



Document Details

Docket ID:	FS_FRDOC_0001
Docket Title:	Recently Posted FS Rules and Notices.
Document File:	
Docket Phase:	Notice
Phase Sequence:	2669
RIN:	Not Assigned
Original Document ID:	FS_FRDOC_0001-DRAFT-2535
Current Document ID:	FS_FRDOC_0001-DRAFT-2535
Title:	Comment on FR Doc # 2017-25963
Number of Attachments:	0
Document Type:	PUBLIC SUBMISSIONS
Comment on Document ID:	FS_FRDOC_0001-2686
Comment on Document Title:	Agency Information Collection Activities; Proposals, Submissions, and Approvals: Qualified Products Lists for Fire Chemicals for Wildland Fire Management
Status:	Pending_Post
Received Date:	01/23/2018
Date Posted:	
Posting Restriction:	No restrictions
Submission Type:	Web
Number of Submissions:	1

Document Optional Details

Status Set Date:	01/23/2018
Current Assignee:	Lewis, Tinathan Ann (FS)
Status Set By:	Public
Comment Start Date:	
Comment Due Date:	
Tracking Number:	1k2-913c-211w
Page Count:	1

Submitter Info

Comment:

Many problems and concerns encountered with the application of the National Environmental Policy Act (NEPA). One of the primary stated goals of NEPA is to "encourage productive and enjoyable harmony between man and his environment." The statute provides a mechanism whereby the environmental impacts of Federal agency action can be assessed, taking into consideration the social and economic implications for such actions. NEPA is not designed to create any new substantive rights. Farmers, Ranchers and Other Economic Interests were Being Denied Judicial Standing To Challenge the past Agencies Compliance With NEPA. Despite the fact that NEPA is ostensibly just a procedural statute, it has been the subject of extensive litigation. Most of the litigation has centered on the adequacy of a Federal agency's compliance with the provisions of NEPA. Challenges take the form of suits claiming that more extensive documentation should have been prepared in particular cases, or that the prepared documentation was inadequate. NEPA requires agencies to consider the social and economic impacts of agency action in evaluating alternatives. NEPA need to change so Farmers, ranchers and other landowners have way to challenge the adequacy of NEPA compliance in those jurisdictions where these cases exist. Even though NEPA only creates a process that agencies must follow, the information that is produced as part of that process plays a big part in the decision that is ultimately reached. Agencies rely on the information that is developed in reaching a decision. Thus, if any aspect of the information required to be developed is inadequate or is inaccurate, that deficiency skews the entire decision-making process. By denying them the opportunity to protect their interests, it effectively denies them any meaningful participation in the NEPA process. An agency that has no accountability for the accuracy or completeness of its social and economic analysis will likely pay less attention to that part than to other aspects of the analysis. Agencies denial of standing also creates the inequitable result that only conservation interests can challenge decisions adverse to them, while commodity interests cannot challenge decisions adverse to them. Agencies only have to pay attention to one side of the issue, because that is all they can be held accountable for. The "balance" that NEPA called for between man and his environment has thus been destroyed. Instead of promoting that balance as NEPA was intended to, the manner in which NEPA is being interpreted is making consideration of man with his environment even more out of balance. This problem has adverse impacts on decision-making as well. Agencies considering only one side of an issue necessarily suffer because they do not consider the other. Effective decision making best occurs when all sides of an issue are considered. This problem could be solved through legislation, with an express provision defining standing under the Act. Until this situation is resolved, the intent of NEPA will be thwarted, and the quality of decision-making thereunder will suffer. Major problem hamstringing land management agencies is the duplicative NEPA compliance that is required for both planning activities and for implementation of those planning decisions.

An example of a situation occurred in 1995, with the renewal of Forest Service livestock grazing permits coming due. More than half of the over 9,000 permits were up for renewal by the end of that year, and the Chief of the Forest Service had determined that NEPA must be complied with before permits could be re-issued. Livestock grazing allocations had been determined in forest plans after having gone through the NEPA process. This situation threatened to tie up Forest Service personnel for a long period of time doing nothing but NEPA compliance for grazing permit renewals. Fortunately, this situation was resolved before the entire Forest Service became nothing more than a NEPA compliance factory. But it took a legislative solution to accommodate all interests. *🌐

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Government Agency: 🌐

Category: 🌐

Cover Page: 