

**Determining whether Designation of Landscape- Scale Areas under Section 602 of
HFRA is Subject to the National Environmental Policy Act (NEPA) Section 102
April, 2014**

When considering a proposed action the following thresholds should be taken into account to determine whether or not the Forest Service is obligated to prepare any environmental analysis or documentation in compliance with NEPA Section 102 (2) and the CEQ regulations.

1. Are the proposed action and effects subject to Forest Service control and responsibility? (40 CFR 1508.18)
2. Is the Forest Service at a stage where it is ready to decide whether it intends to undertake an activity to accomplish a goal? (40 CFR 1508.23)
3. Does the proposed action have effects that can be meaningfully evaluated? (40 CFR 1508.8, 1508.14, 1508.23)
4. Are the effects that can be meaningfully evaluated related to the natural and physical environment? (40 CFR 1508.14)

1. Are the proposed action and effects subject to Forest Service control and responsibility?

Yes. Designation of Landscape-Scale areas has been delegated to the Chief from the Secretary of Agriculture. At the time of writing this paper the 60 day window in which section 602(b)(1) required the Secretary to designate one treatment area in each state in which a governor has submitted a request has past. No areas have been designated as of yet. Therefore, whether two or more areas are designated is completely within the discretion of the Chief.

2. Is the Forest Service at a stage where it is ready to decide whether it intends to undertake an activity to accomplish a goal?

No. Designation of Landscape-Scale areas is being accomplished without regard to future projects, if any, that may take place in a land-scape scale area. Project proposals to achieve specific restoration goals will be decided at a later date and have no influence on the designation process. A designation does not mandate or prohibit any particular future action. Instead, the designation is acknowledgment that an area is experiencing declining forest health, at risk of experiencing substantially increased tree mortality of over the next 15 years, or in an area where hazard trees poses an imminent risk.

3. Does the proposed action have effects that can be meaningfully evaluated?

No. Designation of Landscape-Scale areas does not in itself cause any actions to take place on the ground, nor do they create an obligation for any activity in the future. Once designated, these areas may never receive treatment and some areas may receive treatment shortly after designation. At the time of consideration for designation it is not possible to accurately predict which areas will be treated, when they will be treated, the extent they will be treating, and how they will be treated (pesticide, prescribe burn, timber harvest, etc.). Because this information is not reasonably foreseeable during the designation process, an analysis of effects would be speculative and not meaningful.

4. Are the effects that can be meaningfully evaluated related to the natural and physical environment?

There are no effects that can be meaningfully evaluated. The designation of areas does not create environmental disturbances (i.e., direct effects). Nor does designation create indirect effects. There is also no irretrievable or irreversible commitment of resources at this stage. As stated above, designation does not compel or prohibit any action. Land and resource management plans establish management goals through standards and guidelines, and as a result have effects that can be meaningfully evaluated. In contrast, designation of areas under section 602 does not establish any goals, standards, or guidelines for the area, and does not have effects that can be meaningfully evaluated.