

Planning Rule Amendment - 2016

Frequently Asked Questions

Background

The 2012 Planning Rule (36 CFR Part 219, Planning Subpart A—National Forest System Land Management Planning) provided direction on how to amend land management plans, but did not explicitly direct how to apply substantive requirements set forth in the 2012 Planning Rule (requirements for sustainability, diversity, multiple use and timber) when amending plans developed under the 1982 Planning Rule. Because there are substantial differences between the 2012 Rule and the requirements of 1982 Rule that formed the basis of all existing plans, conversations with the Planning Rule Federal Advisory Committee (Committee) and agency planning staff suggested that additional clarification would be helpful.

Therefore, the Forest Service, after consultation with the Committee, the field, and a 33 day public comment period associated with proposed language, is publishing a final Planning Rule amendment. The amendment clarifies that an individual plan amendment is not expected to meet *all* of the substantive requirements for sustainability, plant and animal diversity, multiple uses, and timber set forth in the 2012 Rule. However, the responsible official must meet those *specific requirements* that are directly related to the plan direction being changed by the amendment.

In addition to clarifying the amendment process, the amendment restores a sentence relating to maximum forest opening size that was removed in error from the CFR in a previous technical amendment to the Planning Rule. To correct the mistake, the original sentence will be restored as published in the CFR on April 9, 2012.

Frequently Asked Questions

The following questions are all put forth in the context of the final amendment to the 2012 Planning Rule. The Federal Register Notice, which includes the Preamble and Text of the amendment can be found [here](#)¹.

Q1: What does this amendment to the 2012 Planning Rule do?

A1: This amendment clarifies the Department and Agency's expectation for plan amendments, including expectations for amending 1982 Rule plans. While the 2012 Planning Rule includes direction specific to national forest plan amendments, the 2012 Planning Rule did not explicitly direct how to apply substantive requirements set forth in the 2012 Planning Rule (requirements for sustainability, diversity, multiple use and timber) to those plans developed under the 1982 Planning Rule.

Q2: In short, what changes to the Planning Rule were made with this amendment?

A2: In short, changes to the Planning Rule fall under the topics listed below. See Q12 for a more detailed explanation of the amendment.

- *Role of Science in Planning*

¹ Full web site path: <http://www.fs.usda.gov/planningrule/amendments>

- *Species of Conservation Concern (SCC)*
- *Decision Document and Planning Records*
- *Application of the Rule*
- *Stakeholder Involvement in Rule Development*

Q3: When will the final Planning Rule amendment be published?

A3: Efforts are underway to get the final Planning rule published on December 13th, 2016.

Q4: Why are we amending the Planning Rule now?

A4: There are currently 43 forests in the midst of amendments or about to start the plan amendment process for plans that were developed using 1982 Rule procedures. In total there are 88 amendments to 1982 Rule plans currently being worked on across the U.S. By implementing this guidance now, the Agency can ensure a more consistent interpretation of how to address the 2012 Planning Rule’s requirements for sustainability, plant and animal diversity, multiple use, and timber when amending plans developed under the 1982 Rule.

Q5: How does this Planning Rule amendment change the planning process?

A5: This amendment does not alter or change the process for forest planning, it simply clarifies interpretation. This amendment clarifies how the responsible official determines which topics are and are not required to be addressed, as well as how to document associated rationale.

Q6: Does this Planning Rule amendment apply to future forest plan amendments?

A6: Yes. The focus of this amendment is to clarify how to amend plans developed or revised under the 1982 rule procedures. However, the clarifications will continue to be relevant in the future, when amending plans developed or revised under the 2012 planning rule.

Q7: Where did the need for this Planning Rule amendment come from?

A7: Because all of the Forest Service’s current land management plans were developed under the 1982 Rule procedures, the clarifications in this amendment will help provide consistent implementation of the 2012 Planning Rule across the country. The amendment was developed in close coordination with the [National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule](#)², and is based on experience gained by early adopter forests, public input garnered through plan amendment processes, extensive dialogue with the National Advisory Committee and public comment associated with proposed amendment language (Federal Register Notice: 81 FR 70373).

Q8: How does this Planning Rule amendment impact the public?

A8: The Planning Rule amendment should have no impact to the public, distinct from the original 2012 Planning Rule. The amendment would simply clarify direction to the field to help ensure consistent implementation of the 2012 Rule when amending plans developed using the 1982 Rule.

Q9: Does this effect the public’s ability to participate in the planning process?

A9: There are no changes to the public participation processes set forth in the 2012 Planning Rule. The 2012 Rule requires that responsible officials provide meaningful opportunities for

² Full web site path: <http://www.fs.usda.gov/main/planningrule/committee>

public engagement throughout the planning process. There are resources available to help citizens, non-government organizations, local governments, Tribal governments, and others to understand both the forest planning process and how to engage.

Please see the general resources at the [Forest Planning website](#)³; the [Citizens Guide to the forest planning process](#)⁴; and the [Guide to forest planning process for State, Local and Tribal Governments](#)⁵. We encourage all interested parties to engage in the forest planning process in all phases of national forest planning.

Q10: How many comments were received during the public notice and comment period?

A10: A FRN was released on October 12, offering a 33-day public comment period on proposed language for the amendment. The public notice and comment period ran from October 12, 2016 through November 14, 2016. During that period there were 17 letters submitted, one of which was submitted in error and was not considered in comment analysis.

Q11: What were the nature of the comments to the proposed amendment?

A11: The comments –both general and topic specific – expressed both concern and support for the proposed Planning Rule amendment. The comments fall into these categories:

- General Opinion
- Role of Science in Planning
- Species of Conservation Concern (SCC)
- Decision Document and Planning Records
- Application of the Rule
- Stakeholder Involvement in Rule Development
- Other Comments

Q12: What changes to the Planning Rule were made with this amendment?

A12: In more detail, the final amendment clarifies that plan amendments do not need to meet *all* of the substantive rule requirements for sustainability, plant and animal diversity, multiple uses, and timber requirements. Rather, the responsible official must determine which substantive requirements within §§ 219.8 through 219.11 are directly related to plan direction being changed by the amendment and apply those requirements to the amendment in a way that is commensurate with the scope and scale of the amendment.

- Specific requirements of the responsible official, including: basing decisions on a need to change, providing opportunities for public participation and tribal consultation,
 - Base an amendment on a need to change the plan;
 - Determine whether and how to amend a plan.
 - Determine the scope and scale of a plan amendment.
 - Provide opportunities for public participation and tribal consultation;
 - Inform the public in the initial notice for the amendment which substantive requirements are likely related to the amendment;
 - Amend the plan consistent with Forest Service NEPA procedures;

³ Full web site path: <http://www.fs.usda.gov/planningrule>

⁴ Full web site path: http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd518208.pdf

⁵ Full web site path: http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd518206.pdf

- *The responsible official must use the best available scientific information to inform the amendment process.*
- *Follow the applicable format for plan components;*
- *Whether a rule requirement is directly related is determined by either the purpose for the amendment or the effects of the amendment (beneficial or adverse) and informed by the best available scientific information, scoping, effects analysis, monitoring data or other rationale;*
- *The responsible official is not required to apply any substantive requirement within §§ 219.8 through 219.11 that is not directly related to the amendment.*
 - *A specific substantive requirement is “directly related” to a the amendment if the NEPA documentation reveals substantial adverse effects associated with the requirement; or the amendment would substantially lessen protections for a specific resource or use*
 - *There is a rebuttable presumption that there are no substantial adverse effects associated with any substantive requirement if the NEPA documentation consists of a CE or EA with a FONSI;*
- *It provides for species protection when there are no Species of Conservation Concern (SCC) yet identified in the plan area and the amendment will have an adverse impact on a particular species. In such case, the responsible official must determine if the impacted species is a potential SCC and if so treat it as if were an SCC.*
- *How to document the rationale for amendment decisions including:*
 - *Defining the scope and scale of the plan amendment;*
 - *Showing which specific requirements for sustainability, plant and animal diversity, multiple uses, and timber requirements are directly related and how they were applied.*
- *An amendment that applies only to one project or activity is not considered a significant change in the plan for the purposes of the NFMA, but is still subject to NEPA requirements.*
- *The final amendment also restores a sentence relating to maximum forest opening size that was removed by mistake in a previous amendment; it is restored as written in the April 9, 2012, Planning Rule.*