

10/15/2005

Close Window >>  
Format for Printing >>

USDA - Forest Service White Mountain National Forest Proposal to Implement Administrative, Procedural and Maintenance Projects in Fiscal Year 2006 Legal Notice, 30-Day Comment Period The White Mountain National Forest is proposing to implement a range of administrative, procedural and maintenance projects during the Federal Fiscal Year 2006, and is now seeking public review and comments. The proposal encompasses those projects that are normally categorically excluded from analysis and documentation in an Environmental Impact Statement, Environmental Assessment or Decision Memo. This proposal affects administrative, procedural and maintenance activities in National Forest lands and facilities in Belknap, Carroll, Grafton and Coos Counties in New Hampshire, and Oxford County in Maine. The proposed activities are normally excluded from environmental documentation, as described in Forest Service Handbook (FSH) 1909.15, Chapter 31.12 ([http://www.fs.fed.us/im/directives/fsh/1909.15/1909.15\\_30.doc](http://www.fs.fed.us/im/directives/fsh/1909.15/1909.15_30.doc)). Prior to July 7, 2005 federal regulations (36 CFR Part 215) exempted the activities covered by these categorical exclusions from formal notice, comment and appeal. A recent decision in the Federal District Court for the Eastern District of California (July 7, 2005 in the case of Earth Island Institute v. Ruthenbeck, case number CIV F-03-6386 JKS, later clarified on September 16, 2005 to apply nationwide) invalidated this exemption, for all decisions using categorical exclusions after July 7, 2005. This court decision also required the Forest Service provide for formal notice and comment, and the opportunity for administrative appeal, for activities after July 7, 2005 that use categorical exclusions. This legal advertisement serves as formal notice of your opportunity to comment on the White Mountain National Forest proposal to implement in Fiscal Year 2006 (through September 30, 2006) those activities excluded from environmental documentation in the following categories (FSH 1909.15, Chapter 31.12): Chapter 1909.15, Chapter 31.12 (Categories of Actions Excluded From Documentation Established by the Chief of the Forest Service):

1. Orders issued pursuant to 36 CFR Part 261 - Prohibitions to provide short-term resource protection or to protect public health and safety. Examples include but are not limited to: a. Closing a road to protect wildlife habitat during critical times of the year. b. Closing an area during a period of extreme fire danger.
2. Rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions. Examples include but are not limited to: a. Adjusting special use or recreation fees using an existing formula. b. Proposing a technical or scientific methodology or procedure for screening effects of emissions on air quality related values in Class I wildernesses. c. Proposing a policy to defer payments on certain permits or contracts to reduce the risk of default. d. Proposing changes in contract terms and conditions or terms and conditions of special use authorizations.
- e. Establishing a Service-wide process for responding to offers to exchange land and for agreeing on land values. f. Establishing procedures for amending or revising Forest Land and Resource Management Plans.
3. Repair and maintenance of administrative

MPN.com  
Contact Us  
User Agreement  
Privacy Policy

© 2002 MPN.com  
All rights reserved.

sites. Examples include but are not limited to: a. Mowing lawns at a District office. b. Replacing a roof or storage shed. c. Painting a building. 4. Repair and maintenance of roads, trails, and landline boundaries. Examples include but are not limited to: a. Authorizing a user to grade, resurface, and clean the culverts of an established national Forest System road. b. Grading a road and clearing the roadside of brush without the use of herbicides. c. Resurfacing a road to its original condition. d. Pruning vegetation and cleaning culverts along a trail and grooming the surface of the trail. e. Surveying, painting, and posting landline boundaries. 5. Repair and maintenance of recreation sites and facilities. Examples include but are not limited to: a. Applying registered herbicides to control poison ivy on infested sites in a campground. b. Applying registered insecticides by compressed air sprayer to control insects at a recreation site complex. c. Repaving a parking lot. 6. Acquisition of land or interest in land. Examples include but are not limited to: a. Accepting the donation of lands or interests in land to the National Forest System. b. Purchasing fee, conservation easement, reserved interest deed, or other interests in lands. 7. Sale or exchange of land or interest in land and resources where resulting land uses remain essentially the same. Examples include but are not limited to: a. Selling or exchanging land pursuant to the Small Tracts Act. b. Exchanging National Forest System lands or interests with a State agency, local government, or other non-Federal party (individual or organization) with similar resource management objectives and practices. c. Authorizing the Bureau of Land Management to issue leases on producing wells when mineral rights revert to the United States from private ownership and there is no change in activity. d. Exchange of administrative sites involving other than National Forest System lands. 8. Approval, modification, or continuation of minor, short-term (one year or less) special uses of National Forest System lands. Examples include but are not limited to: a. Approving, on an annual basis, the intermittent use and occupancy by a State-licensed outfitter or guide. b. Approving the use of National Forest System land for apiaries. c. Approving the gathering of forest products for personal use. 9. Issuance of a new permit for up to the maximum tenure allowable under the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) for an existing ski area when such issuance is a purely ministerial action to account for administrative changes, such as a change in ownership of ski area improvements, expiration of the current permit, or a change in the statutory authority applicable to the current permit. Examples of actions in this category include, but are not limited to: a. Issuing a permit to a new owner of ski area improvements within an existing ski area with no changes to the Master Development Plan, including no changes to the facilities or activities for that ski area. b. Upon expiration of a ski area permit, issuing a new permit to the holder of the previous permit where the holder is not requesting any changes to the Master Development Plan, including changes to the facilities or activities. c. Issuing a new permit under the National Forest Ski Area Permit Act of 1986 to the holder of a permit issued under the Term Permit and Organic Acts, where there are no changes in the type or scope of activities authorized and no other changes in the Master Development Plan. 10. Amendment to or replacement of an existing special use authorization that involves

only administrative changes and does not involve changes in the authorized facilities or increases in the scope or intensity of authorized activities, or extensions to the term of authorization, when the applicant or holder is in full compliance with the terms and conditions of the special use authorization. Examples include but are not limited to: a. Amending a special use authorization to reflect administrative changes such as adjustment to the land use fees, inclusion of non-discretionary environmental standards or updating a special use authorization to bring it into conformance with current laws or regulations (for example, new monitoring required by water quality standards). b. Issuance of a new special use authorization to reflect administrative changes such as, a change of ownership or control of previously authorized facilities or activities, or conversion of the existing special use authorization to a new type of special use authorization (for example, converting a permit to a lease or easement). Activities may only be excluded from environmental documentation using these categories listed in FSH 1909.15, Chapter 31.12 if there are no extraordinary circumstances related to the proposed action. Resource conditions that will be considered in determining whether extraordinary circumstances related to a proposed action warrant further analysis and documentation in an EA or an EIS are: a. Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species. b. Flood plains, wetlands, or municipal watersheds. c. Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas. d. Inventoried roadless areas. e. Research natural areas. f. American Indians and Alaska Native religious or cultural sites. g. Archaeological sites, or historic properties or areas. The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion. It is the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist (FSH 1909.15, Chapter 30.3).

**30-Day Comment Period** This is the formal 30-day public comment period. During this comment period the public has the opportunity to provide meaningful input regarding this proposal to implement in Fiscal Year 2006 (through September 30, 2006) those activities excluded from environmental documentation in the categories listed in FSH 1909.15, Chapter 31.12. Those who provide substantive comments during the 30-day comment period will be eligible to appeal the Responsible Official's decision under the regulations. There will be no other public comment period for this project.

**How to Comment and Timeframe** The opportunity to comment ends 30 days following the date of publication of this legal notice. Written, facsimile, hand-delivered, oral, and electronic comments concerning this action will be accepted for 30 calendar days following the publication of this notice in the Manchester Union Leader (NH) and the Lewiston Daily Sun (ME) (whichever is later). The publication date in the newspapers of record is the exclusive means for calculating the comment period for this analysis. Those wishing to comment should not rely upon dates or timeframe information provided by any other source. Regulations prohibit extending the length of the comment period. Comments should be directed to Forest Supervisor Thomas Wagner as

follows:

- Written comments must be postmarked by the Postal Service, e-mailed, FAXed or otherwise submitted by 11:59 pm ET on the 30th calendar day following publication of the legal notice.
- Letters should be submitted to Thomas Wagner, Forest Supervisor, 719 Main Street, Laconia, NH 03246. Hand-delivered letters should be submitted during these office hours: Monday through Friday, 8:00am-4:30pm, excluding holidays
- FAX comments should be sent to 603-528-8783
- E-mail comments should include an identifiable name and be sent to: (comments-eastern-white-mountain@fs.fed.us) comments submitted as electronic documents must be in plain text (.txt), rich text format (.rft) or Word (.doc) format. When you submit your comments to this e-mail address, you should receive an automated electronic acknowledgement as confirmation of receipt. If you do not receive acknowledgement, it is your responsibility to ensure timely receipt by other means.
- Oral comments may be submitted to Robert Fallon (Forest NEPA Coordinator) Monday through Friday 8:00am to 4:30pm, either by phone (603-528-8769) or in person; and must be received by the close of business on the 30th calendar day following publication of the legal notice. It is the responsibility of persons providing comments to submit them by the close of the comment period.

Individuals and organizations wishing to be eligible to appeal must provide the following information:

- Name and Address;
- Title of the proposed action;
- Specific substantive comments (36 CFR 215.2) on the proposed action, along with supporting reasons that the Responsible Official should consider in reaching a decision;
- Signature or other verification of identity upon request; identification of the individual or organization who authored the comment(s) is necessary for appeal eligibility;
- For multiple names or multiple organizations, a signature must be provided for the individual authorized to represent each organization, or for each individual that wishes to have appeal eligibility, and
- Individual members of organizations must submit their own substantive comments to meet the requirements of appeal eligibility as an individual, comments received on behalf of an organization are considered as those of the organization only.