

The U.S. Forest Service's 2012 Planning Rule & Its Implementation

*Science of National Forest Planning/14th
Biennial Scientific Conference on the
Greater Yellowstone Ecosystem, Big Sky, MT,
Sept. 14th, 2018*

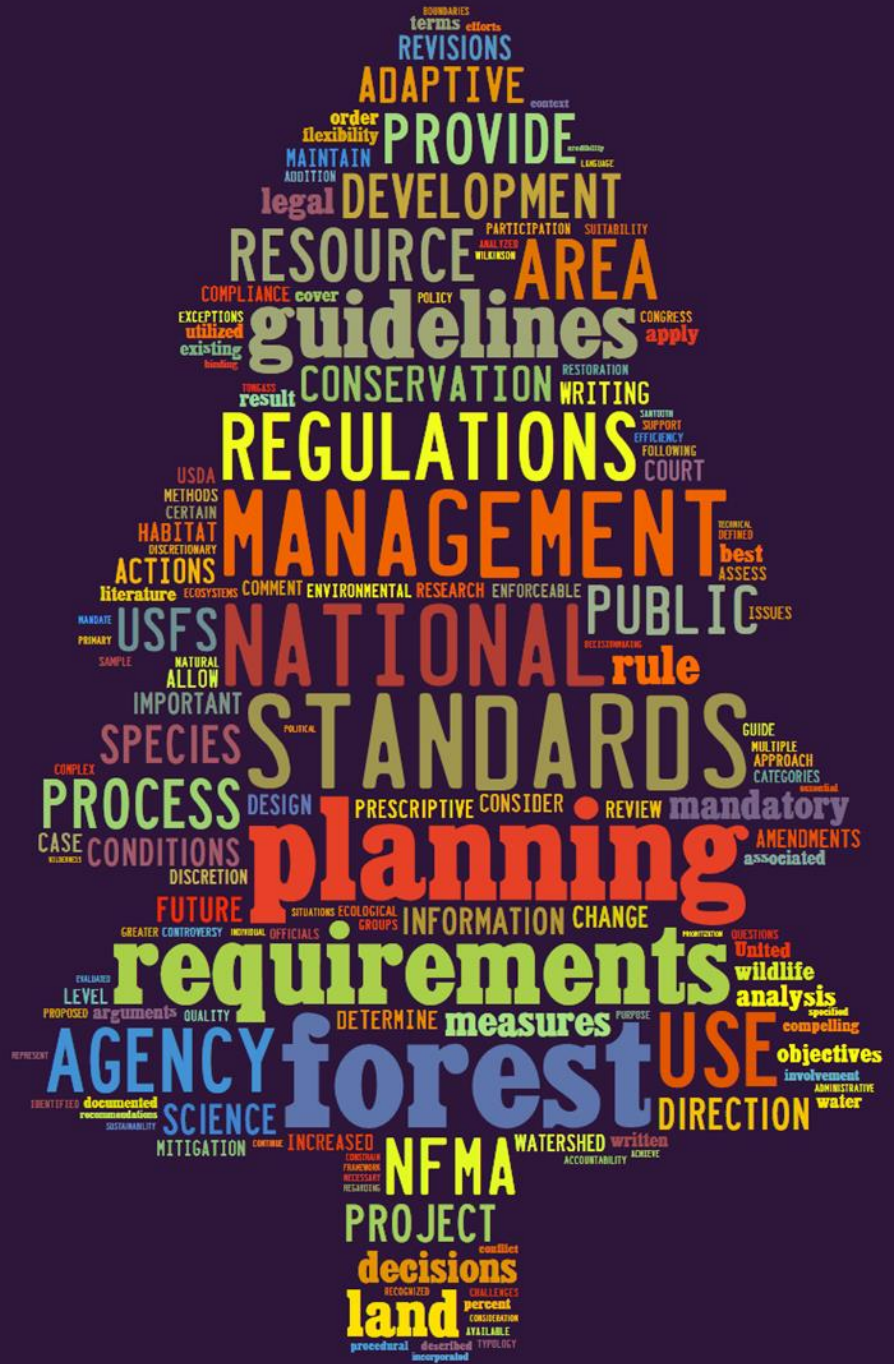
Martin Nie
Director, Bolle Center for People & Forests
Professor, Natural Resources Policy
University of Montana
W.A. Franke College of Forestry &
Conservation

Background

National Forest Management Act (NFMA)

Regulations/Planning Rules

- 1979, 1982
- ~~2000, 2005, 2008~~
- The 2012 Planning Rule

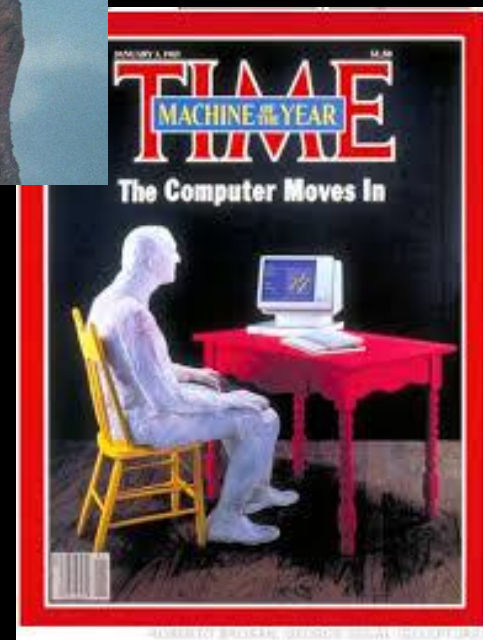




You will need new
NFMA planning
regulations!



1982




NFMA's plan consistency provision



Project and activities shall be consistent with



Forest plans, and forest plans shall be consistent with



NFMA regulations, and these regulations shall be consistent with



NFMA (statutory-legal requirements)

Forest Plans: 1982 & 2012 Regulations

Some commonalities

- NEPA process
- Public participation
- Determining lands suitable for timber and ...
- Multiple use (& constraints on)
- Wilderness recommendations
- Designation of management areas/zones
- Protections for environment & wildlife
- Plan Components (e.g., standards & guidelines)



Custer Gallatin National Forest

The 2012 Planning Rule

A Few New Themes/Provisions

- Adaptive planning/management (& monitoring)
- Best Available Science
- Different approach to wildlife diversity
- Public engagement (some pre-NEPA) in *development* of plans
- Objections process
- “All lands,” connectivity, riparian areas
- Restoration (& wildland fire) & ecological integrity
- Decision making structure
- Priority watersheds



Nie

Lolo National Forest

The 2012 Planning Rule

A Few New Themes/Provisions

- Adaptive planning/management (& monitoring)
- Best Available Science
- Different approach to wildlife diversity
- Public engagement (some pre-NEPA) in *development* of plans
- Objections process
- “All lands,” connectivity, riparian areas
- Restoration (& wildland fire) & ecological integrity
- Decision making structure
- Priority watersheds



Nie

Lolo National Forest

Plan Components 101

- Every plan must include (integrated) plan components
- Applied across a national forest or to a particular area

Used to:

- Provide vision
- Guide future project and activity decisionmaking
- Constrain subsequent management
- To meet substantive requirements of NFMA/Regulations



Who Cares?

“Every project and activity must be consistent with the applicable plan components.”
36 C.F.R. §219.15.

Must be Written

“Clearly and concisely in a way that allows for monitoring to test their effectiveness and verify assumptions on which they are based” and “without ambiguity so that a project’s consistency with applicable plan components can be easily determined” (FSH 1909.12_20).

Plan Components 101



Plan Components: Tensions

Writing components in terms of:

- Ambiguity
- Enforceability
- Measurability

To provide for:

- Accountability
- Regulatory certainty

And/or

Flexibility

Discretion

Plan Components: Tensions

Writing components in terms of:

- Ambiguity
- Enforceability
- Measurability

To provide for:

- Accountability
- Regulatory certainty

And/or

Flexibility
Discretion

Desired Condition

Example: “Oil and gas development is planned, conducted, and reclaimed to a standard commensurate with the ecological, aesthetic, and human values attached to the land where the extraction is occurring.”

Plan Components: Tensions

Writing components in terms of:

- Ambiguity
- Enforceability
- Measurability

To provide for:

- Accountability
- Regulatory certainty

And/or

Flexibility
Discretion

Standard Example:

“Authorizations to cut, collect, or use forest products for any personal, commercial, or scientific purpose shall include provisions to ensure the needs of wildlife, which depend upon those forest products, will continue to be met.”

Adaptive Planning/Management

More responsive plans that
promote learning & improve
decision making

The Vision

- Plan assessment
- Plan components
- Monitoring
- Amendments

The Reality (so far)

Adaptive Planning/Management

More responsive plans that promote learning & improve decision making

The Vision

- Plan assessment
- Plan components
- Monitoring
- Amendments

The Reality (so far)

“We are concerned that to date forest planners are not utilizing the Rule’s full potential with respect to adaptive management...it appears as though there remains an entrenched adherence to the old way of developing forest plans under prior planning rules.”

NATIONAL ADVISORY COMMITTEE FOR
IMPLEMENTATION OF THE NATIONAL
FOREST SYSTEM LAND MANAGEMENT
PLANNING RULE

Final Recommendations to the Secretary of
Agriculture and the Chief of the Forest Service –
February 3, 2018

“Shall use the best available scientific information to inform the planning process”

- > BASI “taken into account”
- < ESA’s BAS mandate
- In context of typical deference to agency by courts (“arbitrary & capricious” standard of review)
- Decisions will still be based on other values & priorities

But...

- USFS documentation of BASI
- Challenging reduced conservation measures

§ 219.3 Role of science in planning.

The responsible official shall use the best available scientific information to inform the planning process required by this subpart. In doing so, the responsible official shall determine what information is the most accurate, reliable, and relevant to the issues being considered. The responsible official shall document how the best available scientific information was used to inform the assessment, the plan decision, and the monitoring program as required in §§ 219.6(a)(3) and 219.14(a)(4). Such documentation must: Identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered.

§219.9 Diversity of plant and animal communities

NFMA's diversity mandate

Forest plans to

- “keep common native species common”
- “Contribute to the recovery of T&E species”
- Provide ecosystem & species-specific approach (in context of ecological integrity)
- Plan components to “maintain a viable population of each species of conservation concern in the plan area.”



§219.9 Species of Conservation Concern

“...a species, other than federally recognized threatened, endangered, proposed, or candidate species, that is known to occur in the plan area and for which the regional forester has determined that the best available scientific information indicates substantial concern about the species’ capability to persist over the long-term in the plan area.”

§219.9 Species of Conservation Concern

“...a species, other than federally recognized threatened, endangered, proposed, or candidate species, that is known to occur in the plan area and for which the regional forester has determined that the **best available scientific information** indicates substantial concern about the species’ capability to persist over the long-term in the plan area.”

§219.9 Species of Conservation Concern

“...a species, other than federally recognized threatened, endangered, proposed, or candidate species, that is **known to occur** in the plan area and for which the regional forester has determined that the **best available scientific information** indicates **substantial concern** about the species’ **capability to persist** over the long-term in the plan area.”



A Citizens' Guide to National Forest Planning

Prepared by the Federal Advisory Committee on Implementation of the 2012 Land Management Planning Rule



BOLLE CENTER FOR PEOPLE & FORESTS

CREATING THE NEXT GENERATION OF NATIONAL FOREST PLANS

OBSERVATIONS FROM A FORMER U.S.
FOREST SERVICE PLANNING SPECIALIST

UNIVERSITY OF MONTANA
COLLEGE OF FORESTRY & CONSERVATION
MISSOULA, MT

SEPTEMBER, 2015

<http://www.cfc.umt.edu/bolle/>

The U.S. Forest Service's 2012 Planning Rule & Its Implementation

*Science of National Forest Planning/14th
Biennial Scientific Conference on the
Greater Yellowstone Ecosystem, Big Sky,
MT, Sept. 14th, 2018*

Martin Nie
Director, Bolle Center for People & Forests
Professor, Natural Resources Policy
University of Montana
W.A. Franke College of Forestry &
Conservation