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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.

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USDA-Forest Service
Sidney Yates Building
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Washington, DC 20250

To Whom It May Concern:

Following are the Wyoming Department of Agriculture (WDA) comments regarding the United States Department of Agriculture's (USDA) Proposed Rule to amend regulations governing the Directive System for the United States Forest Service (USFS).

Our comments are specific to our mission: dedication to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life. As the proposed project could affect our industry, citizens, and natural resources it is important that you continue to inform us of proposed actions and decisions and continue to provide the opportunity to communicate pertinent issues and concerns.

As an active Cooperating Agency on projects of local and national scope, the WDA thoroughly reviews all proposed agency actions. Our objective is to ensure full USFS compliance with relevant statutes and regulations to help yield sound final decisions. To that end, we offer the following comments on the Proposed Rule for 36 CFR Parts 200 and 216.

The notice states: "These amendments enhance Agency employees' discretion to allow innovation in program implementation to account for the unique ecological conditions of affected landscapes and changing social and economic needs." While the WDA generally supports providing Authorized Officers with the flexibility to expedite decisions at the local level, we are deeply concerned by language granting discretion that could lead to inconsistent application or non-compliance with established USFS rules and regulations.

While granting discretion to experienced and well-intentioned employees may sound practical in theory, it opens the door for personal biases, individual agendas, or self-serving interests to influence agency decisions. Such subjective decision-making yields unintended consequences and could directly harm local permit holders. Moreover, these flawed determinations, risk establishing informal agency precedent or legal case law that unfairly impacts permit holders across other forests and states.

The Proposed Rule states: "The Forest Service Manual would be redefined as the sole source of continuing mandatory direction for the Agency. Certain Agency officials would be authorized to depart from mandatory direction in the Manual when alternate actions are in the public interest, consistent with law, and the justification for that departure..."

The WDA supports the Manual serving as the primary repository for binding standards, criteria, and operational guidelines. However, we strongly oppose expanding the deviation standard. Currently, the Manual permits departure

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from mandatory direction only in "extreme or highly unusual circumstances." Replacing this high bar with a broad "public interest" standard introduces unchecked subjectivity and leads to inconsistent implementation across regions.

Decisions based on subjective interpretations of the "public interest" inherently invite procedural objections and litigation under 36 CFR Parts 218 and 219. This administrative instability directly harms permittees, who are forced to absorb significant legal expenses to defend their valid existing rights and authorizations. The WDA urges the USFS to retain the existing requirement limiting deviations strictly to "extreme or highly unusual circumstances."

WDA recommends the USFS identify why deviations are necessary and specify why current Manual or Handbook provisions do not adequately address management under its purview. A comprehensive review could remove or modify duplicative, unclear, or overly prescriptive provisions. Additionally, WDA supports retaining management directions that comply with existing regulations and have proven successful under previous decisions or legal review. We advocate for a full review of these Manuals and Handbooks, including public comment, before rule changes are finalized.

The WDA supports the intent of the Forest Service Handbook as a vital source of specialized, technical guidance to assist personnel in executing Manual direction and managing agency programs. However, the Proposed Rule states: "The Forest Service Handbooks would be redefined as advisory and informational guidance that Agency employees may deviate from without documenting or justifying alternative actions."

We reiterate our grave concerns regarding unconstrained agency discretion. Procedural integrity is fundamental to defensible administrative decisions; federal actions are frequently challenged, objected to, or overturned in court precisely because an agency failed to follow its established processes. Authorizing unrecorded, unjustified departures from Handbook guidance exacerbates this vulnerability. Ultimately, these procedural flaws jeopardize the stability of valid permits and impair permittees' ability to utilize essential forest resources, including grazing, timber, and recreation.

Under the Proposed Rule, the USDA commits to a single public comment period for initial Handbook revisions under 16 U.S.C. 1612(a), but claims all future updates will be exempt from public notice and comment because Handbooks will now be considered purely "advisory."

This exemption creates a major transparency loophole. Handbooks direct technical requirements that affect permit operations. Exempting subsequent Handbook modifications from notice and comment deprives permittees, state and local governments of their statutory right under 16 U.S.C. 1612(a) to review and inform the technical criteria governing National Forest System lands.

The WDA recognizes the administrative burden the USDA faces when processing thousands of public comments on proposed rule changes, as well as the desire to streamline implementation timeline. However, top down revisions to Handbooks developed solely at the Washington Office level risk overlooking critical local level realities, technical nuances, and operational flaws.

To balance efficiency with informed decision making, the WDA recommends the USDA establish a targeted review process. At a minimum, the Agency should provide Cooperating Agencies and directly affected permittees an opportunity to review, edit, and comment on proposed Handbook modifications prior to finalization. As a Cooperating Agency, the WDA is uniquely positioned to gather local input, represent constituent interests, and help ensure proposed changes address practical concerns before final decisions are executed.

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In conclusion, the WDA strongly urges the USFS not to adopt the proposed language allowing unconstrained departures from mandatory direction, and instead maintain consistent consultation and coordination with Cooperating Agencies on all future Manual and Handbook modifications. We appreciate the opportunity to provide our comments on the Proposed Rule and look forward to working with you on any future changes. 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
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