

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

August 5, 2019

Ms. Victoria Christiansen  
Chief  
U.S. Forest Service  
U.S. Department of Agriculture  
1400 Independence Ave, SW  
Washington, DC 20250

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

Dear Chief Christiansen,

The U.S. Forest Service's proposed National Environmental Policy Act (NEPA) rule (84 Fed. Reg. 27,544, June 13, 2019) would severely weaken environmental review and significantly restrict public input for forest management across our National Forest System. Given that public participation is a fundamental tenet of NEPA and that this proposed rule would affect decision-making on 193 million acres of Forest Service-managed land, we urge you to extend the comment period an additional 60 days. Not only is the current comment period too short, it coincides with peak season for many stakeholders, limiting their ability to comment.

Climate change, uncharacteristic wildfire, historic mismanagement, and encroaching development have impacted forest health and made communities more vulnerable. This administration's record of weakening the role of science, ignoring the public's voice, and pushing an industry dominance agenda, however, cast doubt on the need and motivations behind this current NEPA proposal.

The "ecosystem restoration and/or resilience" categorical exclusion (CE) included in the proposed rule is overly broad. The proposed CE could exempt from public scrutiny and impact analysis an entire project, including road building and commercial logging on up to 6.6 square miles, as long as it includes one non-logging restoration action, even if that action is as small as the replacement of a single culvert. We are concerned that this CE will primarily be used to meet timber volume goals rather than actual ecological restoration objectives.

Many forest collaboratives have demonstrated that responsible, consensus-based management of our forests for multiple-uses is achievable, and environmental analysis through NEPA is the tool that makes this possible. Collaboratives and land managers are most successful when all stakeholders are given the opportunity to have their voices heard, when the science is clearly established, and when complex issues are addressed at a large-scale. By prioritizing large-scale logging and road-building over management activities that promote fire-resilient landscapes, healthy watersheds, intact wildlife habitat, and community safety, this proposal circumvents science and community input, curtailing critical oversight and accountability.

Two other proposed CEs – one that would permit conversion of illegal off-highway vehicle routes into official Forest Service System roads or trails, and another that would allow up to 5 miles of road construction, or 10 miles of reconstruction, without analysis or public input -- are contrary to decades of Forest Service travel and transportation management policy. Road building can increase fire risk, fragment habitats, cause erosion into streams, and degrade forest conditions. In the face of worsening conditions on our federal forest lands, additions to the already bloated road system require added scrutiny and public review, not less.

The proposed rule would also allow for the use of multiple CEs to complete a single project, making it impossible for the agency to ensure no cumulative impacts will occur, as required by law. Furthermore, most projects would not be subject to any public participation requirements<sup>1</sup>, severely restricting the ability of the public, local communities, and other stakeholders to provide input on Forest Service projects impacting them. At a time when our constituents are demanding to know how the agency is addressing wildfire and other forest health challenges, keeping the public in the dark about potential impacts and without a voice to address forest management decisions will erode collaborative efforts, reduce awareness in local communities, and make it harder for the agency to meet the public's expectations regarding the management of the National Forest System.

Beyond CEs, this draft rule would also weaken the consideration of “Extraordinary Circumstances” that would otherwise disqualify a project for a CE, adopt “determinations of NEPA adequacy” (DNAs) to justify reliance on existing and outdated EAs or environmental impact statements (EIS) for new projects, and exempt projects in inventoried roadless areas (IRAs) and potential wilderness areas from requiring a more thorough Environmental Impact Statement to be conducted. NEPA essentially requires a “look before you leap” approach but by lowering the standards for when a more detailed or up-to-date analysis is required, the agency threatens to put our most sensitive resources at greater risk.

---

<sup>1</sup> 84 Fed. Reg. 27,550-27,551 (Jun 13, 2019). “From Fiscal Years 2014 to 2018, the Agency’s average annual environmental analysis included approximately 1,590 CEs and 277 EAs...the proposed rule may potentially result in 7 to 210 decision memos being completed in lieu of a decision notice.”

The proposed rule's inclusion of "condition-based management" appears to be an attempt to sanction large, multi-year projects without any consideration of impacts to specific resources. By identifying the conditions for treatment, rather than a specific stand or spatial area, the Forest Service would not be required to publicly disclose site specific information about logging, roadbuilding or other vegetation or fuels treatments. Other existing tools can provide a more appropriate way to achieve results for these types of multi-year projects without eliminating the public's opportunity to assess or comment on actual impacts.

Agencies often use the NEPA process to ensure that proposed projects comply with a range of federal laws, including the Endangered Species Act, the Native American Graves Protection and Repatriation Act, and the Clean Water Act. The size and scope of the proposed revisions to longstanding NEPA guidance jeopardizes that system, leading to fewer opportunities for public input and forcing litigation as the only recourse for concerned members of the public.

More broadly, the Forest Service's NEPA proposal is part of an administration-wide effort to undermine the important role of the public in environmental decision-making, and we are disappointed to see the Forest Service participate in this larger effort. It is challenging to view this rulemaking as a good faith attempt to address real issues. In addition to responding to our concerns with this current proposal, we urge the agency to weigh in wherever possible with others in the administration to stress that NEPA is a critical tool of accountability and to share our concerns about other efforts to undermine this critical environmental safeguard and to ensure that meaningful government-to-government tribal consultation on this proposal is conducted as required by Executive Order 13007.

Sincerely,



Raúl M. Grijalva  
Chairman  
House Natural Resources Committee



Debra Haaland  
Chair  
Subcommittee on National Parks, Forests,  
and Public Lands



Alan Lowenthal  
Chairman  
Subcommittee on Energy and Mineral  
Resources



Ruben Gallego  
Chairman  
Subcommittee on Indigenous Peoples of the  
United States





Jared Huffman  
Chairman  
Subcommittee on Waters, Oceans, and  
Wildlife



Grace Napolitano  
Member of Congress



Paul Tonko  
Member of Congress



Bill Foster  
Member of Congress



Ro Khanna  
Member of Congress



Grace Meng  
Member of Congress



Eleanor Holmes Norton  
Member of Congress



Jan Schakowsky  
Member of Congress



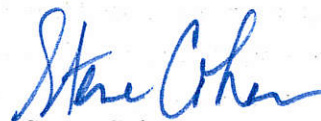
Ann Kirkpatrick  
Member of Congress



Nanette Diaz Barragán  
Member of Congress



Ed Case  
Member of Congress



Steve Cohen  
Member of Congress




Donald S. Beyer, Jr.  
Member of Congress




Zoe Lofgren  
Member of Congress




Albio Sires  
Member of Congress



A. Donald McEachin  
Member of Congress



Earl Blumenauer  
Member of Congress



Adam B. Schiff  
Member of Congress



Nydia M. Velázquez  
Member of Congress




Mike Levin  
Member of Congress



Suzanne Bonamici  
Member of Congress



Joe Neguse  
Member of Congress



Diana DeGette  
Member of Congress

CC:

U.S. Secretary of Agriculture Sonny Perdue

Jim Hubbard, USDA, Under Secretary for Natural Resources and Environment

Chris French, USFS, Deputy Chief, National Forest System

Christine Dawe, USFS, Director, Ecosystem Management Coordination