

## **Questions and answers about the 2008 Planning Rule**

### **When will the final 2008 Planning Rule become effective?**

The 2008 Planning Rule will become effective the date it is published in the Federal Register, currently scheduled for sometime during the week of April 14, 2008.

### **What will the final 2008 Planning Rule do?**

The 2008 Planning Rule offers a more strategic approach to land management plan development, amendment, and revision. It uses a collaborative approach to expand the public's opportunities to be more involved in planning.

- Establishes a *process* to dialogue with the public on what issues are of most importance to them on a unit of the National Forest system and to balance those desires and needs with sound science and resource protections.
- Directs what information needs to be included in a plan and how the plan should be prepared.
- Does not authorize any specific on-the-ground activities and does not dictate what types of projects may be approved. On-the-ground activities will be analyzed in subsequent National Environmental Policy Act (NEPA) processes.

### **What is different about public involvement under the final 2008 Planning Rule?**

Compared to the 1982 regulations, the final rule significantly expands public involvement opportunities by including early and frequent collaboration with the public throughout the life-cycle of a plan. As a minimum, the public will be involved in:

- Developing and updating the comprehensive evaluation report
- Developing the plan, and
- Designing the monitoring plan.

### **What is the National Environmental Policy Act (NEPA) process for plans under the final 2008 Planning Rule? Why is an environmental impact statement not required for all forest plans and forest plan revisions?**

The 2008 Planning Rule requires the Forest Service to fully comply with the National Environmental Policy Act. The responsible official will disclose environmental effects of a proposed forest plan using the appropriate level of analysis and documentation as required by the National Environmental Policy Act. This could be an environmental impact statement (EIS), an environmental assessment (EA) or a categorical exclusion (CE) depending on the character of the proposed plan.

Categorical exclusions are used for routine actions that have been found by the agency through experience and environmental review to have no significant environmental effects either individually or cumulatively.

Regardless of whether or not an action is categorically excluded from documentation in an environmental assessment or environmental impact statement, the action is still subject to laws and regulations for the protection of the environment. Examples include but are

by no means limited to the following laws and their respective implementing regulations: the Endangered Species Act, the Clean Water Act, the Clean Air Act, the National Forest Management Act, and the National Historic Preservation Act.

### **How are standards to be used under the 2008 planning rule?**

When a standard is included in a plan it should be because no other plan component will provide sufficient direction. Standards should be limited to situations where a focused level of resource protection is essential across the entire planning area. Where standards are used, the responsible official does not have the flexibility to vary from the requirements of the standard except by plan amendment.

Under the 1982 planning rule, forest plans have included numerous standards that have constrained on-the-ground management. Under the 2008 planning rule, the focus is shifted to the maintenance or achievement of desired conditions. In order for a project to be consistent with the plan, the project must be consistent with all components of a plan.

We have heard that many people are concerned that the new planning rule is removing key protections from National Forest System Lands. The agency does not believe that this is the case. First and foremost, the National Forest System will continue to manage within the requirements of law, policy and regulation (including the National Environmental Policy Act, the National Forest Management Act, the Threatened and Endangered Species Act, etc.)

The lack of standards, and/or the use of fewer standards, does not mean that on-the-ground management will be unconstrained and rudderless. Rather, a forest plan's components will guide project proposals and analysis. Forest-wide guidance from the forest plan will be used in the development of all projects. During the analysis of a proposed project additional resource protection measures may be identified based on the site specific conditions of the project area. The combination of forest-wide guidance and the protection measures identified during project analysis become a binding legal commitment when the decision document is signed, thus assuring appropriate resource protection.

### **How will a plan and the planning process be documented?**

A minimum plan set of documents includes:

- A comprehensive evaluation report, including a cumulative effects analysis, before a plan is revised and updated every five years after revision.
- Documentation of public involvement including state, local, and tribal consultation efforts.
- The plan, including applicable maps.
- NEPA documents: a CE, EA or EIS
- Plan approval (decision) documents.
- The monitoring program for the plan area.

### **How will project planning take cumulative effects into account without an environmental impact statement?**

The comprehensive evaluation report includes information found when doing cumulative effects analysis under NEPA. Discussion of existing conditions and trends for the ecological, economic, and social resources are included in the report. These conditions and trends are the cumulative effects of past and present actions. After a plan is established, annual monitoring updates, EMS results, and the five-year comprehensive evaluation report would supply additional data for cumulative effects analysis on individual projects.

### **How is the Forest Service meeting its diversity requirement in the 2008 Planning Rule?**

The rule focuses on an open process for deciding how to conserve terrestrial and aquatic wildlife and plant habitats. The Forest Service will collaborate with communities and partners to provide a diversity of habitats and contribute to the sustainability of species of concern and species of interest. In addition, the Forest Service will consult under the Endangered Species Act on proposed projects and activities where there may be discernable effects to listed species or their critical habitats.

### **What role will science have under the final 2008 Planning Rule?**

The final rule directs the Forest Service to take into account the best available science and to validate that it was used appropriately.

### **How did the Forest Service incorporate Committee of Scientists recommendations into the final 2008 Planning Rule?**

The final 2008 Planning Rule incorporates the Committee of Scientists' view that the ideal land management plan is "dynamic and evolving, readily reflecting and accommodating the outcomes of adaptive management." As recommended by the scientist's report, sustainability, public participation, adaptive management, monitoring and evaluation, the role of science, and the objection process, all are included in the 2008 Planning Rule.

### **Is an Environmental Management System (EMS) included in the final 2008 Planning Rule?**

Yes, the Forest Service is adopting an Environmental Management System (EMS) to comply with Executive Order 13423, which requires agencies to use an EMS approach. An

Environmental Management System must be in place prior to the implementation of site-specific projects. More information about the Forest Service Environmental Management System is available at <http://www.fs.fed.us/ems/>.

### **Will the planning process be more efficient with the 2008 Planning Rule?**

Yes. The final 2008 Planning Rule provides a framework and process that can be completed in about three years. This means local plans can be updated more easily when conditions change (such as new demands for uses or natural disasters that dramatically

alter the landscape). Under the 1982 Planning Rule, a plan took about five years to complete.

**How does the final 2008 Planning Rule assure public access and participation in Forest Service land management planning?**

The 2008 Planning Rule provides for an open and transparent public process that encourages the public to be fully involved and engaged in the development and monitoring of a new forest plan. Forest Service managers are required to develop monitoring processes, annual monitoring reports, and five-year comprehensive evaluation reports collaboratively with the public. An objection process is required before a final decision is made on a forest, grassland, or prairie plan. It allows the public to make every effort to resolve their differences on proposed land management plans with the Forest Service. The Forest Service must respond to all objections before a final plan decision is made.

**If an individual opposes a land management plan prepared under the final 2008 Planning Rule, what recourse does he or she have?**

An individual can voice concerns about a plan throughout its development and the final 2008 Planning Rule provides a formal pre-decisional objection process. The reviewing officer will review and respond to objections before a decision is made and the final plan is approved. The responses will be made in an open process and available to the public.

The reviewing officer is usually the direct supervisor, commonly the Regional Forester, of the responsible official. The responsible official is the Forest Service official making the decision, commonly the Forest Supervisor.

**What did the district court order concerning the 2005 Forest Service planning rule?**

On March 30, 2007, the federal district court for the Northern District of California enjoined (prohibited) the Forest Service from implementing and using the 2005 Planning Rule until the Forest Service provided for notice and public comment and conducted an assessment of the rule's effects on the environment. The Forest Service has addressed the court ruling, by:

- Promulgating the final 2008 Planning Rule, following Administrative Procedure Act requirements for public notice and comment.
- Preparing an environmental impact statement (EIS) on the anticipated effects of the proposed rule and its alternatives following National Environmental Policy Act requirements, and
- Preparing a biological assessment and having numerous conversations with the U.S. Fish and Wildlife Service and National Oceanic and Atmospheric Administration (NOAA) Fisheries to determine the impact of the final 2008 Planning Rule under the Endangered Species Act requirements.

**How many land management plans in development were affected by the 2007 court order?**

Thirty-eight plans were in process under the 2005 Planning Rule and those processes were suspended until a new rule is finalized. Eight Forest Service units had published

proposed plans under the 2005 Planning Rule. The eight national forests and grasslands are Cimarron-Comanche; Lolo; Bitterroot; Flathead; Idaho Panhandle; Kootenai; Uwharrie; and Grand Mesa, Uncompahgre, and Gunnison (GMUG). Thirty other forests and grasslands had begun various tasks at early stages of their planning processes, and are continuing activities, such as public collaboration, which are not subject to the injunction. A national forest or grassland may choose to develop or revise its plan under the 1982 or 2000 Planning Rules; however, none have selected this approach.

**Does the National Forest Management Act (NFMA) require the Forest Service to include specific provisions about timber management and harvest in the 2008 Planning Rule?**

No. The 2008 Planning Rule is not a “new logging rule.” The planning rule establishes a *process* by which social, economic values and environmental protections are recognized and documented. The planning rule directs what information is included in a forest plan and how the plan is prepared. It does not dictate what kinds of projects may be approved or implemented, and do not authorize any specific activities.

The NFMA requires forest planning regulations to specify guidelines which ensure timber will be “harvested only under certain specified conditions intended to provide a sustained yield of timber products while protecting important forest resources.” The Forest Service has placed some key resource management requirements in the 2008 Planning Rule and other resource management guidelines in the Forest Service Directive System.

**How does the rule affect inventoried roadless areas?**

Inventoried roadless areas are protected by other regulations and policy. The final 2008 Planning Rule does not change that policy. The 2001 Roadless Area Conservation Rule (RACR) specifically prevents land management plans from changing the prohibitions of the RACR. Lawsuits have been filed against the RACR, and the final court decision has not been made yet. The states of Colorado and Idaho are currently working on state-specific roadless rules. If finalized, these state-specific rules will allow or constrain certain actions found in specified roadless areas in those states. Future land management plans cannot change the provisions of a state-specific roadless rule.