On June 13, 2019, the Forest Service released a proposed rule amending its National Environmental Policy Act (NEPA) procedures, opening the door to large-scale logging and clear-cuts in our National Forests.

These proposed changes are a blatant attempt to eliminate local input from government decision-making, would weaken the role of science, and undercut progress made by many forest collaboratives towards responsible, consensus-based management of our forests for multiple uses. The Forest Service is only providing the public with 60 days – until August 12, 2019 – to comment on the proposed rule.

Under the Forest Service’s “multiple use” mandate, the agency is required to balance the often competing priorities of outdoor recreation, logging, livestock grazing, energy production, and the protection of watersheds, wildlife and wilderness areas. Robust NEPA review, with the critical opportunity it provides for public input on most Forest Service projects, helps to ensure that forest management remains the product of science-based decision-making that does not prioritize any single use at the landscape level. NEPA is not an impediment to responsible government decision-making - it's a prerequisite for it.

Under the Forest Service’s proposed rule, over 93% of projects would not be subject to any public participation requirements. If implemented, the Forest Service’s draft proposal would severely restrict the ability of local communities to weigh in on Forest Service projects impacting them.

Currently, the Forest Service uses environmental assessments (EAs) to approve 277 projects per year on average. These EAs are intended to be short and focused, but they do require a science-based analysis and consideration of alternatives and are subject to public comment and the right to file an informal objection. If the proposed rule is finalized, the Forest Service estimates that up to 210 of its EAs will be “categorically excluded” from analysis and public participation. In other words, about three quarters of projects currently approved using EAs would in the future be exempt from any public participation requirements.

The use of categorical exclusions (CEs) have in the past required public notice through the “scoping” process and an opportunity for public comment. Under the proposed rule, however, CEs uses would no longer require advance public notice and opportunity to comments.
UNDERCUTS RESPONSIBLE ENVIRONMENTAL REVIEW AND OPENS UP OUR NATIONAL FORESTS TO RECKLESS LOGGING, MINING, AND DRILLING

The Forest Service’s NPRM proposing no less than seven new high-acre Categorical Exclusions (CEs) for activities such as logging, road-building, and restoration on up to 7,300 acres – approximately 6.6 square miles. Although Categorical Exclusions are only supposed to be utilized for routine agency actions that do not individually or cumulatively have a significant impact (e.g., renovating a hiking trail or performing maintenance at a district office). These large-scale CEs are simply an attempt by the Trump administration to circumvent responsible environmental review and public input.

This draft rule would also weaken the Forest Service’s consideration of “Extraordinary Circumstances.” Under current law, if a proposal triggers extraordinary circumstances it is ineligible for a CE, but this proposed rule would eliminate the presence of sensitive species as an extraordinary circumstance. Furthermore, the proposal would impose a significantly higher threshold for when extraordinary circumstances exist, requiring a “likelihood of substantial adverse effects to the listed resource condition.” The Forest Service is also proposing to adopt “determinations of NEPA adequacy” (DNAs), which are a mechanism that the Department of the Interior has used to justify reliance on existing environmental assessments (EA) or environmental impact statements (EIS). Often the existing EA or EIS is outdated and/or never contemplated or analyzed the specific impacts of the new proposed action.

The Forest Service also proposes the removal Inventoried Roadless Areas (IRAs) and potential wilderness areas from the classes of actions that normally require preparation of an Environmental Impact Statement (EIS). The proposed rule would similarly remove projects in potential wilderness areas (i.e., areas identified in a Forest Service wilderness inventory) from increased public scrutiny and environmental analysis.

EXISTING FOREST SERVICE NEPA AUTHORITIES

The Forest Service already possesses a sweeping number of Categorical Exclusions (CEs) that it can use to carry out emergency activities (e.g., thinning, hazardous fuel reduction, prescribed burns, and post-fire rehabilitation). Congress has also passed legislation giving the Forest Service additional flexibility:

- The Healthy Forest Restoration Act (HRFA)
- Provisions in the 2014 and 2018 Farm Bill
- The Good Neighbor Authority
- The Forest Landscape Restoration Program
- The Legacy Roads and Trails Program
- Stewardship End Result Contracting
- The Stafford Disaster Relief and Emergency Assistance Act, which waives NEPA procedures for certain actions carried out within a Presidentially declared emergency or disaster area

In extreme emergency circumstances, federal agencies can also consult directly with the Council on Environmental Quality (CEQ) to make alternative arrangements.

THE FOREST SERVICE BIGGEST CHALLENGE IS A CHRONIC LACK OF FUNDING

The Forest Service has for many years endured chronic operational and organizational challenges related to funding, staffing, and training.

If the Forest Service was actually interested in addressing the causes of inefficiency in environmental decision-making, the agency would focus on increasing funding, staffing, and training and reducing staff turnover. This draft rule is a thinly veiled attempt to make it easier to rubberstamp permits for massive corporations to clear-cut, drill, and mine in our national forests.