

27 November, 2002

**Proposed Bush NFMA Regulations Mirror Logging Companies' Agenda**

In at least 8 specific instances, proposed Bush Administration National Forest Management Act regulations mirror criticisms of the Forest Service's 2000 NFMA regulations made by timber industry critics. These criticisms are contained in testimony presented by American Forest & Paper Association (“AFPA”) representative Steven P. Quarles on May 10, 2000 before the Senate Energy and Natural Resources Committee (copy of full testimony is posted at [www.SaveNationalForests.org](http://www.SaveNationalForests.org)) and in AFPA comments on the draft NFMA regulations submitted to the Forest Service on February 2, 2000. The Forest Service finalized changes to the NFMA regulations on November 9, 2000 without adopting the AFPA criticisms highlighted in this comparison. The Bush Administration suspended the 2002 NFMA regulations on May 17, 2001, without prior public notice or input, and promised to rewrite them. The resulting draft proposal, released November 27, 2002, changes and weakens the NFMA regulations in accordance with numerous AFPA’s concerns.

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<b><u>Timber Industry Wish List</u></b>	<b><u>Bush Administration Response in 9/16/02 Draft Regulations</u></b>
<p data-bbox="201 272 1003 418"><b>1. Ecological Sustainability Priority.</b> <i>Regarding regulations requiring ecological sustainability in national forest management as a necessary first step toward long-term social and economic sustainability:</i></p> <p data-bbox="201 462 1010 609">AF&amp;PA identifies ecological sustainability as its number one concern, stating: “This ecological sustainability standard is as alien to the history and tradition of the Forest Service as it is to the statute books.” (Quarles testimony, p. 4)</p> <p data-bbox="201 652 1016 760">“Concepts regarding ecological sustainability...are untested and have not been peer reviewed for scientific credibility” (AF&amp;PA comments, “Significant Problems, #3”)</p> <p data-bbox="201 803 1031 950">The statutes governing the Forest Service “contemplate timber and economic uses up to a point of ‘substantial and permanent impairment of the productivity of the land.’” (Quarles testimony, p. 8)</p>	<p data-bbox="1060 462 1860 641">The draft regulations <i>eliminate the priority accorded to achieving ecological sustainability</i> in the November 2000 regulations, and elevate economic and social sustainability, stating “a plan by itself cannot ensure sustainability.” Draft 36 C.F.R. 219.13.</p>

**2. Standards to Ensure Wildlife is Maintained.** *Regarding requirements to manage national forests for viable populations of native wildlife, and improve efficiency by managing all wildlife through representative “focal species”:*

“The viability and focal species proposals are invalid, would bias planning exclusively for biological considerations, would assure planning gridlock, and would prevent satisfaction of statutory multiple uses and sustained yield outputs” (AFPA comments, “Significant Problems, #4”)

AF&PA complains “no action can occur without surveying for more wildlife.” (Quarles testimony, p. 8)

The draft regulations:

- Eliminate the requirement for national forests to maintain viable wildlife populations.
- Eliminate all reference to focal species.
- Eliminate all requirements to survey for wildlife.

**3. Scientific Oversight.** *Regarding regulatory efforts to incorporate better science and non-agency scientists in national forest management by establishing national and regional science advisory boards, involving scientists in assessments, requiring local analyses and monitoring, and encouraging independent scientific review:*

“Elevating the role of scientists would institutionalize bias and junk science in national forest planning.” (AFPA comments, “Significant Problems, #11”)

“The proposed rules are likely to result in the Tyranny of Science.” (AFPA comments, p. 34)

AFPA complains “The proposed rules reflect every scientist’s desire for the best quality data . . .” (AFPA comments, p. 24)

The draft regulations *eliminate interdisciplinary teams and scientific advisory boards, make independent scientific input almost entirely discretionary, and provide little mention of the involvement of scientists.*

**4. Development of Regulations by a Committee of Scientists.**

*Regarding the use of the independent Committee of Scientists, recommended in the NFMA and used by Presidents Carter, Reagan, and Clinton to provide outside input into NFMA regulations, as opposed to relying solely on agency staff:*

AF&PA belittles the contributions of the various Committees of Scientists, pinning blame for provisions contrary to AF&PA's interests on them, stating "You would think the Department would learn from its mistakes. The existing regulations are the product of a previous Committee of Scientists." (Quarles testimony, p. 6)

"The proposed rules are equally faulty because they are the product of the Committee of Scientists . . ." (AFPA comments, p. 24)

The draft regulations were created solely by Forest Service and Department of Agriculture staff, without the benefit of an Committee of Scientists or any outside scientific or policy expertise.

**5. Mandatory Standards for Forest Management.** *Regarding mandatory requirements contained throughout the NFMA regulations:*

“The proposed rules create far too many “thou shall” edicts that will lead to greater judicial interference in national forest management.” (AFPA comments, p. 24)

“If the final rules retain a series of mandatory commands for best available science and numerous studies, they will exacerbate a central defect with the current rules (particularly in the wildlife inventoring and protection promised).” (AFPA comments p. 24)

The draft regulations *contain practically no mandatory requirements that a judge or the public could hold forest managers to. Everything is discretionary.* They mark a return to the “trust us, agency officials know best” approach of public land management:

“The much lower amount of procedural detail in this new proposed rule reflects the agency’s assumption that the Responsible Officials will discharge planning duties responsibly and will conduct planning within the bounds of authority.” Proposed Rule, p. 13.

**6. Determining Lands Suitable for Logging.** *Regarding making some national forests lands off-limits to logging:*

“Suitability, determination of land suitable for timber removal, and limitations on timber removal are fatally flawed and violate the statutory multiple uses and sustained yield outputs.” (AFPA comments, “Significant Problems, # 13”)

“We do not agree with limiting the definition of ‘timber production’ to achieving social or economic purposes, and it should be revised to reflect the broader objectives of ‘timber production’ in achieving multiple use goals and objectives.” (AFPA comments, p. 35)

The draft regulations allow logging everywhere in the forest, even in areas where it is prohibited by the forest plan, as long as the timber sale is associated with some other use such as salvage logging or removing fuels. Draft 36 C.F.R. § 219.16(c).

<p><b>7. Monitoring Logging Impacts.</b> <i>Regarding monitoring the implementation and impacts of forest plans and projects:</i></p> <p>“Monitoring should be limited to a small set of key variables identified by the responsible official to help determine if the plan is indeed being implemented.” (AFPA comments, p. 58)</p>	<p>The draft regulations eliminate all basic forest plan monitoring provisions, and they <i>make all monitoring and evaluation discretionary</i> for the local forest manager.</p>
<p><b>8. Linkage Between Logging and Monitoring Funding.</b> <i>Regarding a requirement that funding for monitoring and evaluation of a project be reasonably likely to be available before that project proceeds:</i></p> <p>“Incredibly the proposed rules contain a prohibition against authorizing any activity for which there is not ‘a reasonable expectation’ that funding will be available to complete and required monitoring and evaluation.” (Quarles testimony, p. 9)</p>	<p>The draft regulations no longer require monitoring and evaluation of projects at all. They also specifically <i>eliminate the requirement that funding for monitoring be available before activities such as logging projects are authorized.</i></p>