Notices

Federal Register
Vol. 44, No. 79
Monday, April 23, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

The NEPA Decision Process; Request for Comments

The Council on Environmental Quality (CEQ) has published regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969, PL 91–190 (NEPA). The CEQ regulations (40 CFR parts 1500–1508; **Federal Register** November 29, 1978, pages 55978–56007) and proposed Department of Agriculture regulations soon to be published in draft form, have been integrated into proposed Forest Service procedures which will be issued as revised Forest Service Manual Chapter 1950. This manual revision will implement the CEQ and USDA regulations and provide direction that will make Forest Service compliance with the NEPA more efficient and effective in an integrated environmental analysis and decisionmaking process.

Comments should be submitted on or before May 20, 1979, to the Chief, Forest Service, P.O. Box 2417, Washington, DC 20013.

For further information, contact Ralph B. Solether, Acting Environmental Coordinator, USDA Forest Service, telephone 202–447–4708.

The proposed revision has been written to provide one policy document for use by Forest Service personnel. It incorporates appropriate CEQ regulations by direct quotation or citation and expands where necessary to further define Forest Service procedures.

This revision is generally organized the same as Forest Service Interim Directive No. 5, FSM 1950, issued May 26, 1978, which follows the sequence of the decision process. It provides the same outline for environmental assessments and environmental impact statements and focuses upon the total decisionmaking process rather than the environmental documents, to strengthen the integration of the NEPA and the decisionmaking process, it provides for filing the record of decision with the final environmental impact statement.

The Forest Service has also revised the NEPA Process Handbook (FSH 1909.15) which provides examples of how to do the jobs required by policy. This handbook is not being published here, but it is available for review in the Office of the Environmental Coordinator. The handbook contains a reprint of the CEQ regulations so that these will be available when necessary for all users of the handbook.

The revised manual incorporates all applicable laws, regulations and Executive Orders of the President. The latter are periodically referenced, and copies are available at the Office of the Chief or the Offices of the Regional Foresters throughout the country. Other referenced material such as the Inform and Involve Handbook, Secretary of Agriculture's memoranda and other sections of the Forest Service Manual are either available upon request or may be reviewed in the Office of the Environmental Coordinator. An index is provided at the end of this notice to assist reviewers who are unfamiliar with the Forest Service Manual format.

The proposed policy revision to the Forest Service Manual is set forth as follows.

Dated: April 13, 1979.

John R. McGuire,
Chief.

Title 1900—Planning

CHAPTER 1950—THE FOREST SERVICE NEPA PROCESS

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"The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102), for carrying out the policy. Section

102(2) contains 'action-forcing' provisions to make sure that Federal agencies act according to the letter and spirit of the Act...

". . . it is not better documents, but better decisions that count. NEPA's purpose is not to generate paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding and enhance the environment." (40 CFR 1500.1) [1]

"(a) All policies and programs of the various USDA agencies shall be planned, developed and implemented so as to achieve the policies declared by NEPA in order to assure responsible stewardship of the environment for present and future generations." (7 CFR Subtitle A, Part 26.2) [1]

The Forest Service NEPA process includes all measures necessary for compliance with Section 2 and Title I of the National Environmental Policy Act of 1969 (P.L. 91–190 NEPA). The process recognizes that environmental analysis is an integral part of Forest Service planning and decisionmaking, and it is used to insure that decisions conform to other applicable laws under which the Forest Service operates.

This chapter constitutes Forest Service procedures for implementing the National Environmental Policy Act, Department of Agriculture and Council on Environmental Quality regulations. It incorporates as quotations those portions of the Council's Regulations of primary concern to the Forest Service.

1950.1 Authorities.—The Forest Service is authorized and directed by the NEPA to carry out its programs in ways that will create and maintain conditions under which man and nature can exist in productive harmony, and fulfill social and economic needs of present and future generations of Americans.

Several laws require a systematic interdisciplinary approach to planning and decisionmaking. These include the National Environmental Policy Act, Forest and Rangeland Renewable Resources Planning Act, as amended and the National Forest Management Act. The NEPA also requires detailed statements on proposed major Federal actions significantly affecting the quality of the human environment (Section 102(2)(C)).

1950.2 Objectives.—The objectives of the Forest Service NEPA Process with its accompanying documents are to:

1. Integrate the requirements of NEPA with other planning and decisionmaking procedures requred by law or by Forest Service practice so that all such procedures run concurrently rather than consecutively.

2. Provide careful and appropriate consideration of physical, biological, social and economic concerns in planning and decisonmaking.

3. Provide for early and continuing participation of other agencies, organizations, and individuals having appropriate responsibilities, expertise, or interest.

4. Determine if there is a need for an Environmental Impact Statement.

5. Assure that planning and decisonmaking is open and available for public review.

6. Emphasize decisionmaking rather than the environmental documents.

7. ". . . make the NEPA process more useful to decisionmakers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. . . ." (40 CFR 1500.2(b)).

8. "Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment." (40 CFR 1500.2(e)).

9. "Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment." (CFR 1500.2(f)).

10. Identify a preferred alternative when considering alternative policies, plans, programs, or projects.

11. Document the rationale of the decisionmaker.

12. Provide a basis for determining management requirements, mitigation measures, and contract provisions or stipulations.

1950.3 Policies.

(1) An environmental analysis will be made for all decisions about actions and policy changes affecting resources, other land uses, or the quality of the physical, biological, economic, and social environment.

(2) The environmental analysis is the decision process used to determine the significance of effects. This in turn, determines which and when environmental documents are appropriate.

Analyses are documented in either an Environmental Assessment (EA) including a Finding of No Significant Impact, or an Environmental Impact Statement (EIS) (See FSM 1952). The length and detail of analyses and the degree of documentation varies according to the type of decisions being made and is determined by the official responsible for the decision(s). This determination is made through consideration of the importance of the effects of the decision(s) (FSM 1951.7). Documents must present a logical explanation of the need for the action; the criteria for evaluating alternatives; the alternatives considered; the anticipated effects of implementing the alternatives; and, in most cases, the Forest Service preferred alternative.

(3) Environmental documents such as EA's, EIS's, Notices of Intent, and Findings of No Significant Impact should replace, and not duplicate, other reports previously used to serve similar purposes. This is intended, among other things, to reduce paperwork and delay.

(4) Analyses must be conducted as early as possible and be used for decisions and recommendations. EA's and EIS's document the analysis, and identify the line officer responsible for the decision. Environmental Assessments or Impact Statements are not required for those classes of actions identified as "categorical exclusions" (FSM 1952.1).

(5) Responsible officials shall "encourage and facilitate public involvement in decisions which affect the quality of the human environment" (40 CFR 1500.2(d)). Agencies, organizations, and individuals having responsibilities, expertise, or expressed interest shall be consulted as appropriate at the beginning of the analysis activity. The A–95 project notification process shall be used, when appropriate, to notify State and local agencies. Consultations must be documented.

(6) Analysis will impartially consider reasonable alternatives and the aniticpated effects associated with each alternative.

(7) "Environmental Assessments and Environmental Impact Statements shall be prepared using an interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts." (section 102(2)(a) of the NEPA). "The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process." (40 CFR 1502.6). (8) Costs of environmental analyses and documents for *in-service* originated programs are a part of the regular budgetary process for the plan, program or project. Costs will be borne by the *benefitting activity(ies)* unless special provision is made at the

[1] See Section 520, FSH 1909.15, the NEPA Process Handbook for the Council's Regulations 40 CFR 1500–1508.28. See Section 540 for U.S. Department of Agriculture Regulations 7 CFR Subtitle A, Part 26.

Washington Office level. For *out-service* originated activities, see FSM 1950.4.

(9) Responsible officials "shall not commit resources prejudicing selection of alternatives before making a final decision." (40 CFR 1502.2(f)). This applies both to actions for which an EA or EIS is required.

(10) Any plan, program, or project located in or that may affect flood plains or wetlands must be responsive to E.O. 11988 and 11990 (See FSM 2527 and 2528).

(11) The Chief, Regional Foresters, Area and Station Directors shall designate a person in their office to serve as Environmental Coordinator who shall insure that information on status of EIS's and other elements of the NEPA process is provided.

(12) Responsible officials shall insure that environmental analyses and Environmental Impact Statements are conducted and prepared "concurrently with an integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661 et seq.), the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), and other environmental review laws and executive orders." (40 CFR 1502.25).

(13) Information about Forest Service policies, including the NEPA process requirements, shall be provided upon request, to agencies, organizations and individuals so that they are aware of studies and information that may be required before Forest Service action on their application.

1950.4 Responsibilities.—The Chief is responsible for environmental analysis and documentation relating to legislation and selected national policies, plans, programs, and projects including but not limited to plans programs, or projects affecting areas involved in pending legislation for wilderness designation or study. The Forest Service Environmental Coordinator shall be responsible for overall review of FS NEPA compliance.

The Regional Forester, Area Director, Station Director, Forest Supervisor, District Ranger and Research Program Managers and Project Leaders are responsible for determining the need for environmental analyses, making the identifications shown in FSM 1951.2, preparation of environmental documents, and making decisions within their areas of responsiblity and subject to FSM 1952.

Delegations of authority are specified in Forest Service Manual 1230. Officials delegated responsiblity for proposed actions are responsible for environmental analyses (Also see FSM 1952.54a).

Project proponents may be required to provide data and documentation, subject to the following requirements:

(a)Information. If any agency requires an applicant to submit environmental information for possible use by the agency in preparing an Environmental Impact Statement, then the agency should assist the applicant by outlining the types of information required. The agency shall independently evaluate the information submitted and shall be responsible for its accuracy. If the agency chooses to use the information submitted by the applicant in the Environmental Impact Statement, either directly or by reference, then the names of the persons responsible for the independent evaluation shall be included in the list of preparers (Sec. 1502.17). It is the intent of this subparagraph that acceptable work not be redone, but that it be verified by the agency.

(b) Environmental Assessments. If an agency permits an applicant to prepare an Environmental Assessment, the agency, besides fulfilling the requirements of paragraph (a) of this section, shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the Environmental Assessment.

"(c) Environmental Impact Statements. Except as provided in 40 CFR 1506.2 and 1506.3, any Environmental Impact Statement prepared pursuant to the requirements of NEPA shall be prepared either directly, by a contractor selected by the lead agency or, where appropriate under Sec. 1501.6(b) by a cooperating agency. It is the intent of these regulations that the contractor be chosen solely by the lead agency, or by the lead agency in cooperation with cooperating agencies, or where appropriate, by a cooperating agency to avoid any conflict of interest. Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate, the cooperating agency, specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract, the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents. Nothing in this section is intended to prohibit any agency from requesting any person to submit information to it or to prohibit any person from submitting information to any agency." (40 CFR 1506.5).

When an applicant is permitted to prepare an Environmental Assessment, or a contractor is employed to prepare an Environmental Impact Statement, their activities shall be limited to those shown as the usual roles of the interdisciplinary team, (See FSM 1951). Applicants or contractors must comply with requirements of FSM 1950.

1950.41 Lead Agency.—"A lead agency shall supervise the preparation of an Environmental Impact Statement if more than one Federal agency either:

(1) Proposes or is involved in the same action; or

(2) Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity.

"(b) Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an Environmental Impact Statement. . . .

"(c) . . . the potential lead agencies shall determine by letter or memorandum which agency shall be the lead agency and which shall be cooperating agencies. The agencies shall resolve the lead agency question so as not to cause delay. If there is disagreement among the agencies, the following factors (which are listed in order of descending importance) shall determine lead agency designation:

(1) Magnitude of agency's involvement.

(2) Project approval/disapproval authority.

(3) Expertise concerning the action's environmental effects.

(4) Duration of agency's involvement.

(5) Sequence of agency's involvement.

"(d) Any Federal agency, or any State or local agency or private person substantially affected by the absence of lead agency designation may make a written request to the potential lead agencies that a lead agency be designated.

"(e) If Federal agencies are unable to agree on which agency will be the lead agency . . . any of the agencies or persons concerned may file a request with the Council asking it to determine which Federal agency shall be the lead agency.

"A copy of the request shall be transmitted to each potential lead agency. The request shall consist of:

(1) A precise description of the nature and extent of the proposed action.

(2) A detailed statement of why each potential lead agency should or should not be the lead agency under the criteria specified above . . .

"(f) A response may be filed by a potential lead agency concerned within 20 days after a request is filed with the Council. The Council shall determine as soon as possible but not later than 20 days after receiving the request and all responses to it which Federal agency shall be the lead agency and which other Federal agencies shall be cooperating agencies." (40 CFR 1501.5).

A Forest Service request that the Council determine which Federal Agency shall be the lead agency shall be sent to the Forest Service Environmental Coordinator in Washington, DC, for processing.

Where National Forest System lands are involved, the Forest Service should exert a strong role in environmental analyses.

1950.42 Cooperating Agencies.—". . . Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition, any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency. An agency may request the lead agency to designate it a cooperating agency.

"(a) The lead agency shall:

(1) Request the participation of each cooperating agency in the NEPA process at the earliest possible time.

(2) Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or apecial expertise, to the maximum extent possible consistent with its responsibility as lead agency.

(3) Meet with a cooperating agency at the latter's request.

"(b) Each cooperating agency shall:

(1) Participate in the NEPA process at the earliest possible time.

(2) Participate in the scoping process.

(3) Assume on request of the lead agency responsibility for developing information and preparing Environmental Impact Statement concerning which the cooperating agency has special expertise.

(4) Make available staff support at the lead agency's request to enhance the latter's interdisiplinary capability.

(5) Normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall inclue such funding requirements in their budget requests.

"(c) A cooperating agency may in response to a lead agency's request for assistance in preparing the Environmental Impact Statement. . . . reply that other program commitments preclude any involvement or reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the Environmental Impact Statement. A copy of this reply shall be submitted to the Council." (40 CFR 1501.6).

When National Forest Systems lands are involved, and the Forest Service is not the lead agency, the Regional Forester shall request that the Forest Service be a cooperating agency.

If the Forest Service is requested to be a cooperating agency and other program commitments preclude the requested involvement, a reply to this effect shall be prepared by the Regional Forester, Area or Station Director. A copy of the reply must be sent to the Forest Service Environmental Coordinator in Washington, D.C., within 10 working days of the date that the letter is transmitted.

1950.5 Definitions.—In addition tc the definitions in this section, also see FSM 1905—Definitions and Section 1508 of the Council's Regulations in Section 520 of FSH 1909.15, the NEPA Process Handbook.

Decision Notice: The Decision Notice clearly portrays the decision reached through the process documented in the EA. It also establishes the date of the responsible official's decision.

Environment: The aggregate of physical, biological, economic, and social factors affecting organisms in an area. (See also human environmental). (40 CFR 1508.14).

Environmental Analysis: All activities related to assessing or analyzing alternatives and their environmental effects.

Environmental Assessment: ". . . a concise public document. . . ." which documents the environmental analysis. (40 CFR 1508.9).

Environmental Design Arts: Those disciplines such as architecture, civil and environmental engineering, and landscape architecture which directly influence the physical environment as a result of the design of projects of all kinds.

Evaluation Criteria: Predetermined rules for appraising alternatives.

Flood Plains: Lowland and relatively flat areas adjoining inland and coastal water including as a minimum, that area subject to a one percent or greater chance of flooding in any given year. Floodprone wetlands and sinkholes, and sheet flow or shallow flooding areas such as debris cones or alluvial fans built up by material carried by mountain streams, are special flood plain areas.

Implementation: Those activities necessary to *respond* to the decision.

Interdisciplinary Approach: The utilization of individuals representing two or more areas of knowledge and skills focusing on the same subject. The participants develop solutions through frequent interaction so that each disciplines may provide insights to any state of the problems, and disciplines may combine to provide new solutions. This is different from a multidisciplinary team where each specialist is assigned a portion of the problem and their partial solutions are linked together at the end to provide the final solution.

Irreversible: Applies primarily to the use of nonrenewable resources, such as minerals or to those factors which are renewable only over long time spans, such as soil productivity. "Irreversible" also includes loss of future options.

Irretrievable: Applies to losses of production, harvest or use of renewable natural resources. For example, some or all of the timber production from an area is irretrievably lost while an area is used as a winter sports site. If the use is changed, timber production can be resumed. The production lost is "irretrievable," but the action is not irreversible.

Issue: A point, matter, or question to be resolved.

Wetlands: Areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction.

Responsible Official: The Forest Service line officer who has been delegated the authority to approve, or adopt, policies, plans, programs, or projects.

1950.6 Limitations On Actions After It Has Been Determined That An Environmental Impact Statement Will Be Prepared.

"(a) Until an agency issues a Record of Decision (except as provided in paragraph (c) of this section), no action concerning the proposal shall be taken which would:

(1) Have an adverse environmental impact; or

(2) Limit the choice of reasonable alternatives.

"(b) If any agency is considering an application from a non-Federal entity, and is aware that the applicant is about to take an action within the agency's jurisdiction that would meet either of the criteria in *paragraph (a) of this section,* then the agency shall promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved.

"(c) while work on a required program Environmental Impact Statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:

(1) Is justified independently of the program;

(2) Is itself accompanied by an adequate Environmental Impact Statement; and

(3) Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives.

"(d) This section does not preclude development by applicants of plans or designs or performance of other work necessary to support an application for Federal, State or local permits or assistance. . . ." (40 CFR 1506.1).

1950.7 Elimination of Duplication with State and Local Procedures.—In order to reduce duplication of Forest Service NEPA activities and those required by State and local governments, responsible officials shall initiate contacts with appropriate State and local officials to determine if cooperative analyses and documentation is desirable. Contacts may include State and local clearinghouses, individual State and local agencies, councils of government, and local government officials. (40 CFR 1506.2).

1951 Environmental Analysis (See FSM 1950.3 No. 1). An analysis must be conducted systematically to help insure that required information is considered in a logical manner which generally leads to identification of a preferred alternative. The analysis may be carried out in separate, but interrelated steps. The process is iterative with information feeding back through earlier steps which may be combined or expanded depending on the situation.

A systematic, interdisciplinary approach is required. Team member interaction provides necessary insights in all steps of the process. The disciplines involved in an analysis "shall be appropriate to the scope and the issues identified in the scoping process." (40 CFR 1502.6). In each analysis, use should be made of earlier documented analysis information to avoid duplication of previous effort and to maximize use of available information.

"Whenever a broad Environmental Impact Statement (or Environmental Assessment) has been prepared (such as a program or policy statement) and a subsequent statement or Environmental Assessment is then prepared on an action included within the entire program or policy (such as a site-specific action) the subsequent statement or Environment Assessment need only summarize the issue discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issue specific to the subsequent action. The subsequent document shall state where the earlier document is available . . ." (40 CFR 1502.20(f)).

Normally, environmental analyses are completed and documented in an EA or EIS. If the need to complete the analysis and/or documentation is eliminated (i.e., the project application is withdrawn, or for other reasons) the analysis and/or documentation should be terminated and the interested parties informed.