

The USDA Forest Service amended regulations are carefully designed to facilitate timely, high-quality, science-based decisions with robust public involvement. These regulations include new tools and flexibilities that will help us carry out our 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 updates include new and revised categorical exclusions which are a type of analysis for certain activities that typically do not have significant environmental effects. The rule also provides other efficiencies, such as eliminating redundant efforts by allowing for the use of a previous environmental analysis to support a new decision under certain circumstances. This update reflects decades of experience in on-the-ground work, and our review of extensive public input – all of which meet the spirit and letter of the National Environmental Policy Act.

Significant elements of the final rule include:

- Providing a suite of new and amended Categorical Exclusions for everyday activities that have regularly been demonstrated not to have significant effects on the human environment. These are focused on infrastructure maintenance for resources such as roads, trails, and campgrounds, issuance of permits for use and occupancy of national forest lands, and activities designed to accomplish ecological restoration and resiliency.
- Providing a methodology for what is known as “Determination of NEPA Adequacy”; this allows for previous environmental analyses to be used to support new decisions, where appropriate.

KEY MESSAGES

The USDA Forest Service’s final rule improves agency processes for environmental analysis and decision-making. These changes serve Americans through timely and higher quality land management decisions on national forests and grasslands, with robust public involvement.

- The final regulation increases efficiencies in how the agency conducts environmental reviews and facilitates high-quality, science-based decisions while maintaining robust public involvement.
- The final rule allows for the use of previous environmental analyses to support new decisions, where appropriate.
- The rule establishes new and revised categorical exclusions, which are activities that may be excluded from detailed environmental analysis because they typically do not have a significant effect on the human environment. These categorical exclusions focus on infrastructure such as roads, trails, and campgrounds; issuance of permits to use and occupy National Forest lands; and restoration of ecological resources.
- The final rule reflects a review of extensive public input and decades of experience in on-the-ground work, all of which meet the spirit and letter of the National Environmental Policy Act.

The Forest Service developed the final rule through robust study and extensive public engagement.

- In January 2018, the agency published an Advance Notice of Proposed Rulemaking and received more than 34,674, of which 1,229 were unique. Of those, most expressed support for the agency’s efforts; others supported the goal but included caveats that these gains should not come at a cost to public involvement or conservation of natural resources.
- In June 2019, the agency published a proposed rule with a 60-day public comment period and extended for 14 days in response to requests from the public. The agency received more than 100,000 comments with roughly 6,200 unique, individual responses.
- The rule is supported by extensive analysis of previous environmental documents and a review by Forest Service researchers of scientific literature cited by commenters.

If asked about CEQ:

- The amendments in the final rule are consistent with the Council on Environmental Quality's revised NEPA regulations.
- On July 16, 2020, the Council on Environmental Quality published a final rule revising its NEPA regulations that apply across the Federal government. Those regulations took effect on September 14, 2020. CEQ's revised regulations supersede any pre-existing Forest Service NEPA provisions that are inconsistent.
- In light of CEQ's revised regulations, the Forest Service final rule is of limited scope. Other changes to the Forest Service's NEPA regulations that were included in the proposed rule, along with associated comments, will be reconsidered in association with the agency's forthcoming review of its NEPA procedures as directed by CEQ's revised regulations.

Questions and Answers

Q. What is the National Environmental Policy Act, and how does it apply to the Forest Service?

Signed into law in 1970, the National Environmental Policy Act is sometimes called the Magna Carta of environmental laws and establishes the nation's national environmental policy. NEPA requires agencies, like the Forest Service, to assess the environmental effects of an agency's proposed actions before making decisions. NEPA has twin goals that require Federal agencies to

1. Consider the significant environmental impacts of their proposed actions, and
2. Inform the public that environmental concerns were considered in the decision-making process.

Q. Does efficiency mean taking shortcuts?

No. It means using agency resources wisely and making timely and smart decisions. Most importantly, the new rule fully complies with NEPA. Every decision we make will continue to go through the appropriate level of NEPA analysis as well as the appropriate level of public engagement to protect the lands and resources entrusted to our care. However, for routine activities the agency has conducted for decades, in many cases, our environmental analyses have determined that we can decide to proceed without conducting another in-depth analysis.

For example, the agency averages 707 days to complete an environmental assessment (EA), while categorical exclusions average 204 days to complete. By using new categorical exclusions instead of some environmental assessments where appropriate, the new rule would enable the agency to reach a decision on some projects an average of 30 to 480 days earlier, without compromising resource protection or public involvement.

Q. Why did you change your processes?

The Council on Environmental Quality encourages agencies to continue to review their NEPA policies and procedures and to revise them as necessary. For example, the Forest Service updated its NEPA procedures in 2008 and added a set of categorical exclusions in 2013.

Additionally, as public servants, the Forest Service adheres to a fundamental responsibility to expend our financial resources in the most efficient manner. We expect the changes in our NEPA

procedures to provide efficiencies to help us better deliver our mission. It is just one aspect of broader efforts to improve our service to the American people.

Finally, the agency has faced challenges due to trends of decreased funding and personnel because resources are increasingly being spent each year on wildfire. In 1995, wildland fire management funding made up just 16 percent of the Forest Service's annual spending. In 2018, spending accounted for 57 percent of the agency budget. There has also been a similar shift in staff to fire programs. There has been a 39 percent decrease in all non-fire personnel since 1995.

Congress has provided beneficial legislation to curb this trend. However, the Forest Service still faces staffing and capacity issues in many locations, which makes it difficult to meet the challenges and opportunities facing us today.

Q. What are the highlights of changes?

Significant elements of the final rule include:

- Providing a suite of new and amended Categorical Exclusions for everyday activities that have regularly been demonstrated not to have significant effects on the human environment. These are focused on infrastructure maintenance for resources such as roads, trails, and campgrounds, issuance of permits for use and occupancy of national forest lands, and activities designed to accomplish ecological restoration and resiliency.
- Providing a methodology for what is known as "Determination of NEPA Adequacy"; this allows for previous environmental analyses to be used to support new decisions, where appropriate.

Q. Does efficiency mean less time for public involvement?

No. The final rule does not address or reduce existing Forest Service public involvement practices concerning CEs. The Forest Service will continue to make diligent efforts to involve the public when applying CEs and implementing its NEPA procedures. Public input routinely helps improve analysis and decision-making. Stewardship of national forests and grasslands benefits from the participation of individuals, private and non-profit organizations, and local, state, tribal, and federal governments, and this engagement is a core element of the Forest Service mission.

Q. Did Forest Service work with tribes on these changes?

Our dialogue with tribes is a vital part of the work we do. The agency initiated a 120-day Tribal consultation period on June 13, 2019. Based on requests from tribes the agency extended the consultation period an additional 26 days. The Forest Service also considered information received from Tribes after this period. Twenty-seven federally recognized Tribes submitted written comments and/or participated in regional tribal meetings.

Q. What is a categorical exclusion?

Categorical exclusion is a term for categories of actions that normally do not have a significant effect on the human environment. Because they normally do not have significant effect, they are excluded from any requirement for analysis and documentation in an Environmental Assessment or Environmental Impact Statement. As a safeguard to ensure that significant effects will not occur when using a categorical exclusion, the Forest Service has identified a list of resource conditions to evaluate whether any extraordinary circumstances exist in each particular situation.

If extraordinary circumstances do exist, the agency will prepare an Environmental Assessment or Environmental Impact Statement.

Categorical exclusions are developed based on an agency's experience with routine actions and the resulting environmental effects. Previous environmental analysis of similar actions may set the basis of a categorical exclusion, especially if repeated over time.

Examples of actions that fit within categorical exclusions are trail maintenance, wildlife habitat improvement, painting buildings at a ranger station, issuing permits for a mailbox or driveway, rebuilding a fence to improve livestock movement, and others.

Q. What is the status of categorical exclusions in the final rule?

The final rule includes the following new or revised CEs:

- A category that allows for ecological restoration work on up to 2,800 acres. All activities must be designed in a collaborative manner and must be intended to achieve ecological restoration and resilience objectives. This category will help address forest health conditions, insect and disease outbreaks, wildlife habitat improvement, and other resource goals on a broader landscape.
- Two categories that allow for road management activities on up to 8 miles of NFS roads and construction and realignment of up to 2 miles of NFS roads. This will help us maintain and improve one of the essential components of our infrastructure, providing recreation access, access for commercial businesses such as outfitters and guides and grazing permittees, access for wildfire response, and access for overall national forest management.
- Expansion of an existing category to allow for decommissioning of National Forest System roads and trails, in addition to unauthorized routes. The goal of these activities is to initiate restoration of ecological processes that have been interrupted or adversely impacted by a road or trail that is no longer needed.
- Two categories that allow for improvements at recreation and administrative sites, including construction, reconstruction, decommissioning, relocation, or disposal of buildings and other infrastructure. These categories will help improve the sites and facilities that people depend on for high-quality outdoor recreation experiences on the National Forests and Grasslands.
- Three categories that allow for approval, modification, or continuation of uses of National Forest lands that require a special-use authorization. This will allow for approval of outfitter and guide permits supporting recreation activities such as guided hunting, hiking, snowmobiling, and rafting. It also allows for approval of non-recreation uses such as telecommunication facilities that support connectivity for rural communities and visitors.

All new categories and revisions to existing categories in the final rule were developed based on review of similar activities that have been analyzed over the years and consistently found not to have significant environmental effects