

Proposed National Environmental Policy Act Rule

Forest stand on the Rim Ranger District of the Coconino National Forest in Arizona. Photo by USDA Forest Service, Brady Smith.

The Forest Service, an agency of the U.S. Department of Agriculture (USDA), is proposing revisions to its National Environmental Policy Act (NEPA) regulations. These regulations are a key component of how the agency performs environmental analysis and makes decisions. NEPA requires agencies to analyze the environmental effects of proposed actions prior to making decisions. This process helps the Forest Service in its mission to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations.

The Forest Service last updated its NEPA regulations in 2008. Since then, challenges like extended droughts, insect infestations, and diseases have made the effort to protect people, communities, and resources from threats like catastrophic wildfires more difficult due to strain on available staff and resources across all mission areas.

The proposed rule is the result of robust input from agency personnel, the public, and other stakeholders. The changes in the proposed rule will help the Forest Service better manage sustainable, healthy, and productive national forests and grasslands. As a result of the changes, the agency will be better able to accomplish important work without sacrificing its commitment to delivering high-quality, science-based analysis. The updates in the proposed rule incorporate lessons learned and experience gained from staff and partners over the past 10 years.

Proposed rule highlights include that it:

- Equips the Forest Service with new tools and added flexibility to do more work that readily addresses the worsening conditions we are all seeing on forests and rangelands.
- Ensures the agency does the right amount of environmental analysis to fit the work, locations, and conditions. It reduces redundancy in analysis for similar work, under like conditions.
- Adopts proven practices and applies lessons learned from experiences and other agencies.
- Adds new categorical exclusions that improve the Forest Service's ability to maintain and repair infrastructure people need to use and enjoy forests, roads, trails, campgrounds, and other facilities.
- Meets both the spirit and intention of the NEPA.

The proposed rule will be published in the Federal Register on June 13, 2019, which initiates a 60-day public comment period and a minimum 120-day Tribal consultation period. The Forest Service expects to publish the rule revising the NEPA regulations in summer 2020.

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Examples of Categorical Exclusions

Many of the changes in the proposed rule are based on adding or expanding existing categorical exclusions. Categorical Exclusions (CEs) are a list of activities that agencies have determined, from analysis and experience, to not have significant environmental impact and, therefore, do not require extensive environmental analysis. There are exceptions based on extraordinary circumstances, and activities must be within the size and scope of what is described in the CE. If the action does not fit within a category, or if extraordinary circumstances apply, the agency must conduct an environmental assessment to determine whether there are potential significant effects. If the agency finds that the activity will result in no significant effects, a decision can be made to proceed. If significant effects are possible or likely, an environmental impact statement is required to determine how best to serve people in a way that responsibly protects shared natural resources.

On average, an environmental assessment takes 687 days to complete. Average time to complete a CE takes just 206 days. By using the new CEs in the proposed rule, the Forest Service could potentially complete analysis between 30 and 480 days earlier on applicable projects. These figures represent the amount of time from when the analysis starts to its completion. The figures do not represent actual days worked on the analysis. They are also based on averages and do not factor in extraordinary circumstances.

The CEs covered in the proposed rule fall into three general categories: (1) those covering restoration activities, (2) those covering infrastructure activities, and (3) those covering special uses. Some examples of the types of work that could be approved, based on hundreds of analyzed environmental assessments, are listed below.

Restoration projects—

Removing trees affected by insects or disease through commercial timber harvest in combination with stream restoration in a 4,200-acre area to improve forest health and watershed conditions is one example of a restoration project. Restoration projects could also include reducing overgrown areas around a community and improving wildlife habitat through mechanical thinning and use of prescribed burning.



◀A harvester processes trees and stacks the logs on Apache-Sitgreaves National Forests, Lakeside Ranger District's Billy Mountain timber sale near Lakeside, AZ. USDA photo by Lance Cheung.

Infrastructure projects—

An example of an infrastructure project would be the decommissioning of several miles of poorly located and difficult-to-maintain roads or trails that are causing resource damage. Another example would be a project to relocate, build, and decommission campsites along a forest road or in a developed campground to improve visitor safety and convenience or to improve natural resource conditions.



◀A recently installed arched culvert designed with the Stream Simulation Approach on the Green Mountain National Forest days after the Hurricane Irene catastrophe shows no stream blockage. USDA Forest Service photo.

Special uses and permitting—

One example would be issuing a special-use authorization to build a water pipeline and storage tank for an area with poor water supply and quality. Another would be authorizing development or improvements for a communication site. Yet, another example would be authorizing an outfitter to lead guided hikes on a popular hiking trail.



◀Golden Leaf Half Marathon on White River National Forest. USDA Forest Service photo.

In each of these examples, and based on analysis of similar projects, the necessary environmental review to authorize these types of important activities could be completed in less time with reduced process while maintaining important environmental safeguards.