



May 23, 2016

Via Federal Rulemaking Portal: <http://www.regulations.gov>

Neil Kornze, Director
Bureau of Land Management
U.S. Department of Interior
1849 C. Street NW, Room 2134LM
Washington, D.C. 20240
Attn: 1004-AE39

**Re: Resource Management Planning; Proposed Rules 43 CFR Part 1600
81 Federal Register 9674-9734, February 25, 2016
RIN 1004-AE39**

The American Forest Resource Council (AFRC) submits the following comments in response to the above-referenced Federal Register Notice.

AFRC is a regional trade association whose purpose is to advocate for sustained yield timber harvests on public timberlands throughout the West to enhance environmental protection, forest health and resistance to fire, insects, and disease. We do this by promoting active management to attain productive public forests, protect adjoining private forests, and assure community stability. We work to improve federal and state laws, regulations, policies and decisions regarding access to and management of public forest lands and protection of all forest lands.

AFRC represents over 50 forest products businesses and forest landowners. Many of our members have their operations in communities adjacent to and intermingled with BLM-administered lands in western Oregon and the management on these lands ultimately dictates not only the viability of their businesses but also the economic health of the communities themselves. Oregon's forest sector employs approximately 58,000 people, with AFRC's membership directly and indirectly constituting a large portion of those jobs. Rural communities in the area of BLM-managed lands are directly affected by BLM resource management plans and are particularly sensitive to the impacts of BLM plans on the forest products sector.

AFRC applauds BLM's intention to improve transparency, consistency and efficiency in the planning process. We urge the use of relevant science-based information in the planning process, as we do in all agency decision-making. We believe that planning at the landscape scale can bring efficiency to land management at the project implementation level by avoiding duplication of effort and reducing public concern over whether resources are being both protected and appropriately utilized through sustainable practices.

5100 S.W. Macadam Avenue, Suite 350
Portland, Oregon 97239
Tel. (503) 222-9505 • Fax (503) 222-3255

We urge recognition of and additional emphasis on the impact of resource management plans on local communities in the assessment phase as well as the implementation phase of resource planning. This should be done through economic and social impact analysis and through careful attention to the concerns of local governments at all phases of the planning process as well as through consistency reviews.

We offer the following views and suggestions for improvement of the final rule:

Objective (Sec. 1601.0-2).

- In our view, the restated “objective” is now so diffused and wide ranging that the appropriate focus of BLM’s work is lost.
- We are particularly concerned about the deletion of the phrase “*to maximize resource values for the public*” which is a more appropriate statement of BLM’s mission than is found in the proposed rule. We suggest reinstating that focus.
- We agree with the elimination of the last sentence of current Sec. 1601.0-2 which incorrectly implies that project level work requires the development of plans.
- We suggest utilizing the objective statement in the current rule, eliminating the last sentence and adding the phrase “*sustained yield:*”

The objective of resource management planning by the Bureau of Land Management is to maximize resource values for the public through a rational, consistently applied set of regulations and procedures which promote the concepts of multiple use and sustained yield management and ensure public involvement and participation by the public, state and local governments, Indian tribes and appropriate Federal agencies. Resource management plans are designed to guide and control future management actions and the development of subsequent, more detailed and limited scope plans for resources and uses.

Definitions (Sec. 1601.0-5)

- We support the revisions of the definition of *Areas of Critical Environmental Concern* to conform to the wording of Sec. 103(a) of FLPMA.
- In line with the stated intention to clarify and strengthen opportunities for public involvement (81 Fed. Reg. 9676) and to clarify the scope of revised Sec. 1610.2, we suggest adding the definition of *public involvement* found in FLMMPA Sec. 103(d):

(d) The term “public involvement” means the opportunity for participation by affected citizens in rule making, decision making, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance.

This definition makes clear that the views of “affected citizens” are to be solicited “at locations near the affected lands.” This focus on local input is important and should be emphasized in the rule.

Note: The terms “participation by the public” and “public participation” continue to exist in proposed Sec. 1601.0-2 and Sec. 1610.6-8 respectively. We suggest the appropriate substitution of terms in these sections.

- We support the use of the term *high quality information* in the rule. We suggest that the definition at 1601.0-5 be augmented to include the concept of relevancy and to clarify the usefulness of commercial information, as follows:

***High quality information** means any representation of knowledge such as facts or data, including the best available scientific or commercial information, which is relevant, accurate, reliable, and unbiased, is not compromised through corruption or falsification, and is useful to its intended users.*

- The definition of *Implementation strategies* is vague and confusing. It is unclear what parts of current plans would be considered implementation strategies. As defined, implementation strategies would contain key management changes governing actions under a plan but would not be subject to any notice or comment. This would in effect give BLM the ability to amend its plans without notice or comment in violation of the APA and FLPMA. We suggest deleting this definition or substantially revising it.
- We support the simplification of the definition of *resource management plan* by referencing FLPMA Sec. 202 and the recognition that several items enumerated in existing Sec. 1601-5 are in reality plan components.

Plan components (Sec. 1610.1-2)

- BLM attempts to distinguish between planning and implementation by clarifying which elements of the process are plan components and which are implementation strategies (81 Fed. Reg. 9675, 9682, 9690). However, this attempt does not effectively identify the difference between the two terms. It is vital that project implementation not be encumbered by the need to reiterate the resource planning process. Moreover, implementation strategies should not be used as a vehicle for amending plans without appropriate public comment and involvement.
- We find the organization of this section confusing. Paragraph (a) lists “Goals” and “Objectives” as plan components without the qualifier that they be “*consistent with the principles of multiple use and sustained yield*,” which, subject to applicable law, is a requirement for the components listed in paragraph (b) (i.e., designations, resource use determinations, monitoring and evaluation standards and lands identified as available for disposal). By inference, the multiple use and sustained yield qualifier does not apply to goals and objectives. Since this is not the case, we suggest that the section be reorganized to clarify that goals and objectives, as well as the components listed in paragraph (b), must be consistent with the principles of multiple use and sustained yield, as required by FLPMA, or with other management principles required by governing statutes such as the O&C Act.

Implementation strategies (Sec. 1610.1-3)

- The description of implementation strategies is vague and confusing, just as the definition in section 1601.0-5. We suggest substantially revising or deleting this section.

- Because of the vagueness of implementation strategies and the BLM's decision not to subject strategies to formal public involvement or agency coordination, we are very concerned that this section gives BLM the ability to put in place *de facto* plan amendments without involving the public or affected states and localities. Accordingly, this section violates FLPMA and the APA and should be substantially revised or deleted.

Public Involvement (Sec. 1610.2)

- Although this section appears to depart from the enumerated requirements of current Sec. 1610.2, the chart at 81 Fed. Reg. 9684-9685 and the language in the sections referenced there clarifies an increased level of transparency in the planning process. We support the revision of this section and others as referenced in the table.

Consistency requirements (Sec. 1610.3-2)

- We support the continuation in the rule of the requirement that proposed plans be consistent with the plans of State and local governments and Indian Tribes and for a Governor's consistency review (paragraph (b)).

Planning assessment (Sec. 1610.4)

- Because BLM management decisions significantly impact the economic well-being of local communities, we suggest that "*impacts on the local economy including, when a plan or project contemplates an action on forested land, impacts to the local forest products manufacturing infrastructure,*" be listed as a specific separate element under paragraph (c), rather than being among the items listed in subparagraph (c)(3). We believe this element of plan assessment is currently frequently ignored or glossed over. A separate listing could help cure that problem and lead to a better estimation of effects of alternatives on local economies (see Sec. 1610.5-3).

Selection of the proposed resource management plan and preparation of implementation strategies (Sec. 1610.5-5)

- We recommend deleting or revising paragraph (b) or moving it to section 1610.5-4. We reiterate our concerns about the vagueness and lack of transparency in the rule's provisions on implementation strategies. This section amplifies those concerns as it indicates that proposed implementation strategies on a proposed resource management plan will not be included with the preferred alternative or draft environmental impact statement. This allows the proposed implementation strategies to avoid meaningful public comment.

Protest procedures (Sec. 1610.6-2)

- We support modification of the rule to allow for electronic filing of protests, rather than requiring hard copy filing, as is the case under the existing rule (paragraph (a)(1)).
- We support BLM's stated intention (81 Fed. Reg. 9715) to continue to summarize and combine responses to similar comments, such as those found in form letters submitted by a multiplicity of protesters.
- We support the new protest content requirement of the protester's email address if available (paragraph (a)(3)). While this may pose a burden when a number of protesters

join in a single protest, streamlining BLM's ability to respond directly to protesters is sensible.

- We are not opposed to the new requirement that the protester specify how it participated in the planning assessment or preparation of the resource management plan (paragraph (a)(3)(ii)). This requirement is in line with that of other land management agencies and does not pose an undue burden on the protester. It is worth noting that the contents of a protest are not limited to those made by a protester at an earlier stage in the planning process, but may include any issue raised by any commenter and any issue raised for the first time in the document being protested (as indicated by subsection (a)). This is a due process issue. We do not believe it is called into question by the rule revisions, but consideration should be given to clarification of the rule language.
- We support revising the protest content language away from the current requirement to state which parts of the plan are being protested to identification of the plan components believed to be inconsistent with Federal laws or rules applicable to public lands or the purposes, policies and programs of such laws and rules (paragraph (a)(3)(iii)). Plan components, rather than implementation strategies, are the appropriate focus of the protest of a resource management plan; this language helps assure that focus.
- We support the strengthening and clarification of the required specific grounds for the protester's position that the State Director's position is contrary to statutes, rules or policies (paragraph (a)(3)(iv)).
- The removal of the word "promptly" from paragraph (b) is of concern. Although BLM states that this does not reflect a change in practice or policy, the deletion of this word signals to both agency personnel and the public that BLM is not committed to prompt resolution of protests. Given the importance of plan implementation, prompt resolution should be emphasized, not downplayed, in the revision of the planning rule. We urge the inclusion in the revised rule of a specific deadline for responses to protest, similar to the 90-day time limit found in the Forest Service's objection rule (36 CFR 219.56(g)).
- We support the inclusion in the rule of the explicit authority of the Director to dismiss non-conforming protests (paragraph (c)). We believe this will streamline and strengthen the protest process by making it clear to potential protesters their responsibility to fully comply with the rule.
- The explicit authority of the Director to approve portions of a resource management plan that are not subject to a protest while the protest is being resolved should be made clearer. We disagree with the explanatory materials (81 Fed. Reg. 9715) that a reading of Sec. 1610.6-1(b) referenced in paragraph (b) makes this clear. We suggest the following modification of 1610.6-1(b):

Approval will be withheld on only those ~~any portions~~ of a resource management plan or plan amendment being protested (see § 1610.6-2) until final action has been completed on such protest. . .

Designation of areas of critical environmental concern (Sec. 1610.8-2)

- We support the new language stating that "*ACEC designation and protection will be identified through inventory. . .and during the planning assessment*" which replaces the existing "*shall be identified and considered throughout the resource management*

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process.” This revision and clarification assures that ACECs are fully considered at the appropriate phase in the planning process, avoiding confusion on the part of the public and potential litigation risks.

- We support retaining the concepts of “*relevance*” and “*importance*” as criteria for ACEC designation (new Sec. 1610.8-2(a)(1) and (2); current Sec. 1610.7-2(a)(1) and (2)).

In conclusion, AFRC appreciates the opportunity to comment on this proposed rule revision.

Sincerely,

A handwritten signature in black ink, appearing to read "Travis Joseph". The signature is written in a cursive, flowing style.

Travis Joseph
President