



# NATIONAL ASSOCIATION OF STATE FORESTERS

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Attention: Steven Koehn  
Director of Cooperative Forestry  
USDA Forest Service  
State and Private Forestry  
1400 Independence Ave SW,  
Washington, DC 20250-1124

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The National Association of State Foresters (NASF) is pleased to provide official comments on the State and Private Forestry (S&PF) Landscape Scale Restoration (LSR) program proposed directive published in the November 16, 2020 Federal Register which sets forth direction for the implementation of LSR as created by section 8102 of the Agricultural Improvement Act of 2018 (Pub. L. 115-334 (December 20, 2018)) (2018 Farm Bill).

NASF represents the directors of the forestry agencies in all 50 states, eight U.S. territories, and the District of Columbia. Prior to codification and through this proposed directive, state foresters are responsible for providing management and oversight of the LSR program within their state to achieve national program objectives and state priorities, particularly those state priorities within State Forest Action Plans. NASF works hand-in-hand with the regional state forester organizations (Council of Western State Foresters (CWSF), Northeast-Midwest State Foresters Alliance (NMSFA), and Southern Group of State Foresters (SGSF)) who have historically, and through this directive, been charged with developing and issuing a Request for Proposals (RFP) or Request for Applications (RFA), establishing a grant review team with multi-agency representation, coordinating evaluation of cross-regional project proposals, and submitting the rankings of the project proposals to the Deputy Chief for S&PF and Deputy Area Budget Coordinator for consideration upon completion of the review process.

Given the importance of LSR in furthering priorities identified in State Forest Action Plans and the extensive role state forestry agencies and the regional state forester organizations play in the LSR process, NASF offers the following insights in response to the USDA Forest Service's (Forest Service) request for comment:

### **3804.2(3) – Regional Foresters**

We recommend clearly establishing a point of contact in each Forest Service Region for all LSR issues and questions and to handle the selection process and processing of applications prepared and submitted by Tribes. As a point of operational procedure, the designation and communication to the regional state forester associations of the designated point of contact for each Forest Service Region has been identified as highly useful and necessary for the process, particularly for the West which spans seven different regions. Clearly establishing these contacts assists in processing tribal

applications submitted under the procedure outlined in section 3807.3(2), enabling applicants to seek guidance during the project development phase as encouraged in section 3807.3(3), and responding to questions related to field-specific guidance on federal grants and agreements requirements.

**3805 – Definitions – Non-industrial private forest land (NIPF): “Is rural (as defined in this section); has existing tree cover or is suitable for growing trees; and is owned by: any private individual, group, association, corporation, or other private legal entity, except a landowner or legal entity whose major objective for ownership is commercial timber production, or an Indian Tribe.”**

We recommend removing “except a landowner or legal entity whose major objective or ownership is commercial timber production,” from the definition of NIPF to directly reflect the language within the 2018 Farm Bill. The language in this definition has gone further than the 2018 Farm Bill language by adding “except a landowner or legal entity whose major objective or ownership is commercial timber production.” While we appreciate the Forest Service’s intention to provide greater clarity to applicants on not only what lands are eligible, but what lands are not eligible based on particular ownership, this addition seems to misalign with congressional intention within LSR authorization and the existing purposes stated within the Cooperative Forestry Assistance Act (CFAA), and may also have unintended consequences for otherwise eligible and worthwhile projects. Within the authorizing language for LSR, a condition within eligibility requires a restoration strategy be “accessible by wood-processing infrastructure.” This expresses the clear congressional intent to ensure eligibility for projects with timber production components. The proposed definition would undermine that intention.

The CFAA, wherein LSR is codified, identified “encouragement of timber production” among purposes of the Act within the preamble (Sec. 2b PURPOSE). Further support for not precluding land owned by timber producers as eligible lands based on the CFAA can be found within:

- Sec. 3(a)(10) RURAL FORESTRY ASSISTANCE (RFA) which specifies Secretarial assistance for management of forest resources to include harvesting, processing and marketing timber; utilization of wood products; site preparation, thinning and other silvicultural practices; management to sustain long-term resource productivity; and, encouraging investment of proceeds from timber sales to enhance forest land. RFA is one of the program authorities through which the LSR program has to be delivered (3806.22 – 4); and
- Sec. 5(d)(1) FOREST STEWARDSHIP PROGRAM (FSP) providing Secretarial authority to state foresters to manage and enhance production of timber. Moreover, Sec. 5(c) provides a definition for “nonindustrial private forest lands” without qualification or limits regarding commercial timber production. FSP is one of the program authorities through which the LSR program has to be delivered (3806.22 – 4).

In addition to the language within the 2018 Farm Bill, the 2008 Farm Bill (PL 110 Sec. 2001(d)(18)) incorporates the same definition for non-industrial private forest land as contained in CFAA-Forest Stewardship Program and the 2018 Farm Bill. Specifically, the authorization for Emergency Forest Restoration Program (Sec. 8203) also utilizes identical definition language. Notably, authorizations for Environmental Quality Incentives Program and Cooperative Conservation

Partnership in 2008 Farm Bill contain the same references to NIPF. In summary, the host of relevant and related existing authorities all contain NIPF definitions that do not match or support the inclusion of this added language for LSR.

Proposals must also align with landscape priorities within a State Forest Action Plan and the other objectives outlined within the guidance. If a project proposal on land with an emphasis on commercial timber production meets all of the other LSR application requirements and make measurable impacts across the landscape in line with a Forest Action Plan as Congress intends, there should be no rationale for exclusion. This language would also disincentivize a landowner that produces timber who is willing to put up funds for match to get this work done on their land and adjacent land.

**3805 – Definitions – Rural: “Any area other than an urbanized area, as currently defined by the United States Census Bureau, such as a city or town that has a population of greater than 50,000 inhabitants according to the latest U.S. Census.”**

We propose replacing the definition for “rural” with the following text: “those areas consistent with the authorities defined for assistance to forest landowners and others in 16 USC 2102(a).” This definition of rural included in the proposed directive should be better aligned with the intent of the Cooperative Forestry Assistance Act (CFAA) and should be defined by what it is, and not by what it is not (i.e. urban). Since Congress codified LSR under the broad authorities of CFAA, it is most appropriate to go to CFAA and see how “rural” is defined there. More specifically, we can determine what Congress expects when it directs programs into “rural” areas by going directly to the authorization for Rural Forestry Assistance (16 USC 2102), one of the authorities through which LSR is intended to be delivered (3806.22 – 4). Importantly, that section does not define “rural” in terms of population. Rather, Congress specifies “rural” as a *constituency* that includes “private forest landowners and managers, vendors, forest resource operators, forest resource professionals, public agencies, and individuals [16 USC 2102(a) ASSISTANCE TO FOREST LANDOWNERS AND OTHERS].” Congress is, therefore, describing “rural” in terms of ownership and constituencies associated with ownership, and therefore conveying eligibility to wherever those ownerships exist.

**3806.22(2)g – Project Objectives: “A project proposal must be designed to achieve one or more of the following objectives: Take other actions as determined by the Forest Service.”**

We recommend changing section (g) to read “Achieve other objectives as determined by the Forest Service,” so it better fits into this project objectives section. This section as written currently reflects the ‘Plan Criteria’ in section 8101(e) of the 2018 Farm Bill, but has changed the word criteria to objectives. While (a)-(f) in this section fit as objectives, this catch-all section does not. Taking actions is not in-and-of itself an objective.

**3806.23 – Projects to be given priority: “Priority *must* be given to selecting proposals that.”**

We recommend listing the elements of leveraging resources and cross-boundary collaboration as required, while retaining the other elements as encouraged factors to match the language of the 2018 Farm Bill. This section has altered the 2018 Farm Bill instructions regarding required

prioritization and encouraged elements. Cross-boundary collaboration and leveraging of resources are required under the 2018 Farm Bill, but the other priority factors listed are merely encouraged. Changing this language when the regional processes have mechanisms in place for encouraged elements within their respective criteria, may result in unintentionally excluding a project that aligns well with state or region-wide priorities.

**3806.24(2) – Matching Requirements – Exception: “The Virgin Islands of the United States; The Commonwealth of the Northern Mariana Islands; The Federated States of Micronesia; The Republic of the Marshall Islands; The Republic of Palau.”**

We recommend amending the match waiver section to include the Territories of American Samoa and Guam to reflect the statutory match waiver. The Territories of American Samoa and Guam are not included within the list of territories, flag islands, and freely associated States of the United States for which the 1:1 match requirement for a grant of \$200,000 or less is waived. The waiver of a matching requirement was first enacted in 1980 (Public Law 96-205) which included the Territory of American Samoa. Later amendments in 1983 and 1984 to the underlying law increased the waived amount to \$200,000 (Public Law 98-213, Sec. 6) and added the Territory of Guam (Public Law 98-454, title VI, Sec. 601(b)).

**3807.2 – Contents of Project Proposals: “While a project proposal may include a component of outreach, education and training as a means to achieve the project objectives, education and outreach should not be the sole project outcome.”**

We recommend removing the prohibition on education and outreach focused projects to instead allow the project evaluation criteria to work as designed and eliminate any projects that may use education and outreach without delivering measurable results on the ground. This requirement is not found in the 2018 Farm Bill authorizing language nor does the reporting requirement language within that bill imply a need for this added preclusion. The required reporting calls for “specific accomplishments that have resulted from landscape-scale projects.” Current proposed fiscal year 2021 appropriations report language directs LSR funds to “be focused on State and national priority projects that have significant, measurable impact on these *priorities*.” This, likewise, does not indicate a congressional intent to preclude projects that may use outreach, education, and training as a means of achieving measurable impacts on those priorities. Mechanisms exist sufficiently through the competitive process evaluation criteria to preclude from funding projects failing to achieve significant and measurable impacts.

**3807.3(1) – Submission of Project Proposals: “Except as provided in paragraph 2, an applicant shall submit a project proposal to the Regional State Forester Organization as required by the RFP or RFA.”**

We recommend this be reworded to say “shall submit a project proposal through the manner and process outlined by the regional RFP or RFA,” or retain the previous language indicating they shall “submit applications through the relevant regional competitive process managed by CWSF, NMSFA, and SGSF” to better reflect the submission process and avoid confusion for applicants. Previous guidance language instructed applicants to submit applications through the relevant regional processes which more accurately reflected the proper route of submission and better

informed applicants. Applicants for the Northeast-Midwest submit applications directly into the ezFedGrants system after acquiring a support letter from the relevant state forestry agency; applicants from the West and South apply primarily through the state forestry agency and proposals are then submitted into the regional grant portal administered by the regional state forester organizations. Not only would this change in language fail to reflect the differences outlined above, it may have the unintended consequence of confusing applicants regarding the process they should follow when we are endeavoring to make these directives as clear as possible, particularly for newly eligible applicants.

We thank you for the opportunity to provide public comments and look forward to continuing our strong partnership in implementing the LSR grant program.

Sincerely,



Joe Fox  
NASF President  
Arkansas State Forester

**2020-2021 Executive Committee**