

## **Comment on FR Doc # 2023-08429**

This letter is the National Association of Forest Service Retirees (NAFSR) response to the U.S. Forest Service's request for comments on the Advanced Notice for Proposed Rulemaking (ANPR) issued on April 21, 2023.

NAFSR represents Forest Service (FS) retirees with considerable experience across every state who have cared for the nation's forests and grasslands. Our members span the entire spectrum of natural resource professionals and researchers. We stay strongly connected to the health of the national forests, the communities they serve, and the capacity of the FS to meet their responsibilities.

The ANPR has two parts. The first is a request for comments on ways to improve existing agency plans, policies, and regulations addressing climate adaptation and resilience. The second is a request on how best to meet an objective to retain and expand mature and old growth (MOG) forests across the National Forest System as a means of addressing climate change.

We believe the first objective related to existing rules can better be addressed through a review and dialogue on current FS policies and plans. It appears most changes being proposed are already permissible under current policies and the 2012 Planning Rule and should not require rule making. These include additions or changes to:

- Assessment and monitoring,
- Conservation, management, and adaptation practices,
- Partnerships and investments,
- Performance measures, and
- Post-disaster recovery, reforestation, and restoration.

The second objective suggests changes in agency management direction and policy and would likely require rulemaking. Existing laws and regulations are the foundation of current agency policy, practice, and management. A regulation to exclusively manage the national forests to retain and expand mature and old-growth forests over other uses appears to conflict with authorities in existing laws and regulations, as described below.

### **1. The Proposed Rule is Inconsistent with Governing Statutes**

"Retaining and expanding mature and old-growth forests" is not a goal found in any statute of which we are aware. Specifically, the Multiple Use-Sustained Yield Act of 1960 (MUSYA) focuses on the idea that all uses need to be considered in planning and management of the national forests. It doesn't say, "First, emphasize a certain age-class and species structure of forests (e.g., MOG) and then figure out what the best balance of uses can be made of those forests." Nor does it say that MOG forests are "better" in some sense than other age-class/species structure forests.

In addition to MUSYA, section 101(b) of the National Environmental Policy Act (NEPA) includes ends the Federal Government should use all practical means to achieve:

*"2. assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings; 3. attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences."*

In some cases, cutting of mature trees is done for fuel reduction or fuel break projects accomplished for public health and safety and helping fire suppression efforts. Recent literature has explored the negative health impacts of wildfire smoke far beyond the national forests directly impacted. The lives of residents and firefighters have been lost.

This is problematic as it could create legal difficulties in the future and perhaps precipitate congressional intervention.

## **2. The Proposed Rule is Inconsistent with 2012 Planning Rule**

Many of the questions in the ANPR deal with issues involved in National Forest Management Act (NFMA) planning. Our view is that improvement of NFMA planning would perhaps be better accomplished by a 10-year review of the implementation of the 2012 Rule jointly conducted by FS practitioners, members of the public, and other organizations who have experienced forest planning directly.

In terms of ideas, the idea of “retaining and expanding mature and old-growth forests” may run counter to the Natural Range of Variation (NRV) concept articulated in the Planning Handbook. Projects designed to increase species diversity (such as creating openings for western white pine in Montana) or increasing early successional habitat to move toward NRV (in the Appalachians) have been criticized for cutting mature trees. The classic example from FS research in New England forests is that songbird diversity and numbers are much lower in MOG forests than in forests with a wider variety of tree species densities. In that study, a mix of regenerating, young, immature, and mature forests always had greater numbers and more diversity of songbird species<sup>1</sup>. This underlines the point that ecological integrity and diversity may be sacrificed if the sole goal is retaining and enhancing MOG forests.

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<sup>1</sup> DeGraaf, R., Hestbeck, J., Yamasaki, M. 1998. Associations between breeding bird abundance and stand structure in the White Mountains, New Hampshire and Maine, USA. For. Ecol. Mgmt. 103:217-233. [https://doi.org/10.1016/S0378-1127\(97\)00213-2](https://doi.org/10.1016/S0378-1127(97)00213-2).

King, D.I. and DeGraaf, R., 2000. Bird species diversity and nesting success in mature, clearcut and shelterwood forest in northern New Hampshire, USA. For. Ecol. Mgmt. 129(1-3): 227-235. [https://doi.org/10.1016/S0378-1127\(99\)00167-X](https://doi.org/10.1016/S0378-1127(99)00167-X).

King, D.I., Yamasaki, M., DeGraaf, R., Costello, C.A. 2011. Three decades of avian research on the Bartlett Experimental Forest, New Hampshire, USA. Forest Ecology and Management 262:3-11. <https://doi.org/10.1016/j.foreco.2010.07.037>.

The Forest Service, other federal agencies, tribes, states, counties, interest groups and members of the public have invested tremendous amounts of time and energy on the complex 2012 plan revisions. Deciding that the end goal is to “retain and expand mature and old growth forests” would likely conflict with the concept of NRV and require an amendment to the 2012 Rule. If that were to occur, many groups would coalesce around a goal of “forest” or “climate resilience” instead of “ecosystem integrity.” If the FS were to engage in such an effort, generating a future debate of abstract concepts, real work in the real world would go undone. We believe this to be an undesirable outcome that would detract from accomplishing actions on the ground to move toward resilience and address the climate emergency.

**3. The Proposed Rule is Inconsistent with Congressional Intent in the Bipartisan Infrastructure Law (BIL) and the Inflation Reduction Act (IRA) of 2022.**

The US Congress has granted substantial amounts of funding to the FS and BLM to conduct fuel treatments and to establish and maintain fuel breaks. For example, in [this USDA press release](#), Secretary Vilsack announced \$63 million from the BIL and the IRA to expand fuel breaks to “protect communities and firefighters across the West.” This is by far the largest effort the FS has been asked to make in recent memory. In addition, the FS has been challenged by COVID, by wildfires, and by hiring problems. FS performance will be under intense scrutiny, perhaps more than it has ever had, by citizens and public officials, including those in Congress. Perhaps a more useful ANPR would look for suggestions to increase and streamline these efforts, not an ANPR which considers putting on the brakes and going against Congressional intent. As retirees, we believe the FS relationship with Congress over the long term requires spending funding as appropriated.

In addition to our above concerns related to the apparent conflicts with existing authorities, we ask that you consider the following.

**1. Will Retaining and Increasing Mature and Old-Growth Forests Increase Carbon Sequestration and Storage?**

While the current concern that led to the ANPR includes carbon sequestration and storage, retaining and increasing the area of mature and old-growth forests may not in itself be the best way to increase carbon storage in forest biomass. The annual change in carbon stored in a stand is a net change—subject to both increases in biomass volume (e.g., growth accretion due to photosynthesis) and decreases (e.g., losses due to rot and decay, losses due to biomass combustion in fires). Better foci include management objectives and practices that:

- i. Keep rates of photosynthesis high, such as managing for healthy, dense live crowns.

- ii. Reduce/keep low biomass losses.
- iii. Manage stand density to keep the existing trees growing vigorously and replace trees whose health/vigor/growth rates are declining before they become net emitters of carbon.

## **2. What Should the Goal of Management Be Instead?**

The driving force behind all decisions should be to improve the forest's ability to be sustainable and resilient to changes brought about by climate change as well as other changes such as increases in recreation pressure. This includes the Forest's ability to improve carbon sequestration and storage. Carbon, however important, is one value the FS considers in management. Wildlife, watershed, recreation, and other Congressionally mandated uses and legal protections also must be considered.

Indeed, climate is not the only stressor on national forests. We are concerned that, with the focus on climate, other stressors might not be managed appropriately. Specifically, these are the impacts of accelerating numbers of recreationists, invasive species, and even native diseases and insects (pine beetles, budworms, etc.). We hope that appropriate attention and investment are given to the challenges of all stressors on all uses.

## **3. Local Knowledge**

We fully support efforts to include Indigenous knowledge and western science. We add that practitioner and local knowledge also deserve a place in promoting climate resilience. After all, if the question is "What practices make for successful planting of species x next year?" the most knowledgeable people are likely to be those with recent experience of planting species x.

In summary, we are concerned about the proposed rulemaking and wonder whether this is the best use of resources and personnel time and energy by the FS. Our perception is that, for the most part, FS projects are currently designed to protect the long-term integrity of the forest, thereby protecting ecological, social, and economic values while helping address climate change and resilience. Expanding what is currently being implemented to a large enough scale is necessary to making a difference in reducing the negative effects of climate and climate-induced disturbances--and the scale needed is far greater than exists now. This would mean securing long term funding, addressing operational issues, gaining public support, and a sustainable workforce with the personnel and skills to accomplish the work at the scale that is needed. We support the FS's many ongoing efforts in these areas and encourage the agency to pursue that focus.

Thank you for the opportunity to comment on the proposed rulemaking.

Sincerely,

*Steve Ellis*

Steve Ellis, Chair  
National Association of Forest Service Retirees (NAFSR)