

September 19, 2024

The Hon. Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

RE: Amendments to Land Management Plans to Address Old-Growth Forests Across the
National Forest System – Draft Environmental Impact Statement

Dear Secretary Vilsack:

On behalf of the membership of the Hardwood Federation, we appreciate the opportunity to provide comments regarding the Draft Environmental Impact Statement (DEIS) related to Amendments to Land Management Plans to Address Old-Growth Forests. The U.S. hardwood sector is a fully integrated industry from logging to the manufacture of finished consumer goods which touch upon every aspect of American life including flooring, cabinets, furniture and moldings in our homes. The vast majority of jobs supported by the sector are located in rural and underserved areas and are essential to the local economies. Strengthening and expanding the domestic and international markets for U.S. hardwood products is key to both maintaining the health of our public and private forestlands and to reducing the levels of carbon in our atmosphere. The U.S. hardwood industry has a long history of practicing sustainable forest management which maximizes environmental benefits while providing well-paying jobs in underserved and rural communities.

Background:

Effective forest management, which acknowledges the carbon benefits of tree harvest and the variability of regional ecosystems as they relate to mature and old growth forests, is essential to the Administration's climate mitigation strategy. In April 2022, the Administration released Executive Order (E.O.) 14072, focusing on forest health and outlining a path forward to assess mature and old growth forests on federal public lands. Following the E.O., the Federation submitted comments to USDA's Request for Information (RFI) in 2022 and Advance Notice of Proposed Rulemaking (ANPRM) in 2023 and urged the Administration to avoid a "one size fits all" approach to defining old growth.

In late 2023, USDA proposed an unprecedented nationwide Forest Plan amendment that would supersede existing forest plans to impose “consistent old growth policies” on all 128 forest management plans. This action effectively opens the door to impose a one-size-fits-all approach to classify old growth forests, removing more national forest acreage from sustainable forest management, while also creating complex, new management requirements. The Federation joined forest sector allies in comments filed in January 2024 opposing the proposal on the grounds that action would:

- Contradict established federal policy that no single definition of old growth forest represents the diversity of old growth ecosystems.
- That the proposal violates the agency’s 2012 Planning Rule, which requires the USFS to engage stakeholders in a science-based process that acknowledges the need for local flexibility.
- Impose requirements to manage forests “adjacent” to existing old growth for old growth characteristics, thereby undermining other Forest Plan goals, including multiple-use objectives.

Comments:

USDA solicits comment on four alternative scenarios that would govern the agency’s approach to amend land management plans (LMPs), per the Draft Environmental Impact Statement (DEIS):

- Alternative 1 - No Action.
- Alternative 2 – Modified Proposed Action (also the agency’s preferred scenario), which would impose “objectives, standards and guidelines,” among other requirements, to amended LMPs.
- Alternative 3 – More Restrictive, which would ban commercial timber harvest in old growth forests.
- And Alternative 4 - Less Restrictive, which would force the agency to manufacture new LMP content while distracting it from the all-important mission of wildfire mitigation, for example.

The hardwood sector endorses “Alternative 1” and urges the agency to take no action with respect to proposed amendment of the LMPs. To that end, the industry urges USDA to reject Alternatives 2, 3 and 4, as currently drafted. The hardwood sector continues to oppose the agency’s proposal to amend the plans and maintains its opposition within the context of the related DEIS. The industry believes that the USDA should continue to address the old growth issue through the locally led forest planning process, governed by the 2012 Planning Rule. This will ensure a thorough and transparent regulatory process consistent with established USFS policies grounded in the “National Forest Management Act” (NFMA). Furthermore, the hardwood industry agrees with arguments asserted by the Federal Forest Resources Coalition (FFRC), which states that “the no action alternative would allow each NFS unit to tailor its

management of old growth to meet local circumstances” per “the preamble to the 2012 Planning Rule.”

The agency’s proposal to maintain “current LMP content ... to guide management of old growth” promotes regulatory certainty while complying with the requirements of the NFMA. Because this alternative would reject a uniform “framework for managing old growth across the National Forest System (NFS),” the agency can avoid a one size fits all approach to forest management that fails to recognize the diverse environmental conditions that exist within the vast NFS. Even within the context of the agency’s report released in April 2024, “Mature and Old Growth Forests: Definition, Identification and Inventory on Lands Managed by the Forest Service and Bureau of Land Management,” federal officials concede that “old-growth and mature forests look dramatically different from coast-to-coast, state by state, and locally.”¹ Specifically, the report points out that, for example, “old-growth sequoias in California can be thousands of years old and upwards of 250 feet tall with a 30-foot or greater trunk diameter, while an old-growth stand of dwarf pitch pine in New Jersey may include trees that are hundreds of years old.”² The fact that forest and tree diversity is well documented as a land management policy rationale should steer USDA towards the conclusion that any attempt to impose a uniform framework on LMPs across the country would undermine effective and responsive forest management, thereby undermining forest health.

In addition to administrative rationales for choosing the “no action” alternative, the industry would like to point out that there is legislative pushback against USDA’s proposal. In March, Sen. Barrasso (R-WY) introduced [S. 3929](#), a bill that would prevent the agency from moving forward with the amendment process for LMPs as they relate to old growth. The legislative movement, combined with potential conflicts with the 2012 planning rule, provides sound policy rationales for choosing Alternative 1.

Conclusion:

The hardwood industry appreciates the opportunity to comment on the agency’s Draft Environmental Impact Statement related to proposed amendment of land management plans as they relate to old growth forests. The sector urges the agency to adopt Alternative 1 among the four scenarios listed and take no action to make uniform, wholesale changes to LMPs. This would override tailor-made plans managed by individual forest supervisors. Furthermore, the agency should be mindful that in the event it moves forward with an EIS that opens LMPs in a manner that spawns litigation, federal regulators will not be able to invoke the judicial doctrine of agency deference as a tool with which to defend its action within the context of potential violations of the Administrative Procedures Act (See [Loper v. Raimondo](#), No. 24-451, June 28, 2024).

¹ Mature and Old Growth Forests: Definition, Identification and Inventory on Lands Managed by the Forest Service and Bureau of Land Management, April 2024, Page 3.

² Ibid.