



Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Mark Gordon, Governor

Todd Parfitt, Director

February 2, 2024

United States Forest Service
Ecosystem Management Coordination
201 14th Street, SW, Mailstop 1108
Washington, DC 20250-1124

RE: Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System – 88 FR 88042

Dear Director,

On behalf of the Wyoming Department of Environmental Quality (WDEQ), we appreciate the opportunity to comment on the USFS proposed Old Growth Forest Land Management Plan (Document Citation 88 FR 88042). WDEQ is charged with conserving and enhancing the quality of Wyoming's environment for the benefit of current and future generations. We envision a future where vibrant economic development and prosperity are achieved while providing sound and sensible environmental protection that protects human health and the environment.

It is important to note as a foundation for our comments that WDEQ has been delegated primacy over multiple programs by the federal government – water, air, solid and hazardous waste, abandoned mine land reclamation, coal mining, and underground injection control (UIC) wells, including class VI, for the geologic sequestration of carbon dioxide. In addition, WDEQ permits and regulates all minerals mined in the state such as gravel and bentonite. WDEQ has also received an agreement state status with the Nuclear Regulatory Commission for uranium mining and processing in the State of Wyoming. Wyoming received primacy delegations and agreement status as a result of federal agencies agreeing that Wyoming and WDEQ have the environmental, permitting and regulatory structure in place to ensure that any activity within WDEQ's authority is handled in a manner that protects human health and environment.

WDEQ offers the following comments:

- Geographical Adaptive Management Plans – Water Resources.** The NOI identifies the potential need for separate Geographical Adaptive Management Plans because the proposed amendment is not a one size fits all management strategy. However, expectations for the adaptive management plans are not discussed. The EIS should describe the elements that will be required within the adaptive management plans and how the plans will be different from what has already been developed within currently applicable forest plans. In addition, the elements should be developed in conjunction with cooperating agencies to ensure that the adaptive management plans comply with Wyoming Water Quality Rules and federal regulations, including the Clean Water Act. Management efforts currently being utilized were developed in collaboration with cooperating agencies within the appropriate region, thus adaptive management plans should include a similar planning process, even if it is not required to be a separate NEPA process under the proposed forest

200 West 17th Street, Cheyenne, WY 82002 · <http://deq.wyoming.gov> · Fax (307)635-1784

ADMIN/OUTREACH (307) 777-7937	ABANDONED MINES (307) 777-6145	AIR QUALITY (307) 777-7391	INDUSTRIAL SITING (307) 777-7369	LAND QUALITY (307) 777-7756	SOLID & HAZ. WASTE (307) 777-7752	WATER QUALITY (307) 777-7781
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plan amendment. Without such a planning process, the plans may not adequately represent and protect water resources.

- **Nationwide Amendments Have Potential to Undermine Local Planning Efforts.** Plans for the nine (9) national forests in Wyoming were developed over an extended period of time taking into consideration extensive public and cooperating agency involvement. The proposed EIS and forest plan amendments have the potential to undermine these local planning efforts. WDEQ recommends the USFS take into consideration existing local planning efforts, including those that are actively implementing adaptive management strategies.
- **Ecologically Appropriate – Water Resources.** The NOI proposes that harvest must be “ecologically appropriate” but does not describe how the USFS will determine what is “ecologically appropriate” for harvest within old-growth forests. The USFS should describe in sufficient detail the factors that will be used to identify if potential harvest activities are “ecologically appropriate.” To determine what is “ecologically appropriate” regarding watersheds and water quality, the USFS should coordinate with cooperating agencies to ensure consistency with state and federal water quality rules and requirements.
- **Consistency with WDEQ-WQD and USFS Memorandum of Understanding.** The USFS is responsible for adhering to the 2021 MOU agreement with WDEQ and with the Rock Mountain Region and Intermountain Region. The 2021 MOU establishes the commitments between the WDEQ and USFS, including USFS’s duty to provide the WDEQ with “appropriate and timely opportunity to participate, through the applicable National Environmental Policy Act and the State Clearinghouse procedures, in proposed project and activity plans that have potential to impact water quality.” Thus, the WDEQ requests participation as a cooperating agency during the EIS development process for the old-growth proposed amendment. Other duties the USFS is responsible for upholding should also be considered as the EIS is being developed, including ensuring Wyoming Water Quality Standards are met.
- **Insufficient Timeline for EIS Development.** WDEQ is concerned that the proposed draft release date of May 2024 is not sufficient time to consider comments and cooperating agencies input. To ensure sufficient time to work with cooperators and the public, USFS should consider extending their timeline to ensure sufficient time to develop a well-informed draft.
- **Public Involvement.** WDEQ is disappointed there are no planned public meetings associated with the EIS and forest plan amendment. Since the proposed amendment is nationwide and affects all forest plans, public meetings should be held as part of the NEPA process. 40 CFR § 1506.6(c) of the NEPA Regulations describe that the project sponsor should “Hold or sponsor public hearings, public meetings, or other opportunities for public involvement whenever appropriate or in accordance with statutory requirements applicable to the agency.” Since the proposed amendment is for forest plans nationwide, hearings or public meetings are appropriate to inform the public and allow for an appropriate level of involvement from cooperating agencies.
- The NOI discusses the use of other planning processes separate from the amendment NEPA process to develop the proposed action. While the WDEQ appreciates the USFS’s use of this input to inform of the Draft EIS, public involvement in these processes cannot replace the public and cooperating agency involvement required by the NEPA Regulations. WDEQ suggests the USFS organize an appropriate number of public meetings, virtual and in person, to ensure the NEPA public participation requirements are being met. In addition, the USFS should consider revising the USFS NEPA Requirements (36 CFR § 220) to describe the appropriate level of public involvement for project types. While scoping is a useful required element to the EIS development process, it does not allow for sufficient public involvement for projects, particularly those at the programmatic and nationwide scale.

- **Vegetative Burning** – WDEQ administers a Smoke Management Program that covers responsible vegetative burning, Air Quality Rules Chapter 10. The USFS should continue to coordinate with WDEQ, Air Quality Division for all matters regarding smoke management in Wyoming.

If you have any questions or need additional information, please feel free to contact Keith Guille at 307-777-6105 or keith.guille@wyo.gov.

Sincerely,



Alan Edwards
Deputy Director
Wyoming Department of Environmental Quality

Cc: Todd Parfitt
Jennifer Zygmunt
Nancy Vehr
Keith Guille