

# **Bylaws and Operating Procedures**

## **Black Hills National Forest Advisory Board**

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### **Section I: Purpose**

The purpose of the Black Hills National Forest Advisory Board (Board) is to provide advice and recommendations to the Black Hills National Forest (Forest) on a broad range of forest issues. The Board will improve cooperative relationships and opportunities for collaboration with individuals, organizations, agencies, and governments who are interested in or affected by Black Hills National Forest management.

### **Section II: Membership Selection and Appointment**

1. Members of the Board are appointed by the Region 2 Regional Forester under the provisions of the Advisory Board's Charter. Members are selected based on the specific requirements of the charter. (DR#1042-147)
2. The Regional Forester may, after written notice, terminate the service of a member if in the judgment of the Regional Forester or his/her authorized representative removal is in the public interest.
3. Members may also be terminated if they no longer meet the requirements under which they were appointed, fail or are unable to participate regularly in Board work, or have violated Federal law or the regulations of the Department of Agriculture.
4. When a member fails to regularly attend meetings, the Designated Federal Officer<sup>1</sup> (DFO) will inform the member in writing that his or her service on the Board could be terminated. When any member fails to attend three consecutive meetings without good cause, the DFO shall deem that member's position on the Board to have been vacated. Upon such determination, the DFO will inform the member in writing that his or her service on the Board is terminated. The Regional Forester will replace such members by filling the vacancy using the same method by which the original appointment was made.
5. The term of a member who has been appointed on the basis of his or her status as an elected official will end upon the member's departure from office. The Regional Forester will replace such members by filling the vacancy using the same method by which the original appointment was made. The alternate does not automatically get the job but may apply for Board membership in the selection process by filling out and submitting a new nomination form.
6. Alternate members will fill a vacancy in their identified category if the primary member is no

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<sup>1</sup> Designated Federal Officer in this case refers to the Black Hills National Forest, Forest Supervisor, and not to the person designated to represent the entire Forest Service concerning FACA matters with the General Services Administration.

longer able to fulfill his/her responsibilities on the Board and resigns or is terminated. Alternate members may sit in for a Board member if that member is not able to attend a meeting. Alternate members are encouraged to attend Board meetings and participate as a member of the public.

### **Section III: Role of Board Officials**

1. **Chairperson:** The members of the Board shall elect and the DFO will approve the Chairperson of the Board for a 1-year term. The Chairperson works with the DFO to establish priorities, identify issues that must be addressed, determine the level and types of staff and financial support required, manage the recommendation-making process, and serve as the focal point for the Board's membership and for the media. In addition, the Chairperson is responsible for certifying the accuracy of minutes developed by the Board to document its meetings.
2. **Designated Federal Officer (DFO):** The DFO serves as the government's agent for all matters related to the Board's activities. By law, the *DFO must approve or call the meeting of the Board; approve agendas; attend all meetings; and adjourn the meetings when such adjournment is in the public interest.* In addition, the DFO is responsible for providing adequate staff support to the Board.
3. **Committee Management Officer (CMO):** The CMO is responsible for ensuring compliance with the Federal Advisory Committee Act (FACA). In addition, the CMO is responsible for the following functions:
  - A. Notifying members of the time and place for each meeting.
  - B. Preparing the minutes of all meetings of the Board's deliberations, including acquiring minutes prepared by subgroup and working groups.
  - C. Attending to official correspondence.
  - D. Maintaining official Board records and filing all papers and submissions prepared for or by the Board, including those items generated by subgroups or working groups.
  - E. Acting as the Board's agent to collect, validate, and pay all vouchers for pre-approved expenditures.
  - F. Preparing and handling all reports including the annual report as required by FACA.

### **Section IV: Meeting Procedures**

1. Meetings will be called by the DFO in consultation with the Chairperson of the Board, as often as necessary to meet the purpose of the Board. The following procedures will be used:
  - A. **Agenda:** The DFO is the approving official for the agenda for all meetings. The Forest will distribute the agenda to the members prior to each meeting and will publish an outline of the agenda with the notice of the meeting in the Federal Register. Items for the agenda may be submitted to the DFO and/or the Chairperson by any member of the Board. Items may also be submitted to the DFO or a Board member by the public.

**B. Minutes and Records:** The Board's Committee Management Officer (CMO) will prepare minutes of each meeting and will distribute copies to each Board member within 60 days following the meeting. Minutes of open meetings will be available to the public upon request. Minutes of closed meetings will also be available to the public upon request, subject to the withholding of matters about which public disclosure would be harmful to the interests of the government, industry, or others, and which are exempt from disclosure under the Freedom of Information Act (FOIA). (See a discussion of open versus closed meetings below.) The minutes will include a record of the persons present (including names of Board members, names of staff, and the names of members of the public from whom written or oral presentations were made) and a complete and accurate description of the matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Board. The Board Chairperson will certify the accuracy of all minutes.

The Chairperson must certify the accuracy of detailed minutes of each advisory committee meeting, but Board approval is not required. The DFO must ensure that minutes are certified within 90 calendar days of the meeting to which they relate. Board members will have one week after e-mail receipt of the draft minutes for review and suggested changes, after which time the Chairperson will approve the minutes.

Records will be maintained and located at the Forest Supervisor's Office and will be available for public inspection and copying during regular business hours.

**C. Issue Discussion:**

Scheduled presentations from outside presenters and Forest staff should include written background information including the following where applicable:

- i. A summary of the issue being discussed;
- ii. Background information and applicable resource reports;
- iii. Applicable laws and regulations;
- iv. Public involvement conducted to date on the issue and the results; and
- v. Supporting maps, photos, and other information necessary to provide an accurate situation analysis.

This information will also be made available to the public.

At the meeting, resource specialists and invited speakers will give a presentation on the subject matter and answer questions from the Board. The Chairperson will then lead a discussion of the issue, ensuring that all Board members have adequate opportunities to present their views.

- The Chairperson may comment on issues by temporarily handing the gavel to the vice chair and then resuming chair duties when his comments are complete.
- Before speaking, members will ask for recognition from the Chair.

- As issues come before the Board, everyone will be given an opportunity to speak before consensus is sought. Individuals may pass if they so choose.
- Regarding any issue, a person may speak twice with a five-minute time limit per each time. If an individual wishes to speak a third or subsequent time, the Chairperson will ask for a consensus about whether the request is appropriate, with a vote taken if necessary.
- All remarks should be addressed to the Chairperson and not to each other.
- Motions must be re-stated before seconds and votes are taken.
- Motions may be amended.

Individuals wishing to address the group will contact the CMO or the Chairperson who will decide together whether to allow the presentation. Speakers will be allowed a 15-minute presentation period with an additional 15 minutes for questions. Pre-work from the speaker is preferred.

## **2. Open Meetings:**

- A. Board meetings will be open to the public. All materials brought before or presented to the Board during the conduct of an open meeting will be available to the public for review or copying at the time of the scheduled meeting.
- B. Members of the public may attend any Board meeting and may at the determination of the Chairperson offer oral comment at such meetings. The Chairperson will decide at what time and in what format the public may offer their comments.
- C. The Chairperson may decide in advance to exclude oral public comment during a meeting in which case the meeting announcement published in the Federal Register will note that oral comment from the public is excluded and will invite written comments as an alternative. Members of the public may submit written statements to the Chairperson of the Board at any time.
- D. Subcommittee meetings may or may not be open to the public. These are information and fact gathering meetings and are not subject to Advisory Board rules per 41 CFR Parts 101-6 and 102-3 and specifically 102-3.35. For example, subcommittees do not have to public disclose the time and place of meetings and they are under no obligation to provide time for public comments. Subcommittee chairs will work with the CMO and Board Chairperson to decide what is in the best interest of the subcommittee.

## **3. Closed Meetings:**

Meetings of the Board will be closed only in limited circumstances and in accordance with applicable law. Where the DFO has determined in advance that discussions during a Board meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the Government in the Sunshine Act (GISA), will be published in the Federal Register. The notice may announce the closing of all or just part of a meeting. If during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the Chairperson will order

such discussion to cease and will schedule it for closed session. Notices of closed meetings will be published in the Federal Register at least 15 calendar days in advance.

## **Section V: News Media**

The CMO will welcome the media and arrange for the Chairperson or Vice Chairperson to comment on behalf of the Board, time and circumstances permitting. Otherwise the CMO will arrange for appropriate comments from members alternating between members. It is appropriate for the CMO or DFO or persons they may designate to speak to the media. The media may contact individuals after the meeting for position statements.

## **Section VI: The Recommendation and Decision-Making Process**

The DFO will inform the Board of the issues or opportunities for which the Board is to give a recommendation. The DFO will also provide specialist and/or technical expertise to provide the background information on the issue or opportunity. The Chairperson is responsible for managing the discussions that will then lead to a recommendation.

The Board will use consensus as the primary method of making recommendations to the Forest Supervisor. If consensus cannot be reached, the Board will elicit a majority ruling with the opportunity for the minority opinion to be drafted and accompany the majority report to the Forest Supervisor.

Recommendations are made to the Secretary of Agriculture through the Forest Supervisor and are not made to any other level of government or to elected office holders at any level.

## **Section VII: Expenses and Reimbursement**

Members of the Board will serve without compensation. However, while away from their homes or regular places of business, members engaged in Board business approved by the DFO may at the discretion of the DFO be allowed travel expenses. These include mileage reimbursement and actual subsistence or per diem in lieu of subsistence, as defined by federal travel regulations.

## **Section VIII: Subcommittees**

In carrying out its duties, the Board may form subcommittees drawn in whole or in part from the full Board, provided that the role of such committees will be merely to provide information and recommendations for consideration by the full Board. A member of the Board will chair any such subcommittees, but non-members may serve on them. Membership on subcommittees is subject to approval by the DFO. It is not necessary to follow the same rules that apply to the full Board meetings. Subcommittees find facts and information and make recommendations to the full Board in an open meeting. Subcommittee chairs may invite anyone to sit on their subcommittees and no decision making takes place on behalf of the full Board.

## **Section IX: Expressing Political Views**

A Board member is neither a government employee nor a special government employee and is free to express political or other views in places, times, and ways of his or her choosing. A Board member may serve as a spokesperson for a political campaign and may also use his or her public title [e.g. National Forest Advisory Board member] to identify him or herself in the communication, paid or free. A visible disclaimer will be used to indicate to the public that the member is not speaking for the Board.

Since Board members are neither government employees nor special government employees, the Hatch Act does not apply.