

## **CERTIFICATION OF CIVIL RIGHTS DIRECTOR**

As the agency's principal Equal Employment Opportunity (EEO) official, the Director of Civil Rights (CR) is responsible for administering a full range of EEO and Title VI programs. The Director provides advice and technical guidance on CR matters to the USDA Forest Service Chief and other agency management officials. This is certification that the Director of CR was actively involved in the planning and development of the Civil Rights Impact Analysis and the evaluation of the Environmental Justice issues for the final rule (36 CFR part 219) for National Forest Land Management Planning.

/s/ Kathleen Gause 3/19/04  
Kathleen Gause  
Director, Civil Rights  
USDA Forest Service

**Executive Summary**  
**Civil Rights Impact Analysis and Environmental Justice Analysis**  
**Final Planning Rule (36 CFR Part 219)**  
**National Forest System Land Management Planning**  
**March 2004**

This analysis updates Civil Rights and Environmental Justice Analyses previously prepared for the proposed planning rule as published in the Federal Register on December 6, 2002. This update accommodates 1) changes between the proposed and final planning rule and 2) updates demographic data in accordance with the 2000 Census. Both the prior analysis and this update evaluate whether there are potential adverse or disproportionate impacts from the planning rule for National Forest System Land Management Planning to those specific populations identified in Civil Rights legislation and the Executive Order 12898, Environmental Justice. These populations include, but are not limited to, ethnic and racial minorities, seniors, American Indians, women, disabled, low-income and subsistence lifestyle populations.

The Forest Service has reviewed the draft guidance of the USDA Office of Civil Rights (August 1998) which lists nine key factors that may prompt a Civil Rights Impact Analysis, Departmental Regulations 4300-4 (Civil Rights Impact Analysis) and 5600-2, (Environmental Justice).

**Based on analysis of the nine key factors that might be affected by the final rule, this analysis finds that no adverse civil rights or environmental justice impacts are anticipated to the delivery of benefits or other program outcomes on a national level for any under-represented population or to other U.S. populations or communities. A summary table of the nine factors is attached (next page). Changes to the final rule as compared to the proposed rule continue to support the previous finding of no adverse or disproportionate impact.**

Based on the finding of no adverse or disproportionate impacts, mitigation measures are not necessary to either adopt or implement the final planning rule. Local, site-specific mitigation, where necessary, will occur as National Forest System planning actions and on-the-ground activities are planned and executed, consistent with Forest Service and USDA policy.

Differences in national level effects and regional/local level effects are the result of uneven distribution of minorities geographically and variations in regional, cultural or traditional uses. In some instances, such as Native Americans/American Indians, it is not possible to adequately characterize or generalize the uses of all the individual groups or tribes on a national scale.

**Summary of Factors Supporting Finding of No Adverse/Disproportionate Finding  
Final Rule National Forest System Land Management Planning**

<b>FACTOR</b>	<b>SUPPORT FOR NO ADVERSE/DISPROPORTIONATE IMPACT</b>
Whether the policy, action, program, or activity is newly devised or subject to substantial modifications or revisions.	<p>-The final rule is a modification of the existing planning procedures and rule adopted Nov. 2000 (36 CFR part 219) designed to improve the effectiveness and efficiency of the process. The final rule accommodates public comment received in response to the proposed rule, published Dec. 6, 2002 in the Federal Register.</p> <p>-Significant provisions of the final rule related to Civil Rights/Environmental Justice issues are 1) public participation under the Environmental Management System and 2) social/economic sustainability.</p>
The scope (i.e., goals and objectives) of the decision or the intended program outcomes and outputs	<p>-The final rule is strategic and programmatic in nature but does not create, authorize, or execute any ground-disturbing activity. It provides guidance and direction applicable to future site-specific projects and activities.</p> <p>-The final rule supports planning as a continuous dynamic process without a fixed beginning or end, which is more responsive to a rapid rate of demographic change and a broad range of cultural values and communication styles.</p>
Data and information indicating that, historically, one or more identifiable groups have not been included among the beneficiary or participant population.	<p>- A comprehensive review of past planning processes ("Land Management Critique", Vol. 1, 1990) did not identify an under or over represented group in participation in the planning process.</p> <p>-The rule is designed to broaden participation through an interdisciplinary, collaborative approach to planning and through analysis of social and economic sustainability.</p>
Pre-decisional research indicating that one or more identifiable groups will be disproportionately under or over-represented in the beneficiary or participant population with an interest or stake in the program, policy, or decision.	<p>-The final rule has been adjusted to increase the scope and scale of participation under collaborative planning in response to public comment.</p> <p>- The final rule complements and supports the national outreach plan ("Forest Service Strategic Public Outreach Plan: Reaching Out to American," April 2000).</p>

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**Summary of Factors Supporting Finding of No Adverse/Disproportionate Finding**  
**Final Rule National Forest System Land Management Planning**  
(Continued)

<p>The geographic location in which the decision, action, program, or activity will have the greatest or least impact.</p>	<ul style="list-style-type: none"> <li>-Although the greatest proportion of NFS lands occurs west of the Mississippi, issues or values may be of concern to any individual or group nationwide.</li> <li>-Under the final rule, participation is not limited to proximity to NFS lands.</li> </ul>
<p>The composition of the population within the target geographic location.</p>	<ul style="list-style-type: none"> <li>-Minority populations and areas of persistent poverty are not distributed uniformly over the United States (see maps), so nationally uniform adverse impacts are not anticipated although localized impacts could occur. Local level impacts would be subject to further analysis at the site specific level.</li> <li>- Information in this document has been updated to reflect 2000 Census data.</li> </ul>
<p>The economic impact for the population/geographic location and other related economic factors associated with the beneficiary or participant population.</p>	<ul style="list-style-type: none"> <li>-The final rule provides for analysis of social &amp; economic sustainability.</li> <li>- The final rule provides for ecological sustainability which may constitute a foundation for communities and economies in transition.</li> <li>- Separate cost-benefit analysis prepared and submitted with this package.</li> </ul>
<p>Extent to which identifiable group members will directly participate in/influence decisions, policies, programs, &amp; activities or be limited in opportunity to participate, coupled with information to indicate the quality or characteristics of participation.</p>	<ul style="list-style-type: none"> <li>-Use of collaborative interdisciplinary approach provides flexibility in accommodating cultural differences, differences in communication style and local variations in population composition and National Forest uses.</li> <li>-The final rule recognizes planning as continuous process without fixed beginning and end. This is more consistent with values and styles of some ethnic populations.</li> <li>-The final rule has been adjusted to accommodate public comment by clarifying when public notification will occur, increasing the opportunities for public involvement, and by adjusting the objection process to accept a broader range of communication methods.</li> </ul>
<p>Efforts to notify and provide outreach to potential beneficiary and participant populations.</p>	<ul style="list-style-type: none"> <li>-A formal Communication Plan was established. Tribes, Congress, Federal agencies, and State fish and wildlife agencies were contacted.</li> <li>- Opportunity to comment was published in the Federal Register, Dec. 6, 2002, and subsequently extended an extra 30 days.</li> <li>- 195,787 responses were received and analyzed. Changes to the final rule have been developed in response to public comment.</li> </ul>

**Civil Rights Impact Analysis and Environmental Justice Analysis**  
**Final Rule**  
**National Forest Land System Management Planning**

**Introduction**

Previous analysis evaluated whether or not there were potential adverse or disproportionate impacts from the proposed planning rule to specific subsets of the American population identified in Civil Rights legislation and Executive order 12898, Environmental Justice. These include, but are not limited to, ethnic minorities, seniors, American Indians, women, disabled people, subsistence needs and low-income individuals or groups.

This analysis updates the previous analysis for the proposed planning rule, published in the Federal Register on December 6, 2002. This update addresses the final planning rule, which, in turn, accommodates public comment on the proposed rule. This analysis also incorporates more recent demographic data from the 2000 Census.

The Forest Service has reviewed the draft guidance of the USDA Office of Civil Rights (August 1998) containing nine key factors that prompt a Civil Rights Impact Analysis, Departmental Regulation 4300-4, Civil Rights Impact Assessment and Departmental Regulation 5600-2, Environmental Justice. Based on analysis of the nine key factors that might be affected by the final rule, the agency found that no adverse civil rights impacts were anticipated regarding the delivery of benefits or other program outcomes on a national level for any under-represented population or to other U.S. populations or communities. The basis for this conclusion is summarized below.

**Factor 1: Whether the policy, action, program, or activity is newly devised or subject to substantial modifications or revisions.**

The Forest Service first prepared land use plans in response to the National Forest Land Management Act (NFMA) of 1976. This first iteration of forest plans was prepared under the 1982 Planning Rule. All National Forests, Grasslands, and Prairies now have existing land use management plans. One new unit, Land between the Lakes, is developing a new land management plan.

However, these initial plans may be revised to reflect changing situations. Plan revisions will evaluate the existing plans to determine if they are still relevant or if adjustments need to be made. An initial modification of the then existing (1982) planning rule to accommodate the need for revision was adopted in November 2000, codified at 36 CFR part 219. This final rule addressed in this document is a further modification of the

November 2000 Rule and provides newly developed guidance on the process to be used in revision of the existing plans, as well as any new plans developed in the future.

Practical results from the first generation plans for the National Forest System revealed the need to reduce the technical and administrative burdens of costly procedural requirements, improve coordination with the public and other government entities, and improve the application of the best available scientific understanding of sustainable ecological, social, and economic environments.

One change in the final rule with significance for the purposes of Civil Rights and/or Environmental Justice assessment(s) is the public participation under the Environmental Management System (EMS). In addition to the requirements of the proposed rule, the final rule requires the Responsible Official to involve the public in the development and update of the comprehensive evaluation report, establishing the components of the plan, and designing the monitoring program.

**Factor 2: The scope (i.e., goals and objectives) of the decision or the intended program outcomes and outputs.**

The final rule addresses the conceptual foundation of land management planning rather than providing for specific outcomes or products. Instead of viewing planning as an activity with a fixed beginning and ending, with rigid procedural steps and somewhat artificial analytical requirements, the final rule recognizes planning as a continuous, dynamic process that is driven by the involvement and dialogue of diverse public interests and concerns about the National Forest System, natural resources management, the results of monitoring and evaluation, or other new information. The intended program outputs of the final rule might best be conceptualized as a collaboratively developed 1) vision, 2) strategy for achieving the vision and 3) criteria or standards to guide the process.

A land management plan prepared under this final rule would be strategic and programmatic in nature. It would provide guidance and direction applicable to future site-specific projects and activities. Neither this type of plan nor this rule create, authorize or execute any ground disturbing activity, although it may/may not provide for certain types of activities to be considered. Where these activities are intended to be considered on a local level, further participatory opportunities are provided for.

This approach (i.e. planning as a continuous process for the final rule) is more consistent with the concerns of some ethnic populations whose relationship with natural resources and their land ethic provide a historical basis for, and continuance of, culture, traditional activities, and community and family structure. This is most evident in American Indian cultures (Redmond, 1999), particularly in Alaska (Tongass National Forest and Chugach National Forest Land Management Plans) and in historic Hispanic communities in Northern New Mexico (Raish, in press). However, it may also be characteristic of other

ethnic minorities in other locations and/or low-income communities on a localized basis (Garcia, 1999).

While the Supervisor would be the Responsible Official under the final rule for individual Forests or Grasslands, or Prairie or other comparable NFS units, the new rule would also allow for one or more Regional Foresters or the Chief of the Forest Service to simultaneously amend multiple relevant land management plans for issues affecting a geographic area greater than a single region, national forest, grassland, or prairie and/or where social or economic issues or opportunities occur on more than one unit. Some Tribal issues may be better addressed by such a regional or multi-regional approach. Tribes may have rights to off-reservation fishing at “usual and accustomed” places in addition to fishing and hunting rights on National Forests (McConnell, 1998; McConnell, 1991). These rights and subsequent management of any species involved might be best addressed at the regional or multi-regional level since rights or habitat boundaries may transcend National Forest, Grasslands, or Prairie administrative boundaries.

The final rule provides for linkage of various planning processes and levels. In the final rule, land management plans would be related to the long-term goals and objectives of the Forest Service to ensure progress toward those national-level goals and objectives. These national-level goals and objectives include Forest Service outreach activities as defined in the USDA Forest Service Strategic Public Outreach Plan Reaching Out to America, (FS-665, April 2000)

The USDA Forest Service implementation of NFMA (National Forest Management Act) and NEPA (National Environmental Protection Act) planning processes is designed to be an iterative process allowing nested analysis. This nested analysis provides for examination of issues at the National, Regional, Forest and project levels, with public participation at each level. This process constitutes a degree of surety that local concerns can be addressed and that the protected classes will have multiple opportunities to express their concerns. In the final rule, specific points of entry into the public participation process have been specified and the range of types of comment allowed has been expanded in response to public comment (refer to Factors 8 and 9 for expanded discussion.).

**Factor 3: Data and information indicating that, historically, one or more identifiable groups have not been included among the beneficiary or participant population.**

In March 1989, the Forest Service initiated a comprehensive review of its land management planning process. Results of the review were published in May 1990, in a summary report entitled "Synthesis of the Critique of Land Management Planning" (Vol. 1), accompanied by ten additional detailed reports. The 1990 Critique documented lessons learned since passage of the NFMA and adoption of initial plans under that law. The Critique provided recommendations to improve planning and the management of national forests and grasslands and to more effectively engage the public in addressing

future natural resource management challenges. Two volumes of the Critique, Volumes 5 and 6, specifically addressed public participation in planning and the effectiveness of planning coordination. Both proposed and final planning-related environmental documents were surveyed for the documentation of meetings held, brochures or newsletters, and individuals contacted in the planning process. Calculations were made to show the distribution of documents to congressional delegations, Native American tribes, other governmental bodies, organizations and individuals. The Critique did not identify an under or over represented group participation in the planning process. Results of the survey are shown in the following table.

**Public Participation in Previous Planning Activities**

from "Synthesis of the Critique of Land Management Planning, Vol 1," May 1990

Activity	Participation
<b>Public Involvement</b>	
Meetings held	1,216
Brochures or newsletters	650
Contacts or consultations	6,650
Letters or responses	63,607
<b>Distribution of Documents</b>	
Congressional	1,186
Native American organizations	330
Federal, state, or local governments	10,012
Organizations	14,612
Individuals	46,798
Uncategorized	14,355

Based on the USDA Civil Rights Action and Implementation Team Reports, 1998, there are portions of the United States population that have been characterized as under-served and require additional outreach activities to improve their potential to participate in Forest Service planning activities. Implementation of the Environmental Management System process described in the final rule should improve opportunities for involvement of historically underserved populations and/or protected populations, including minorities, women, low-income populations, the disabled, or others who may have not been previously involved or otherwise under-represented in agency activities. As described above, agency responsible officials, managers, and planners will actively engage others in planning-related activities. The final rule requires the Responsible Official to formally notify the public a minimum of four specific times and to involve the public in at least six stages during the planning process.

The final rule provides for the Responsible Official, functioning as a leader, convener, facilitator, or participant, as appropriate, to foster positive relationships with people interested in and/or affected by the management of the National Forest System lands, as well as with other Federal agencies and State, local, and Tribal governments that wish to



participate in defining the future of the National Forest System. The final rule emphasizes that the Responsible Official should provide early and frequent opportunities for the open and meaningful participation of diverse people and groups in planning.

**Factor 4: Pre-decisional research indicating that one or more identifiable groups will be disproportionately under or over-represented in the beneficiary or participant population with an interest or stake in the program, policy, or decision.**

Traditionally, the relationship between the National Forests and Grasslands and the broader society was primarily viewed as a one-way street--goods flowed from Federal lands to numerous beneficiaries, and public servants made choices based on their best judgments about what was best for society. The current planning process is designed to achieve long-term sustainability with a collaborative relationship between the public and the agency. The planning process is designed to better adapt to a wider range of communication styles, values, attitudes and beliefs, as summarized in Appendix Two.

Current information is not adequate to characterize all current uses of National Forest lands nationwide by groups of people identified in the Environmental Justice Executive Order or Civil Rights legislation, or, in some cases, to determine if there is an adverse impact. Little information is available to determine what those people identified in Environmental Justice Executive Order/ Civil Rights legislation would like to see for future uses. Within any single group, (e.g. people with disabilities), not all individuals would prefer the same circumstances. Where information does exist (e.g. Hispanic recreation patterns in Southern California), the data suggests that use patterns and expectations are different than those of the traditionally served publics.

In recognition of this information gap, the Forest Service will use the concurrently developed USDA Forest Service Strategic Public Outreach Plan: Reaching Out to America, April 2000, for supplemental information gathering and to coordinate outreach to communities and underserved publics. The final rule also provides for further analysis at local levels, where the preferences of subsets of the American population can be better identified and participation is more localized.

**Factor 5: The geographic location in which the decision, action, program, or activity will have the greatest or least impact.**

The final rule would direct planning for the 192 million acre National Forest System, which includes 155 national forests, 20 grasslands, 1 prairie and other lands located in 44 states. Appendix A, Map One, displays the distribution of National Forest lands across the United States. The greatest proportion of these lands is west of the Mississippi River.

The potentially affected population in any area would be those who live within or near National Forest System lands, those who depend upon National Forest System lands for their livelihood regardless of location, and those people who have other interests in or are

otherwise potentially affected by the management and use of National Forest System lands throughout the nation.

The final rule does not, in itself, create, authorize, or execute any ground disturbing activity. Thus, despite the extensive geographic application of the final rule, (i.e. nationwide), the largely administrative nature of this final rule limits direct impacts to this large potential population. Instead, the proposed and final rules provide for broader participation by a broad range of interested entities rather than any ground-disturbing activity with direct impacts.

The final rule provides for analysis of issues originating from inventories, user surveys, assessments, analyses, monitoring and evaluation results, and collaborative activities and discussions with those interested in National Forest System management, as well as proposals made by individuals, organizations, tribes or government entities. Under the final rule, the Responsible Official is expected to actively seek and encourage citizens, organizations, and governments to participate in the planning process. The final rule explicitly provides for recognition of the government-to-government relationship between Tribes and the Federal government.

The collaboration process described in the final rule is a flexible process, which may better accommodate the communication styles for ethnic minorities and disabled publics. These communication styles may include the need for accommodation for the hearing impaired, for languages other than English or for oral or personal exchange rather than written analysis. An increasing level of sophistication in communication skills or sensitivity may be necessary for maintaining a long-term relationship with protected classes. The new approach to collaborative planning contrasts with the persuasion model (Magill and Chavez, 1993), which is more likely to limit constructive dialogue with protected classes. These communication styles are more fully described in Appendix B.

In addition, the collaborative planning approach better allows for the balancing of scientific information with traditional knowledge. For example, American Indian (Redmond, 1999) and other ethnic cultures (Garcia, 1999; Raisch, in press) are traditionally oriented to intuited, experiential or observational knowledge and/or an oral communication style. This approach allows for the balancing of this information with formally structured scientific documentation.

**Factor 6: The composition of the population within the target geographic location.**

Planning within the National Forest System takes place on national forests, grasslands, and prairies in 44 states located in all regions of the country (see Appendix A, Map One for location of National Forest System lands).

Appendix A, Maps Two and Three, display relevant demographic features of the counties located directly within or adjacent to National Forest lands, based on data from the 2000 Census. However, the final rule recognizes that people not living in proximity to

National Forests, Grasslands, or Prairie may also have an interest in or concerns about the National Forests, Grasslands, or Prairie.

These maps illustrate that minorities and poverty levels are not evenly distributed throughout the United States. This uneven distribution indicates that uniform national impacts (either beneficial or adverse) are not anticipated. Rather, effects may vary with locality. This local variation is better accommodated in local level participation and analysis of local conditions, rather than on a national level.

**Factor 7: The economic impact for the population/geographic location and other related economic factors associated with the beneficiary or participant population.**

The final rule is not targeted at a specific identifiable geographic location, and therefore, is not expected to have a disproportionate economic impact on a specific population. However, the proposed planning rule does emphasize improved understanding of the long-term social and economic sustainability of people who may be associated with NFS lands.

Although the Forest Service cannot solely sustain existing communities, National Forest System lands nonetheless contribute many values, services, outputs, and uses that help enable economies and communities to persist, prosper, and evolve. In fiscal year 1999, Forest Service field units reported over 2,900 rural communities received assistance from the Forest Service, with 197 of those being tribes or minority communities. For natural resource dependent communities in transition (associated most directly with National Forests), over 725 communities received assistance. Some Forest Service regions, such as Region 3 (Southwest), Region 5 (Pacific Southwest), Region 10 (Alaska) and Region 8 (Southeast)) have successfully used these programs to develop or continue working relationships with tribes and ethnic communities.

Some rural communities may be subject to rapid changes in their economies. Gentrification of once rural communities bordering National Forests can displace wood product sector workers from a lifestyle, a source of relatively low income housing, access to berries, firewood and game and a setting for the development of community (Salazar, 1996). As relatively more affluent urbanites develop desirable landscapes, zoning, tax and land management policies may also change, empowering the more affluent to occupy and shape landscapes. Additionally, demographic changes are leading to the decoupling of people from a working landscape and causing rapid change in traditional rural culture, skills, lifestyle and community identity. Often, tribes, minorities, and low-income communities may have a more difficult time getting access to the resources necessary for building capacity to address economic, social, or environmental concerns.

While a plan by itself cannot ensure sustainability, it can provide an initial overall framework to build community capacity through support for the following types of activities:

- (i) Engage and participate with interested and affected persons to identify the values they want to see sustained and the benefits they accrue from National Forest System lands;
- (ii) Consider how human activities, and social and economic conditions and trends, affect the ecological component of sustainability on and around National Forest System lands, and how people can contribute to maintaining and restoring the health of National Forest System lands; and
- (iii) Gather and analyze social and economic information to assess, at the appropriate temporal and geographic scales, how land management decisions have affected the contribution of National Forest System lands to social and economic sustainability. This includes identifying the benefits National Forest System lands provide; analyzing conditions and trends of social and economic systems; and analyzing the relationships between people and the national forests, grasslands, and prairie.

The final planning rule describes the role of NFS lands in promoting social and economic sustainability through involvement of interested and/or affected people, development and consideration of relevant social and economic information, and by providing a range of products, services, and values. These potential benefits would accrue to low income, persistent poverty and subsistence lifestyle communities as well as any other community.

**Factor 8: The extent to which identifiable group members will directly participate in or influence the decisions, policies, programs, and activities or be limited in their opportunity to participate, coupled with information to indicate the quality or characteristics of participation.**

It would be difficult to quantify the extent to which this final rule will result in an identifiable group members' participation in National Forest System planning. However, extensive changes in the final rule in response to public comment are described in the preamble of the final rule (see text of final rule accompanying this document).

The final rule provides for expanded collaboration in resolving issues of mutual concern in a manner that best fits the needs of people, the location, and the issues at hand. the Rule specifies opportunities for the participation of the following (but not limited to):

*Interested individuals and organizations:* interested individuals and organizations including private landowners whose lands are within, adjacent to, or otherwise affected by National Forest System land management actions.

*State and local governments and Federal agencies:* other Federal agencies, State and local governments, and scientific and academic institutions to help address management issues or opportunities.

*Indian Tribes.* The final rule recognizes the government-to-government relationship between Indian tribes and the federal government. Responsible Officials must consult and invite federally recognized Indian tribes to participate in the planning process and to coordinate planning efforts. The final rule does not change the consultation process for American Indians.

*Participation with other existing groups:* existing groups organized for public purposes to address resource management issues within the community.

The anticipated increase in participation under the final rule is indirectly supported by authors such as Raish, (in press). Raish notes that Hispanic communities in Northern New Mexico were “muted” or silent in previous generations because these populations lacked the opportunity to express themselves in their own terms and languages and because they suffered from an absence of power, isolation and differences in communication tools and values. However, Raish, anticipates that “... well educated sons and daughters return home with a desire to preserve their heritage and ties to the land” and are changing the silent image of previous generations. This phenomenon may characterize other protected classes as well. The final rule may provide a constructive framework for increased participation. It also illustrates changes in demographics that the rule would better accommodate through a flexible and collaborative planning process.

Although there is an anticipated increase in participation as described above, the extent and content of participation based on changing or emerging demographic trends is speculative. This final rule will better provide flexibility for accommodating cultural differences, differences in communication style and local variations in population composition and National Forest System use(s).

During public comment, some members of the public and representatives of American Indian Tribes expressed concern that the use of a categorical exclusion, as proposed in the proposed planning rule, rather than an Environmental Assessment (EA) or Environmental Impact Statement (EIS) would not provide for a schedule of public meetings and/or a degree of participation as other types of NEPA analysis had historically. Some of these respondents additionally expressed concern that direction to prepare Civil Rights Impact and Environmental Justice Analyses was not expressly stated.

In response to these and other management concerns, the final rule no longer proposes the use of a Categorical Exclusion, but rather complies with NFMA direction that the Secretary of Agriculture determine how NEPA is to apply. The final rule provides for plan analysis to be documented in an evaluation report, provides for interdisciplinary plan development, provides for alternative development, and provides for extensive public participation. The rule also provides for an objection process which allows for public protest of proposed plan decisions. The final rule requires plans to begin the development of NEPA analysis required for proposed projects and activities. While the NEPA process is initiated at the plan level with broad based analyses, the NEPA process

culminates when projects or activities are authorized and are documented in an EIS, EA, or rely on a CE.

Also, the final rule does more explicitly provide for public notification during the planning process. The four public notification steps for plans, plan amendments, and plan revisions are: 1) plan initiation, 2) proposed plan, 3) objection process (see below) and 4) approval of the final plan.

In addition to public comment, both the proposed and final rules contain provisions for allowing any person or non-federal entity to submit an objection to a new plan, a plan amendment or plan revisions. In the proposed rule, only substantive comments that met objection content requirements would have been accepted, excluding other forms of material or communication. The final rule no longer excludes these forms of material, better serving a wider range of publics with different communication styles (see Appendix), limited English language skills or more limited access to technological advantages (e.g. home computers or fax machines).

**Factor 9: Efforts to notify and provide outreach to potential beneficiary and participant populations.**

A Communication Plan for internal and external contacts was developed for the proposed rule. In accordance with the Communication Plan, in 2002 the Forest Service briefed governments, Congress, Forest Service employees, and non-governmental organizations. The Forest Service also contacted Tribes, relevant Federal agencies, and State fish and wildlife agencies. A notice was published in the Federal Register on Dec. 6, 2002 and public comment was invited. The comment period for the public was subsequently extended for an additional 30 days to provide additional time to accommodate public participation (from March 6, 2003 to April 7, 2003).

A total of 195,787 comments were received. Of these, 6,765 were original comments, with the remainder being form letters, pre-printed post cards or other forms of mailings. All comments were analyzed by a Content Analysis Team to ensure all issues would be considered. Extensive changes to the proposed rule were made in response to public comment. These changes are addressed on an issue by issue basis. Comments from Tribal governments were included among the responses.

The final rule describes the requirements for the agency to follow an interdisciplinary, public participatory approach to planning including collaboration, cooperation, and consultation. The Responsible Officials are expected to engage the skills and interests of appropriate combinations of Forest Service staff, consultants, contractors, other Federal agencies, federally recognized Tribes, State or local governments, or other interested or affected groups or persons in the planning process.

## **Conclusion**

Nine factors were considered as indicators of civil rights impacts by the United States Department of Agriculture, Forest Service. The analysis concludes that no adverse civil rights or environmental justice impacts are anticipated to the delivery of benefits or other program outcomes on a national level for any under-represented population or to other U.S. populations or communities from the adoption of the final planning rule.

While national level impacts are not expected to be disproportionate, yet-to-be-identified adverse impacts are possible on a regional or local level. Differences in national level effects and regional/local level effects are the result of uneven distribution of minorities geographically and variations in regional, cultural or traditional uses. Local level impacts will be further examined at the local level, including NEPA analysis for site-specific projects.

The collaboration required by the final rule has significant potential to reach out and involve segments of the population that historically have not played a large role in National Forest System planning and management. The final rule was developed concurrently with the Forest Service Strategic Public Outreach Plan: Reaching Out to America (April 2000), and both the final rule and the plan support efforts towards more inclusive participation in Forest Service planning processes.

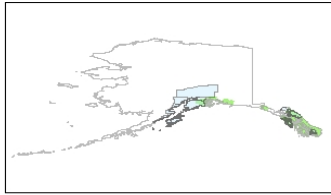
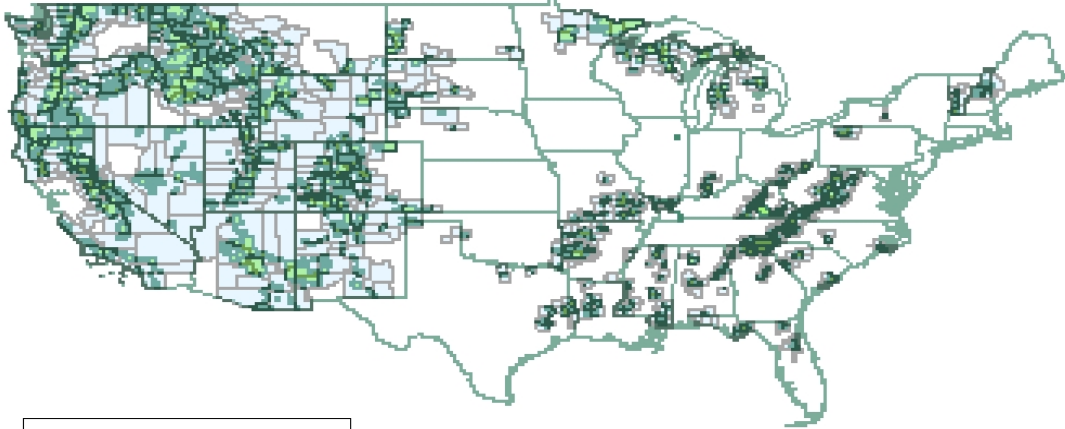
## **Alternatives and Mitigating Measures Related to Social and Economic Effects**

The Forest Service has considered the potential impact of the final rule in relation to the nine factors discussed above. The analysis concludes that no adverse or disproportionate impacts are anticipated. Therefore, mitigating measures are not necessary or appropriate for adopting or implementing the planning rule. Local site-specific mitigation may occur as National Forest System planning actions and activities are planned and executed consistent with Forest Service and USDA policy.

**Appendix A**  
**Civil Rights Impact Analysis for the Final Rule (36 CFR Part 219)**  
**National Forest System Land Management Planning**



### Counties with National Forests and Grasslands

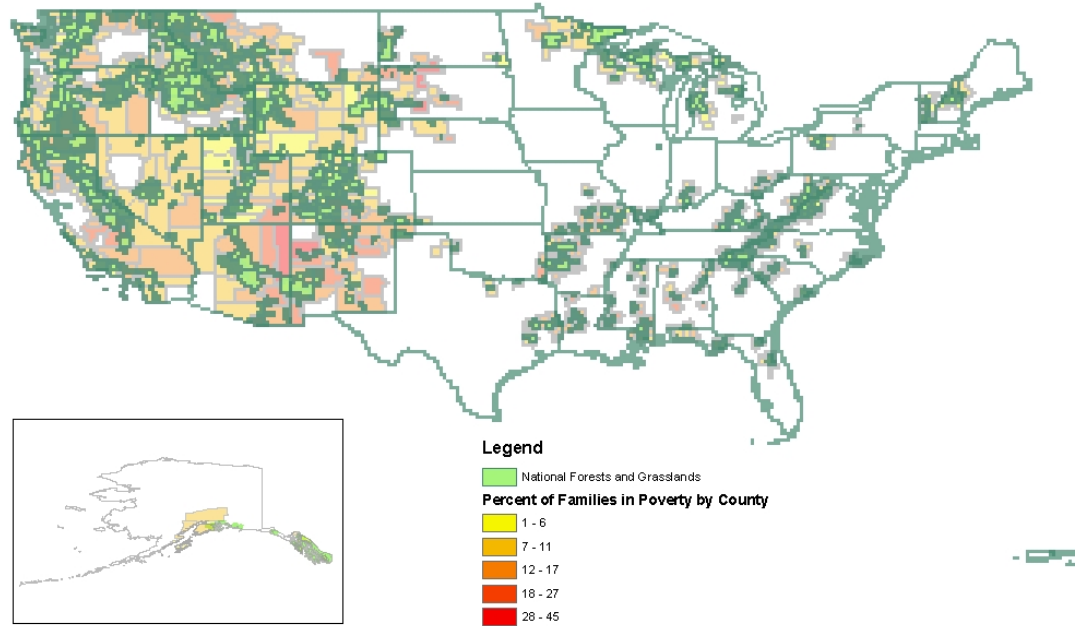


#### Legend

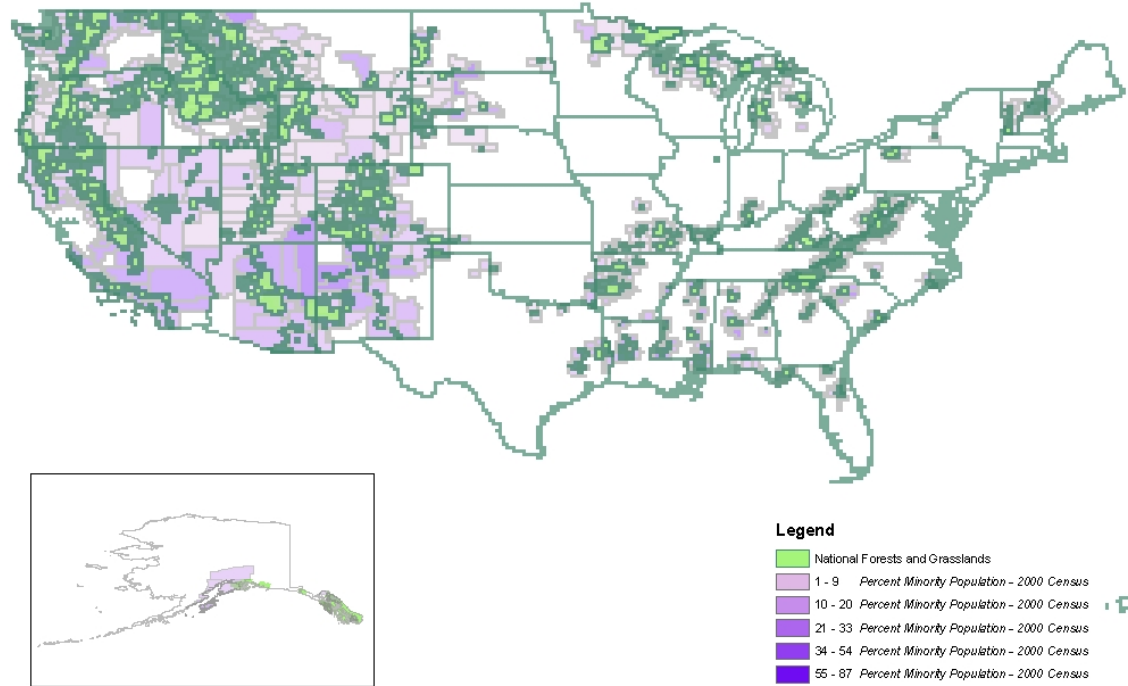
- Counties with National Forests and Grasslands
- National Forests and Grasslands



**National Forests and Grasslands and Percent of Families in Poverty by County  
2000 Census**



### National Forests and Grasslands and Percent Minority by County 2000 Census



## APPENDIX B

### **Civil Rights Impact Analysis for the Final Planning Rule National Forest System Land Management Planning**

#### COMMUNICATION STYLES FOR PROTECTED CLASSES

Insufficient information exists to adequately characterize communication styles for all protected classes on a National basis. The following descriptions of communication styles are generalized examples, which are not intended to characterize any specific individual or provide a full description for any group of people. The descriptions are provided to acknowledge that different ways to communicate exist and to indicate a range of potential styles.

##### Communication Style (Tribes)

Native Americans obtain knowledge of these concentric spherical perceptions of nature through oral traditions taught from childhood or by experiencing these spherical realms intuitively. The full significance of intuited knowledge cannot be easily expressed in language and frustration or ambiguity may result from the effort. In addition, the English language may not contain the appropriate words or phrases to describe this body of knowledge, (Redmond 1999).

##### Communication Style (Hispanics)

For Hispanics, Garcia (1999) reinforces the use of Spanish as a first language and the reliance on personal experience as a source of information, especially in terms of recreation information.

Raish, (in press), describes the relationship between communication styles and natural resource conflict for Hispanic communities in Northern New Mexico as “muted” or silent in previous generations because these populations lacked the opportunity to express themselves in their own terms and languages and because they suffered from an absence of power, isolation and differences in communication tools and values. However, Raish, (in press) further points out that “... well educated sons and daughters return home with a desire to preserve their heritage and ties to the land” and are changing the silent image of previous generations. This phenomenon may also characterize other ethnic populations as well.

##### Communication Style (African American)

For African Americans, Bagby suggests that traditional styles of communicating include an oral history tradition and the expression of life forces through the use of “...musicality of oral delivery and dance (Bagby, 1999, pg. 136).” However, despite this singular and brief reference, not enough information is readily available to characterize communication style or preferences. Additionally, there is some indication that there may be a difference between northern urban and southern rural styles of communication.

### Communication Styles (Asian Americans)

Information on Asian American communication styles was lacking, but observation would suggest that the number of Asian languages is diverse and that English may not be the first language. In addition, very recent South East Asian immigrants with low English language skills may still communicate through the use of a spokesperson when mushroom harvesting on National Forests. Among established Asian American groups, a record of academic achievement suggests that communication in English, oral or written, is not a limiting factor.

However, styles of communication (e.g. indirect vs. direct) may still be the cultural preference. Hart, 1998, reports that for people of Chinese descent it would be unusual "... to seek help from an official unknown to him or to expect reliable information from anyone to whom he has not been properly introduced. (Hart, 1998, pg. 164)" Hart further reports that little business is likely to be transacted through anyone outside the Chinese network. At the same time, the Forest Service and other resource agencies have been using the persuasion communication model to "tell" the public what they want them to know and do, (Magill and Chavez, 1993). The result of these two disproportionate styles illustrates how a lack of meaningful exchange has occurred as to what Asian Americans value in National Forests, and a reticence to discuss their experiences and uses in National Forests.

### Communication Styles (Disabled)

For the purposes of this assessment, people with mobility disabilities are presumed to have communication style(s) that are consistent with those of the public in general or with those that are members of their same ethnic group. Accommodation for other disabilities (e.g. hearing impaired) will be provided as necessary and appropriate.

### Communication Style (Low Income)

Some authors also maintain that if a group is poor and lacks education, organization or sophistication, then its ability to influence public policy or participate effectively in public outreach is limited.

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