while further delaying needed action to improve the health of the NFS.

The best available science standard also has the potential to place the responsible official in a difficult position of having to marshal a large number of discrete studies into a planning document to support management decisions. The standard creates a new and substantial workload for the responsible official to document each and every scientific study considered at least every two years when compiling the monitoring and evaluation report and during any forest plan revision, amendment or assessment process. The proposed rule calls on the responsible official to demonstrate that the most accurate, reliable and relevant information for any given decision was appropriately considered in reaching planning decisions. We are concerned that the duty to demonstrate that the best available science was considered in planning decisions could prove costly and result in the agency having plans challenged.

Given the possible complications with the best available science standard that we have outlined, we are concerned that this standard may ultimately cause additional expense in both agency time to meet the documentation standards, in defending against possible attacks to the sufficiency of the documentation itself, and in meeting a new burden of proof in court. We support the greatest deference afforded to Federal agencies to make decisions involving scientific determinations afforded under the Administrative Procedures Act. We recommend that the planning rule rely on standards covering the use and dissemination of scientific information found in the Federal Data Quality Act (P.L. 106-554 §515) and subsequent guidelines from the Office of Management and Budget.² The Federal Data Quality Act provides protections and assurances for the quality of scientific information used and distributed by federal agencies and we believe that reliance on the provisions of the Federal Data Quality Act would alleviate the concerns over the potentially costly and controversial standard included in the proposed rule.

Interdependent Elements of Sustainability

The decline in a healthy forest-based industry throughout much of the country is a factor contributing to the decline in the social and economic benefits flowing from NFS lands. The growing threats to the ecological sustainability commonly associated with a lack of active management on federal lands include fires outside the historical range of variability and spread of native and invasive pest species at historic levels.

² http://www.whitehouse.gov/omb/fedreg_reproducible

The NASF supports a planning rule that considers the economic, ecological and social elements of sustainability as interdependent systems. These three factors cannot be ranked in order of importance and elevating one consideration will result in the disparate treatment of others. We believe the agency is not limited to influencing the ecological sustainability of NFS lands and has significant potential to provide for the economic and social well-being of forest-based communities. For instance, there are significant opportunities to enter into long-term stewardship contracts (and other contracting authorities) that provide jobs and help restore the health and productivity of the national forests.

Monitoring

The NASF continues to be supportive of adequate monitoring to support the adaptive management framework necessary on the national forest system. Monitoring frameworks should provide for assessing forests across all ownerships and should take advantage of the Forest Action Plans completed by state forestry agencies. We hold concerns that broader-scale monitoring strategies that may incorporate data from the Forest Inventory and Analysis program will be unable to adequately monitor for changes to forest species composition, forest growth rates, wildfire risk, wildlife habitat, and other relevant trends across all ownerships. At the funding levels proposed in the President's FY12 budget, the FIA program would be eliminated in several states, and others would see their FIA program scaled back through longer time intervals between successive inventories or elimination of higher resolution monitoring projects. We support efforts by the agency to leverage the monitoring being conducted by other government and non-governmental entities and believe this is an opportunity for State Foresters and Forest Action Plans to play an important role in forest planning efforts. We strongly believe that collaboration is an important part of continuing to improve the efficient and effective use of limited monitoring resources.

Conclusion

The groundwork to accomplish Secretary Vilsack's "All-lands" vision has been laid through the development of the Forest Action Plans. We look forward to the Agency's next steps to operationalize—through the planning rule—the Secretary's vision by coordinating activities on the national forest system with those on adjacent ownerships to address priorities identified in the Forest Action Plans. We greatly appreciate the invitation from the Subcommittee to submit written testimony on the new planning rule and would also like to recognize the hard work that the planning rule team at the USFS.