



## *Guide to Reading the Rule and DEIS*

**To: TWS Staff and Interested Persons**

**From: Mary Krueger**

If you've looked at the new NFMA Planning Rule<sup>1</sup>, DEIS and Appendices you know there's a lot of material to digest in order to understand what's being proposed. It would be great if everyone had time to read every page, but I realize that's not realistic, nor is everyone interested in every facet of Forest Service planning and land management. This Guide is meant to help the interested reader understand the tips and tricks to reading these types of large documents (and these Planning Rule documents in particular) in order to concentrate on the topics of interest to each reader.

### *The Proposed Rule*

The Federal Register version of the proposed (also known as "draft") Rule is 50 pages long. There are actually three versions of the rule out there: the "pre-release" version (94 pages), the Federal Register Desk Copy and the version published in the Federal Register on February 14, 2011. This last is the "official" version. Each of the other two versions carries a disclaimer that the final version may contain different words. I'm not aware that anyone has actually compared all three, but to be on the safe side I would recommend only using the Federal Register published version in your analysis.

A Federal Register notice for a proposed rule contains a common set of sections. Knowing what these are and where they usually appear is the key to effectively reading a notice (and being able to safely skip reading every word should you not have the time or inclination). This discussion focuses on the proposed Planning Rule itself, but the section headings are common to most notices. The proposed Rule starts out with a quick one-column summary, then includes "Dates" and "Addresses" sections. These provide the official information on when (**May 16<sup>th</sup>**), where and the means by which comments are due. There are a variety of acceptable methods and web addresses. The Regulations.gov ([www.regulations.gov](http://www.regulations.gov)) site can seem overwhelming, but has the advantage of providing a numbered receipt to each submitter so you know that your comments were received.

The Federal Register notice then includes a "Supplementary Information" section that includes information on 1) where additional documents (such as the cost-benefit analysis and Civil Rights Impact Analysis) can be found; 2) an overview detailing how the agency got to this

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<sup>1</sup> The NFMA Planning Rule is also known as the Forest Service Forest Planning Rule. The National Forest Management Act (NFMA) is the law that directs the agency to create and implement Forest (and Grassland/Prairie) Land Management Plans.

place in the process and what they heard from the public; and 3) a section-by-section explanation of the proposed rule. This last section can be valuable in finding more on the specific topics you might be interested in. But first a few tips.

This notice proposes a set of exact words that will eventually (after some changes due to comments) appear in the regulations (known officially as the Code of Federal Regulations or CFRs). But this exact proposed language doesn't appear in the notice until well into the document, on page 8514. (The whole notice, aka the proposed rule, appears on pages 8480-8528 of the Federal Register.) Page 8514 is also where the table of contents for the Rule appears. Each numbered section of both Subpart A and Subpart B are listed here. If you have limited time, the rule itself on pages 8514-8528 are the pages to read. If your time is even more limited, you can use the table of contents to further refine your reading. One recommendation though: always read the Definitions section of any proposed Rule, as this is where the official agency definition of a word or phrase will appear; it may differ substantially from a dictionary definition. If you are limited for time or want to do a quick analysis of any proposed or final rule, read the actual rule language. It's always at the end of the rule notice.

You'll notice a series of numbers and letters in the proposed Rule language. This "outline" details the major sections, sub-sections, etc. of the Rule and acts to "nest" the requirements. Depending on the formatting, it can sometimes be hard to discern which are the sub-sections and which are the points under each. In this Rule the outline is as follows:

- 36 CFR Part 219
  - Subpart A (or B)
    - 219.x
      - (a)
        - (1)
          - (i)

Wherein (i) is a sub-section of the numbered item, which is a sub-section of the lettered section, which is a subsection of the decimal point section (i.e. 219.x).

Back to the section-by-section explanation mentioned above (pages 8483-8507): this section provides further explanation for aspects of each of the numbered regulation sections. They provide background as to what the agency intends should happen in order to implement the exact language of the regulations. Reading these sections can provide valuable insight into the Rule. None of this language in the explanation section will appear in the final regulations, but will likely heavily influence both agency behavior and the language that might be used in the Forest Service Handbook chapters that are eventually written to provide agency staff with additional direction to implement the Rule.

Finally, the Federal Register notice contains a "regulatory certifications" section. This part of the notice provides the agency explanation for how it believes it has complied with each of the

legal requirements, Executive Orders (EO) and departmental policies it must meet. It can be a very useful section to read in looking for agency vulnerabilities if you have the time.

### ***The DEIS and Appendices***

Environmental impact statements (EISs) are almost always organized the same way:

Chapter 1: Purpose and Need for Action

Chapter 2: Proposed Action and Alternatives

Chapter 3: Affected Environment and Environmental Consequences

Chapter 4: Consultation and Coordination

Chapter 3 is the heart of the EIS, but you need to read chapters 1 and 2 to understand chapter 3. Luckily, the first two chapters are usually the shortest. Chapter 2 usually contains a comparison of alternatives by issue. For example, if you want to read about how each alternative addresses climate change, pages 40-41 provides that information. Once you understand what each of the alternatives entail, you can selectively read the issue sections for your area of interest. Chapter 3 is organized in a somewhat similar manner. There's an overview on effects at the beginning and then each of the issues / resources is dealt with in turn. The analysis includes a discussion of the impacts to that issue or resource under each alternative. Here too, you can selectively read based on your interests.

There are a number of appendices. Some provide the proposed regulatory language for a particular alternative. Others provide copies of old rules or statutes that will aid in your analysis. The titles of each are self-explanatory.

### ***Summary***

I would encourage you to read as many of the documents as you can. The concepts, issues and impacts are often interrelated and the best analysis recognizes where these overlap to create favorable or unfavorable consequences and impacts. However, I recognize that we all have a lot on our plates and despite our best and most hopeful intentions there are often not enough hours in the day. Hopefully this Guide can help you use the time you have effectively and efficiently.

In the table that follows, I've taken the top issues and detailed where in the proposed Rule, DEIS and Appendices that issue is addressed. The numbers in the table refer to page numbers in the applicable document. I make no claim that the list is completely exhaustive. If you find a page or section I've missed please let me know so I can update the table. In addition, please let me know if there are missing topics that should be added to the list. Start reading!

*Page Number Guide to the 2011FS NFMA Proposed Rule, DEIS and Appendices*

<b>Topic</b>	<b>Rule</b>	<b>DEIS</b>	<b>DEIS Appendix</b>
<b>Species Viability &amp; Wildlife</b>	8490, 8492 Sec. 219.9, 8493, 8494, 8518 Sec. 219.9, 8525	Ch 1: 12 Ch 2: 20, 25-26, 37-40 Ch 3: 67, 68, 100-122 index 221, 222, 225	App A: A11, A12-A13, A26, A29 App C: C4, C28-C29, C32-C34, C37 App E: E4 App F: F8-F9, F9-F13, F13-F14, F21-F22, F28, F29
<b>Timber; Timber Suitability</b>	8496 Sec. 219.11, 8497, 8519 Sec. 219.11, 8520	Ch 1: 13-14 Ch 2: 20-21, 32, 41-43 Ch 3: 146-149, 152-153, 154-155, 156, 157 index 225	App A: A10, A11, A14-A17, A29 App C: C3, C4, C5, C6, C14, C23-C26, C34-C36 App E: E5-E9, E17 App F: F29 App H: H3-H4
<b>Economics</b>	8481, 8491, 8494 Sec. 291.10, 8519 Sec. 219.10, 8524	Ch 1: 13-14 Ch 2: 19, 41-43, 134-156 Index 224	App A: A9, A12, A25 App C: C5, C7, C19-C21 App E: E4-E5, E15 App F: F24-F25 App G: G8-G9 App J: J1-J16
<b>Wilderness/Roadless</b>	8496, 8524, 8525	Ch 3: 81, 193 Index 222, 224, 225	App A: A9, A13, A14, A28, A30 App C: C26-C28, C38 App E: E16, E17 App F: F26, F30 App I: I2-I4
<b>Roads</b>		Ch 3: 82-85, 91-92, 94, 95-96, 98 Index 224	App C: C33 App G: G16
<b>Water/Watersheds/Fisheries</b>	8484, 8490, 8491, 8496, 8518, 8525	Ch 1: 11-12 Ch 2: 20, 21, 25, 35-37 Ch 3: 67, 79-100 Index 221, 222, 225	App A: A9, A11, A12, A14, A29, A30 App C: C31, C36 App E: E5, E17 App F: F8-F9, F10-F12, F27-F28, F29-F30 App H: H4
<b>Monitoring</b>	8481, 8490, 8497 Sec. 219.12, 8498, 8499, 8507, 8510, 8520 Sec. 219.12, 8521	Ch 2: 21, 26 Ch 3: 107-109, 112-114, 116-117, 118, 120, 121-122, 160, 164, 165-166, 169, 171-172 Index 223	App A: A7, A11, A17-A19, A27 App C: C17, C22 App E: E5, E9 App F: F14-F19, F23 App G: G12-G20
<b>Fire</b>	8490	Ch 3: 68-70 Index 222	App A: A11 App C: C29 App F: F10
<b>Climate Change</b>	8490	Ch 1: 12-13 Ch 2: 40-41 Ch 3: 122-134 Index 221, 222	App A: A14 App F: F9
<b>Restoration</b>	8492, 8493, 8494, 8524	Ch 1: 11 Ch 2: 34-35 Ch 3: 65-79 index 224	App F: F27

<b>Recreation</b>	8494, 8495-8496, 8524, 8525	Ch 2: 20, 32-33, 41-43 Ch 3: 135-141, 149-151, 153-154, 155, 156 Index 223, 224	App A: A12, A13, A14, A28, A29 App C: C29-C30 App E: E5, E16 App F: F27
<b>Collaboration</b>	8481, 8482, 8485 Sec. 219.4, 8486, 8500, 8502 Sec. 219.16, 8515 Sec. 219.4, 8523	Ch 1: 15 Ch 2: 22, 42-43, 43-44, 44-46 Ch 3: 159, 162, 165, 167-168, 171-173, 173-182, 196-197 index 221, 223, 224	App A: A4-A6, A20, A25, A28 App C: C3, C9-C11 App E: E4, E11-E12, E13 App F: F1-F6, F20, F25-F26 App G: G1-G6 App H: H2
<b>Cultural Resources</b>	8494, 8496	Ch 3: 178	App A: A9, A12, A14 App C: C2, C31-C32
<b>Special uses</b>	8519 Sec. 219.10	Ch 1: 13 Ch 3: 53, 67-68, 141-146, 151-156, 157 Index 222, 224	App A: A13 App C: C29 App E: E6 App G: G10 App J: J3, J11
<b>Minerals Management</b>	8495, 8519 Sec. 219.10	Ch 3: 135	App A: A13 App C: C2, C30-C31 App G: G10
<b>Energy Development</b>	8494, 8495, 8510-8511, 8519 Sec. 219.10	Ch 3: 135	App A: A13 APP G: G10
<b>Visuals, Visual Resources</b>	8519 Sec. 219.10	Ch 3: 137 Index 225	App A: A13 App C: C30
<b>Air</b>	8490, 8518, 8519		App A: A11, A13
<b>Range</b> [Note: Mary O'Brien of Grand Canyon Trust added this line because TWS did not cover Range in this document]	<u>8515 Sec. 219.10</u>	<i>Ch 3 (Affected Environment, Environmental Consequences): 136, 141-146; 151-152 (Proposed; A); 153 (B); 154 (C); 155-6 (D);</i>	<i>App A: A13 App C: C7, C24, C29 App G: G10 App J: J3</i>