



FORESTS FOREVER

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Court knocks down Forest Service rule rewrite *Categorical exclusion of forest management plans disallowed*

A judge in U.S. District Court in San Francisco today threw out the U.S. Forest Service's 2005 rewrite of the National Forest Management Act.

In promulgating its new rules in January 2005, Judge Phyllis J. Hamilton ruled, the Bush administration failed to meet the environmental protection requirements of the National Forest Management Act (NFMA). The judge concluded that the new regulations failed to follow the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), and the Administrative Procedure Act. The court restrained the agency from using the 2005 rules until all the relevant laws have been complied with.

The new rules had allowed the Forest Service to "categorically" exclude its forest management plans from the requirements of NEPA, meaning the plans would be, by definition, exempt from environmental review under the act.

National forests and grasslands cover 192 million acres in 42 states. Every national forest has a forest management plan that governs land use decisions—what can be done, and where—within the forest. These plans must be rewritten every 15 years.

Until now, the forest management plans and any updates to them were subject to the environmental review and public comment provisions of NEPA. The Forest Service claimed that its rewrite of the plans did not actually cause "on the ground" changes in the forests, and therefore did not need an environmental impact statement or the opportunity for public comment required by NEPA.

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“The idea that forest management plans, which are comprehensive in scope, would not affect species habitat, land use, and wildlife was either dishonest or crazy,” said Paul Hughes, executive director of Forests Forever.”

“Now the court has brought the Forest Service back to reality.”

The lawsuits were brought by a coalition of environmental groups headed by Defenders of Wildlife and including the Sierra Club, The Wilderness Society, and 15 other groups.

Under the Bush administration, the Forest Service has expanded its use of categorical exclusions to “fuels reduction” projects and salvage logging. The 2005 rule change was the first attempt to exclude entire national forest plans from NEPA.

“The courts are telling the Forest Service that they can’t simply write themselves out of our nation’s laws that protect endangered species and allow for public oversight,” Hughes said.