

**Third Consultation Report on
Supplementary FSC certification requirements for National Forests
April 2017**

This document provides information on the third consultation of the supplementary FSC certification requirements for lands managed by the US Forest Service. The consultation period ran from June 13 to April 13, 2017. It includes:

1. An analysis of the number and range of stakeholders who participated in the process
2. A summary of the key issues raised in the comments
3. A compilation of all comments received and how the working group considered and addressed them.

A presentation of the key issues was also developed as part of this consultation (see Appendix 2).

1. Number and range of stakeholders who participated in the process

Eight sets of comments/letters were received as part of the third consultation:

- One stakeholder represented economic interests
- Six stakeholders represented social interests
- One joint letter represented 13 social interests and one environmental interest

See Appendix 1 for a full list of stakeholders who submitted comments. Letters are available upon request.

The USFS Service also provided unofficial comments.

This third consultation generated fewer responses than the previous two consultations, and offered only minor technical comments which were reiterations of past concerns. There were no submissions from environmental stakeholders. Multiple letters of support were also received as part of the consultation, as well as one letter voicing general opposition to the certification of National Forests.

2. Summary of key issues raised in the comments

A. General -

- Support for the certification of National Forests – it will add value ecologically, socially, and is important to not discriminate against this one land management category.
- Support for the draft supplementary requirements – proper consideration of key issues
- Certification is not appropriate for National Forests – The Forest Service already has enough regulations guiding them and there is no place for additional ones; the certification requirements are not appropriately aligned with Forest Service management. There is no economically justifiable reason for pursuing certification and, rather, it will be a resource burden.

B. Principle 1 -

- Disputes and appeals should lead to a finding of non-compliance with the standard, and are also an example of how certification is not compatible with USFS management
- Support for the supplementary language
- Collaboration with other organizations and individuals with respect to addressing unauthorized activities is ineffective

C. Principle 4 -

- Requiring USFS to address workers' issues will be challenging and impractical, as their relationship is different from that between USFS and its direct employees, with contracts, etc. dictating the terms of engagement.
- Support supplementary language regarding workers
- Consider adding more specificity around migrant workers, mobile workforce, etc.

D. Principle 5 –

- Carbon-related requirements are not practical for the USFS to implement
- Support carbon-related requirements

E. Principle 6 –

- Landscape-level requirements are not practical for the USFS to implement
- Support landscape-level requirements
- Supplementary requirement to identify all old growth is problematic as there are tactical reasons for not doing this

- Support supplementary requirements related to refugium

F. Principle 7 -

- Support requirements related to socio-economic impact; a value attained through certification

3. Compilation of all comments received. Letters voicing general support/opposition are available upon request.

Reference	Comment	Rec	WG Observation	Affiliation
General	I commend the working group for all of their hard work and attention to detail addressing comments offered during the consultation process.		Thank you	Social
	FSC is a voluntary system. I do not believe that FSC should determine which forests are eligible to participate in certification. If a forest meets the standard, it should be eligible. FSC's block of National Forest System Land certification is discriminatory and runs counter to the principles that separate FSC from other certification systems.		Thank you	Social
	The draft standard sets an aspirational benchmark for certification of federal lands. I am supportive of the draft standard.		Thank you	Social
	I am supportive of the requirements in the draft auditing procedures		Thank you	Social
1.1.1	The guidance recognizes that litigation and objections are "likely indicators of non-compliance". The level of litigation experienced by USFS is representative of the lack of agreement of how the Agency complies with its own internal processes. The agency wins some and loses some. When the Agency loses litigation will that be confirmation of non-compliance? How can it <u>not</u> be interpreted that way? If so this certification will be short lived.....		These are not evidence of prima facie non-conformance. This is why there is a dispute process in place.	Econ

	Support – The clarification that an unresolved dispute is not in-itself a non-conformance is useful.		Thank you	Social
1.5.b	This guidance implies that Law Enforcement will be responsible for “... <i>fostering collaborative efforts with organizations that promote ecologically economically and socially responsible public use</i> ”. I am pretty sure that will be an ineffective process, both for law enforcement and the public.		Input gathered during the forest testing indicate that the Forest Service already has these working relationships and they are very productive. Other modification, however, is needed to clarify that other entities beyond USFS can also actively engage in addressing unauthorized use.	Econ
	Support – SNW has facilitated collaborations on national forestlands for 20 years. We have seen first-hand the multiple values collaboratives provide. We support collaboratives being named as a partner/tool to help NF personnel		Thank you	Social
4.1	Requiring the agency to dictate and monitor wages, benefits, job quality, safety, grievance, health care, training etc... of its contractors goes far beyond what they are able to administer through existing contracts and administrative resources. Compliance with these indicators would require SUBSTANTIAL contract modifications that affect many associated Federal contracting requirements. Some of which would face major legal and contractual hurdles. It simply is not attainable by the Agency and certainly would not be acceptable to many of their contractors and purchasers. These requirements could easily jeopardize the contractor – employee relationships of many contracts and put the Government at substantial risk.		Responsible forest management needs to require that all workers engaged in forest activities on the management unit are covered with respect to health and safety, wages, etc. After significant consultation with experts, it appears feasible for the Forest Service to conform to this requirement. Minor revisions were	Econ

			added to clarify that these requirements are to be observed based on legal parameters.	
4.1.a, b, c, d and 4.2 a, b, c	Guest workers often paid less than industry standard, not paid fully, not paid overtime, live in substandard condition, denied breaks, threaten if questions are raised, receive little or no training, high rates of injury	“with special attention to H2B guest workers, hiring, pay...”	It is not clear that special attention needs to be given to these workers over other workers, and the audit process will verify that this is being followed.	Social
4.1 and 7.3.a	Support – forest workers are vulnerable as many are seasonal migrant workers. At times employment is linked to their visa. Northwest Forest Worker Center has documented significant worker rights violations related to training, access to share, water, breaks, and avenue for voicing concerns. Extending safeguards from formal employees to cover all workers under contract is a critical step in extending health and safety to at risk workers.	<p>We must ensure training, audit interviews, and legal documents are required in the appropriate language for ESL workers. Interviews must be performed in a way employees feel safe being honest.</p> <p>I understand that at times OSHA auditors are not always able to conduct audits in the appropriate language or conduct interviews with forest workers in the absence of supervisors.</p> <p>I would value our standard explicitly requiring interviews being conducted in the absence of supervisors AND an opportunity to write in with comments must be</p>	Supporting language was added to the guidance with respect to safety for workers when conducting interviews, and also that it is done in the appropriate language.	Social

		provided as an anonymous		
4.2.b	Interviews are often not done in private or native language	Interviews to be conducted without supervisor present and in native language	See above	Social
4.5.c	I expect that federal case law should determine compensation and mitigation resolution, I don't see where review by an auditor will be able to better determine if such resolution is compliant with the Standard? Just another example of conflicting USFS policy and regulation with FSC guidance and standards.		Compensation and mitigation is done through the federal process, not the auditor.	Econ
Principle 5	How will the forest planning process be reconciled with the FSC Standard? The multiple use act alone would conflict with the FSC Standard with respect to economic impact to local communities.		The forest planning process could conform to the requirements in the standard. It is not clear why the USFS Multiple Use Act conflicts with FSC certification.	Econ
5.1.1 and 5.2.c guidance	<p>Sustainable Northwest strongly supports encouraging National Forests to use stewardship contracts, Good Neighbour Agreements, and other tools to creatively enable legitimate restoration harvests.</p> <p>We have seen these tools used to secure stewardship contracts on the Malheur National Forest that enabled a mill to remain open and secure a bank loan because of the log availability ensured by the contract. The stewardship contracts have built trust, communication, and avoided litigation. These projects have supported rural mills and helped them retool for utilization of small diameter trees. Maintenance of mill infrastructure is critical to achieve restoration goals on many national forests Sustainable Northwest works on.</p>		Thank you. The intent of this indicator and guidance was not changed; however, specific tools were removed as they could become outdated.	Social

	FSC can help build trust by ensuring consistent credible implementation of stewardship contracts.			
5.5.1	For most forests, there is no carbon stock inventory. The ability to establish baselines and then monitor changes exceeds the capacity of the Agency. How will accounting for the high level of mortality from insect and disease be documented? How will wildfire carbon impacts be accounted for and how will they affect management on other portions of the forest. It is just TOO MUCH for the agency to adhere to.		It was observed during the forest testing exercise that the USFS is able to, and has a program to address, these requirements.	Econ
	Support – We support identifying carbon stock influences and hope this indicator fosters dialog with stakeholder groups during evaluation of pros and cons of no harvest		Thank you	Social
5.6	Support – Clarification that FSC does not mandate harvest is a helpful clarification.		Thank you	Social
6.1.1	While the USFS currently attempts to consider the landscape across property lines, compliance with this standard will raise that to a level that will be difficult to achieve. This standard will likely severely constrain management of public lands if they will be held to the standard of mitigating environmental deficiencies on adjoining lands.		It was observed during the forest testing exercise that the USFS is able to implement, and already implements to some extent, these requirements.	Econ
6.1.1, C6.3, & Intent for Principle 9	Support – It is helpful to highlight our belief that national forests have a unique role in ensuring landscape-scale ecosystem function.		Thank you	Soc
6.3.a.3	Many forest plans specifically do NOT map old growth for a variety of good reasons, including long standing problems with respect to litigation. This is just an example of the Agency not being able to comply with existing regulation, let alone ANOTHER standard.		It was observed during the forest testing exercise that the USFS is able to do this. If there is justification for a deviation from this	Econ

			requirement then it could be explained to the auditor.	
6.3.2	Support – Sustainable Northwest strongly supports the delineation and support of ecological refugia. Marine sanctuaries have been vital in marine conservation. It is valuable to see areas within national parks as servicing the same function.		Thank you	Soc
7.1.j	Support – National Forests are a critical employer in the Western US where many rural economies rely on natural resource use. Creation and/or maintenance of jobs is vital to local economies.		Thank you	Soc

Appendix 1: Stakeholders who submitted comments for the third consultation

SOCIAL	ECONOMIC
Watershed Research & Training Center (letter of support)	F.H. Stoltze Land & Lumber Company (letter of opposition and also comments)
Green Mountain Club	
Northwest Workers Justice Project	OTHER
The Forest Guild (letter of support)	Group Support letter: SNW, Green Mtn Club, WRTC, Ecotrust, Pinchot Inst, NW Forest Worker Alliance, SEAWHEAD, Mt. Adams Resource Stewards, NW Workers Justice Project, Siuslaw Inst, Lynn Jungwirth, Larry Nall, Dave Wager, Amy Horne
Rural Voices for Conservation Coalition (letter of support)	
Sustainable Northwest	

Appendix 2: Presentation on third draft



Forest Stewardship Council®



FSC Supplementary Certification Requirements for Lands Managed by the US Forest Service

For third public consultation



Project Overview

Purpose: To develop supplementary language for the certification of National Forests, thereby enabling the US Forest Service to pursue certification if they choose to do so.

- Adaptation of the standard in order to address resource management, mandate and other issues unique to large federal ownership
- FSC US forest management standard AND certification body auditing procedures
- New indicators/guidance/intent AND supplements to existing indicators/guidance/intent
- National in scope (similar to the existing standard)
- Consider Fedlands Policy, Pinchot project, etc

Project Process

FSC IC Board



FSC US Board



Chamber-balanced
Working Group +
Technical Experts

- ✓ **Jan 2015**
Project initiation
- ✓ **Feb-April 2016**
First consultation
- ✓ **June-July 2016**
Second consultation
- ✓ **Jan 2017**
Forest testing
- ✓ **Feb-April 2017**
Third consultation
- ☐ **April 2017** (target)
FSC US decision-making

Federal Lands Policy
DoD/DoE indicators
Pinchot project
Revised FSC P&C

Stakeholder engagement
Forest Service engagement
Forest testing

[See Consultation Reports for more specificity]

- FSC Certification is inappropriate for National Forests (even with supplementary requirements); VS FSC Certification is appropriate for National Forests (without supplementary requirements)
 - Outside the scope of this project
- Insufficient recognition that conservation and restoration are primary management goals; VS too much emphasis on ecological objectives over economic ones
 - Multiple supplements related to ecological sustainability as core goal; performance verified through audit process
 - FSC cannot change the mandate of the Forest Service, but does provide benchmarks
- Need performance-oriented metrics and specificity or the Forest Service will (for example) "just call status-quo timber extraction 'restoration'"
 - Standard is outcome-oriented
 - Value of auditing and stakeholder consultation; intent statements are normative
- Certification will provide cover for rollbacks (NEPA, NFMA, etc)
 - Active monitoring/management from FSC and stakeholders if/when USFS pursues certification
- Certification does not 'raise the bar'
 - Auditing and stakeholder engagement ensure that existing requirements are effectively and consistently applied
 - Disputes, treatment of workers, carbon, climate change, landscape-level conservation, RSAs, old growth, grazing, monitoring, stakeholder engagement, and more!

Key Issues: Principle 1 Legality Compliance

Supplements include:

- Dispute resolution; consideration of disputes in certification assessments
- Unauthorized activities: identification/awareness

Sufficiently covered in standard:

- Compliance with laws, administrative requirements [FSC cannot change USFS mandate]
- Certification does not preclude individuals from seeking judicial relief

Key Issues: Principle 2&3

Tenure and Use Rights and Indigenous Peoples Rights

No substantive issues or concerns raised.

Supplemental language provided on documentation of disputes (P2) and consultation procedures (P3).

Key Issues: Principle 4 Community Relations & Workers Rights

Supplements include:

- Requirements related to employees extended to workers: compensation/hiring, quality jobs; health/safety
- Local employment opportunities
- Public participation strategy
- Clarification that stakeholders are national in scope (also in P7 and P9)

Key Issues: Principle 5 Benefits From the Forest

Supplements include:

- Focus on ecological integrity and contributions to social, economic, cultural and ecological sustainability (multiple uses, ecosystem services and social benefits for the public interest); clarification that certification does not mandate timber harvest
- Core management activities are defined and funded
- **Carbon stocks/storage/sequestration**
- Product/service diversification where relevant

Sufficiently covered in standard:

- Sustained yield harvest
- Identify/maintain/enhance watersheds and fisheries (some supplements in P6)
- Planning management activities and other environmental issues covered in P6

Key Issues : Principle 6 Environmental Impact

Supplements include:

- Focus on ecological sustainability and managing/restoring ecological integrity
- Expansion of environmental assessments to include climate change, persistence of species, vulnerability to uncharacteristic fire/disturbances
- Landscape-level assessments/management: extent/condition of successional stages; RTE habitat; habitat connectivity; threats from disturbances; restoration opportunities, etc.
- RTE surveys and mitigation measures
- Ecological rationale for even-age management
- Management based on carbon objectives
- Management of ecological refugia
- Network of RSAs
- Roads inventory and strategy for road-sizing
- Grazing management
- Watershed analyses
- Riparian/aquatic maintenance/restoration
- Some old growth (most covered in public lands indicator 6.3.a.3)

Key Issues: Principles 7 & 8

Management Planning and Monitoring

No substantive issues or concerns raised.

Supplementary requirements added in order align management planning/monitoring with requirements added to other parts of the standard, for example: transparency, restoration, workers, socio-economic monitoring.

Key Issues: Principle 9 Maintenance of High Conservation Value (HCV) Forests

Supplements include:

- Roadless areas are assessed as part of the HCV assessment process, with expectation that that they have a large likelihood of falling into 1 or more HCV categories
 - Recommendation to not automatically identify all roadless areas as HCVs and rather to honor assessment process
- Consultation on HCV methodology
- Coordination with landowners

No supplements added:

- Intact Forest Landscapes (IFLs) as HCVs
 - IFLs not in existing FSC US FM standard; will be integrated upon revision

Certification Body Auditing Procedures

- Audit team: size, days, qualifications
- Transparency: public notice, pre-assessment/assessment report, peer reviews
- Early public notification and consultation
- Existing requirements for ‘large-scale and complex operations’
 - FSC-STD-20-001 General requirements for FSC accredited certification bodies
 - FSC-STD-20-007 Forest management evaluations
 - FSC-STD-20-006 Stakeholder consultation for forest evaluations



Thank You!