

February 2, 2018

Submitted via *Federal Register* and Email

NEPA Services Group
c/o Amy Barker
USDA Forest Service
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Re: Request for Comments on the Forest Service advance notice of proposed rulemaking to revise its National Environmental Policy Act procedures; 83 *Fed. Reg.* 302 (January 3, 2018)

To Ms. Barker:

The National Rural Electric Cooperative Association (NRECA) submits these comments in response to the request by the Forest Service for public input to its intent to revise its National Environmental Policy Act (NEPA) procedures (83 *Fed. Reg.* 302).

NRECA is the national service organization for America's electric cooperatives. NRECA represents the interests of the nation's more than 900 rural electric utilities responsible for keeping the lights on for more than 42 million people across 47 states. Electric cooperatives are member-owned, not-for-profit small businesses serving member-consumers facing significant economic challenges, especially in rural areas. They are driven by their purpose to power communities and empower their members to improve their quality of life. Affordable electricity is the lifeblood of the American economy, and for 75 years electric co-ops have been proud to keep the lights on. Given their critical role in providing affordable, reliable, and universally accessible electric service, electric cooperatives are vital to the economic health of the communities they serve.

The Forest Service's NEPA procedures (including regulations at 36 CFR 220, Manual 1950, and Handbook 1909.15) are a key component of the agency's overall environmental analysis and decision-making process. Since many electric cooperatives extend service to the "last mile" for people in the most remote and rugged areas, their transmission and distribution lines, as well as other electrical infrastructure, often cross National Forest System lands. Therefore, Forest Service review and approval of special-use authorizations are required for those NRECA members that need rights-of-way (ROW) access for constructing, operating, and maintaining facilities on agency land. Given the lifespan of electrical infrastructure on the landscape and that special-use authorizations expire after a set period of time, cooperatives are also required to periodically renew and/or amend existing authorizations, especially if use of agency lands change.

In addition, electric cooperatives are required to meet federal and state standards by performing routine power line and ROW maintenance, including vegetation management, to protect the security and reliability of the energy grid. Failure to properly manage vegetation can cause wildfires, lead to power outages, and jeopardize the physical integrity of transmission and distribution infrastructure. It also risks the health and

safety of workers who build and maintain such facilities, those who are called upon to fight an increasing number of forest fires, and surrounding communities. Electric cooperatives are subject to fines for violations of mandatory reliability standards for vegetation management developed by the North American Electric Reliability Corporation (NERC) and approved by the Federal Energy Regulatory Commission (FERC).

There are additional challenges, including multiple layers of jurisdiction and decision-making when electrical infrastructure is located on National Forest System lands. It can be especially difficult for NRECA members to obtain timely approvals from the agency to implement integrated vegetation management programs and conduct the required operation and maintenance (O&M) work to meet mandatory reliability standards, assure a properly functioning grid, and reduce the potential risk of catastrophic fire. Delays in special-use application reviews and approvals can keep electric cooperatives projects on hold for several months to several years, adding tens of thousands of dollars in costs. Such delays also create unnecessary liability risks for electric co-ops, which can be held responsible for damages if a hazard tree or other vegetation comes in contact with a powerline and causes a fire before the Forest Service gives the co-op approval to address the problem. The extent of this problem is further evidenced by the agency backlog of more than 6,000 special-use permits that are awaiting completion.

As such, NRECA and its members appreciate the Forest Service's intent to revise its NEPA procedures. We support changes that will allow the agency to complete project decision-making in a timelier manner, improve or eliminate inefficient processes and steps, and where appropriate enhance the use of categorical exclusions. Improving the efficiency of environmental analysis and decision-making will enable the agency to ensure lands and watersheds are sustainable, healthy, and productive; mitigate wildfire risk; and contribute to the economic health of rural communities through use and access opportunities. Below, NRECA provides the following recommendations on ways the agency can achieve these goals.

1) Enhance the Use of Categorical Exclusions.

The Forest Service is seeking comment on classes of actions that are unlikely, either individually or cumulatively, to have significant impacts and therefore should be categorically excluded (CE) from NEPA's environmental assessment (EA) and environmental impact statement (EIS) requirements. This includes feedback on such actions as special-use authorizations, as well as activities to maintain and manage agency sites, facilities, and associated infrastructure. Currently, no CEs exist to cover essential electric cooperative activities on existing transmission and distribution ROWs including routine vegetation management and O&M practices.

Routine vegetation management activities are unlikely, either individually or cumulatively, to have significant environmental impacts. These activities are typically minor in scope and occur within or immediately adjacent to previously disturbed ROWs containing already constructed and permitted electric infrastructure. In addition, the special-use authorizations for electric cooperative ROWs include approved operating plans that address vegetation management activities. Routine vegetation management includes activities such as manual or non-mechanical removal of trees and other vegetation; controlled burning; mechanical treatment including mowing, pruning, and bush hogging; application of Environmental Protection Agency (EPA)-approved and Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)-registered herbicides; and planting of native shrubs and grasses for restoration. Access road improvements

and erosion control activities may also occur. Further, the Forest Service has already established CEs for similar activities.¹

Like vegetation management, O&M activities should be considered CE under NEPA since these activities occur within or immediately adjacent to previously disturbed ROWs and typically have short-term, negligible environmental impacts. Routine O&M activities are necessary to provide safe, reliable electric service and include such actions as the following: modifying, repairing, maintaining, or upgrading existing electric infrastructure; adding or replacing equipment (*e.g.*, breakers, transformers, switches); pole replacement; reconductoring; and access road improvements.

EA and EIS analyses can take several years to complete, delaying work vital to keeping the lights on, public safety, and reducing wildfire risk. Whereas CEs, in the absence of extraordinary circumstances, allow for timelier review and approval of actions without complex documentation requirements. Given the scope of electric cooperative vegetation management and O&M activities, NRECA and its members urge the Forest Service to establish the abovementioned proposed CEs for these actions. This would streamline and expedite the agency's environmental review and decision-making process, while providing electric cooperatives timelier access to their facilities.

2) Modify Process and Analysis Requirements.

The Forest Service is also seeking comment on processes and analysis requirements that can be modified, reduced, or eliminated in order to reduce time and cost while maintaining science-based, high-quality analysis; public involvement; and honoring agency stewardship responsibilities. Due to the magnitude of Forest Service responsibilities, which span 193 million acres, and staffing challenges at a local level, delays in responding to electric cooperatives' requests have occurred. This unresponsiveness is further complicated by inconsistent practices and requirements across many national forest and ranger districts, which leads to planning difficulties for electric cooperatives and delays in clearing vegetation or conducting O&M activities.

For example, it took one NRECA member nearly five years to complete required environmental analyses and gain approval for replacing poles on an existing distribution line. The existing poles were in such bad shape that they could have fallen at any time, creating large portions of the line to fail, causing outages to local ranching operations, and creating significant wildfire risk. Fortunately, the electric cooperative was able to finally replace the aging line before a catastrophic failure, especially considering the intense fire season that occurred immediately following project completion.

NRECA and its members recommend that NEPA procedures are updated to include language regarding firm response deadlines by Forest Service staff to ensure more efficient decision-making. Agency staff should also receive continuous training to increase awareness of electric utilities' legal obligations to provide safe, reliable power and establish consistency in working with utilities regarding routine vegetation management and O&M practices. The enhanced use of CEs, as mentioned above, would also reduce time and costs associated with these inefficient processes.

¹ See: 36 CFR 220.6(e)(12 through 14).

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February 2, 2018

Conclusion

Again, NRECA appreciates the opportunity to provide comments on ways the Forest Service can increase efficiency of environmental analyses. NRECA and its members believe that the abovementioned revisions will enable the agency to complete more projects needed to increase the health and productivity of our national forests and grasslands, while contributing to the economic health of rural communities through use and access opportunities. We welcome a chance to discuss our recommendations further with your team and look forward to continuing to work with the Forest Service to improve its NEPA procedures.

Respectfully,



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