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September 15, 2018

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Public Comments Processing  
Attn: FWS-HQ-ES-2018-0009  
US Fish and Wildlife Service, MS: BPHC  
5275 Leesburg Pike  
Falls Church, VA 22041

The National Association of Forest Service Retirees (NAFSR) appreciates the opportunity to comment on your proposal to amend portions of the regulations that implement Section 7 of the Endangered Species Act of 1973, as amended. The intent to improve and clarify existing interagency consultation processes is important and necessary. Many of our members spent large parts of their careers committed to species recovery and remain vitally interested in the agency's obligations under ESA and the efficiency and effectiveness of efforts to improve species recovery.

We are aware and supportive of the Forest Service detailed response to the proposed regulations. NAFSR's comments follow.

Chiefs Emeritus

R. Max Peterson  
F. Dale Robertson  
Michael Dombeck  
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Abigail Kimbell  
Tom Tidwell

1. We believe that "formal consultation" on major projects is not the issue and works relatively well in most instances. Rather it is the "informal consultation" process on the thousands of routine, albeit important projects and activities that are frequently delayed or unacceptably altered that is in most need of improvement.
2. We are supportive of your proposal to consider a 60-day informal consultation deadline subject to certain and needed exceptions.
3. Increase long term Forest Service authorities. We believe the Forest Service and other action agencies with the appropriate workforce of trained biologists should be allowed to make "may affect" and "not likely" to adversely affect determinations under the monitoring of the "Services". This single action would have an enormous positive impact on the ability of both action agency and the Services biologists to focus on those projects that truly have adverse impacts on important species recovery efforts.

4. Allow action agencies 30 days to review draft biological opinions. Current practice is less than two weeks and the Services internal processes prohibit major changes to the opinion. This often results in BO's being difficult to implement and forces changes to good projects without being of any benefit to the species in question.
5. Request the Services define the minimal change rule in 402.14(i)(2). NAFSR recommends the minimal change rule be defined as follows: "The Services will rely on the Action Agency, or Applicants input, in the development of "Reasonable Prudent Measures" and/or "Terms and Conditions" to ensure they are implementable and do not require major alterations of the proposed action of a plan or project in terms of design, location, scope, and results."
6. Increase the length of time consultations are valid making it efficient to renew consultations for actions such as road maintenance, special use permits, and grazing permits that have not changed but must be reauthorized. The Forest Service and we believe other action agencies as well simply no longer have the capacity to spend analysis time on repetitive routine activities. Species recovery is the real beneficiary here because limited agency time and resources must be spent on the many real threats and impacts to species and not on unnecessary analysis that benefits no one.
7. We are supportive of the suggested need to move toward more programmatic consultation and regulations that encourage and simplify processes to create programmatic biological opinions.
8. NAFSR believes this rulemaking proposal presents a rare and needed opportunity to change the current approach to risk management. Current processes are largely risk averse focusing on the short-term impacts of land management activities and usually ignoring potential long-term benefits. We believe it is imperative for regulatory agencies to consider short and long-term effects of management action and inaction when evaluating projects. Doing so is likely to require the establishment of special regulations under Section 4(d) of the Act. Long term species recovery would be enhanced, and the health of our nation's public lands improved when both the short term and the long term are deemed important in the regulatory framework.

In our view, these draft regulations will not be successful in addressing the long-term problems that have existed in informal consultation processes and will not help frustrated field biologists without addressing the problems we have outlined in these comments. NAFSR appreciates the opportunity to submit comments on this important and needed regulatory proposal.

Sincerely,

*James L. Caswell*

James L. Caswell, Chair  
National Association of Forest Service Retirees