



Submitted Electronically at Federal Rulemaking Portal: <http://www.regulations.gov/>. Docket Number FS-2019-0010

August 26, 2019

NEPA Services Group
c/o Amy Barker
USDA Forest Service
125 South State Street, Suite 1705
Salt Lake City, UT 84138.

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)

Dear Ms. Barker,

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

Trout Unlimited (TU) is a national conservation organization with more than 300,000 members and supporters who share in a mission to conserve, protect and restore North America's coldwater fisheries and their watersheds. Members of ZGTU collaborated with the National TU team as well as the Arizona Council of TU in developing the comment letters that each of those two bodies submitted and we completely support those comments. ZGTU represents more than 1,000 TU members in the greater Phoenix area.

NEPA is one of America's bedrock 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. ZGTU 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 fully informed decisions. We strongly urge that any revisions of the Forest Service's NEPA requirements adhere to these principles.

The following are the ZGTU comments on the proposed NEPA Revisions:

Summary:

- 1) ZGTU supports efforts to streamline the processes, but not at the expense of public input.
- 2) We urge keeping the existing requirement, that public scoping be required for all Forest Service proposed actions, including those that would appear to be categorically excluded.
- 3) We urge that DNA should augment, not substitute for, the proper analysis of a proposed project and that scoping and public involvement be required.
- 4) We urge that any CE for restoration must truly be restoration first, not an adjunct to a timber harvest, and that the CE must allow for public scoping and a comment period before the CE is started.
- 5) And, finally, we urge keeping the existing language in the NEPA that states, “If the responsible official determines, based on scoping, that it is uncertain whether the proposed action may have a significant effect on the environment, prepare an EA. If the responsible official determines, based on scoping, that the proposed action may have a significant environmental effect, prepare an EIS.”

Collaboration

Collaboration is one of the most important tools for reaching optimal decisions. Diversity of perspective brings additional insights to the decision-making process, which leads to better outcomes.

Also, people support what they help to create. By engaging “boots-on-the-ground” organizations like ZGTU, the Forest Service will earn the active support of the community.

Engaging diverse, interested parties can also reduce the exposure to time-consuming litigation.

While we support efforts to make the process more efficient, eliminating the active participation of the citizenry is not the place to make cuts. Our Founding Fathers recognized that democracy is not the most efficient form of government, but it is the best. President Lincoln described it well: “government of the people, by the people and for the people”.

Scoping

The proposed rule would substantially curtail public scoping from being required “for all Forest Service proposed actions, including those that would appear to be categorically excluded”, to “scoping is required for all Forest Service environmental impact statements”, with scoping optional for other actions, such as EAs and categorical exclusions. Scoping is a fundamental component of any public process. Providing for early and often engagement with the public leads to transparency, builds trust and provides the agency with valuable input that can lead to better-informed decisions.

While we appreciate that Schedule of Proposed Actions (SOPA) will continue to be used to help inform the public, SOPA are not the equivalent of scoping notices and do not provide the level of detail necessary for the public to provide the Agency with constructive input. By continuing to require scoping for all proposed actions, the Forest Service will ensure that public involvement is consistent across the Agency and maintain a high level of coordination and collaboration with the public.

ZGTU urges keeping the existing requirement, that public scoping be required for all Forest Service proposed actions, including those that would appear to be categorically excluded.

Determination of NEPA Adequacy (DNA)

This tool has the potential for time and cost savings but should not be a substitute for NEPA. While it is helpful to have a substantially similar project as a template, public involvement – including scoping, consultation with other Governmental and non-Governmental stakeholders and partner agencies – is necessary to ensure that the DNA is applicable. The deciding official should also explain why the existing analysis is applicable and include supporting documentation.

ZGTU urges that DNA should augment, not substitute for, the proper analysis of a proposed project and that scoping and public involvement be required.

Categorical Exclusions for Certain Restoration Projects

This CE allows for “ecosystem restoration and/or resilience activities” on up to 7,300 acres of Forest Service lands. IF timber harvest activities are included, they cannot exceed 4,200 of the 7,300 acres. This CE begs the question: Is the CE primarily for restoration projects, with a timber harvest, of up to 4,200 acres, as a part of the restoration? Or, is this primarily a CE to allow timber harvest of up to 4,200 acres, with a restoration project thrown in so the timber harvest would qualify as a CE? The “restoration projects” listed are more outcomes than activities. What activities would be used to accomplish “hazardous fuel reduction” or “stream restoration”. What is the most needed or beneficial restoration in the 7,300-acre area for the CE? Who decides which restoration project or projects are selected? How would a successful restoration be measured?

ZGTU urges that any CE for restoration must truly be restoration first, not an adjunct to a timber harvest, and that the CE must allow for public scoping and a comment period before the CE is started.

Extraordinary Circumstances Determination

Under the 2008 regulations, a CE may not be used if, based on scoping, there is uncertainty whether the proposed action may have a significant effect on the environment.

Under the proposal, an extraordinary circumstance only exists when the responsible official determines that there is “a likelihood of substantial adverse effects”, meaning that uncertainty will no longer require an environmental analysis. The resulting quandary is that an environmental analysis would clear up uncertainty as to the adverse effects of a proposed action, but this analysis would not be required. This would set the stage for CEs to be used even when substantial questions remain, leading to decisions that are not fully informed.

ZGTU urges keeping the existing language in the NEPA that states, "If the responsible official determines, based on scoping, that it is uncertain whether the proposed action may have a significant effect on the environment, prepare an EA. If the responsible official determines, based on scoping, that the proposed action may have a significant environmental effect, prepare an EIS."

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alan Davis". The signature is fluid and cursive, with the first name "Alan" being more prominent than the last name "Davis".

Alan Davis

President

Zane Grey Chapter, Trout Unlimited

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