

categorically excluded actions must by statute be consistent with the forest plan (16 U.S.C. 160–4(i)).

*Comment:* Several respondents asked that the agency conduct NEPA analysis for this proposal, including a cumulative effects analysis on the impacts of this proposed ID and other recent rulemakings.

*Response:* A response to this comment is found in the Regulatory Certifications section, titled “Environmental Impact.” The Council on Environmental Quality (CEQ) does not direct agencies to prepare a NEPA analysis or document before establishing agency procedures that supplement the CEQ regulations for implementing NEPA.

*Comment:* Some respondents assert that the stated requirements that activities must be consistent with land and resource management plans are misleading since such plans will be categorically excluded.

*Response:* Forest Service NEPA procedures in FSH 1909.15 and current land and resource management planning regulations at 36 CFR part 219 do not presently provide a categorical exclusion for revisions or amendments to land and resource management plans.

The Forest Service may, if it finalizes and implements its planning rule as proposed (67 FR 72816, December 6, 2002), identify a category of plan decisions which do not individually or cumulatively have a significant effect on the human environment and may, therefore, be categorically excluded from NEPA documentation in an environmental assessment (EA) or environmental impact statement (EIS). The public would have an opportunity to review and comment on such an amendment to the Forest Service Handbook if such a categorical exclusion is proposed. It should be noted that under the proposed Forest Service planning regulations, new plans, plan revisions, and amendments continue to require a rigorous public involvement process. Categorical exclusions apply to the level of documentation required under CEQ’s regulations implementing NEPA (40 CFR 1500.4(p) and 1508.4). Any action that is not consistent with an applicable land and resource management plan standards, guidelines, goals, and objectives would require a plan amendment. The Forest Service will continue to conduct the appropriate level of environmental analysis and disclosure commensurate with the significance of environmental effects, both for land and resource management plans and for project-level planning.

*Comment:* Some respondents said the application of extraordinary circumstances screens is insufficient and open to abuse. Others stated a belief that timber harvests automatically trigger analysis and documentation in an EA or EIS since they contain elements specifically listed as requiring this level of documentation, including “controversy,” “uncertainty,” and “precedent for future action” and, as such, cannot be categorically excluded.

*Response:* When using these three categorical exclusions, the responsible officials will consider, on a project-by-project basis, whether or not any of the Forest Service extraordinary circumstances apply. The responsible official will prepare a project file and decision memo that will be available for public review (FSH 1909.15, ch. 30, sec. 32.3). The decision memo contains the responsible official’s rationale for categorically excluding an action and selecting that particular category, and includes a determination that no extraordinary circumstances exist.

Years of experience by the Forest Service with Category 4 and earlier categories, including both low-impact silvicultural and sanitation/salvage projects, indicate that categories 12, 13, and 14 would not set a precedent. In addition, 32 of the projects reviewed were documented using EAs and Findings of No Significant Impact (FONSI). For these projects, the FONSI indicated that the effects were not significant. The EAs for these projects included an assessment of the degree of the controversy about effects, uncertainty about effects, and precedent for future action, and found them to be not significant (40 CFR 1508.27).

*Comment:* One request for correction of information under the USDA Information Quality Guidelines was received in response to the proposal for categorical exclusions for small timber harvest. Concerns were raised by petitioners under the Data Quality Act that “measurement” must be used instead of “observation” to comply with USDA Information Quality Guidelines. The following is a response to that concern. Both the request for correction, and a more detailed response to the request than that found below, can be found at <http://www.fs.fed.us/qoi>.

*Response:* The Forest Service has evaluated the assessment of the 154 projects that provides the basis for its categorical exclusions, and found that this assessment complies with the USDA Information Quality Guidelines. The USDA Information Quality Guidelines, under “Objectivity of Regulatory Information,” include the following: “Use reasonably reliable and

reasonably timely data and information (e.g., collected data such as from surveys, compiled information, and/or expert opinion).” The expert opinion used to generate the observations in question is documented at <http://www.fs.fed.us/emc/lth>. Specifically, the use of local expertise in resource disciplines such as soils, hydrology, fisheries biology, and wildlife biology is documented in the information on the study of the 154 projects. These experts are highly trained, usually holding degrees in their specialties at the bachelor’s or master’s level. They are also provided ongoing training to assure currency in their discipline. They are familiar with current literature relating to their specialty and local area, as well as applicable laws, regulations, policies, and land and resource management plan standards and guidelines required for protection of the environment. They have field knowledge of local conditions. The combination of this expertise, complemented by the interdisciplinary approach used by the Forest Service in managing environmental resources, render the specialists well qualified to make site-specific judgments as to the effects of a particular practice in a particular area.

In addition, where the local biologist finds that there is potential for an effect on a federally listed species, its designated critical habitat, or species proposed for listing, the project would be evaluated by professionals from the U.S. Fish and Wildlife Service or National Oceanic and Atmospheric Administration Fisheries. A categorical exclusion would not be used if the agency determines that the action may adversely affect listed species, species proposed for listing, critical habitat, or proposed critical habitat.

The USDA Information Quality Guidelines, under “Objectivity of Regulatory Information” also includes considerations of transparency. For this interim directive, the data from the 154 projects were available to the public upon request and on the Web during the comment period.

*Comment:* Some respondents questioned the size of the sample and the procedures used in selecting the 154 projects evaluated in determining that these categories of activities will have insignificant effects on the human environment.

*Response:* The Forest Service reviewed 154 small timber sale activities which could potentially have been included in these categories. To identify projects for review, the Forest Service requested field units to review a sample of timber harvests that would have qualified under former Category 4