

and disease infestations, improve forest health through thinning, salvage dead and dying trees, and provide merchantable forest products. This category was vacated when a District Court found that there was insufficient evidence in the agency's administrative record to support its establishment. The government did not appeal the District Court's ruling on the case. The loss of this category has resulted in small timber harvests, without the potential for significant impacts, requiring preparation of at least an environmental assessment in order to proceed. This has resulted in extended timeframes and the expenditure of undue energy and funding to complete minor timber harvesting projects.

*Comment:* Some respondents commented that the proposal to expand the number of categories was an attempt by the agency to circumvent NEPA compliance.

*Response:* The use of categorical exclusions is not a circumvention of NEPA compliance. NEPA and its implementing regulations envision a process of disclosing significant environmental impacts of major Federal actions. To avoid repetitive documentation of known non-significant effects of minor actions, the Council on Environmental Quality (CEQ) regulations provide a process for defining categories of activities whose effects are normally exempt from documentation in an environmental assessment or an environmental impact statement. The process of defining these categories is an integral part of the NEPA regulatory framework. In this case, the documented review of activities similar to those included in these categories supports the determination that the three categories defined here describe actions which do not individually or cumulatively have a significant effect on the human environment and meet the intent of the CEQ regulations that govern the establishment of categorical exclusions. The agency is establishing these categories because the appropriate implementation of NEPA requires concentrating agency analysis efforts on major Federal actions and not expending scarce resources analyzing agency actions where experience has demonstrated the insignificance of effects.

*Comment:* Some respondents believed that Forest Service use of these categories would allow the agency to bypass important procedural steps for projects, such as the notification and involvement of the general public, State agencies, and Tribal governments prior to implementation of proposed projects.

*Response:* As directed by CEQ regulations (40 CFR 1507.3), the Forest Service has developed agency policy for implementing the NEPA process. As noted in Chapter 10, section 11, of FSH 1909.15: "Although the Council on Environmental Quality (CEQ) Regulations require scoping only for EIS preparation, the Forest Service has broadened the concept to apply to all proposed actions." Chapter 30, section 30.3(3), of FSH 1909.15 further states: "Scoping is required on all proposed actions, including those that would appear to be categorically excluded." As part of the scoping process for proposals potentially covered by these categorical exclusions, the responsible official must determine the extent of interest and invite the participation of affected Federal agencies, affected Tribes, State and local agencies, and other interested parties, as appropriate. The Forest Service is committed to fulfilling its public involvement responsibilities with all parties potentially interested in projects qualifying for these categorical exclusions. The agency is working on additional methods to broaden public awareness of all proposed activities undergoing any level of NEPA review (CEs, EAs, and EISs) through electronic Web-based technology. It is the line officer's responsibility to invite participation of all interested and affected individuals and groups and to do so by whatever method or technology is effective to achieve participation of those individuals or groups.

*Comment:* Several respondents expressed concern that effects on Tribal governments had not been appropriately analyzed in the rulemaking process as required by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments.

*Response:* The Forest Service recognizes it has trust responsibilities towards Tribes and this responsibility includes a duty to consult with Tribes to obtain meaningful and timely input on agency actions having substantial direct impacts on Tribes. Executive Order 13175 defines policies that have tribal implications as regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The addition of these categorical exclusions to the agency's NEPA procedures is concerned with the level of documentation required for specific types of actions. As such, these policies

do not have Tribal implications as defined in the Executive Order.

Effects on Tribal governments may occur on specific sites where the categories will be used and where there are Tribal interests. Tribes will be contacted during the scoping process and appropriate government to government consultations will be conducted on those projects with Tribal implications even though the project may be categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement.

*Comment:* Many respondents asked that the Forest Service adhere to various laws, Executive orders, and agency policies, such as: the Endangered Species Act, Clean Air Act, Clean Water Act, National Forest Management Act, Migratory Bird Treaty Act, National Historic Preservation Act, Forest Service Transportation System Management Policy, Northwest Forest Plan, the Grizzly Bear Recovery Plan, and Executive orders on management of floodplains and wetlands and on Tribal consultation.

*Response:* The Forest Service agrees. The level of NEPA documentation does not affect agency responsibility to follow other applicable laws, regulations, Executive orders, and policies. For example, categorically excluded timber sales are reviewed for their potential to impact waters listed as impaired by State water quality agencies. When appropriate, the Forest Service conducts appropriate consultation with Federal, State, and Tribal agencies for these projects. For example, agencies must also review the potential effects from these types of actions on threatened and endangered species and on designated critical habitat and consult as appropriate with the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration Fisheries. Similarly, categorically excluded actions are reviewed for potential effects on properties protected by the National Historic Preservation Act, and consultation is conducted as appropriate with State and Tribal Historic Preservation Officers. Such consultations help ensure that cumulative effects across jurisdictions will not be significant.

*Comment:* Numerous respondents commented on the role that "special interest groups" play in affecting the management of the national forests. Some individuals assumed that these categorical exclusions were dictated by industry groups and objected vigorously to commodity use of national forests. Others commented on the role that they