

Submitted Electronically at Federal eRulemaking Portal: <http://www.regulations.gov/>.

Docket Number FS-2019-0010

NEPA Services Group
c/o Amy Barker
USDA Forest Service
Geospatial Technology and Applications Center
2222 West 2300 South
Salt Lake City, UT 84119

Aug 23, 2019

RE: Comments on the U.S. Forest Service's Proposed Rule to revise its National Environmental Policy Act (NEPA) regulations. (Docket Number FS-2019-0010)

I am writing in opposition to the U.S. Forest Service's Proposed Rule to revise the NEPA regulations.

Dear Ms. Barker,

Please accept the follow comments from The Oregon Council of Trout Unlimited regarding the United States Forest Service's proposed rule to revise its National Environmental Policy Act (NEPA) procedures.

The Oregon Council of Trout Unlimited represents more than 3,000 conservationists and anglers in Oregon. Our mission is to conserve, protect, restore and sustain Oregon's fisheries, watersheds and supporting habitats for all of our citizens now and in the future. Oregon has 16 million acres of national forest covering 25% of the state. Any changes to the management of these forests is extremely important to our members and all the citizens of Oregon. Public lands are valuable to our members, both for recreation opportunities and fishery values. The Oregon commercial fisheries industry generated over \$500 million in 2017. Oregonians and visitors spent \$2.5 billion on fishing, hunting, wildlife viewing and related activities and equipment in 2008 according to the Oregon Department of Fish and Wildlife. Oregon's National Forest lands serve as the last, best refuge for native trout and salmon and are necessary to support restoration of our fisheries.

Trout Unlimited's conservation work involving public lands is multi-faceted. We are participants in the NEPA process as a member of the public, as well as a partner with the Forest Service on restoration projects that require NEPA review. In this way, we have a unique perspective having been on both sides of the NEPA coin.

NEPA is one of America's foundation environmental laws, providing meaningful opportunities for the public to be involved in the management of their public lands and ensuring that agency decisions are fully informed and grounded in the best available scientific information. Oregon Trout Unlimited supports efforts to increase the efficiency of decision-making and environmental review. However, efficiency should not come at the expense of public participation, transparency, or rigorous scientific analysis that ensures knowledgeable decisions. Any revisions of the Forest Service's NEPA requirements should adhere to these principles.

Collaboration is one of the most important tools for fostering efficient land management. When projects are conceived, developed and implement in a collaborative manner, the result is not only increased efficiency, but also more durable decisions less prone to legal challenges. Strengthening opportunities for collaboration should be a primary objective of the revised regulations.

Hunters and anglers must be assured that the revised regulations will not erode opportunities for meaningful public involvement in decisions affecting their public lands. Soliciting input at the beginning of the NEPA process, called scoping, is an important part of any decision. Unfortunately, the proposed rule would eliminate scoping from all but the most complex projects. The final rule must allow for scoping and meaningful public involvement.

The proposed rule includes ten new categorical exclusions that exempt certain project from comprehensive NEPA review. These categorical exclusions fall into three categories: (1) those covering infrastructure activities, (2) those covering special uses, and (3) those covering restoration activities. Categorical exclusions that allow projects to be exempted from further NEPA review can be useful tools to expedite projects that are reasonably expected to have minimal adverse environmental effects. However, categorical exclusions must include a narrow focus and adequate sideboards to prevent unexpected impacts on important fisheries, or misapplication when a more robust process should be utilized.

An important check to ensure that categorical exclusions are properly used is the “extraordinary circumstances” review. Under current practice, if an extraordinary circumstance is present, such as the potential for significant impacts to a threatened species, then a more thorough review is required. The proposed rule would eliminate the existing requirement to consider impacts to the agency’s Sensitive Species list, which includes numerous native trout species, including Westslope cutthroat, Bonneville cutthroat and Colorado River cutthroat trout. Additionally, the proposal does not add Species of Conservation Concern, a new classification developed by the agency. The final proposal must require consideration of the agency’s Sensitive Species list, as well as the Species of Conservation Concern, as applicable.

Timber harvest on up to 4,200 acres would be categorically excluded from further NEPA review so long as at least one “restoration” activity is included. Any categorical exclusion for restoration should be limited to projects where restoration is the true priority and not an afterthought and include meaningful sideboards to ensure that the categorical exclusion is not applied haphazardly. Allowances for permanent roads must be eliminated and there should be a requirement that all activities directly address environmental impairments, resulting in a net conservation gain.

Determinations of NEPA adequacy could help relieve the agency of redundant NEPA reviews by establishing a consistent process for determining if an existing analysis is adequate. This decision must not be made in a vacuum. Public involvement – including scoping — and consultation with stakeholders, applicable resource professionals, and partners is necessary to ensure that this decision is fully informed. Additionally, the determination cannot be a simple yes or no. The deciding official should be required to not only answer if an existing analysis is sufficient, but more importantly *why* it is sufficient. The final rule must support meaningful public engagement and require clear explanation of NEPA adequacy determinations.

Funding for agency staff and programs is needed. Creating efficient processes is about more than revising regulations. Without adequate funding and qualified resource professionals, streamlining NEPA is just a band-aid on a bigger problem. Since 1995, there has been a nearly 40% decline in non-fire personnel. That means fewer biologists, fewer engineers, fewer hydrologists, fewer trail crews and fewer professionals to conduct timely, thorough NEPA procedures. Ensuring adequate funding is an issue that Congress and the Administration must address to not only ensure healthier forests, but a healthier Forest Service.

Thank you for the opportunity to communicate our point of view for improving the Forest Service’s NEPA procedures.

Sincerely,



Mark W. Rogers
Chair Oregon Council

