

Recommendations to Improve the Health and Sustainability of Federal Forest Resources

A policy statement approved by resolution
of the National Association of State Foresters



INTRODUCTION

Of the approximately 750 million acres of forestland in the United States, twenty percent (147 million acres) are managed by the U.S. Department of Agriculture Forest Service (USFS). Another six percent (45 million acres) are managed by the Department of the Interior Bureau of Land Management (BLM). The amount of forestland owned by these two agencies varies in each state and is generally higher in the Pacific Northwest and Intermountain Regions while relatively low in the East.

Other federal agencies also own land, some of which is forested. The U.S. Fish and Wildlife Service (USFWS) owns 89.2 million acres and the National Park Service 79.9 million acres. The Department of Defense (DOD) owns 8.8 million acres in conjunction with military bases and 11.7 million acres of land and water supporting U.S. Army Corps of Engineers responsibilities. State forestry agencies frequently cooperate with these entities in fire protection and other resource management activities. Their federally mandated missions are more focused, whereas the missions of USFS and BLM are “multiple use,” that is, their land management practices necessarily deliver a balanced set of economic, environmental and social benefits. In this policy statement, the National Association of State Foresters (NASF) makes recommendations specifically regarding the laws, regulations, and policies of the USFS and BLM.

NASF represents the directors of the state forestry agencies in all 50 states, eight U.S. territories, and the District of Columbia. By providing more than 270,000 technical assists to private landowners each year, and by directly managing 76 million acres of state-owned forestland, state foresters conserve, protect, and enhance more than two-thirds of all America’s forests and trees. State foresters and their agencies also work to improve the health, resilience, and productivity of federal lands through congressional authorities, such as Good Neighbor Authority, and provide wildfire protection on over 1.59 billion acres nationwide. While the duties of state agencies vary from state to state, all share common forest management and protection missions and most have statutory responsibilities to provide wildland fire protection on all lands, public and private.

NASF and its members believe:

- I. Additional changes to the forest land management policies** of the USFS and BLM are needed to ensure federal forests are able to deliver a balanced set of economic, environmental, and social benefits.
- II. Federal forestlands provide critically important goods and services**, such as forest products and jobs, clean air and water, recreational opportunities, wildlife habitat, and carbon sequestration.
- III. Only by accelerating the scope, scale, and pace** of federal forest management (consistent with the approved management plans for each national forest), will we be able to restore these lands to a more sustainable, resilient condition.

IV. A viable forest products sector is absolutely essential to performing the forest management activities that sustain the social, economic, and environmental benefits of forests nationwide and across all ownerships.

This policy statement is an update to another paper adopted by NASF members in 2016. It serves to build on the principles outlined five years ago by providing background on the issue, specifying concerns in more detail, and providing a checklist of potential reforms. Since the last paper was published, over a dozen federal bills have been drafted or introduced that would affect forest management. None have been enacted as a stand-alone bill.

A few modest policy improvements were achieved with the 2018 Omnibus Spending Bill. Good Neighbor Authority (GNA) was expanded to allow for road work in GNA projects and states were authorized to retain timber sales receipts for future restoration projects. Stewardship project authority was also enhanced to allow participation by tribes and provide for contracts of up to 20 years in length for fire risk reduction.

Also included in that bill was an NASF priority – the “Fire Funding Fix” – which allows the use of federal disaster funding to supplement the USFS Fire Suppression Budget from 2020 through 2027 under specific circumstances. Another important funding issue was addressed through passage of the 2020 Great American Outdoors Act. Per the law, significant dollars were made available for needed maintenance and repair of USFS infrastructure such as roads, trails, and campgrounds.

In 2019, USFS proposed changes to the rules that govern their implementation of the National Environmental Policy Act (NEPA). After substantial public comment, a handful of the originally proposed changes were enacted with a final rule in 2020. The most significant offers greater use of categorical exclusions (CEs) for forest restoration work where a collaborative has been engaged in project planning. That same year, the Council on Environmental Quality adopted new rules for agency NEPA compliance with the primary goal of lessening analytical requirements, reducing some administrative burdens, and clarifying a few rule elements that have been the subject of court challenges.

Perhaps the single most important change has been the USDA’s adoption of “Shared Stewardship,” the impetus behind a renewed commitment to collaboration between state and federal forest management agencies. As of November 2020, there were 29 Shared Stewardship Memoranda of Understanding. With this encouragement, states and their federal counterparts have continued to increase involvement in GNA and Stewardship Projects that combine work on state and private lands with the management of adjoining federal lands. The different agreements address a broad range of common interests and goals from fire risk reduction to invasive species control to economic development.

An additional 80 or so different laws currently regulate the management of BLM and USFS lands, including:

- Forest Service Organic Administration Act of 1897
- Twenty-Five Percent Fund Act of 1908
- The Weeks Law, Act of 1911
- Sustained Yield Forest Management Act of 1944
- Administrative Procedures Act of 1946
- Multiple Use and Sustained Yield Act of 1960
- Wilderness Act of 1964
 - Roadless Area Conservation Rule – 2001
- Multiple Use and Land Classification Act of 1964
- National Forest Roads and Trails Act of 1964
- National Environmental Policy Act of 1969
- Clean Air Act of 1970
- Clean Water Act Amendments of 1972
- Federal Advisory Committee Act of 1972
- Endangered Species Act of 1973
- Eastern Wilderness Act of 1975
- Federal Land Policy and Management Act of 1976
- National Forest Management Act of 1976
 - USFS Planning Rule – 2012
- The National Historic Preservation Act Amendments of 1980
- Secure Rural Schools and Community Self-Determination Act of 2000
- Healthy Forests Restoration Act of 2003
- Agricultural Act of 2014

The laws and regulations governing the management of federal forestlands reflect society's evolving values and needs. The complexity created by so many iterations of federal legislation and rule-makings, plus subsequent interpretations by the courts, have built obstacles to delivering a balanced and sustainable set of forest benefits.

BACKGROUND: THE IMPACTS OF CURRENT FEDERAL POLICY

NASF believes federal lands should deliver a robust array of environmental (biodiversity, clean water, wildlife habitat, carbon sequestration, etc.), social (safe communities, recreation, aesthetic value, etc.), and economic (forest products, jobs, payments to counties, etc.) benefits. Although progress has been made in recent years, federal policy still makes it challenging to manage forestland in a way that balances these values and benefits. Some observations follow.

Environmental Impacts

- With over 100 years of wildfire suppression, coupled with a lack of active forest management and a changing climate, the health of federal forests has declined significantly, resulting in widespread insect and disease infestations and high severity,

catastrophic wildfires that negatively affect forested ecosystems and adjacent communities.

- Stressors caused by climate change, including warming temperatures, long-term drought, and greater invasive species pressures, have amplified the decline in forest health and the need to create landscapes resilient to natural (and un-natural) disturbance.
- Landscape-scale forest health decline and wildfire fuels build-up have led to substantial increases in the severity and magnitude of catastrophic wildfire; in some cases:
 - Altering soil structure;
 - Emitting increased levels of carbon and other air pollutants;
 - Damaging wildlife habitat, including habitat critical to endangered or threatened species;
 - Impacting water quality and quantity through erosion and sedimentation loss into water supply reservoirs;
 - Damaging structures and private property and causing human fatalities; and
 - Hampering the ability of forests to make needed contributions to carbon sequestration.
- A lack of budget support for vegetation management and restoration programs, as well as a lack of alignment in views about appropriate management and disturbance response among stakeholders, limits utilization of salvageable trees and reforestation efforts following catastrophic wildfire events.
- A significant backlog of roads and trails maintenance projects has created threats to water quality and public safety, reduced active forest management, and limited recreational opportunities. The association is hopeful that the Great American Outdoors Act will give land managers the resources they require to address these needs.
- Lacking forest management can create imbalances in forest age class distributions, which in turn contribute to:
 - A lack of early successional habitat for species dependent on that forest type; and
 - The risk of wholesale alterations in forest ecosystems. If trees in large swaths of forest reach the end of their natural lifespans (and begin dying) all at the same time, it is extremely difficult to harvest or otherwise remove all of the dead and dying wood before it begins to contribute to wildfire fuel loads and carbon emissions.

Social and Economic Impacts

- Adoption of the “Fire Funding Fix” was intended to (1) prevent the diversion of budget dollars away from other forest management programs and (2) redistribute additional funds back into needed management. To date, additional dollars for active forest management have not been forthcoming.
- Insufficient support for critical forest management work has led to substantially higher direct and indirect costs associated with wildfire (suppression, ecosystem service costs, post fire impacts, etc.).
- Larger, more severe wildfires and their smoke emissions represent a public health threat to communities.
- Reductions in timber harvesting on federal lands have, in some regions, weakened or eliminated local and regional forest products markets, which have in turn made it more difficult for private landowners to manage their forests.
- Currently, federal forestland management recoups only a small portion of the costs through revenue generating activities. In contrast, many state forest management operations (e.g. Oregon, Idaho, and others) cover their costs and generate a positive flow of income back to beneficiaries. Allowing states to retain GNA-generated funds for reinvestment into future forest activities has shown that commercial harvesting can lead to greater outcomes on federal forests.
- Federal forest management represents an opportunity for creating a range of jobs through direct employment and contracting.
- Restrictions, limitations, and uncertainties related to federal forest management tend to lead to an inability to realize the full potential of partnerships and their resources – including funding and manpower – to complete active management on federal lands.
- Communities in landscapes dominated by federal forestlands have experienced economic declines with negative repercussions, such as an inability to support local institutions and infrastructure (e.g. hospitals, schools, libraries, road maintenance, and water-treatment systems.).

Institutional Impacts

- The Endangered Species Act (ESA), the National Environmental Policy Act (NEPA), and the Clean Water Act (CWA) can be used by special interest groups to marginalize the delivery of a broad and balanced set of environmental, social, and economic benefits derived from forests.
- Complying with federal regulations requires substantial time and financial investment before any on-the-ground management can occur. As a result, projects focused on appropriately managing federal forests at the scale necessary to improve forest health have been greatly restricted.
- Congressional policy regarding the delivery of goods and services from national forests has not changed since passage of the Multiple Use Sustained Yield Act of 1960. It reads:

“It is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes.”

The 2012 USFS Planning Rule interpreted that policy to place the highest priority on restoring ecological function and relegated social and economic benefits to acceptable by-products, instead of requirements.

RECOMMENDATIONS

Reforms to achieve more balanced social, environmental, and economic benefits

- Promote the use of Shared Stewardship Agreements to assist state and federal managers in implementing cooperative efforts that improve forest health and sustainability across boundaries and at the landscape scale.
- Update the policy statements of key federal forest laws to establish that their purpose is to deliver and continuously improve upon the delivery of a balanced set of social, environmental, and economic benefits; recognizing that outdoor recreation, rangeland grazing, forest products, carbon sequestration, and ecosystem functionality are compatible outcomes when planned at the landscape-scale over a sufficient time frame.
- Change federal law to indicate that when found to be delivering a balanced set of social, environmental, and economic benefits, federal forest management plans and the actions that flow from them are considered in compliance with other relevant federal laws (ESA, NEPA, and CWA).
- Either renew the Secure Rural Schools Act or pass new legislation that permanently funds a “payment in lieu of taxes” (PILT) program for local governments based on the property tax rates imposed on surrounding private forestland.
- Continue monitoring the application of GNA as states and USFS enter into agreements and implement projects. NASF should work cooperatively with the USFS to complete periodic review of the application of the tool to identify areas for improvement.
- Monitor the implementation of Shared Stewardship Agreements and report on the beneficial outcomes as states and the USFS collaborate on the implementation of strategic objectives.
- Ensure Great American Outdoor Act funding is used to address the deferred infrastructure needs that negatively affect soil and watershed health, conservation, and recreational opportunities.

Reforms to achieve lower administration, planning, compliance, and litigation costs

- Implement NEPA in ways that are more productive by (1) utilizing landscape scale planning, (2) developing desired condition documents with smaller scale projects meeting CE requirements tiered to those documents, or (3) implementing other strategies which produce more on-the-ground results.
- Ensure that the option to only use two project alternatives – “Action” and “No Action” – in an Environmental Assessment (EA) is used effectively to create greater efficiency and better decision-making.
- Amend ESA implementation rules to allow the USFS and BLM to make Section 7 determinations as to whether a proposed action may impact a threatened or endangered species.
- Establish a process whereby Land and Resource Management Plans (Forest Plans) and their implementation are continuously evaluated and revised as needed, preferably through minor amendments more regularly adopted. Undertake complete rewrites only when deemed necessary, including for (1) catastrophic events, (2) significant changes in the demand for goods and services provided by the national forest, or (3) changes in laws and regulations that cannot be accommodated under the existing plan.
- Encourage interagency collaboration early and throughout project planning cycles.
- Ensure that the implementation of Federal Advisory Committee Act (FACA) rules allow broad-based, active and collaborative participation by stakeholders and state agencies in the development of Forest Plans.
- Ensure that the process for administratively challenging USFS projects (currently the “objections” process) supports:
 - Clear standards for who can be at the table as the USFS considers altering challenged decisions; and that this can include:
 - Parties who challenge a decision;
 - Parties who defend a decision; and
 - Collaborative groups if they submitted formally adopted recommendations on the project.
 - Limits on the scope of what can be challenged.
 - Restrictions to the timeframe under which challenges can be presented and decisions made.
- Ensure that the legal process for challenging agency decisions supports:
 - Limits to the scope of what can be heard in court;
 - Requiring that those who bring forward legal challenges assume greater financial responsibility for litigation costs; and

- Creating alternatives to judicial review that are less time consuming, costly, and precedent setting.
- Incentivize diverse collaboratives through financial support and establish processes and mechanisms specific to their involvement in project planning and judicial review. Projects that have the benefit of collaboratives' good-faith efforts behind them are significantly more difficult to litigate.

Reforms to enable vegetation management at the scope, scale, and pace necessary for more sustainable and resilient landscapes

- Fully implement the Fire Funding Fix, including redistribution of funds back into non-fire programs. After evaluating its effectiveness, propose removing sunset provisions from the law, or a version modified to enhance its utility.
- Support opportunities for third-party funding and address the current barriers in policies and laws that make it difficult to accept such funds.
- Continue to build on the success of Shared Stewardship Agreements and greater collaboration through state Forest Action Plans with activities that utilize GNA, Stewardship Contracting, and authorities under the Wyden Amendment.¹
- Change BLM GNA authorities to be fully aligned with USFS GNA authorities. Allow GNA on other federal lands, such as USFWS and DOD.
- Retain all earned revenue from forest management within the USFS, or for use by state, local, and tribal cooperators on both federal and non-federal land; excepting in-lieu-of-tax funds paid to counties.
- Continue expanding the appropriate use of large-scale CEs for:
 - Actions and activities agreed upon by local collaboratives;
 - Reducing wildfire risk;
 - Responding to insect and disease outbreaks;
 - Addressing a shortage of early successional wildlife habitat and ensuring the creation and maintenance of diverse forest age class structures;
 - Conducting timber salvage operations following wildfires; and
 - Reforesting where needed.
- Expand the use of tree planting to secure riparian corridors, reclaim marginal rangelands, and sequester carbon.

¹ Under the authority of the Wyden Amendment, managers of Federal lands may spend funds to conduct treatments on adjacent non-Federal lands to treat private lands where treatments are designed to improve the viability of, and otherwise benefit, fish, wildlife, and other biotic resources.

CONCLUSION

These recommendations will be used by NASF as staff and members interact, with Congress in some cases, or in other cases with either the USFS or BLM. Since the adoption of a NASF policy position paper on federal lands in 2016, on the ground cooperative efforts between state foresters and their counterparts in the National Forest System have continued to accelerate. A commitment to the concept of “Shared Stewardship” has been key. Enactment of these recommendations can further this progress and lead to a more healthy and sustainable federal forest resource.