



NATIONAL ASSOCIATION OF STATE FORESTERS

444 North Capitol Street NW | Suite 387 | Washington, DC 20001 | www.stateforesters.org

February 16, 2021

Mr. Dave Wilson

Acting Assistant Director, Forest Management, Range and Vegetation Ecology

USDA Forest Service

201 14th Street SW

Washington, DC 20024

FR Document Number: 2020-27949, USDA Forest Service, Forest Service Manual 2420, “Timber Appraisal,” Forest Service Handbook 2409.19, “Renewable Resources,” Chapters 10, 20, 30, 60, and 80

Dear Mr. Wilson,

The National Association of State Foresters (NASF) appreciates the opportunity to provide comments in response to the USDA Forest Service’s (Forest Service) 2409.19 new Chapter 80: Good Neighbor Authority (GNA) Handbook.

NASF members are the directors of forestry agencies in all 50 states, eight U.S. territories, and the District of Columbia. State foresters have supported GNA since its beginning as a pilot authority, through its permanent expansion in the 2014 Farm Bill. In 2018, state foresters successfully advocated for two critical improvements to GNA: one in the 2018 omnibus allowing for road reconstruction, repair, and restoration of National Forest System (NFS) roads necessary to GNA projects and another in the 2018 Farm Bill allowing state forestry agencies to retain GNA timber sale revenues for reinvestment in additional restoration services.

States are an essential partner in realizing GNA accomplishments; and NASF continues to appreciate the efforts by the Forest Service to embrace coordinating with state forestry agencies on GNA policy and implementation. Congress’ intent for GNA was to increase the pace and scale of forest, rangeland, and watershed restoration across jurisdictional boundaries through collaborative partnerships. These collaborative partnerships are empowered by a critical element of GNA that allows states to utilize their own contracting processes and procedures to improve project efficiencies and cost savings. To date, GNA has been utilized by state forestry agencies and the Forest Service to reduce hazardous fuels, improve wildlife habitat, support local communities and their economies, address insect and disease infested trees, increase watershed health, and more.

To sustain and improve upon the successes of GNA, NASF respectfully submits the following comments on the new Forest Service 2409.19 Handbook Chapter 80 (GNA Chapter):

Executive Director
Jay Farrell

2020-2021 Executive Committee

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Section 80.3 Policy

1. States' ability to utilize their own regular sale preparation, contracting, administration, and other procedures when acting on behalf of the Forest Service to sell NFS timber is crucial to GNA's success. Under item five, state foresters recommend modifying "may" to "shall" to support this flexibility and maintain consistency with other GNA Chapter sections and the GNA agreement templates that require states use their own processes and procedures.
2. Within item five, state foresters also recommend modifying "*when they meet Forest Service objectives and applicable regulations, are acceptable to the responsible line officer, and are agreed to in the good neighbor agreement,*" to "when they meet project objectives, are mutually agreed to by the State and the Forest Service line officer, and are outlined in the good neighbor agreement." This improvement to the language supports GNA's emphasis on partnership and commitment to obtain mutual agreement.
3. Within item nine, the use of "*better*" in the sentence "*If the primary purpose of the prescribed fire project is to reduce hazardous fuels accumulations, then the project may be better covered by a project plan or supplemental project agreement under a statewide cooperative fire agreement citing the Reciprocal Fire Protection Act (42 U.S.C. 1856a)*" is confusing and should be removed. Prescribed burning is an authorized forest, rangeland, and watershed restoration service under GNA. Some interpretations of the term "*better*" could discourage the use of prescribed fire as a GNA-authorized restoration service without considering the local context, the mutually agreed to project objectives by the Cooperator and the Forest Service, and the restoration needs of a given landscape.

80.4 Responsibilities

There is a discrepancy between the GNA Chapter and the Forest Service Manual 2400 zero code; 2404.21-5 regarding required signatures for GNA agreements that include the sale of federal timber. The 2400 zero code states: "*All Good Neighbor agreements that include sale of Federal timber must be signed by Forest Supervisor and a Timber Sale Contracting Officer. This cannot be delegated to a G&A specialist.*" The GNA Chapter does not reference this requirement, nor does it stipulate that authority cannot be delegated to a Grants and Agreements (G&A) specialist. The current GNA Supplemental Project Agreement (SPA) template directs that only the Forest Supervisor and a G&A specialist are required to sign the SPA. State foresters recommend that Forest Service handbook policy pertaining to GNA be consistent with the SPA template.

80.5 Definitions

The definition of "*Authorized Restoration Services*" in the GNA Chapter deviates from GNA authorizing language by removing "non-Federal land, and land owned by an Indian Tribe."

This should be modified so the GNA Chapter aligns with the authorizing language. Further, removal of these terms runs contrary to GNA's objective to support coordination across jurisdictional boundaries.

80.6 Understanding Agreements and Supplemental Project Agreements

1. The link to the *"Washington Office, Acquisition Management website"* is broken and needs to be updated.
2. The statement *"Templates are different for projects that will include the sale of timber"* is inaccurate. Currently, separate GNA templates for the sale of timber do not exist. When the sale of timber is not included in a project, Appendix D and Appendix E are removed from the agreement templates; however, the core agreement remains the same. To minimize confusion, state foresters recommend clarifying this sentence.
3. State foresters appreciate the emphasis on flexibility in the sentences: *"Agreements are generally dynamic and flexible, with all parties collaborating throughout the process. When planning under a good neighbor project, embrace these flexibilities to facilitate land management across the landscape."* This direction aligns with the intent of GNA, acknowledges the diversity among states, and supports adapting the tool to address the local context and landscape priorities.

81 Planning Good Neighbor Timber Sale Projects

In Exhibit 01 footnote 1, there is no 81.13. The section for bundling and goods for services projects under GNA looks to be 81.41. Overall, this table is informative and a beneficial addition to the GNA Chapter.

81.12 Selection of Project Areas

1. In item one, the beginning of the sentence *"For maximum benefit, projects should work across boundaries..."* could be narrowly interpreted to mean that every GNA project is required to cross jurisdictional boundaries. GNA is intended to support cross-boundary work, however, GNA projects may accomplish this objective as an individual, cross-boundary, or coordinated set of individual projects. State foresters recommend updating item one to say: *"For maximum benefit, projects should be part of a coordinated effort to accomplish cross-boundary goals important to both the Forest Service and the Cooperator."*
2. The sentence in item two *"Complex projects requiring intensive Forest Service oversight may be too inefficient to be good candidates"* could discourage critically important and necessary GNA work. While complex projects should be carefully considered, the determination to undertake the project should be at the discretion of, and mutually agreed to by, the Cooperator and the Forest Service unit engaged in project planning.

State foresters recommend the following modification: “Complex projects that will include intensive oversight should be carefully considered and mutually agreed to by the Cooperator and the Forest Service. In a complex project, it is critical to the project’s success to establish roles and responsibilities for each project component to ensure timely and efficient completion.”

81.3 Fund Use and Revenue Collection Ability

The acronym “CWFS” is first referenced in footnote 1 under the “*Exhibit 01, Ability to Collect Revenues from Sale Receipts,*” but not spelled out as it should be.

81.3 Fund Use and Revenue Collection Ability/81.32 Salvage Sale, Knutson-Vandenberg, and Brush Disposal

The GNA Chapter states in sections 81.3 “*Exhibit 01, Ability to Expend Funds to Develop, Prepare, and Administer*” and 81.32 that Forest Knutson-Vandenberg (K-V) funds cannot contribute to GNA agreements. Currently, there are National Forests that rely on state agencies to implement post-sale restoration work through GNA agreements using non-essential Forest K-V. State foresters recommend modifying 81.3 “*Exhibit 01, Ability to Expend Funds to Develop, Prepare, and Administer*” and 81.32 to support the direction that non-essential Forest K-V funds can be used to contribute to GNA agreements to accomplish authorized restoration services.

81.3 Fund Use and Revenue Collection Ability/81.31 Revenues from Good Neighbor/81.33 Collection of Road Maintenance Funds

The GNA Chapter looks to use the terms “*cooperative roads,*” “*deferred road maintenance,*” and “*road maintenance*” interchangeably to refer to the collection of funds for authorized road work following a GNA timber sale. To minimize confusion, state foresters recommend using one of these terms consistently throughout the GNA Chapter.

81.31 Revenues from Good Neighbor

1. State foresters recommend adding clarity to the sentence: “*The State may transfer remaining revenue to another active good neighbor agreement within the State by October 1, 2023 or within 180 days prior to expiration, whichever comes first.*” It is not clear if “*prior to expiration*” refers to the October 1, 2023 sunset date or the expiration of individual GNA agreements.
2. State foresters recommend adding “*unless future legislation extends this deadline*” at the end of the sentence: “*After this date, any unplanned revenues shall be returned to the U.S. Treasury upon completion or expiration of the agreement.*”

81.34 Use of Wyden Authority

1. State foresters recommend providing additional clarity to the sentence: *“If working with the Bureau of Land Management on projects, ensure their processes are included in the project design.”* Both added explanation and clear direction would be helpful to understanding the meaning of *“their processes”* and what to include in project design.
2. The GNA Chapter lacks direction regarding how the Wyden Authority may be combined with GNA and documented in GNA agreements. State foresters recommend adding direction in the GNA Chapter about utilizing the Wyden Authority in combination with GNA.

81.52 Cooperator as Offeror

Item two in this section states: *“The Cooperator may follow its regular sale preparation, contracting, administration, and other procedures...”* The use of “may” should be changed to “shall” to be consistent with other sections of the GNA Chapter and with GNA agreement templates. Additionally, state foresters recommend modifying *“when they meet Forest Service objectives, are acceptable to the responsible line officer, and are agreed to in the good neighbor agreement,”* to *“when they meet project objectives, are mutually agreed to by the Cooperator and the Forest Service line officer, and are outlined in the good neighbor agreement.”*

82.1 Field Preparation

The final sentence of the first paragraph states: *“The Forest Service shall review the contract to be used by a State for the sale of any timber.”* State foresters recommend this be modified to read: *“The Forest Service shall review the contract to be used by a State for the sale of any timber against Appendix D and Appendix E in the GNA agreement.”* Appendix D and E outline the legal requirements of GNA timber sales and include the state’s processes and procedures for administering the sale.

82.24 Forest Resources Conservation and Shortage Relief Act

State foresters recommend the last sentence be modified from *“At a minimum, States shall adopt Regional standards for log painting and branding”* to *“At a minimum, States shall follow their established standards for log painting and branding, or adopt the Regional standards.”* This modification supports states using their own procedures for timber sales, which also aligns with the flexibility intended with GNA.

82.25 Title Passage

State foresters recommend rewriting the first sentence in this section to say *“To minimize conflict, the State has the full authority to act as the agent representing the Forest Service; pursuant to relevant state laws, or standards of practice, regarding timber title transfer*

associated with the specific timber sale conditions." Title passage of timber under a GNA agreement has raised questions and confusion on past projects, and this rewrite provides clarity for Forest Service units, states, and purchasers.

82.4 Determination of Appraised Value

The first sentence of the second paragraph reads: *"Determination of appraised value will follow normal Forest Service appraisal methods or methods established by the State when acceptable to the responsible line officer."* State foresters recommend modifying this sentence to say: "Determination of appraised value will follow normal Forest Service appraisal methods or methods established by the State and mutually agreed to by the State and the Forest Service line officer." This change aligns with NASF's recommendations for sections 80.3 and 81.52.

84.2 Law Enforcement

In the sentence *"Both State and Forest Service Law Enforcement and Investigations personnel should be invited to pre-operations meetings for good neighbor projects to facilitate project orientation and interagency coordination,"* NASF recommends changing *"should be invited to pre-operations meetings"* to "may be invited to pre- operations meetings if mutually agreed to." Directing that state and Forest Service law enforcement should be invited to pre-operations meetings is a deviation from current GNA procedures. Further, this determination should be made by the state and Forest Service unit engaged in the GNA project.

NASF appreciates the opportunity to comment on the new Forest Service Handbook GNA Chapter. State foresters are encouraged by the Forest Service's efforts to embrace flexibility in the collaborative implementation of GNA with states and other cooperators, and look forward to strengthening those partnerships critical to GNA's success.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joe A. Fox". The signature is stylized and cursive.

Joe Fox
NASF President
Arkansas State Forester