



October 15, 2018

SDA-Forest Service
Attn: Director-MGM Staff
1617 Cole Boulevard, Building 17
Lakewood, CO 80401

Re: Advance Notice of Proposed Rulemaking on Oil and Gas Resources, 36 CFR 228 Part E

To Whom It May Concern:

The Coalition for American Heritage (CAH) appreciates the opportunity to comment on the advance notice of proposed rulemaking (ANPR) issued by the Forest Service on September 13, 2018 (83 Fed. Reg. 46458), regarding revisions to 36 C.F.R. 228 Part E.

The Coalition for American Heritage is made up of more than 300,000 heritage professionals, scholars, small businesses, non-profit groups, and history-lovers from across the country who work together to support and promote our nation's commitment to historic preservation. Many of our members serve as consultants to project applicants engaged in federal projects and facilitate compliance with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) on lands managed by the U.S. Forest Service (USFS).

Oil and gas leasing on USFS-managed land poses potential risks to some of the most sensitive cultural heritage sites in our nation. ACRA members recognize the importance of historical sites for education, historic research, heritage tourism, American Indian tribes, and local communities. As the U.S. Forest Service works to identify ways to revise its regulation of oil and gas leasing and development, we urge careful consideration of the need to protect cultural resources such as cultural and historic landscapes, archaeological sites, and traditional cultural properties. These resources are non-renewable, and mistakes made in stewarding and protecting these resources result in permanent degradation of our national heritage.

CAH supports concurrent, synchronized, timely, and efficient review processes that ensure the public's voice is heard in decision-making. We will support efforts to streamline the regulatory process, provided that best practices for cultural resource management are applied by the USFS in its consideration of potential adverse effects on cultural resources. ACRA members consist of many small business owners who are driven to develop more efficient processes that protect cultural sites while facilitating thoughtful development.



Prior to making any sweeping changes to existing regulations that have been painstakingly developed and refined over the last 50 years, CAH requests greater specificity about the types of changes the USFS is considering. The references to “removing regulatory burdens,” “a more consistent approach to oil and gas management,” and “updating” and “clarifying” topics of regulation are not precise enough to permit meaningful comment from the public. Nor is 30 days a sufficient time period in which to address an overhaul of oil and gas leasing and development with regards to how these projects will consider impacts on cultural resources. We ask the USFS to provide additional details and opportunities for public comment before releasing a draft of new regulations.

In evaluating the best ways to speed project timelines, CAH also urges the USFS to carefully consider whether the U.S. Department of Agriculture (USDA) has sufficient staff resources to complete their duties in a timely fashion. Too often, we see cultural resource regulations being blamed for delays when staffing at state historic preservation offices and within federal agencies has been reduced and is insufficient for reviewing the number of oil and gas projects under their purview. Given that the feedback provided at the “Environmental Analysis and Decision-Making” roundtables included concerns over personnel policies, staffing decisions, capacity, and human resources, the USFS should determine how to solve internal barriers to efficient oil and gas leasing and permitting before making changes to carefully-developed regulations.¹

Furthermore, we ask that any effort toward “updating the language addressing the operator’s responsibility to protect natural resources and the environment” include a statement of operator responsibility that unequivocally requires operators and their cultural resources consultants to meet or exceed Secretary of the Interior standards and guidelines for the identification, evaluation, and treatment of cultural resources that may be impacted by their operations. We also urge that meaningful consultation among interested parties, including the agency, SHPO, local Tribes, and other consulting parties remains a paramount goal in any iteration of proposed rule changes.

CAH is confident that the USFS can attain greater efficiencies in the permitting process while maintaining crucial safeguards for America’s irreplaceable cultural resources.

Thank you for the opportunity to comment on this advance notice of proposed rulemaking. Please do not hesitate to contact us with any questions regarding this topic.

Sincerely,

¹ National Forest Foundation, 2018. *Environmental Analysis and Decision Making Regional Partner Roundtables: National Findings and Leverage Points*. May 2018.



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