



Empowering all to enjoy, share, and preserve the hiking experience.

August 23, 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 *Proposed Rule, National Environmental Policy Act (NEPA) Compliance* (84 Fed. Reg. 27,544, June 13, 2019)

To Whom It May Concern,

On behalf of the American Hiking Society (AHS), our members, supporters, and the millions-strong hiking community nationwide, we write in opposition to proposed revisions to the U.S. Forest Service's National Environmental Policy Act (NEPA) regulations. We are specifically concerned about the significant impacts to hikers and other recreation users on the 157,000 miles of trails and surrounding space in our National Forests.

Proposed Rule Curtails the Public Process

Hikers, other trail users, and partner organizations that manage trails play an important role in reviewing projects on and around trails. The proposed changes drastically alter the way in which public input is provided. Specifically, new and expanded categorical exclusions (CEs), which remove the opportunity for public input, would be used for up to three-quarters of project-level decisions, including changes to trails and trailheads.¹ These new and expanded authorities would dramatically affect the public's right to notice and comment on trails and other site-specific decisions. Projects authorized under CEs would no longer require scoping, which is supposed to provide initial notice of possible changes to the public, resulting in a loss of all advance notice and comment requirements. Under the proposed rule there is a strong incentive for Forest Service line officers to skip this collaborative process as it will no longer be required. The public in effect would lose the opportunity to comment on over 93% of all Forest Service decisions.

Categorical Exclusions (CE's) Result in a Lack of Necessary Oversight and Review

American Hiking Society is opposed to the proposed CE NEPA changes, in their current form, because they:

- significantly diminish public oversight, input, and involvement of project level decisions;
- do not adequately address the Schedule of Proposed Actions (SOPAs), their frequency of publication or publication of proposed projects before decisions are made and implemented;
- allow too much discretion by USFS district rangers regarding eliminating or truncating the public's involvement in management of *the public's* National Forests;
- allow commercial/non-commercial timber harvests up to 4,200 acres with a CE, which indicates the magnitude of decisions without significant public input;

¹ CE (e)(21), CE (e)(23).

- and allow road building without appropriate analysis and public input.

AHS believes the far-reaching CEs in the proposed rule will undoubtedly diminish protection of the multiple resources the USFS manages and must defend. We share the concerns of others in the trail community² and suggest instead that the Administration request, and Congress provide, adequate funding to the Forest Service to provide staffing at a level that allows compliance with the current USFS NEPA rule. While the proposed new rule purports to increase efficiency by reducing public involvement, we believe the proposed changes will decrease efficiency because disenfranchised stakeholders (of many different points of view) will be forced to resort to litigation and legislative remedies to make their voices heard.

National Scenic and Historic Trails Must be Added as Congressionally Designated Areas

While we urge the Forest Service to reject the proposed changes in their entirety, should that not occur, National Scenic and Historic Trails must be added to the list of congressionally-designated areas in order to ensure their protection. These trails are congressionally-designated and managed pursuant to the provisions of the National Trails System Act (NTSA).³ The proposed listing of similarly situated congressionally-designated Wild and Scenic Rivers and wilderness areas in the proposed rule is commendable but does not go far enough. A more comprehensive analysis of the impacts of USFS actions on such areas must be guaranteed. The proposed regulations discuss the existence of congressionally-designated areas “that should be considered” in determining whether extraordinary circumstances warrant an Environmental Assessment (EA) or Environmental Impact Statement (EIS) in lieu of a categorical exclusion to such analysis.⁴ Simple consideration of such congressionally-designated areas is not enough. The designation of such areas should definitively require an EA or EIS, to ensure public input. In establishing these areas, Congress has statutorily mandated certain management regimes, and, the federal law enacted by Congress in so doing must be treated equal to federal laws dictating USFS management of National Forests and actions related thereto.

For the reasons detailed above we urge the Forest Service NOT to proceed with this NEPA proposed rule.

² AHS supports the comments submitted by the Partnership for the National Trails System and encourages USFS to adopt the organizations recommendations.

³ (16 USC §§1241, et. seq.)

⁴ See proposed language 36 CFR §220.5(b)(1)(iii).