



Wyoming
DEPARTMENT OF *Agriculture*

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The Wyoming Department of Agriculture is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.

May 20, 2016

Neil Kornze
Director, Bureau of Land Management
US Department of Interior
1849 C Stree, N.W. Room 2134 LM
Washington, DC 20240
Attn: Regulatory Affairs, 1004-AE39

Dear Director Kornze,

Following are the Wyoming Department of Agriculture's (WDA) comments pertaining to the Bureau of Land Management (BLM) proposed amendments to existing regulation 43 CFR 1600 (Planning 2.0) to prepare, revise, or amend land use plans pursuant to the Federal Land Policy Management Act (FLPMA).

Our comments are specific to our mission within state government: dedication to the promotion and enhancement of Wyoming's agriculture, natural resources, and quality of life. As this proposed amendment impacts our agriculture industry, our natural resources, and the welfare of our citizens, we believe it is important you continue to inform us of proposed actions and decisions and continue to provide us the opportunity to express pertinent issues and concerns.

The WDA appreciates the BLM's concerted effort to educate Cooperating Agencies as well as the public regarding the changes proposed in the Planning 2.0 amendments. We also appreciate the comment deadline extension to allow the public more opportunity to review the complex changes. However, we do not support the proposed Planning 2.0 amendment due to Wyoming's long history, excellent relationships and proven track record of working cooperatively on planning efforts. The proposed changes could negatively change the working relationship and cooperation the BLM and the State have enjoyed over the years.

We offer the following comments with the intent and hope of making changes prior to the BLM issuing a final rule.

Remain Consistent With FLPMA: Much of the changes proposed in the Planning 2.0 amendments are to ensure consistency with the Federal Land Policy Management Act of 1976 (FLPMA). We are discouraged with BLM's first goal: "Improve the BLM's ability to respond to social and environmental change in a timely manner" deviates from FLPMA. According to FLPMA, Declaration of Policies, Sec. 102. [43 U.S.C. 1701] (a) (7); "*goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;*" WDA strongly urges BLM to only address multiple use and sustained yield and not attempt to manage for social change.

Revise Planning Assessment: WDA understands the BLM's desire to utilize the Planning Assessment to develop an early process for data submissions, as well as attempt to reduce protest and appeals at the end of the process. Special interest groups and non-governmental organizations have increased their role in the oversight of federal lands,

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including commenting, protesting, appealing, as well as collecting data. However, we are gravely concerned with how BLM offices will consistently consider meeting "standards for high quality information."

WDA supports BLM using scientific, peer-reviewed data to make decisions regarding changes in land management. Our concern with the Planning Assessment and general acceptance of data revolves around the process/methods in which the data was collected, the qualifications of the collector, and the goals and objectives for why the data was collected. In no way does WDA believe the Planning Assessment provides any guidance or coordination for the data collected or submitted to alleviate duplication or quality control. Data collected by different people, having different agendas, using different methodologies will no doubt cause conflict when determining if the data is in fact, high quality information. In addition, we are concerned of the lack of Quality Assurance/Quality Control identified in the planning assessment.

The Planning Assessment process documents information the BLM receives into a report and is made available for public review. Planning 2.0 does not specify what the public review entails, including a public comment process. It's imperative Cooperating Agencies review and comment on the draft Report before issuing a final version, or before it is incorporated into the resource management planning process.

The Planning Assessment provides other Federal agencies, State and local government, Indian tribes, and the public the opportunity to provide input and propose preliminary alternatives to the land use plans. We believe the existing Scoping process already provides this same opportunity and the addition of the Planning Assessment will not alleviate future protests or appeals.

While the BLM's amendment attempts to clarify the protest process, it will not accomplish the goal of having fewer protests, nor will those protestors provide more comprehensive protest points. Should the BLM continue with the proposed changes to the protest process, WDA strongly recommends a transparent process where Cooperating Agencies will receive all the protests the BLM receives, as well as what protests were denied and accepted under the strict guidelines outlined in the proposed Planning 2.0.

Reconsider Public Comment Periods: BLM's amendment to reduce public comment periods from 90 to 45 days for draft Environmental Impact Statements (EIS) and from 90 to 60 days for review of preliminary alternatives of draft resource management plans (RMPs) seems commendable and may improve efficiencies. WDA strongly supports and encourages BLM improving efficiencies of the National Environmental Policy Act (NEPA), which also benefits Cooperating Agencies who spend considerable amounts of time and resources participating in the process. However, simply reducing the number of days for the public to comment, and increasing their involvement in the beginning, will not likely address inefficiencies in process. WDA recommends BLM not reduce the public comment period, but rather maintain the existing 90 day public comment periods for both the EIS and draft RMPs.

Identification of a Preferred Alternative: As a Cooperating Agency, WDA has and will continue to support Cooperating Agencies' involvement in the identification of a single preferred alternative. It is imperative that Cooperating Agencies work closely with BLM to ensure support and identification of the preferred alternative prior to public release and comment. Should BLM identify "one or more" preferred alternatives in the Draft EIS, it will create confusion, uncertainty and variability in the direction the agency will issue their final decision. Based on Planning 2.0 proposed amendments, we understood BLM's intent was to involve the public earlier in the process, instead of at the end to alleviate protests and appeals. BLM will undoubtedly receive equal number of protests and appeals when the public's proposed alternative is not selected in the final decision. We do not support the proposed change to include multiple preferred alternatives.

Reconsider Any Federal Agency Participation: The intent of removing “appropriate” to “any” federal agency as part of the BLM’s planning process is not acceptable. WDA challenges BLM to consider what “any” federal agency really means. For example, there is no place for the US Department of Treasury, Internal Revenue Service, US Department of Veteran Affairs, or the US Department of Housing and Urban Development to participate in the BLM planning process. WDA opposes BLM replacing “appropriate” with “any” federal agency.

Maintain State Director Responsibilities: Section 1601.0-4 proposes to specify the BLM Director as the appropriate deciding official for resource management plans extending beyond the state boundary. WDA supports maintaining State Director, District Managers, and Field Office Managers as the primary deciding officials. We believe decisions should be made at the local level, and not the national level. Should the resource management plan extend beyond a state boundary, we believe the field managers affected should cooperatively work together to make local decisions. Additionally, many states such as Wyoming have plans in place to address issues shared by neighboring states (e.g. sage-grouse).

Planning Assessment: Section 1610.4 (Planning Assessment) does not address how the Planning Assessment will be noticed. Without this information we have no knowledge of when the Planning Assessment begins, who will initiate the process, how long the Planning Assessment process lasts, or who will be notified, etc. We are concerned how Cooperating Agencies will be notified and by what means (e.g. Federal Register).

The Planning Assessment process continues to diminish the role of State Cooperators by removing their participation in the Planning Assessment process. The timing of the Planning Assessment is prior to the Notice of Intent. Cooperating Agencies usually are not accepted as Cooperating Agencies until after the Notice of Intent is released. We insist the BLM identify Cooperators prior to the Planning Assessment and work with Cooperating Agencies throughout the Planning Assessment process.

Revise Definitions: As a Cooperating Agency, WDA is concerned Planning 2.0 is systematically removing the unique role and responsibility of Cooperating Agencies. By increasing public participation to the proposed Planning Assessment process, Cooperating Agencies’ expertise and ability to work cooperatively with the BLM is diminished.

The Planning 2.0 Rule proposes to add “appropriate, scope of their expertise, and constraints of their resources” to the planning rule. We do not support BLM confining Cooperating Agencies to a subjective decision of what is considered “scope of their expertise.” This statement could potentially eliminate the Cooperating Agencies with expertise across multiple resources from participating outside of their “expertise.” Additionally, it’s inappropriate for BLM to determine if the Cooperating Agency has any constraints on their resources, including staff or travel budgets. WDA recommends removing any of the proposed language to this definition.

The BLM is proposing to replace “resource related plans” with “land use plans.” WDA is concerned this change will undermine the efforts of local governments and not allow incorporation of their individual plans into the RMP. We support consistency between the federal agencies and state and local governments. WDA recommends BLM provide certainty these local plans will be incorporated and referenced as part of RMP process.

Planning 2.0 Section 1601.3 states: *“Further, it is inappropriate for the BLM to seek consistency with policies and programs that may or may not be officially approved or adopted by the Federal agencies, State, and local governments, and Indian tribes.”* This is extremely concerning for us. We work very closely with Cooperating Agencies at the State and local level and with BLM to ensure consistency occurs throughout the state. By removing the aforementioned

language and not including policies and programs, it is highly likely the RMPs will conflict with management efforts and policies. This is especially true regarding the Governor's Consistency Review.

WDA appreciates BLM's efforts to develop Table 1 comparing Public Involvement Opportunities in Existing and Proposed Regulations. WDA would encourage BLM to compare and contrast how Cooperating Agency involvement will change with existing and proposed regulations. As mentioned above, we see Cooperating Agencies' unique roles dramatically diminished with the proposed changes.

WDA supports BLM finding more efficient ways to navigate NEPA, including EIS'. However, we do not support diminishing the role of Cooperating Agencies in the proposed process. We strongly urge the BLM approach the various Cooperating Agencies in each state to consider and address their concerns. If you have questions, please contact Justin Williams, Senior Policy Analyst at 307-777-7067.

Sincerely,



Doug Miyamoto
Director

DM/jw

CC: Governor's Policy Office
Wyoming Board of Agriculture
Wyoming Stock Growers Association
Wyoming Wool Growers Association
Wyoming Farm Bureau Federation
Wyoming State Grazing Board
Wyoming Association of Conservation Districts
Wyoming Game and Fish Department
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