



August 26, 2019

Submitted via <https://www.regulations.gov/>

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

Re: National Environmental Policy Act Compliance

Dear Ms. Barker:

Western Energy Alliance and the Petroleum Association of Wyoming (the Trades) appreciate the opportunity to submit comments on the U.S. Forest Service's (USFS) proposed revisions to its National Environmental Policy Act (NEPA) regulations. The Trades' member companies operate on USFS lands pursuant to these regulations, and we support the proposed revisions as a way to continue promoting responsible oil and natural gas development through streamlined environmental review and permitting.

Western Energy Alliance represents over 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas across the West. The Alliance represents independents, the majority of which are small businesses with an average of fourteen employees.

The Petroleum Association of Wyoming (PAW) is Wyoming's largest and oldest oil and gas organization dedicated to the betterment of the state's oil and gas industry and public welfare. PAW members, ranging from independent operators to integrated companies, account for approximately ninety percent of the natural gas and eighty percent of the crude oil produced in Wyoming.

The Trades fully support USFS's intent to update and streamline the regulations for NEPA compliance on federal lands while ensuring agency decisions remain legally defensible. The revisions contemplated in the proposed rule are sensible and will accomplish those goals, so we urge USFS to expeditiously finalize the rulemaking.

Delays caused by the NEPA process discourage Alliance members from operating on USFS lands, thereby reducing revenues that would be generated for the federal government and limiting domestic energy production. Delays and drawn out timelines often lead proponents to go through the planning and NEPA process for years before pulling their proposed action due to significant costs, project delays, and competing interests elsewhere. The result is significant time and resource investment from the proponent and the USFS, with the end result of the proposed action being pulled or put on the shelf.

Duplicative layers of NEPA review are a prime cause of these delays, and we appreciate that USFS intends to expand the use of categorical exclusions (CE) and introduce Determinations of NEPA Adequacy (DNA) to reduce duplication.

Land use plans and environmental impact statements (EIS) take years to develop and contemplate appropriate restrictions on development in a planning area. Requiring environmental assessments (EA) for a project that is covered and analyzed in the land use planning and EIS process is usually redundant and unnecessary, and merely serves to delay development. Absent “extraordinary circumstances,” CEs and DNAs can preclude the need for an EA of oil and natural gas projects.

Specifically, we support the proposed rule’s addition of Section 220.4(i), *Determination of NEPA Adequacy*, to the regulations. DNAs are appropriate when, as described in the draft revisions, a new proposed action is essentially similar and can be tiered to a previously analyzed NEPA proposed action or alternative. DNAs will “provide the Agency an opportunity to be more efficient by reducing redundant analyses of substantially similar proposed actions with substantially similar impacts, and is consistent with CEQ policy to reduce paperwork and avoid redundancy.”

As the draft rule suggests, absent “significant new information or circumstances” there is no need to duplicate this analysis when the environmental impacts of a new project are similar to a previously analyzed action. The Trades strongly encourage USFS to adopt this provision for implementation and further clarify in the upcoming Handbook and Manual updates what, exactly by definition, constitutes “significant” information and circumstances. Specific examples are always appreciated so that USFS staff conducting NEPA analysis can feel confident in a decision to use a DNA and make specific reference to the regulations.

The Trades also support the *Clarifications Regarding Categorical Exclusions* section in the proposed rule. Expanding the use of CEs in place of EAs will significantly reduce NEPA timelines and would conserve USFS resources and staff time that could be better spent elsewhere. One existing barrier to CE use has been the frequent finding of “extraordinary circumstances” that triggers the need for an EA. Therefore, the proposed rule’s clarification and definition of the “degree of effects threshold” in Section 220.5(b)(2) is quite necessary.

Requiring a “cause-and-effect relationship” and a “likelihood of substantial adverse effects” between a proposed action and an impact to a resource condition is a logical addition to the “extraordinary circumstances” test. As noted in the name itself, ordinary impacts to resource conditions should not be sufficient to justify requiring an EA, nor should “the mere presence of one or more of these.” We also strongly support allowing a responsible official to “consider whether the long-term beneficial effects outweigh short-term adverse effects.” These are reasonable revisions, although we again urge USFS to provide examples and definitions of each of the above terms in the updated Handbook and Manual.

The Trades support four specific revisions to existing CEs. First, under Section 220.5(d)(12) of the proposed rule, a CE could be issued for “a new authorization or amendment of an existing authorization for activities that occur on existing roads or trails, in existing facilities, or in areas where activities are consistent with the applicable land management plan or other documented decision.” We appreciate

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this new language and encourage USFS to add to the examples that are included in the regulation by identifying existing rights-of-way on Forest Service roads as an activity that qualifies for this new CE.

Second, we strongly support revising Section 220.5(e)(3) to cover “special uses of NFS lands that require less than 20 acres of land.” Adopting the proposed rule’s new clarification language in order to avoid confusion over the word “minor,” and expanding the potentially impacted area from 5 acres to 20 acres, is appropriate since it will “not have the potential to have significant effects on the environment.”

The Trades join the Western Governors’ Association [in support](#) of new Section 220.5(e)(26), providing a CE for restoration projects on USFS lands. In the past, oil and natural gas companies have wanted to support or initiate restoration projects for habitat on these lands, but a desire to avoid the lengthy EA process has frequently pushed them to focus on projects on private lands, instead, since they are not subject to NEPA.

Finally, we support the proposed new Section 220.5(e)(27), which would allow USFS to honor another federal agency’s categorical exclusion when jointly implementing a proposed action. USFS works frequently with BLM for oil and natural gas leasing and surface permitting on Forest Service lands, so providing flexibility in these decisions consistent with BLM regulations is sensible.

The Trades greatly appreciate USFS’s efforts and intent in these draft revisions, and we support finalizing the rule expeditiously. Please do not hesitate to contact us with any additional questions

Sincerely,



Tripp Parks
Vice President of Government Affairs
Western Energy Alliance



Esther Wagner
Vice President – Public Lands
Petroleum Association of Wyoming