-18-92
Vol. 57 No. 182

federal register

Friday
September 18, 1992

FINAL NEPA HANDBOOK

Forest Service

National Environmental Policy Act; Revised Policy and Procedures

AGENCY: Forest Service, USDA.

ACTION: Notice of adoption of final policy.

SUMMARY: The Forest Service gives notice that it is adopting revised policy and procedures for implementing the National Environmental Policy Act (NEPA) and Council on Environmental Quality (CEQ) regulations. These guidelines replace policy and procedures published in the Federal Register on June 24, 1985, (50 FR 26078, Part II), and will be issued through the agency directive system as Chapter 1950 of the Forest Service Manual and as Forest Service Handbook 1909.15, Environmental Policy and Procedures Handbook.

EFFECTIVE DATE: These procedures are effective on September 21, 1992. These procedures apply to the fullest extent practicable to analyses and documents begun before that date. However, work completed under previous policy and guidelines need not be revised.

FOR FURTHER INFORMATION CONTACT: Robert S. Cunningham, Environmental Coordination, USDA-Forest Service, Box 96090, Washington, DC 20090-6090. Telephone (202) 205-0865.

SUPPLEMENTARY INFORMATION: Chapter 1950 of the Forest Service Manual (FSM) and Forest Service Handbook (FSH) 1909.15 contain Forest Service policy and procedures for implementing the National Environmental Policy Act (NEPA) in compliance with the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500-1508).

Consistent with agency directive policy, FSM 1950 has been revised to specify desired results, to minimize procedural detail, to rely as much as practicable on judgment of field professionals, and to permit discretion in achieving operational results appropriate to local situations and conditions. FSM 1950, as revised, contains only that direction needed by line and primary staff officers. More detailed procedures for environmental analyses and documentation needed by line and staff officers and resource specialists are set forth in the Handbook, FSH 1909.15.

Response to Comments

Draft policy and procedures were published for public review and comment in the Federal Register of April 29, 1991 (56 FR 19718, Part II). Nearly 2,000 comments were received from 270 groups and individuals representing private organizations, Federal and State agencies, and private citizens. The agency has considered each comment and made a number of substantive as well as editorial changes in response to these comments. A summary of major comments received and the agency response follows.

General Comments

Reviewers tended to support the proposed changes. Many offered valuable suggestions for improving the wording of specific passages to ensure desired results.

From these general comments, frequent topics surfaced for clarification and explanation. For example, many respondents were unsure or unaware of the role of NEPA in considerations leading to natural resource management decisions. Also, others were confused about the applicability of NEPA to decisions in Forest Service Research, State and Private forestry, and the National Forest System program areas. In response, the agency notes that, in accordance with 40 CFR Parts 1500-1508, these policies and procedures apply to all agency actions that may affect the quality of the human environment.

Several reviewers wanted to know how consideration of social impacts combines with the NEPA process as described in the policy and procedures. The text has been edited in several places to place greater emphasis on the consideration of social impacts along with the biological, physical, and economic effects of proposed agency actions as required by the CEQ regulations.

Specific Comments on Forest Service Manual FSM 1950

The Forest Service Manual (1950) sets forth Forest Service management objectives, policy, and responsibility and broad agency standards for meeting the requirements of the National Environmental Policy Act. Most reviewers agreed that the process-related direction for agency action is better suited to the Handbook (FSH 1909.15) than the Manual (FSM 1950). Reviewers did request that the meaning of "environment" be more clearly described in FSM 1950.2 which sets out broad management objectives to be achieved through NEPA compliance. In response, the text has been revised to refer explicitly to the physical, biological, social, and economic aspects of the human environment. Reviewers also commented that paragraph 5 of the objectives that states that line officers are "allowed" to carry out the direction in the FSH 1909.15 should be changed to make clearer that the direction in the FSM 1950 and that of FSH 1909.15 is mandatory. This change has been adopted. FSM 1950.3 sets out the broad policies governing agency implementation of NEPA and CEQ regulations. Requests were made to enumerate the meaning of "parties" and "public" in FSM 1950.3, paragraph 3. This paragraph has been clarified. It was further noted that the first criterion under the proposed policy in FSM 1950.3 had no real meaning. The criterion read, "Determine the depth and breadth of environmental analysis required for a proposed action." In response, this statement has been removed so that the policy now reads, "It is the Forest Service policy to:

a. Give early notice of upcoming proposals to interested and affected persons (FSH 1909.15, sec. 07);

b. Give timely notice to interested and affected persons, federal agencies, State and local governments, and organizations of the availability of environmental and accompanying decision documents; and

c. Make documents available to the public free of charge to the extent practicable."

Minor editorial changes also were made in the remaining text of section 1950.3 for clarity. No other comments were received on the remainder of the chapter. Therefore, except for minor editorial changes for clarity throughout, the rest of the chapter is adopted as proposed.

Comments on Forest Service Handbook FSH 1909.15

Zero Code Chapter

The "zero code" chapter of the Handbook sets forth the broad legal authority, policies, responsibilities, and other direction that govern or apply to

all subsequent direction in the Handbook. This chapter describes: Legal authorities and management objectives; assigns responsibility to Forest Service employees; defines specialized terms; provides an overview of the environmental analysis and documentation process; establishes procedures for early public notice of upcoming proposals; and provides direction on handling emergency and classified actions.

The Definitions section (05) incorporated selected terms and definitions directly from the CEQ regulations (40 CFR parts 1500-1508). Public comment requested clarification of terms used in the definitions for "environmental design arts," "issues," "irreversible," and "irretrievable." These terms have been added to the list of definitions in section 05 to conform these terms to CEQ regulations and to clarify meaning.

Section 06 displayed a flow chart of the environmental analysis and documentation process. Some reviewers felt that the chart was hard to understand and that the arrowheads for the lines connecting various actions were missing. In response, the flow chart in Exhibit 01 has been edited by adjusting the flow lines and adding arrowheads to more clearly visualize the development of a proposed action, conduct of appropriate environmental analysis, and completion of needed documentation.

Section 07 proposed the establishment of a new requirement that each Forest Supervisor and District Ranger as directed by the Forest Supervisor prepare and distribute a calendar of proposed actions that may undergo environmental analysis. The calendar is intended to give early and informal notice of proposals so that the public can become aware of Forest Service activities, indicate their interest in specific proposals, and become involved early in the environmental analysis and documentation process. The calendar would be distributed two times a year.

Several respondents requested that the calendar of proposed actions be issued more frequently than twice per year. This request seemed reasonable and offered a possible improvement in public notice of Forest Service activities. Therefore, the agency has decided to require issuance of the calendar of proposed actions once every 3 months rather than once every 6 months. In addition, language has been added to point out that issuance of the calendar is not a substitute for necessary scoping of proposed actions. To avoid confusion with other uses of the term "calendar" and specific government printing requirements, the term "schedule of proposed actions" has been substituted to describe the listing of proposed actions.

Finally, minor editorial changes have been made throughout the zero code chapter to improve readability.

Chapter 10—Environmental Analysis. This chapter of the Handbook describes the conduct of environmental analyses and documentation. The chapter begins with a description of management objectives, policy, and responsibilities. The chapter describes: conduct of scoping; use of interdisciplinary analysis; collection and interpretation of data; development of alternatives to the proposed action; estimated effects of each alternative; evaluation of alternatives; identification of the preferred alternative(s) for environmental impact statements (EIS's); determination of the type of environmental documents needed; and review of new information after a decision has been made.

Direction for scoping of proposed actions was placed in this chapter to emphasize that scoping is an integral part of environmental analysis and that involving the public early in the environmental analysis and documentation of proposed actions are important. Almost all who commented on scoping supported its early and expanded use to identify issues and to focus on the relevant environmental analysis and subsequent documentation. Clearly, reviewers want to be advised and informed of proposed Forest Service actions, particularly those implementing Forest Land and Resource Management Plans (forest plans) on National Forest System lands.

Proposed section 10.3, Policy, stated that scoping applies to all proposed actions which are analyzed using the NEPA procedures except for actions which are categorically excluded from documentation as described in FSH 1909.15, Chapter 30. The proposed elimination of scoping for Categorical Exclusions (CE's) was not favorably received. Many respondents wanted scoping included in the consideration of actions which might be categorically excluded as it now is under current direction. The agency agrees and has revised section 10.3 to require scoping on all proposed actions. Changes were also made in section 11 to show that scoping is required.

Proposed section 10.4, Responsibility, set out the responsibilities of the Responsible Official which included ensuring that the appropriate level of scoping and environmental analysis occurs. Several reviewers said that responsibilities should include the appropriate documentation of scoping and analyses. The agency agrees. The term "documentation" has been added to the responsibilities in section 10.4 that a Responsible Official has in reaching a decision regarding a proposed action. This change has been made elsewhere throughout the chapter to emphasize the importance of appropriate documentation. In addition, section section 10.4 has been expanded to list other key duties of the Responsible Official that are mentioned later in this chapter so that Forest Service line officers have a comprehensive list in one location for their duties and responsibilities.

Several reviewers sought clarification of the role of the Responsible Official and interdisciplinary team members relative to determining the scope of the proposed action and necessary analysis and documentation of environmental effects. In response, sections 11.3 and 11.4 have been revised to emphasize the role of the Responsible Official in the identification and description of the proposed action and in the establishment of the purpose and need for a proposed action (sections 12.3d and 14.2). Section 12.2 also has been revised to clarify that interdisciplinary analysis is required, rather than just the establishment of an interdisciplinary team. In addition, changes have been made to clarify that interdisciplinary team members are responsible for offering "recommendations" rather than making "decisions."

Many reviewers said that the role of State and local governments and agencies was not adequately addressed in required procedures. In response, sections 11.31, 11.31b, 11.4 and 11.51 have been modified to more clearly describe the necessary coordination and consultation with State and local government agencies. A Reference to CEQ's "40 Questions" also has been added to section 11.31 as an aid to understanding the role of State and local governments and agencies in environmental analysis and documentation.

Some reviewers said that participation in interdisciplinary teams by State agency personnel or private citizens was not clear. Section 12.1 has been reorganized to clarify that only federal personnel may be members of an interdisciplinary team, yet other people can provide information in other ways.

Policy and procedure for addressing incomplete or unavailable information was described in proposed section 22.34. Requests were made to move this guidance to section 13, Collection and Interpretation of Data. In response

section 13, Collect and Interpret Data, has been expanded to include the requirements for addressing incomplete or unavailable information when evaluating significant adverse impacts.

Proposed section 14, Develop Alternatives, described the process used to develop alternatives to a proposed action and the considerations leading to a full range of reasonable alternatives. From some of the comments, it appeared that there was confusion regarding the necessary range of alternatives that must be evaluated in an environmental analysis and the role of the "no action" alternative. Reviewers pointed out that proposed section 14 did not state that the Forest Service must consider all reasonable alternatives to a proposed action (alternatives which would still accomplish the purpose and need of the proposed action), even those which may be contrary to law, beyond the authority of the agency, or inconsistent with a forest plan. In response, section 14 has been revised to clarify that the Forest Service must consider all reasonable alternatives that fulfill the purpose and need of the proposed action as required by CEQ regulations (40 CFR parts 1500–1508), even those which are not within the jurisdiction of the Forest Service. References to CEQ's "40 Questions" also have been added to sections 14 and 14.1 to improve employee understanding of the necessary range of alternatives including the "no action" alternative.

Respondents wanted to ensure that all proposed actions, even those proposed by other federal agencies, State or local organizations, Indian tribes, companies, or private citizens are consistent with forest plan direction. To further clarify the relationship of reasonable alternatives to requirements of forest plans, section 12.3d has been revised to require a discussion of consistency with the applicable forest plan for each alternative which would affect National Forest System lands, including proposals from entities other than the Forest Service.

Some respondents stated that the description of alternative development in section 14.2, Other Alternatives, did not clearly identify that alternatives should, when appropriate, include mitigation and monitoring requirements, such as State water quality standards. In response, this section has been revised to incorporate the requested change.

Proposed section 15, Estimate Effects of Each Alternative, described the analysis necessary to estimate the environmental effects of alternative actions on the environment. No changes from current direction was proposed in this section. However, comments were received. Many reviewers said that the description of the necessary analysis of the cumulative effects of a proposed action or alternatives was not clearly stated. Some thought that the cumulative effects analysis would stop at the boundary of National Forest System land. Further, these reviewers felt that the term "human environment" was not adequately described. In response, section 15.1 has been revised to be fully consistent with CEQ regulations (40 CFR parts 1500–1508) which require the consideration of cumulative effects of actions without regard to ownership of land. A corollary change has been made to section 16, Evaluate Alternatives and Identify Preferred Alternative(s), to clarify that the human environment includes physical, biological, social, and economic components.

A new section 18 was proposed to be added to the Handbook. This section gives direction on consideration of new information related to a proposed action after a decision has been made. It also describes how to correct, supplement, or revise environmental documents (an EIS, an environmental assessment (EA), or Finding of No Significant Impact).

Several comments were received on this proposed section. Most respondents sought clarification of the direction with regard to the discovery of new information after a Responsible Official has made a decision to act. In response, this section has been rewritten to better describe the process and to note the need to consider new information for actions which have been categorically excluded.

In addition to the substantive changes made in response to comments, minor corrections and improvement in word choice and sentence structure have been made throughout chapter 10.

Chapter 20—Environmental Impact Statements and Related Documents. This chapter of the Handbook describes the content of EIS's, related documents, and necessary processing procedures. The proposed chapter replaces existing chapter 40 of the same title. Proposed section 20.6 was added to describe the classes of actions that require EIS's. In the proposed chapter, specific requirements were listed for the content of the notice of intent to prepare an EIS and the content of a record of decision which documents the rationale for the selection of an action which has its environmental effects described in an EIS.

The majority of the 68 comments received on this chapter addressed the classes of actions requiring EIS's listed in proposed section 20.6. Some reviewers said that considerations of proposed actions in areas with wilderness potential and larger than 5,000 acres should require an EIS. Others said that the acreage criterion was too small or totally inappropriate.

The direction in proposed section 20.6, Classes of Actions Requiring Environmental Impact Statements, states that a proposed action would have to "substantially alter the undeveloped character of an inventoried roadless area of 5,000 acres or more" to require an EIS. This direction allows the Responsible Official, with appropriate public involvement, to determine whether or not an EIS would be required for a specific proposed action. The area criterion is intended to alert agency officials of the increased concern people have expressed regarding the environmental effects of actions within inventoried roadless areas greater than 5,000 acres. An action within a roadless area less than 5,000 acres could also require an EIS, if the proposal may result in significant environmental effects. The agency has used the 5,000-acre criterion in the past and has found it useful in the identification and description of roadless areas. The 5,000-acre criterion is currently used in FSH 1909.12, Land and Resource Management Planning Handbook, Chapter 7—Wilderness Evaluation. Therefore, no change has been made in the class of actions requiring an EIS.

Examples of actions within one class of actions, Other Proposals to Take Major Federal Actions That May Significantly Affect the Quality of the Human Environment, have been added for clarification.

Proposed Section 21.1, Preparation and Distribution of Notices of Intent, included mandatory language for the public to be involved early in the NEPA process. This mandatory language notes that failure to become involved early in the process may lessen the likelihood of subsequent successful legal redress of agency decisions. No comments were received on this specific addition. However, there was comment on the meaning and timing of notices of intent to prepare an EIS and the notice of availability that a draft or final EIS is available for public review. In response, section 21, Notices of Intent, has been revised to improve the description of the notice of intent to prepare an EIS. Also, section 23.2, Circulation and Filing a Draft Environmental Impact Statement, has been revised to better describe the notice of availability. A description of the roles of the Washington Office of Environmental Coordination, the National Office of the Environmental Protection Agency, and others has been

added as they relate to the development and processing of these documents. Revision procedures for notices of intent and notices of availability have been described along with their required content.

Reviewers noted that the period of review for draft EIS's is sometimes confusing. Section 23.2 has been changed to note that a draft EIS must be available for public review a minimum of 45 days after a notice of availability is published by EPA in the **Federal Register.** Exceptions to the required review period are noted with appropriate procedures.

Proposed section 24.3, which required transmittal of documents to the Washington Office Director of Environmental Coordination for agency review of EIS's affecting roadless areas, has not been retained in the final Handbook. This provision is no longer needed and was inadvertently retained in the proposal. Internal agency review is accomplishing necessary Washington Office oversight of environmental documents involving roadless areas of the National Forest System.

A few respondents asked why the information dealing with corrections, supplements, and revisions was listed in proposed section 24.4, Corrections, Supplements, and Revisions, rather than in proposed section 18 which addresses the review of new information after a decision has been made. In response, the text in section 24.3 has been moved to section 18 and remaining paragraphs of section 24 renumbered.

One reviewer said that the requirement that a Responsible Official "read and understand" an EIS before documentation of a decision in a record of decision was unnecessary or impossible considering the size and detail of many EIS's. This section has not been changed; environmental documents must be clear and understandable and used by the Responsible Official in reaching a decision.

Proposed section 27.21, paragraph 2, Decision, described the needed description of the decision in a record of decision. Proposed section 27.21, paragraph 5, listed the required format to describe the reasons for a decision. To improve clarity, the description of the required elements of the record of decision were combined into one paragraph, "Decision and Reasons for the Decision."

Chapter 30—Categorical Exclusions. The CEQ regulations provide that agencies may define categories of actions that may be excluded from documentation in an EIS or an EA (40 CFR 1508.4). This proposed chapter was developed to provide more specific categories of actions that may be excluded from environmental documentation. The proposed chapter sets forth policy; definitions; categories of actions that could be excluded from documentation without decision memos; and categories of actions which would require decision memos. The proposed chapter listed 17 categories established by the Chief, nine of which would require the issuance of a decision memo, a document which describes a decision to take a proposed action and to explain the rationale for categorically excluding it from the preparation of an EIS or an EA.

Proposed chapter 30 received the greatest number of comments representing a wide range of views. Some respondents felt that the listed categories went much too far in eliminating documentation. Others thought that the categories were adequate and would help the agency avoid unneeded paperwork. Some respondents said that documentation was excessive or that the use of a categorical exclusion was a "poor guise" to "cut the public out of the process." Also, some reviewers thought that the categories were much too general and vague to be useful.

After fully considering these comments, this chapter has been rewritten to better describe the categories of actions which can be excluded from documentation. The changes clarify the actions which, based on agency experience, are known to have no significant effect on the human environment, individually or cumulatively.

Many reviewers requested that "scoping" be included in actions which would be categorically excluded from documentation in an EIS or an EA. As noted in the discussion of chapter 10, scoping has been included to the extent necessary to determine whether or not the action will fit an existing category and whether or not there are any extraordinary circumstances.

Proposed chapter 30 described the use of the term "extraordinary circumstances" to aid a Responsible Official in the determination that a proposed action would have no significant effects on the environment. Because of the widely divergent physical, biological, and cultural environments within which the Forest Service operates, the agency must have NEPA procedures which can be applied effectively and judiciously to fit the on-the-ground conditions encountered on a daily basis. To date, the agency has successfully used the "extraordinary circumstances" criterion to identify situations where proposed actions normally excluded from documentation cannot be excluded due to the unique environment surrounding the action.

Several reviewers said that "extraordinary circumstances" were not well defined and that the mere presence or absence of one of the listed circumstances was insufficient to determine if an action was or was not to be placed in a category for exclusion. In response, section 30.3, Policy, has been revised to clarify that an action may be categorically excluded only if it falls within a category and is without extraordinary circumstances. The examples given in proposed section 30.3 are illustrative of conditions that could cause an action to have a significant effect. The list is not exhaustive. Other conditions could cause a normally excluded action to create significant environmental effects. The agency believes that the Responsible Official must determine if a normally excluded action involves an extraordinary circumstance which would require the preparation of an EIS or an EA. In addition, the following definition of "extraordinary circumstance" has been added to section 30.5: "Conditions associated with an action normally excluded from documentation that are identified during scoping as potentially having effects which may significantly affect the environment (sec. 05)."

The proposed chapter 30 had a provision for documentation of a decision in a decision memo to record the decision to act and to acknowledge that the action was excluded from environmental documentation. This proposed provision was added to reflect changes to the agency's administrative review procedures at 36 CFR part 217 adopted January 23, 1989 (54 FR 3357).

Some reviewers noted that the use of decision memos to identify decisions which could be appealed through the agency's administrative review process (36 CFR part 217) did not seem appropriate since some actions within categories did not require a formalized decision document while others did. The decision memo was intended to facilitate the administrative review process for actions which have been categorically excluded.

Since publication of the proposed NEPA procedures, the agency has proposed to revise the administrative review procedures at 36 CFR part 217, **Federal Register** of March 26, 1992; 57 FR 10445). That proposed rulemaking would eliminate from administrative appeal and review those actions which have been categorically excluded from documentation in an EIS or an EA. In

lieu of formalized appeal, the rule provides that a person may request at any time that a higher-level official review the decision of a lower-level official. With the adoption of this final rule, a formal document to describe an action that has been categorically excluded from environmental documentation would no longer be necessary or appropriate. Therefore, it should be noted that upon adoption of the final rule, appropriate sections of the Handbook will be revised to remove the requirement for decision memos.

Several of the categories in proposed section 31.1b and 31.2 and some of the actions within categories identified the potential damage to soil, air, water, or sensitive resource values as a condition which would eliminate an action from placement within the category. Reviewers noted that an analysis of an action to determine if it would damage natural resources is tantamount to an environmental analysis that must be accompanied by an EA or an EIS. The agency does not agree. An appropriate evaluation of the potential effects of a proposed action can and should be made by the Responsible Official prior to the placement of the proposed action in a category for exclusion.

To clarify the decisionmaking process that would be used to place a proposed action within a category and to determine that no extraordinary circumstances exist, references to the potential effects of an action to cause damage to air, soil, water or sensitive resource values have been removed from the description of categories and actions. Corollary with this change, section 30.3, Policy, has been revised to include steep slopes and highly erosive soils as additional examples of extraordinary circumstances.

Several of the categories listed in the proposed chapter 30 included a statement that they must be consistent with the applicable forest plan in order to be included in the category.

Some reviewers asserted that meeting or not meeting direction within a forest plan should have no bearing on the possible significance of environmental effects or the appropriateness of placing an action within a category. The agency agrees; thus, references to compliance with a forest plan have been removed. However, all actions implemented within a National Forest must by statute still be consistent with the forest plan (16 U.S.C. 1601–1614).

The last two paragraphs of proposed policy section 30.3 described what is to be done if an action has received appropriate environmental review but not implemented by a Responsible Official. Reviewers noted that these last two paragraphs refer to actions which have been "identified" in a decision document. Reviewers were unsure if the referenced action would have been selected for implementation or just addressed in the decision document. In response, the term "identified" has been replaced with "approved" to clarify the intent that an "approved" action requires no further review or documentation to proceed to implementation.

To improve the clarity of section 31.1b, Categories Established by the Chief, the description of categories of routine repair and maintenance actions in paragraph 3 has been partitioned into three groups: administrative sites; roads, trails, and landline boundaries; and recreation sites and facilities. Other categories also have been revised to be consistent in their presentation.

Reviewers thought paragraph 5 of proposed section 31.1b was somewhat confusing. This paragraph established a category for proposals to issue, reissue, or adjust land use authorizations which are consistent with an existing Forest Land and Resource Management Plan where the proposed activity will have little potential for soil movement, loss of soil productivity, water and air quality degradation, or impact on sensitive resource values.

In response, the category of actions described in paragraph 5, section 31.1b, has been changed to read as follows: "Approval, modification, or continuation of minor, short-term (one year or less) special uses of National Forest System lands." A specific time limit was placed on actions within the category to better describe the temporary nature of the actions within the category. The examples of actions in this category also have been revised to show that the Responsible Official would approve a "use" of National Forest System lands. After approval of a use, the Responsible Official issues a particular legal instrument such as a permit or a maintenance agreement to implement the decision.

The category of actions to carry out small scale pest management activities (proposed paragraph 6) has been removed. Several respondents commented that the minor actions described may be better placed in another category. The agency agrees. Actions that were proposed in this category are now displayed as examples of maintenance actions in section 31.1b.

Proposed paragraph 2, section 31.2, established a category for proposals or issuance of authorizations to construct, reconstruct, or upgrade facilities or utilities on approved sites that have little potential for soil movement, loss of soil productivity, water and air quality degradation, or impact on sensitive resource values. The examples of land uses within this proposed category had no upper limitation on the size of the actions. Some respondents said that the lack of an upper limit was unreasonable. Others said that any size limit would be artificial and difficult to use.

After consideration of comments, the agency has modified this category of action to place an upper limit of five contiguous acres for minor uses of National Forest System lands. The agency believes that the limitation on the size of minor uses suitable for categorical exclusion is reasonable and consistent with experience in the evaluation of environmental effects of such uses.

One reviewer noted that the categories of actions listed in section 31.2, Categories of Actions for Which a Project or Case File and Decision Memo Are Required, did not include the term "routine" as did those in section 31.1b. The intent of the agency is that only routine actions that have no extraordinary circumstances should be within categories for exclusion. Therefore, the term "routine" has been removed from each category and examples of actions and placed as a criterion applicable to all categorically excluded actions in sections 31.1b and 31.2.

Several respondents asked for additions or deletions to the examples of actions in many of the categories in section 31.2, Categories of Actions for Which a Project or Case File and Decision Memo Are Required. Upon consideration of these suggestions, the agency has made the following changes: Trail use by handicapped individuals has been added to examples of actions in category 1; the use of explosives to kill tree tops for wildlife habitat improvement has been removed from category 3; and the exchange of landownership actions paragraphs (c) and (d) are not adopted. These changes are minor but should assist in better understanding and utility of the categories.

In review of the categories in section 31.2, Categories of Actions for Which a Project or Case File and Decision Memo Are Required, research-related activities were placed in a category for exclusion based upon their research purpose, rather than based upon their possible effect on the environment. Categories of actions should address the potential physical and biological effects of proposed actions rather than their intended purpose. Therefore, proposed paragraph 5 of section 31.2, related to

proposals to conduct research activities and administrative studies which do not involve genetically engineered organisms and which have little potential for soil movement, loss of soil productivity, water and air quality degradation, or impact on sensitive resources, has not been retained in the final chapter as a category; and the examples have been placed in other categories as appropriate.

Several reviewers wrote that the limitation on the size of timber harvests (paragraph 7 of section 31.2) of one million board-feet was too large for an action to be excluded. Others felt that the limitation was not large enough. Considering the wide divergence of views and the concern several respondents expressed regarding the visual effects of cutting practices used in the harvest of live timber, the agency has reduced the size of timber harvests of live trees suitable for inclusion in a category to 250,000 board-feet or less of merchantable wood products. The size limitation for salvage sales of dead and dying timber has remained unchanged from the proposed limit of one million board-feet or less of merchantable wood products.

Several reviewers said that minor mineral and energy-related activities should be in a category which did not require the issuance of a decision memo. As noted in the discussion above, the requirement for decision memos may be removed as a result of revisions to the appeal rules.

Additionally, a reviewer commented that the mineral-related activities should have limitations on the duration of actions that could be placed in a category. In response, this category has been revised to limit it to actions of one year or less duration. The category now covers "short-term (one year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-county travel by vehicles and equipment, construction or less than one mile of low standard road (Service Level D, FSH 7709.56), or use and minor repair of existing roads."

Several reviewers commented on the proposal to have a categorical exclusion for Allotment Management Plans and permits to authorize grazing. Many of these comments addressed other laws and regulations regarding the appropriateness of grazing, the relationship of the permittee and the Forest Service, or the applicability or non-applicability of NEPA to grazing activities. Decisions to implement grazing practices are made through development and approval of Allotment Management Plans (AMPs); subsequent administration of allotments in accordance with AMPs is executed through administration of grazing permits. The agency agrees that appropriate environmental disclosure should occur in the adoption of AMPs. Categorical exclusions are neither necessary or appropriate for actions which implement AMPs. Therefore, no change has been made to this paragraph.

Paragraph 14 of proposed section 31.2, Amendments to Forest Land and Resource Management Plans which do not change decisions made in forest plans, had not been retained. After careful review of this category, it was concluded that changes to forest plans which do not affect the decisions made in a forest plan could not entail any action that would have any environmental effect. Since no environmental effects could result, NEPA procedures do not apply; therefore, a categorical exclusion from documentation is not appropriate. Such changes to a forest plan could be corrections of typographical errors, minor management area boundary changes, changes resulting from budget adjustments which do not affect the range of outputs identified in the forest plan, and additions or deletions to forest plan schedules that do not change the objectives of a forest plan.

Paragraphs 6, 7, 8, and 9 of section 31.2, Categories of Actions for Which a Project or Case File and Decision Memo Are Required, have been reorganized to improve clarity.

In addition to the preceding changes resulting from consideration of comments, the chapter has been edited to improve clarity and the presentation of categories of actions suitable for exclusion from environmental documentation.

Chapter 40—Environmental Assessment and Related Documents. This chapter of the Handbook describes the purpose and content of environmental assessments. It also describes the methods to reduce paperwork through, "tiering," "adoption," and "incorporation by reference." The chapter concludes with a description of the "Finding of No Significant Impact" (FONSI) and the format and content of a "decision notice."

Some reviewers commented that the direction for the preparation of EA's should be much more specific and should use the criteria for EIS's to describe necessary analysis and format. Others liked the direction that EA's can be in any format that is useful to facilitate planning, decisionmaking, and public disclosure of environmental effects. Agency experience has shown that flexibility in the format of EA's has improved agency compliance with NEPA and reduced unnecessary paperwork. Therefore, chapter 40 retains the flexibility in the format for EA's.

Some reviewers questioned whether a FONSI could be issued separately from a decision notice; and, if so, if there is a required public review period for the FONSI. Section 43.1, Finding of No Significant Impact (FONSI), has been revised to require a 30-day public review period for FONSI's that are issued as separate documents from a decision notice. This will ensure that the public is afforded an opportunity to comment on a FONSI and its associated EA before a decision is made.

Section 43.21, paragraph 5, second sentence was removed; since it repeated the content of a FONSI described in section 43.1. A reviewer noted that the language in the proposed sections 43.2 and 44 was somewhat unclear. In response, the text of section 43.21, Format and Content, and section 44, Notice and Distribution of FONSI and Decision Notice, has been revised to improve clarity.

Chapter 50—Implementation and Monitoring. This chapter of the Handbook describes the implementation of actions described in an environmental document and the limitations on actions which normally require an EIS or those of an unprecedented nature. The description of monitoring and mitigation measures concludes the chapter.

Reviewers suggested that chapter contents were confusing and did not seem to match the titles of the sections. They further suggested that any mitigation and monitoring identified in an EIS, EA, or a FONSI and a decision documents must be implemented along with the selected action and that the requirement was not included. In response, the chapter has been revised by changing the title of section 51, Implementing Decisions Based on Environmental Impact Statements, to "Implementing Decisions Documented in a Record of Decision." Similarly, the test of section 52 Implementing Decisions Based on Environmental Assessments, has been revised to "Implementing Decisions Documented in a Decision Notice." Finally, section 53, Monitoring, was revised to clarify that mitigation and monitoring requirements must be met.

Proposed 51 required, "In addition, if an EIS allocates an inventoried roadless area or a RARE II (further planning) area(s) to nonwilderness uses, do not implement any activity that would alter

the roadless character of the area(s) until a letter is received from the Washington Office Environmental Coordination Staff indicating implementation may take place." Upon review of this requirement, the agency concluded that it no longer needs special provisions for Washington Office-level review of EIS's which describe the effects of possible actions within an inventoried roadless area. Normal agency reviews and internal controls are sufficient to ensure that policy and procedures are followed. Therefore, the requirement has been removed from section 51.

Proposed section 52.11, Actions Involving Flood Plains and Wetlands, required a 30-day delay in the implementation of any decision involving a flood plain or wetland after a decision notice has been signed. This requirement has been in effect for several years and was intended to provide a reasonable period of public review as required by Executive Orders 11988 and 11990. Often the process duplicated normal agency scoping activities and public notification of proposed actions. With the implementation of a quarterly public notification of scheduled actions as described in chapter 10, this requirement is no longer needed to accomplish the intent of the Executive Orders and has been removed.

Chapter 60—References. This chapter contains reference material needed to assist in conducting analyses, preparing documents, and giving notices of decisions. Because of the chapter's length and because the information contained in this chapter is generally available to the public, only the table of contents of chapter 60 is published in this notice. It is included in the Handbook to ensure that Forest Service employees have ready access to these materials.

Some reviewers asked that reference to Executive Order 12630, Takings Implication Assessment, be included in the list of Executive Orders applicable to environmental quality. Executive Order 12630 refers to the effect of Federal actions on the property rights of individuals. It directs agencies to consider these rights before actions are implemented. The consideration is an important one. However, reference to Executive Order 12630 was not added to the Handbook since procedures are in place in other agency directives to ensure individual property rights are not encumbered through neglect or ignorance of applicable rights.

The full text of FSM 1950 and FSH 1909.15, except for chapter 60 as noted, is set out at the end of this notice.

Environmental Impact

Based on experience and environmental analysis, the implementation of the revised Forest Service environmental policy and procedures will not significantly affect the quality of the human environment, individually or cumulatively. Therefore, this action is categorically excluded from documentation in an environmental impact statement or an environmental assessment (FSH 1909.15 chapter 40 and 40 CFR 1508.4).

Controlling Paperwork Burdens on the Public

These policies and procedures do not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 and, therefore, impose no paperwork burden on the public.

Regulatory Impact

This policy has been reviewed under USDA procedures and Executive Order 12291. It has been determined that this policy is not a major rule. The policy will not have an effect of $100 million or more on the economy; substantially increase prices or costs for consumers, industry, or State or local governments; nor adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in foreign markets. In short, little or no effect on the National economy will result from this policy as it consists primarily of minor changes in agency procedures and it does not increase costs to the Government or users of the national forests.

Moreover, this policy has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act.

Therefore, after notice and consideration of comments received and for the reasons noted in the preamble, the Forest Service is adopting final policy and procedures for implementing the National Environmental Policy Act. The text of FSM 1950 and FSH 1909.15, chapters Zero Code through 50 as adopted is set out at the end of this notice.

Dated: August 27, 1992.

F. Dale Robertson,

Chief.

Forest Service Manual

Chapter 1950—Environmental Policy and Procedures

Contents

1950.1 Authority
1950.2 Objectives
1950.3 Policy
1950.4 Responsibility
1950.41 Authority to Act as Responsible Official
1950.41a Chief
1950.41b Deputy Chiefs and Associate Deputy Chiefs
1950.41c Regional Foresters, Station Directors, and Area Director
1950.41d Forest Supervisors
1950.42 Limitations on Issuance of Directives
1950.42a Field Line Officers
1950.43 Director of Environmental Coordination, Washington Office

This chapter sets forth Forest Service management objectives, policy, and responsibilities for meeting the requirements of the National Environmental Policy Act (NEPA).

1950.1 Authority

1. *The National Environmental Policy Act of 1969 (NEPA),* as amended (42 U.S.C. 4321–4346). NEPA declares a national policy which encourages "productive and enjoyable harmony between man and his environment." NEPA requires Federal agencies to: (a) Use a systematic interdisciplinary approach in planning and decisionmaking; (b) consider the environmental impact of proposed actions; (c) identify adverse environmental effects which cannot be avoided should the proposal be implemented; (d) consider alternatives to the proposed action; (e) consider the relationship between local short-term uses of the human environment and the maintenance and enhancement of long-term productivity; and (f) identify any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

2. *Council on Environmental Quality Regulations.* The regulations at title 40, Code of Federal Regulations, parts 1500–1508 (40 CFR parts 1500–1508) set forth specific requirements for implementing the National Environmental Policy Act. The regulations establish procedures and rules governing environmental analysis and documentation; ensure that environmental information is available to public officials and the public, including identification of significant issues; and provide direction to assist

public officials in making decisions based on an understanding of environmental consequences.

3. *U.S. Department of Agriculture NEPA Regulations.* The regulations at title 7, Code of Federal Regulations, Part 1b (7 CFR part 1b) direct Department of Agriculture agencies to develop and to implement procedures for compliance with NEPA. The regulations exclude seven categories of activities from documentation such as program funding, educational and informational activities, and civil and criminal law enforcement and investigation activities.

The full texts of these authorities, along with supplementary Council on Environmental Quality guidance, are printed in chapter 60 of the Forest Service Environmental Policy and Procedures Handbook (FSH 1909.15).

1950.2 Objectives

In meeting the requirements of the National Environmental Policy Act, the Forest Service seeks to:

1. Fully integrate National Environmental Policy Act requirements into agency planning and decisionmaking.

2. Fully consider the impacts of Forest Service proposed actions on the physical, biological, social, and economic aspects of the human environment (40 CFR 1508.14).

3. Involve interested and affected agencies, State and local governments, organizations, and individuals in planning and decisionmaking.

4. Conduct and document environmental analyses and subsequent decisions appropriately, efficiently, and cost effectively.

1950.3 Policy

Compliance with NEPA is fundamental to managing all Forest Service resource, research, and cooperative forestry programs and must be integrated into the management processes of those programs.

1. Procedures of this chapter apply to the fullest extent practicable to analyses and documentation of Forest Service actions. However, work completed under previous policy and guidelines need not be revised.

2. It is Forest Service policy to:

a. Give early notice of upcoming proposals to interested and affected persons (FSH 1909.15, sec. 07).

b. Give timely notice to interested and affected persons, Federal agencies, State and local governments, and organizations of the availability of environmental and accompanying decision documents.

c. Make documents available to the public free of charge to the extent practicable.

d. Apply the concepts of tiering, adoption, and incorporation by reference to both environmental impact statements and environmental assessments.

2. Line and primary staff officers are subject to the requirements of FSH 1909.15, which sets forth the procedural instructions for environmental analysis and documentation.

3. Matters which require consultation with the Council on Environmental Quality shall be referred to the Washington Office Director of Environmental Coordination.

1950.4 Responsibility

1950.41 Authority to Act as Responsible Official

The responsible official is the agency employee who has the delegated authority to make and implement a decision on a proposed action.

1950.41a Chief

The Chief reserves the discretion to be the responsible official (sec. 1950.5) for environmental analyses, documentation, and decisions relating to proposed actions of national importance. In accordance with the general delegations of authority at FSM 1235, the Associate Chief may act as responsible official on any matter reserved by the Chief, unless the Chief directs otherwise.

In cases of proposed legislation where the Secretary of Agriculture is the responsible official, the Chief is responsible for providing support for the analysis and documentation.

1950.41b Deputy Chiefs and Associate Deputy Chiefs

In accordance with delegations at FSM 1235, the Deputy Chiefs and Associate Deputy Chiefs may serve and sign as the responsible official on any environmental matter of national importance within their areas of jurisdiction, unless the Chief specifically directs otherwise.

1950.41c Regional Foresters, Station Directors, and Area Director

As provided in FSM 1235, Regional Foresters, Station Directors, and the Area Director are delegated responsibility for conducting environmental anlayses, preparing environmental documents, and making decisions related to proposed actions under their jurisdiction.

Regional Foresters, Station Directors, and the Area Director may file environmental impact statements directly with the Environmental Protection Agency for proposed actions within their authority.

Station Directors and the Area Director may, by supplement to this code, redelegate responsibility for conducting environmental analyses, preparing the necessary documentation, filing environmental impact statements, and making decisions on proposed actions to Assistant Station Directors, Research project leaders, and State and Private Forestry field representatives.

1950.41d Forest Supervisors

Unless otherwise provided in the Forest Service Manual or Handbooks, Forest Supervisors have authority and responsibility for conducting environmental analyses, preparing the necessary documentation, and making decisions on proposed actions under their jurisdiction unless specifically reserved by the Regional Forester. This authority may be redelegated to District Rangers by supplement to this code or, by letter, on a case-by-case basis (FSM 1204; 1230).

1950.42 Limitations on Issuance of Directives

1950.42a Field Line Officers

Notwithstanding the delegation of authority in FSM 1104 to issue supplements to the Forest Service Manual and the Handbooks, Regional Foresters, Station Directors, the Area Director, and Forest Supervisors may issue supplements to FSM 1950 and FSH 1909.15 only as follows:

1. Supplements to FSM 1950 may be issued only to delegate authority or responsibility.

2. Supplements to FSH 1909.15 may be issued only for the purposes of issuing internal procedures for preparing and processing environmental documents and records, assigning responsibilities, or adding reference materials.

1950.43 Director of Environmental Coordination, Washington Office

Director is the staff official responsible for developing and recommending national policy, procedures, coordination measures, technical administration, and training necessary to implement the National Environmental Policy Act (NEPA) within the Forest Service. The Director is also responsible for developing policy, procedures, and training for conducting social impact analysis (FSM 1973 and FSH 1909.17, ch. 30).

The Director is responsible for liaison with the Council on Environmental Quality and consults with the Council on possible referrals (40 CFR part 1504) and emergencies (40 CFR 1506.11). The Director also provides liaison with the

Environmental Protection Agency and, as needed, requests changes in the prescribed time periods for preparation and processing of environmental impact statements (40 CFR 1506.10).

When the Chief or the Secretary is the responsible official for a proposed action, it is the responsibility of the Director to advise and assist the appropriate field unit or Washington Office (WO) staff in preparing the necessary documents and to coordinate, review, and process the relevant documents.

The Director's signing authority includes:

(a) Correspondence with the Council on Environmental Quality, Environmental Protection Agency, and other departments and agencies, interpretations or implementation of NEPA, CEQ regulations and guidance, or Forest Service NEPA compliance policy and procedures regarding the National Environmental Policy Act.

(b) General correspondence regarding environmental and decision documents and environmental quality matters.

(c) Routine correspondence (FSM) 1237) to Members of Congress and routine referrals from the President and Secretary on environmental analysis and documentation matters.

Note: When issued in the Forest Service directive system the CEQ regulations quoted in the handbook will be set out in boldface type; however, Federal Register printing specifications do not permit that material to be set out in boldface here.

FSH 1909.15—Environmental Policy and Procedures Handbook WO Amendment 1909.15–92–1

Zero Code

This Handbook provides procedural guidance for implementing the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508), USDA NEPA Policies and Procedures (7 CFR part 1b), and Forest Service Manual Chapter 1950.

Specifically, this Handbook provides direction and guidance for analyzing and documenting the environmental consequences of proposed actions. Chapter 10 sets forth guidelines on scoping and environmental analysis. Chapters 20, 30, and 40 contain the documentation and process requirements for environmental impact statements, categorical exclusions, and environmental assessments. Chapter 50 addresses implementing and monitoring requirements. Chapter 60 includes the text of pertinent laws, regulations, memoranda, and other reference materials which may be useful to carry out the procedures in this Handbook.

01 Authority

1. *The National Environmental Policy Act of 1969 (NEPA)*, as amended (42 U.S.C. 4321–4346; FSM 1950.1). The full text of the act is set out in chapter 60.

2. *Council on Environmental quality Regulations* (40 CFR parts 1500–1508). These regulations set forth specific requirements for implementing the provisions of the National Environmental Policy Act. For ease of reference and use, the portions of the CEQ regulations governing implementation of NEPA are incorporated throughout the text of this Handbook. The CEQ regulations are set out in boldface to distinguish them from Forest Service direction. The full text of these regulations is set out in chapter 60.

3. *U.S. Department of Agriculture NEPA Policies and Procedures* (7 CFR part 1b; FSM 1950). The text of these regulations is set out in chapter 60. Portions of these rules are set out in boldface type in this and other chapters to distinguish them from Forest Service direction.

02 Objectives

1. To incorporate environmental considerations into Forest Service planning and decisionmaking in a systematic and cost-effective manner.

2. To conduct and document environmental analyses and the related decisions associated with national forest resource management, cooperative forestry, and research activities in a consistent manner.

33 Policy

Procedures in this Handbook apply to the fullest extent practicable to analyses and documents. However, work completed under previous policy and guidelines need not be revised.

The procedures in the Handbook must be used in conjunction with other direction found throughout the Forest Service Manual and Handbooks. Specifically, use this Handbook in conjunction with FSM Chapter 1950, Environmental Policy and Procedures, which sets forth the broad Forest Service objectives, policy, and responsibilities for meeting the requirements of the National Environmental Policy Act. Also, integrate the requirements in this Handbook with the procedures set forth in FSM 1920 and FSH 1909.12 and the regulations implementing the National Forest Management Act (36 CFR part 219).

04 Responsibility

Line officers are responsible for ensuring that the procedures in this Handbook are understood and followed by all involved in NEPA compliance.

05 Definitions

The definitions in boldface are those taken directly from the CEQ regulations (40 CFR part 1508). The remaining terms and definitions are those devised by the Forest Service and used throughout this handbook.

Act. * * * the National Environmental Policy Act, as amended (42 U.S.C. 4321, *et. seq.*) which is also referred to as "NEPA." (40 CFR 1508.2)

Categorical Exclusion. * * * a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. (40 CFR 1508.4)

Connected Actions. Actions are connected if they:

(i) Automatically trigger other actions which may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification. (40 CFR 1508.25)

Cooperating Agency. * * * any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. The selection and responsibilities of a cooperating agency are described in § 1501.6. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency. (40 CFR 1508.5)

Council. * * * the Council on Environmental Quality established by Title II of the Act. (40 CFR 1508.6)

Cumulative Action. * * * actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement. (40 CFR 1508.25)

Cumulative Impact. * * * the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. (40 CFR 1508.7)

Decision Document. A record of decision, memo, or decision notice.

Decision Memo. A concise written record of the responsible official's decision to implement an action that has been categorically excluded from documentation in an environmental impact statement or environmental assessment (sec. 30.5).

Decision Notice. A concise written record of the responsible official's decision based on an environmental assessment and a finding of no significant impact (sec. 43.2).

Effects. These include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems. Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial. (40 CFR 1508.8).

See also, cumulative impact.

Environmental Analysis. An investigation of a proposed action and alternatives to that action and their direct, indirect, and cumulative environmental impacts; the process which provides the necessary information for reaching an informed decision and the information needed for determining whether a proposed action may have significant environmental effects and determining the type environmental document required (Ch. 10).

Environmental Assessment. (a) * * * a concise public document for which a Federal agency is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by section 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted. (40 CFR 1508.9)

Environmental Design Arts. Disciplines that integrate the design arts with natural and social sciences in planning and decisionmaking which may have an impact on the environment.

Environmental Document. * * * includes the documents specified in § 1508.9 (environmental assessment), § 1508.11 (environmental impact statement), § 1508.13 (finding of no significant impact), and § 1508.22 (notice of intent). (40 CFR 1508.10)

Environmental Impact Statement. * * * a detailed written statement as required by section 102(2)(C) of the Act. 940 CFR 1508.11)

Environmentally Preferable Alternative. An alternative that best meets the goals of section 101 of the National Environmental Policy Act and required by 40 CFR 1505.2(b) to be identified in a record of decision. Ordinarily, this is the alternative that causes the least damage to the biological and physical environment and best protects, preserves, and enhances historical, cultural, and natural resources. In some situations, there may be more than one environmentally preferable alternative.

Federal Agency. * * * all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office. (40 CFR 1508.12)

Finding of No Significant Impact (FONSI). * * * a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (§ 1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (§ 1501.7(a)(5)). (40 CFR 1508.13)

Floodplains. As defined by E.O. 11988, as amended, lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year (sec. 66.3).

Human Environment. * * * shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment * * * This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment. (40 CFR 1508.14)

Irreversible. A term that describes the loss of future options. Applies primarily to the effects of use of nonrenewable resources, such as minerals or cultural resources, or to those factors, such as soil productivity that are renewable only over long periods of time.

Irretrievable. A term that applies to the loss of production, harvest, or use of natural resources. For example, some or all of the timber production from an area is lost irretrievably while an area is serving as a winter sports site. The production lost is irretrievable, but the action is not irreversible. If the use changes, it is possible to resume timber production.

Jurisdiction by Law. * * * agency authority to approve, veto, or finance all or part of the proposal. (40 CFR 1508.15)

Lead Agency. * * * the agency or agencies preparing or having taken primary responsibility for preparing the environmental impact statement. (40 CFR 1508.16)

This also applies to environmental assessments. See also, joint lead agencies (40 CFR 1506.2(4)(c)).

Legislation. * * * a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations. The test for significant cooperation is whether the proposal is in fact predominantly that of the agency rather than another source. Drafting does not by itself constitute significant cooperation. Proposals for legislation include requests for ratification of treaties. Only the agency which has primary responsibility for the subject

matter involved will prepare a legislative environmental impact statement. (40 CFR 1508.17)

Major Federal Action. * * * includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (§ 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (§§ 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 *et seq.*, with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

(1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

(2) Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of Federal resources, upon which future agency actions will be based.

(3) Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.

(4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as Federal and federally assisted activities. (40 CFR 1508.18)

Matter. (a) With respect to the Environmental Protection Agency, any proposed legislation, project, action or regulation as those terms are used in section 309(a) of the Clean Air Act (42 U.S.C. 7609).

(b) With respect to all other agencies, any proposed major Federal action to which section 102(2)(C) of NEPA applies. (40 CFR 1508.19)

Mitigation. * * * (a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments. (40 CFR 1508.20)

NEPA Process. * * * all measures necessary for compliance with the requirements of section 2 and Title 1 of NEPA. (40 CFR 1508.21)

Notice of Intent. * * * a notice that an environmental impact statement will be prepared and considered. (40 CFR 1508.22)

Preferred Alternative. The alternative(s) which the agency believes would best fulfill its statuatory mission and responsibilities, giving consideration to environmental, social, economic, and other factors and disclosed in an environmental impact statement.

Prime Farmland, Rangeland, and Forest Land. (See Departmental Regulation 9500–3 in section 65.21 for a detailed definition.)

Proposed Action. A proposal made by the Forest Service to authorize, recommend, or implement an action to meet a specific purpose and need (see definition for proposal).

Proposal. * * * exists at that stage in the development of an action when an agency subject to the Act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated * * * A proposal may exist in fact as well as by agency declaration that one exists. (40 CFR 1508.23)

Referring Agency. * * * the Federal agency which has referred any matter to the Council after a determination that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality. (40 CFR 1508.24)

Similar Actions. Actions which—

(3) * * * when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. (49 CFR 1508.25)

Scope. * * * the range of actions, alternatives, and impacts to be considered in an environmental impact statement. (40 CFR 1508.25)

Scoping. The procedure by which the Forest Service identifies important issues and determines the extent of analysis necessary for an informed decision on a proposed action. Scoping is an integral part of environmental analysis. See sec. 10.3 for Forest Service policy on use of this term.

Significantly. This term includes both context and intensity:

(a) *Context.* This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) *Intensity.* This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment.

Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment. (40 CFR 1508.27)

(11) *Special Expertise.* * * * statutory responsibility, agency mission, or related program experience. (40 CFR 1508.26)

Tiering. * * * the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

(a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

(b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe. (40 CFR 1508.28)

Wetlands. As defined by E.O. 11990, areas that are inundated by surface or ground water with a frequency sufficient to support, and that under normal circumstances do or would support, a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction (sec. 66.4).

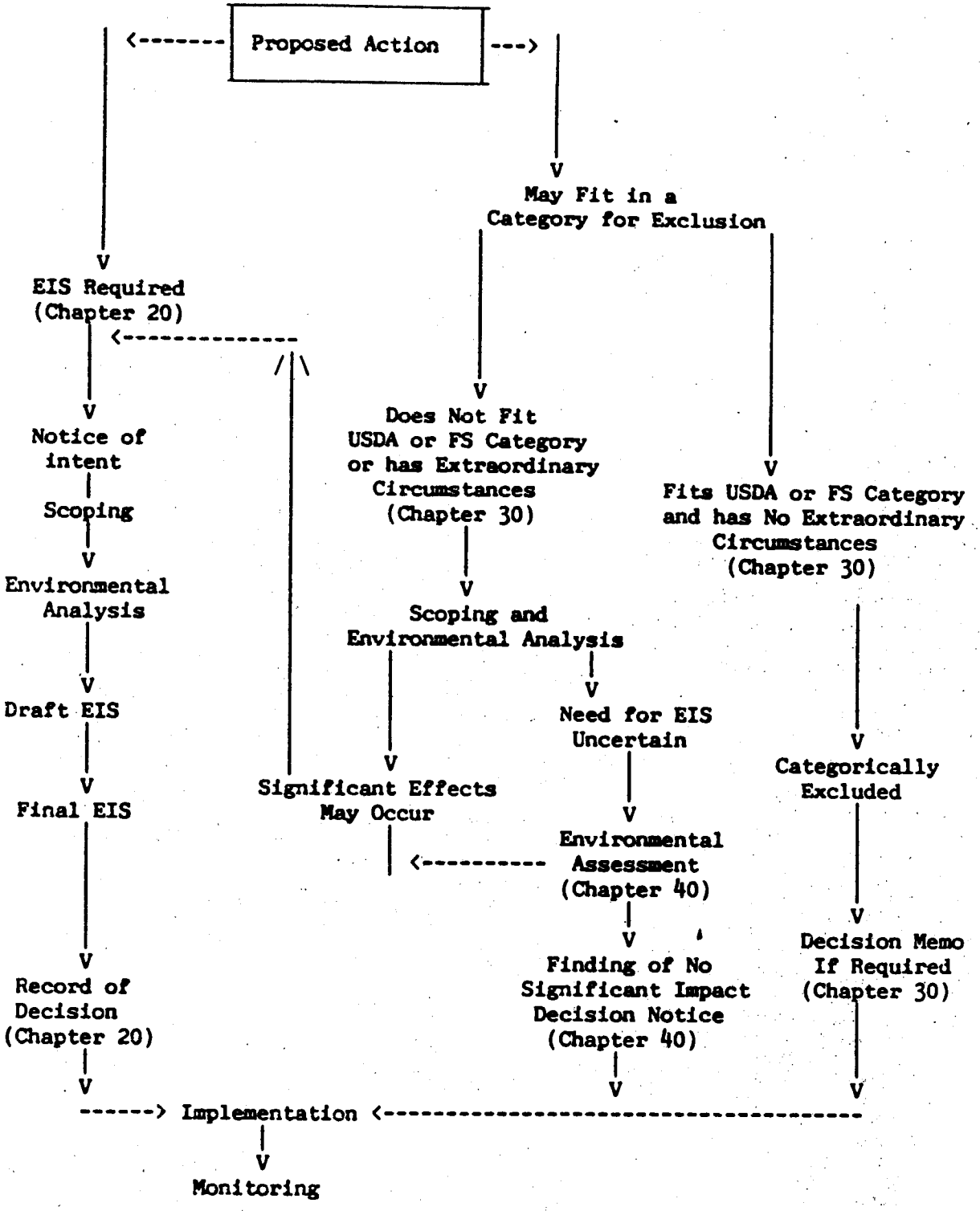
06 Overview of Process

Exhibit 01 illustrates the National Environmental Policy Act process and indicates the normal sequence of actions.

BILLING CODE 3410-11-M

06 - Exhibit 01

NEPA PROCESS OVERVIEW



BILLING CODE 3410-11-C

07 Schedule of Proposed Actions

Provide notice of upcoming proposals which may undergo environmental analysis and documentation to interested and affected agencies, organizations, and persons through the use of a schedule of proposed actions. The propose of the schedule of proposed actions is to give early informal notice of proposals so the public can become aware of Forest Service activities and indicate their interest in specific proposals. It is not intended as a substitute for routine scoping described in Section 11 of this Handbook.

07.04 Responsibility

Each Forest Supervisor and District Ranger as designated by the Forest Supervisor is responsible for ensuring the preparation and distribution of a schedule of proposed actions in accordance with this section.

07.1 Frequency of Distribution

Prepare and distribute the schedule of proposed actions at least every three months to interested and affected agencies, organizations, and individuals. The schedule should include proposed actions which are anticipated to be categorically excluded from documentation in an environmental impact statement or an environmental assessment and for which a decision memo would be required (ch. 30). For those proposed actions which are planned and will undergo analysis after publication of the schedule, include notice of the action and the status in the next schedule.

07.2 Schedule Format and Content

Any format may be used; however, as a minimum, the schedule of proposed actions shall contain the following information:

1. Name of the administrative unit and time period covered by the schedule.
2. Description of the upcoming projects and/or activities which are expected to undergo environmental analysis in the time period specified.
3. Location of the proposed action including the State, county, and where appropriate, the Ranger District and the legal land description.
4. The estimated date when scoping may begin.
5. The estimated date of the decision.
6. A name, address, and telephone number of the person to contact for information and/or to be placed on the mailing list.
7. Status of the environmental analysis including dates of any **Federal Register** or other legal notices and dates of decision documents planned or previously published or issued, and the estimated implementation date(s).

08 Emergency and Classified Actions

1. *Emergency Actions.* * * * Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the Federal agency taking the action should consult with the Council about alternative arrangements. Agencies and the Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review. (40 CFR 1506.11)

For emergencies other than fire suppression, contact the Washington Office Director of Environmental Coordination regarding consultation with the Council on Environmental Quality (FSM 1950.41b and 1950.42).

2. *Classified Actions.* * * * (c) Agency procedures may include specific criteria for providing limited exceptions to the provisions of these regulations for classified proposals. They are proposed actions which are specifically authorized under criteria established by an Executive Order or statute to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order or statute. Environmental assessments and environmental impact statements which address classified proposals may be safeguarded and restricted from public dissemination in accordance with agencies' own regulations applicable to classified information. These documents may be organized so that classified portions can be included as annexes, in order that the unclassified portions can be made available to the public. (40 CFR 1507.3(c))

Among the exemptions to public disclosure requirements, the Freedom of Information Act contains an exemption for law enforcement purposes to the extent that production of investigatory records would "(A) interfere with enforcement proceedings, * * * (E) disclose investigative techniques and personnel." (5 U.S.C. 552(b)(7)(1977)). Cannabis eradication falls within the scope of this exemption. For this reason, environmental and decision documents which address cannabis eradication should be withheld from public disclosure until the cannabis has been eradicated from the site or until law enforcement needs no longer require that they be withheld.

Chapter 10—Environmental Analysis

Contents

10.2 Objectives
10.3 Policy
10.4 Responsibility
11 Conduct Scoping
11.1 Organize Scoping Effort
11.2 Identify the Characteristics of the Proposed Action and Nature of the Decision to be Made
11.3 Identify Responsible Official(s) and Agencies Involved
11.31 Determine Lead and Cooperating Agencies
11.31a Lead Agency
11.31b Cooperating with Other Agencies
11.4 Determine If Existing Documents Address the Proposed Action
11.5 Look for Preliminary Issues and Identify Public Participation Needs
11.51 Identify Preliminary Issues
11.52 Identify Public Participation Needs
11.6 Determine if Proposal Can Be Categorically Excluded from Documentation in an Environmental Impact Statement or an Environmental Assessment
11.7 Inform Participants and the Public of Results of Scoping and the Progress of the Analysis
12 Use Interdisciplinary Analysis
12.01 Authority
12.03 Policy
12.1 Interdisciplinary Team Selection
12.1a Team Leader
12.1b Other Team Members
12.2 Selection of Interdisciplinary Analyst(s) in Lieu of a Team
12.3 Role of the Interdisciplinary Team or Analyst(s)
12.3a Formulate Analysis and Evaluation Criteria
12.3b Identify Significant Issues
12.3c Explore Possible Alternatives
12.3d Expand Public Involvement as Appropriate
13 Collect and Interpret Data
13.01 Authority
13.03 Policy
14 Develop Alternatives
14.1 No-Action Alternative
14.2 Other Alternatives
14.3 Alternatives Not Considered in Detail
15 Estimate Effects of Each Alternative
15.1 Cumulative Effects
16 Evaluate Alternatives and Identify Preferred Alternative(s)
17 Determine Type of Environmental Document Needed
18 Correction, Supplementation, or Revision of Environmental Documents and Reconsideration of Decisions to Take Action
18.03 Policy
18.1 Review and Documentation of New Information Received After a Decision Has Been Made
18.2 Reconsideration of Decisions Based on an Environmental Impact Statement
18.3 Reconsideration of Decisions Categorically Excluded from Environmental Documentation

18.4 Reconsideration of Decisions Based on an Environmental Assessment and Finding of No Significant Impact

Chapter 10—Environmental Analysis

Environmental analysis assesses the nature and importance of the physical, biological, social, and economic effects of a proposed action and its reasonable alternatives. Exhibit 01 in sec. 06, Chapter Zero Code, shows how environmental analysis relates to other procedures required under the National Environmental Policy Act and its implementing regulations.

For ease of reference and use, portions of the relevant CEQ regulations are set out in boldface type throughout the text of this chapter.

10.2 Objectives

1. Conduct scoping (sec. 05) to:

a. Determine the nature and complexity of the proposed action.

b. Identify environmental issues related to the proposed action.

c. Determine the disciplines required to guide environmental analysis and documentation.

d. Determine how much analysis is necessary.

e. Achieve effective use of time and money in conducting environmental analysis.

f. Determine the type and level of public participation.

2. Conduct environmental analyses to assess the nature, characteristics, and significance of the effects of a proposed action and its alternatives on the human environment.

10.3 Policy

1. Environmental analysis, as the term is used in the Forest Service, includes scoping as well as subsequent analysis of the proposed action.

2. The use of scoping applies to all proposed actions which require environmental analysis; it is not limited to the preparation of an environmental impact statement (EIS).

a. Conduct the scoping actions set forth in this chapter commensurate with the nature and complexity of the proposed action.

b. Keep the public informed of the progress of environmental analyses and decisionmaking.

10.4 Responsibility

The official who is responsible for a decision on a proposed action (FSM 1950.4) also has the responsibility to:

1. Ensure that an appropriate level of scoping and environmental analysis and documentation occurs.

2. Determine whether an interdisciplinary (ID) team of specialists and a formal plan of work are needed.

3. Select the ID team and leader, where needed, and keep abreast of their work (sec. 12.1).

4. Ensure that the public is kept informed of the results of scoping and the progress of the environmental analysis commensurate with the public interest in the proposed action.

5. Approve the list of significant issues used to develop alternatives to the proposed action (sec. 12.3b).

6. Decide which alternatives to a proposed action merit detailed study and analysis (sec. 12.3c).

7. Identify the preferred alternative (sec. 16).

For actions where the Chief or the Secretary is the responsible official, it is the responsibility of the Washington Office (WO) Director, Environmental Coordination Staff, to participate in scoping and subsequent analysis, including identification of the preferred alternative(s), with the appropriate field or other WO staffs and to involve the appropriate Deputy Chief, the Chief, or the Assistant Secretary, as necessary (FSM 1950.41a).

11 Conduct Scoping

Although the Council on Environmental Quality (CEQ) Regulations require scoping only for EIS preparation, the Forest Service has broadened the concept to apply to all proposed actions.

Scoping is an integral part of environmental analysis. Scoping includes refining the proposed action, determining the responsible official and lead and cooperating agencies, identifying preliminary issues, and identifying interested and affected persons. The results of scoping are used to identify public involvement methods, refine issues, select an interdisciplinary team, establish analysis criteria, and explore possible alternatives and their probable environmental effects.

Because the nature and complexity of a proposed action determine the scope and intensity of the required analysis, no single technique is required or prescribed. Except where required by statute or regulations, the responsible official may adjust or combine the various steps of the process outlined in this chapter to aid in the understanding of the proposed action and identified issues.

The following direction on scoping from the CEQ regulations applies to all scoping conducted by the Forest Service without regard to whether or not the results of the analysis is to be documented in an EIS or an environmental assessment (EA).

There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping * * *.

(a) As part of the scoping process the lead agency shall:

(1) Invite the participation of affected Federal, State, and local agencies, and affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under § 1507.3(c). An agency may give notice in accordance with § 1506.6.

(2) Determine the scope (§ 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.

(3) Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (§ 1506.3), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

(4) Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

(5) Indicate any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration.

(6) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in § 1502.25.

(7) Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule. (40 CFR 1501.7)

For additional guidance on scoping, see sec. 65.13, "CEQ Scoping Guidance."

11.1 Organize Scoping Effort

The National Environmental Policy Act (NEPA) requires a systematic, interdisciplinary approach to ensure integrated application of the natural and social sciences and the environmental design arts in any planning and decisionmaking that affects the human environment (NEPA, sec. 102(2)(A)).

The responsible official may choose whether or not to establish an interdisciplinary (ID) team and designate a team leader to conduct scoping. However, the decision not to establish an ID team does not relieve the Forest Service of the responsibility to take an interdisciplinary approach to the scoping of the proposed action. In ensuring an interdisciplinary approach to the scoping process, responsible officials shall be guided by the direction

on interdisciplinary analysis in section 12 of this chapter.

11.2 Identify the Characteristics of the Proposed Action and Nature of the Decision to be Made

The most important element of the scoping process is to correctly identify and describe the proposed action. Elements of the proposed action include the nature, characteristics, and scope of the proposed action, the purpose and need for the proposed action, and the decision to be made.

The following concepts from the CEQ regulations also apply to gathering preliminary information for all proposals which may undergo environmental analyses:

(a) Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope (§ 1508.25) to determine which proposal(s) shall be the subject of a particular statement. Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.

(b) Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations (§ 1508.18). Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking.

(c) When preparing statements on broad actions (including proposals by more than one agency), agencies may find it useful to evaluate the proposal(s) in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.

(2) Generically, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.

(3) By stage of technological development including federal or federally assisted research, development or demonstration programs for new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(d) Agencies shall as appropriate employ scoping (§ 1501.7), tiering (§ 1502.20) and other methods listed in § 1500.4 and 1500.5 to relate broad and narrow actions and to avoid duplication and delay. (40 CFR 1502.4).

11.3 Identify Responsible Official(s) and Agencies Involved

The agency employee who has the delegated authority to make and implement a decision on a proposed action (FSM 1230; 1950) is the responsible official for NEPA compliance. When an action is proposed, the responsible official must identify and contact other Federal, State, or local agencies with an interest in the action.

11.31 Determine Lead and Cooperating Agencies

The CEQ regulations address the role of the lead and cooperating agencies' responsibilities as follows:

The purpose of this section is to emphasize agency cooperation early in the NEPA process. 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 special 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 (described below in § 1501.7).

(3) Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the 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 interdisciplinary 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 include 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 (described in paragraph (b) (3), (4), or (5) of this section) 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)

Refer to definitions of lead and cooperating agency in Chapter Zero Code, Section 05. For additional guidance on lead and cooperating agencies, see Sec. 65.12, "CEQ's 40 Most Asked Questions," questions 14a, 14b, 14c, and 30.

11.31a Lead Agency

When the proposed action will occur on National Forest System lands, the Forest Service is usually the lead agency. The Forest Service may also be a lead or cooperating agency when State and private forest lands are involved.

The CEQ regulations address the determination and role of the lead agency as follows:

(a) 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 (§ 1506.2).

(c) If an action falls within the provisions of paragraph (a) of this section 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 or if the procedure described in paragraph (c) of this section has not resulted within 45 days in a lead agency designation, 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 in paragraph (c) of this section.

(f) A response may be filed by any 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)

If a responsible Forest Service official wishes to ask the Council on Environmental Quality to determine which Federal agency shall be the lead agency, send the request to the Washington Office Director of Environmental Coordination for processing.

11.31b Cooperating With Other Agencies

Where National Forest System lands are involved, the Forest Service shall play a strong role in the preparation of environmental documents. If the Forest Service is the lead agency, promptly request in writing that all other Federal agencies with jurisdiction by law or special expertise (sec. 05) become cooperating agencies. Also, promptly request in writing the cooperation of potentially affected State and local government agencies.

When National Forest System lands are involved and the Forest Service is not the lead agency, the responsible Forest Service official shall make a written request to participate as a cooperating agency in scoping, environmental analysis, and documentation.

If the Forest Service is asked to be a cooperating agency and other program commitments preclude being able to become involved, the responsible official shall consult with the Washington Official Director of Environmental Coordination prior to preparing a reply to this effect to the requesting agency. Send two copies of this reply to the Director of Environmental Coordination in Washington, DC, for transmittal to the Council on Environmental Quality.

11.4 Determine if Existing Documents Address the Proposed Action

During scoping, determine if there are existing documents pertinent to the environmental analysis. Existing environmental documents, higher level plans such as Land and Resource Management Plans or Regional Vegetation Management Plans, and other pertinent documents, including State and local land use plans or data sources, may provide useful information to:

1. Help define the proposed action.
2. Narrow the scope of analysis.
3. Estimate potential environmental effects.
4. Reduce the bulk of the documentation.

In such cases, all or parts of these existing documents may be tiered to, adopted, or incorporated by reference in documenting the site-specific environmental analysis (secs. 05, 22.32, 25.1, and 25.2).

11.5 Look for Preliminary Issues and Identify Public Participation Needs

11.51 Identify Preliminary Issues

Identify and evaluate preliminary issues for possible significance, based on review of similar actions, knowledge of the area or areas involved, discussions with interested and affected persons, community leaders, organizations, and State and local governments, and/or consultations with experts and other agencies familiar with such actions and their direct, indirect, and cumulative effects. This review provides an early look at potential issues, sharpens the focus of the environmental analysis, and provides a means for:

(d) Identifying at an early stage the significant environmental issues deserving of study and deemphasizing insignificant issues, narrowing the scope of the environmental impact statement accordingly. (40 CFR 1501.1(d))

11.52 Identify Public Participation Needs

Review and consider comments and suggestions offered by interested and affected agencies, organizations, and individuals in response to listing of the action in the schedule of proposed actions (sec. 07). Consider options for involving potentially interested and affected agencies, organizations, and persons in the analysis process.

The CEQ regulations provide the following direction on public notice and participation:

Agencies shall: * * *

(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

(1) In all cases the agency shall mail notice to those who have requested it on an individual action.

(2) In the case of an action with effects of national concern notice shall include publication in the **Federal Register** and notice by mail to national organizations reasonably expected to be interested in the matter * * * An agency engaged in rulemaking may provide notice by mail to national organizations who have requested that notice regularly be provided. Agencies shall maintain a list of such organizations.

(3) In the case of an action with effects primarily of local concern the notice may include:

(i) Notice to State and areawide clearinghouses * * *

(ii) Notice to Indian tribes when effects may occur on reservations.

(iii) Following the affected State's public notice procedures for comparable actions.

(iv) Publication in local newspapers (in papers of general circulation rather than legal papers).

(v) Notice through other local media.

(vi) Notice to potentially interested community organizations including small business associations.

(vii) Publication in newsletters that may be expected to reach potentially interested persons.

(viii) Direct mailing to owners and occupants of nearby or affected property.

(ix) Posting of notice on and off site in the area where the action is to be located.

(c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:

(1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.

(2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).

(d) Solicit appropriate information from the public. (40 CFR 1506.6)

(See FSH 1609.13, Public Participation Handbook, for information on techniques to involve the public in Forest Service planning and decisionmaking.)

11.6 Determine If Proposal Can Be Categorically Excluded from Documentation in an Environmental Impact Statement or an Environmental Assessment

After determining the nature of the proposed action; identifying preliminary issues; identifying the interested and affected agencies, organizations, and individuals; and the extent of existing documentation, the responsible official should have sufficient data to determine if the proposed action can be categorically excluded from documentation in an EIS or an EA or, alternatively, to determine the type of document that should be prepared.

If the proposed action is within one of the categories in the Department of Agriculture policies and procedures (7 CFR 1b.3) or one of the categories listed in sections 31.1b or 31.2, and if the proposed action does not involve any extraordinary circumstances (sec. 30.3), the action may be categorically excluded from documentation in an EIS or EA. If the proposed action is not within a listed category, it may not be categorically excluded from documentation on an EIS or EA.

If required by Chapter 30, document a decision to categorically exclude a proposed action from documentation in an EIS or EA in a decision memo.

At this point, it may be possible to determine if an EIS should be prepared. If the proposed action falls within one of the classes of actions which require preparation of an EIS in section 20.6, or if preliminary analysis indicates that there may be significant effects on the environment, prepare a notice of intent to prepare an EIS for publication in the **Federal Register.**

11.7 Information Participants and the Public of Results of Scoping and the Progress of the Analysis

Consistent with the importance of the proposed action, inform participants of the results of scoping and keep the public informed of the progress of the environmental analysis through appropriate means. This may include, but is not limited to: personal contacts with individuals, organizations, and State and local government officials; use of local media; and newsletters.

Enter the status of the environmental analysis, the decision memo, or the notice of intent to prepare an EIS on the schedule of proposed actions.

12 Use Interdisciplinary Analysis

12.01 Authority

Section 102(2)(A) of the National Environmental Policy Act requires all agencies to use an interdisciplinary approach to analysis which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on the human environment. The CEQ regulations require that:

> The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (§ 1501.7). (40 CFR 1502.6)

12.03 Policy

Establish interdisciplinary teams to analyze proposed actions with the potential for significant environmental effects, especially if an EIS may be needed.

Proposals for less complex actions may not require the selection of an interdisciplinary team. In such cases, a knowledgeable individual may perform the analysis, which must consider all of the physical, biological, social, and economic factors pertinent to the decision.

Interdisciplinary review of the analysis also may satisfy the requirement for use of the interdisciplinary approach.

12.1 Interdisciplinary Team Selection

The disciplines and skills of this group must be appropriate to the scope of the action and the issues identified. The team will consist of whatever combination of Forest Service staff and other Federal Government personnel is necessary to provide the necessary analytical skills. Limit the team to a manageable number of persons.

Others may aid or support the interdisciplinary team as determined to be necessary by the responsible official. This participation must be consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. USDA Departmental Regulation 1041–1, 11/13/89).

Also, the team must have the expertise to identify and to evaluate the potential direct, indirect, and cumulative social, economic, physical, and biological effects of the proposed action and its alternatives.

12.1a Team Leader

To ensure selection of an effective team leader, the responsible official should consider such factors as the individual's:

1. Degree of working knowledge of the National Environmental Policy Act process and its interrelationship with other applicable laws and regulations.
2. Ability to lead others, including the ability to communicate effectively with team members and the responsible official and to facilitate interaction among team members.
3. Ability to organize, analyze, and interpret information.
4. Past performance in meeting assigned deadlines.

12.1b Other Team Members

In selecting other team members, consider the variety of disciplines needed as well as such factors as an individual's:

1. Ability to work as part of a team.
2. Ability to communicate to others information about the field or specialty that a member represents.
3. Knowledge of and degree of experience in the subject discipline and the environmental analysis process.
4. Ability to conceptualize and solve problems.

12.2 Selection of Interdisciplinary Analyst(s) in Lieu of a Team

The responsible official may select one or more persons rather than a full team to conduct the required interdisciplinary analysis. The analyst(s) must have a working knowledge of the National Environmental Policy Act process, applicable statutes and regulations, and natural resource interactions.

12.3 Role of the Interdisciplinary Team or Analyst(s)

It is the responsibility of the team or assigned analyst(s) to identify the environmental issues related to the proposed action, develop alternatives to be analyzed in the subsequent environmental analysis, and prepare environmental documents. A team integrates its collective knowledge of the physical, biological, economic, social sciences and the environmental design arts into the analysis process.

Interaction among team members often provides insight that otherwise would not be apparent. Section 12.3a through 12.3d provide minimum direction that an ID team or analyst(s) shall follow.

When extensive public involvement is necessary, prepare a formal public participation plan (FSM 1626). The Public Participation Handbook, FSH 1609.13, provides guidance in identifying and involving the public, preparing public involvement plans, and using public responses in the analysis process.

12.3a Formulate Analysis and Evaluation Criteria

Development of criteria or standards may be necessary to guide the analysis process. Analysis and evaluation criteria or standards may be needed to:

1. Identify and select data sources, analysis methods, and set standards of accuracy.
2. Determine the depth or detail of the analysis.
3. Develop a suitable range of alternatives.
4. Evaluate alternatives.
5. Estimates the significance of environmental effects (sec. 05).

When formulating analysis and evaluation criteria or standards, be sure to consider Forest Service objectives identified in legislation, policies, and plans, as well as issues raised by the public in the scoping process. Refine these criteria and standards, as necessary, during the course of the analysis.

12.3b Identify Significant Issues

Recommend to the responsible official the significant issues to be addressed, taking interested and affected agency, organization, and public comments into account. The responsible official, not the ID team or the analyst(s), approves the list of significant issues used to develop alternatives and may adjust and refine the issues as new insights and information emerge during analysis.

12.3c Explore Possible Alternatives

Consider a full range of reasonable alternatives to the proposed action that address the significant issues and meet the purpose and need for the proposed action.

During scoping and the subsequent pubic participation activities, discuss the feasibility and possible effects of these alternatives with potentially interested and affected agencies, organizations, and persons. If the proposed action is on National Forest System lands, discuss the consistency of each alternative with the forest's Land and Resource Management Plan. The ID team recommends and the responsible official decides which alternatives merit further study and which do not require detailed analysis.

12.3d Expand Public Involvement as Appropriate

1. *Identify target groups.* Identify potentially affected groups and the nature of their concerns (FSH 1609.13). Establish, maintain and use mailing lists as appropriate.

2. *Determine the methods of public participation.* Establish the level of needed public participation. Ensure that the level of effort to inform and to involve the public is consistent with the scale and importance of the proposed action and the degree of public interest.

13 Collect and Interpret Data

13.01 Authority

If, when evaluating significant adverse effects on the human environment, information essential to a reasoned choice among alternatives is either missing or incomplete, the CEQ regulations provide the following guidance:

When an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking.

(a) If the incomplete information relevant to reasonable foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.

(b) If the information relevant to reasonable foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the agency shall include within the environmental impact statement:

(1) A statement that such information is incomplete or unavailable; (2) a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment; (3) a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment, and (4) the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community.

For the purposes of this section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason. (40 CFR 1502.22)

13.03 Policy

The type and amount of data to collect depend on the nature of the action, agency objectives, issues, and the scope, context, and intensity of anticipated effects. Focus data collection on the current and expected physical, biological, economic, and social conditions affecting or affected by the proposed action. Document the assumptions, methods, and data sources.

When evaluating reasonably foreseeable adverse impacts for which essential information is incomplete or unavailable, consider a range of possible scenarios. These should include a scenario that would most likely occur and ones that would be less likely but have the most severe impacts that could reasonably be expected. When possible, include a discussion of relative probabilities of occurrence for each scenario.

14 Develop Alternatives

Based on the results of scoping and the determination of issues to be analyzed in detail, develop and consider all reasonable alternatives to the proposed action. As established in case law interpreting the National Environmental Policy Act, the phrase "all reasonable alternatives" has not been interpreted to require that an infinite or unreasonable number of alternatives be analyzed, but does require a range of reasonable alternatives be analyzed whether or not they are within Forest Service jurisdiction to implement. See questions 1, 2, and 3 of CEQ's 40 Most Asked Questions in section 65.12.

14.1 No-Action Alternative

The no-action alternative provides a baseline for estimating the effects of other alternatives; therefore, consider the no-action alternative in detail in each environmental analysis.

Two distinct interpretations of no-action are often possible. The first interpretation involves an action such as the amendment or revision of a Forest Land and Resource Management Plan where ongoing programs described within the existing plan continue, even as new plans are being developed. In these cases, the no-action alternative means no change from current management direction. Consequently, the responsible official would compare the projected impacts of alternative management schemes to those impacts projected for the existing plans.

The second interpretation of no-action is that no action or activity would take place, such as when a proposed road construction project would be cancelled. The nature and scope of the proposed action will aid the responsible official in determining which interpretation is appropriate to the analysis.

For further guidance see question 3 in section 65.12 of CEQ's 40 Most Asked Questions.

14.2 Other Alternatives

Develop other alternatives fully and impartially. Ensure that the range of alternatives does not prematurely foreclose options that might protect, restore, and enhance the environment. Consider reasonable alternatives even if outside the jurisdiction of the Forest Service. Alternatives must meet the purpose and need of the proposed action and specify any activities that may produce important environmental changes. When appropriate, descriptions of alternatives should include mitigation measures and relevant management requirements such as State water quality standards. Modify alternatives or develop new alternatives as the analysis proceeds.

14.3 Alternatives Not Considered in Detail

Briefly describe the alternatives not considered in detail, discuss the reasons for their being eliminated, and include this information in the project or case file. If an EIS is required, this information must be disclosed in the chapter on alternatives (sec. 22.3,5).

15 Estimate Effects of Each Alternative

For each alternative, estimate the direct, indirect, and cumulative environmental effects, including the effectiveness of the mitigation measures, that would result from implementing each of the alternatives, including the no-action alternative. Also, identify any

additional mitigation measures that may be required, such as measures common to all alternatives.

Express the effects in terms of changes that would occur in the physical (land, water, air), biological (plants and animals), economic (money passing through society), and social (the way people live) components of the human environment. Consider the magnitude, duration, and significance of the changes. See section 61 for a more specific list of environmental factors.

When analysis and disclosure of social and/or economic impacts are important to a reasoned decision, follow the direction in FSM 1970 and FSH 1909.17. Also consider unquantifiable environmental amenities and values. For all alternatives, be sure to consider the environmental effects on the following:

1. Consumers, civil rights, minority groups, and women (FSM 1730).
2. Prime farmland, rangeland and forest land (Department Regulation 9500–3, sec. 65.2).
3. Flood plains (sec. 66.3) and Wetlands (sec. 66.4).
4. Threatened and endangered species (FSM 2670).
5. Cultural resources (FSM 2360).

15.1 Cumulative Effects (sec. 05)

Individual actions when considered alone may not have a significant impact on the quality of the human environment. Groups of actions, when added together, may have collective or cumulative impacts which are significant. Cumulative effects which occur must be considered and analyzed without regard to land ownership boundaries. Consideration must be given to the incremental effects of past, present, and reasonably foreseeable related future actions of the Forest Service, as well as those of other agencies and individuals.

16 Evaluate Alternatives and Identify Preferred Alternative(s)

Compare alternatives on the basis of their effects on the human (physical, biological, social, and economic) environment. Although the ID Team or analyst(s) may make a recommendation based on the results of the interdisciplinary analysis, the responsible official identifies the preferred alternative(s) for an EIS.

17 Determine Type of Environmental Document Needed

The significance of environmental effects of a proposed action determines whether an EIS (sec. 05) must be prepared.

If the proposed action may have significant environmental effects, prepare an EIS in accordance with direction in chapter 20.

The CEQ regulations provide the following direction on whether to prepare an EIS:

> In determining whether to prepare an environmental impact statement the Federal agency shall:
>
> (a) Determine under its procedures supplementing these regulations * * * whether the proposal is one which:
>
> (1) Normally requires an environmental impact statement, or
>
> (2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).
>
> (b) If the proposed action is not covered by paragraph (a) of this section prepare an environmental assessment (§ 1508.9). The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments required by § 1508.9(a)(1).
>
> (c) Based on the environmental assessment make its determination whether to prepare an environmental impact statement.
>
> (d) Commence the scoping process (§ 1501.7), if the agency will prepare an environmental impact statement. (40 CFR 1501.4)

18 Correction, Supplementation, or Revision of Environmental Documents and Reconsideration of Decisions to Take Action

18.03 Policy

Review the environmental documentation of actions that are awaiting implementation and those of ongoing programs or projects at least every 3 to 5 years to determine if the environmental analysis and documentation should be corrected, supplemented, or revised.

After a decision to implement a proposed action has been made and when the consideration of new information leads to the supplementation or revision of environmental documents, a new decision based on the supplemented or revised environmental documents must be consistent with the scope of the new environmental analysis.

18.1 Review and Documentation of New Information Received After a Decision Has Been Made

If new information or changed circumstances relating to the environmental impacts of a proposed action come to the attention of the responsible official after a decision has been made and prior to completion of the approved program or project, the responsible official must review the information carefully to determine its importance.

If, after an interdisciplinary review and consideration of new information within the context of the overall program or project, the responsible official determines that a correction, supplement, or revision to an environmental document is not necessary, implementation should continue. Document the results of the interdisciplinary review in the appropriate program or project file.

If the responsible official determines that a correction, supplement, or revision to an environmental document is necessary, follow the relevant direction in section 18.2–4.

18.2 Reconsideration of Decisions Based on an Environmental Impact Statement

1. *Correction.* Use errata sheets to make simple corrections.

2. *Supplement.* (c) Agencies:

(1) Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(2) May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.

(3) Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.

(4) Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council. (40 CFR 1502.9(c))

3. *Revision.* (a) * * * If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion * * * (40 CFR 1502.9(a))

If the responsible official determines, based on evaluations described in section 18.1, that a supplement to or revision of an EIS is appropriate, issue a notice of intent to supplement or revise an EIS.

Distribute any corrections, supplements, and revisions to all holders of the subject EIS.

After completion of the final supplement or final EIS, issue a new record of decision consistent with the scope of the supplement or revision. Follow the instructions in Chapter 20.

18.3 Reconsideration of Decisions Categorically Excluded from Environmental Documentation

Take no further action if an interdisciplinary review of the new information shows that the proposed action still fits within the identified category in section 31 and no extraordinary circumstances exist. For decisions for which a project or case file and decision memo have been prepared, document the review in the project or case file. For decisions for which a decision memo was not prepared, no documentation of the review is necessary.

If the new information or changed circumstances require a new or changed decision that can be categorically excluded from documentation, follow the instructions in Chapter 30.

If the new information indicates that extraordinary circumstances are now present and the proposed action may have a significant impact on the human environment, file a notice of intent to prepare an EIS. Follow the instructions in Chapter 20.

If the new information indicates that extraordinary circumstances are now present but the significance of the impacts on the human environment are uncertain, prepare an EA. Follow the instructions in Chapter 40.

18.4 Reconsideration of Decisions Based on an Environmental Assessment and Finding of No Significant Impact

Revise an EA if the interdisciplinary review of new information or changed circumstances indicates that changes in the EA are needed to address environmental concerns that have a bearing on the action or its impacts.

Upon completion of the revised EA, prepare a new finding of no significant impact (FONSI) which addresses the effects of the action. Reconsider the original decision; and, based upon the EA and FONSI, issue a new decision notice or document that the original decision is to remain in effect and unchanged. A new decision notice may address all or a portion of the original decision. Follow the instructions in Chapter 40.

If, based on the revised EA, the proposed action may have a significant effect, issue a notice of intent to prepare an EIS. Follow the instructions in Chapter 20.

Chapter 20—Environmental Impact Statements and Related Documents

Contents

20.8 Classes of Actions Requiring an Environmental Impact Statements
21 Notices of Intent
21.1 Preparation and Distribution of Notices of Intent
21.2 Revision of Notices of Intent
21.3 Cancellation of a Notice of Intent
22 Uniform Requirements for Environmental Impact Statements
22.1 Page Limits
22.2 Writing
22.3 Content and Format
22.31 Tiering
22.32 Adoption
22.33 Incorporation by Reference
22.34 Incomplete or Unavailable Information
22.35 Documentation of Cost-Benefit Analysis
22.36 Identification of Methodology and Scientific Accuracy
22.4 Filing, Circulation, and Availability of Environmental Impact Statements
23 Requirements Specific to Draft Environmental Impact Statements
23.1 Identification in Draft Environmental Impact Statements of Permits Necessary to Implement Proposal
23.2 Circulating and Filing a Draft Environmental Impact Statement
23.3 Solicit Comments on a Draft Environmental Impact Statement
23.4 Extending the Comment Period on a Draft Environmental Impact Statement
24 Requirements Specific to a Final Environmental Impact Statement
24.1 Use of Comments on a Draft Environmental Impact Statement in a Final Environmental Impact Statement
24.2 Filing and Distributing a Final Environmental Impact Statement
24.3 Review of Other Agency Environmental Impact Statements
24.31 Referrals to Council on Environmental Quality
24.4 Review of Forest Service Legislative or Service-Wide Environmental Impact Statements
25 Other Planning and Preparation Requirements for Environmental Impact Statements
25.1 Consultation Requirements
25.2 Elimination of Duplication With State and Local Procedures
25.3 Combining Documents to Eliminate Duplication
25.4 Federal Agencies With Legal Jurisdiction or Special Expertise
26 Responsibilities When Applicants and Contractors Are Involved
27 Documentation of Decisions
27.1 Timing of a Decision
27.2 Record of Decision
27.21 Format and Content
28 Notice and Distribution of the Record of Decision

Chapter 20—Environmental Impact Statements and Related Documents

For ease of reference and use, portions of the relevant CEQ regulations are set out in boldface type throughout the text of this chapter.

20.6 Classes of Actions requiring Environmental Impact Statements

Classes of actions that require preparation of environmental impact statements are listed below.

The requirements for classes 2, 3, and 4 may be met by the appropriate use of program environmental impact statements and tiered site-specific environmental documents or by the preparation of site-specific environmental impact statements.

1. *Class 1: Proposed actions for which an environmental impact statement is required by law or regulation.* Examples include:

a. Revising a land and resource management plan required by the National Forest Management Act (36 CFR 219.10).

b. Proposing that Congress enact legislation to designate a wilderness or a wild and scenic river (40 CFR 1506.8).

2. *Class 2: Proposed to carry out or to approve aerial application of chemical pesticides on an operational basis.* Examples include:

a. Applying chemical insecticides by helicopter on an area infested with spruce budworm to prevent serious resource loss.

b. Authorizing the application of herbicides by helicopter on a major utility corridor to control unwanted vegetation.

c. Applying herbicides by fixed-wing aircraft on an area to release trees from competing vegetation.

3. *Class 3: Proposals that would substantially alter the undeveloped character of an inventoried roadless area of 5,000 acres or more (FSH 1909.12).* Examples include:

a. Constructing roads and harvesting timber in a 56,000-acre inventoried roadless area where the proposed road and harvest units impact 3,000 acres in only one part of the roadless area.

b. Constructing or reconstructing water reservoir facilities in a 5,000-acre unroaded area where flow regimens may be substantially altered.

c. Approving a plan of operations for a mine which would cause considerable surface disturbance over 700 acres in a 10,000 acre roadless area.

4. *Class 4: Other proposals to take major Federal actions that may significantly affect the quality of the human environment.* Examples include:

a. Approving the use of 1,500 acres of National Forest System land to construct and operate an all-season recreation resort complex.

b. Authorizing the Bureau of Land Management to offer the sale of leases for oil and natural gas resources from

beneath 400,000 acres of National Forest System lands that have historically demonstrated a relatively high potential for discovery and development of oil and natural gas.

c. Approving the construction and operation of an international gas pipeline beneath a previously undeveloped 30-mile long, 1000-foot wide corridor within an ecologically sensitive area of National Forest System land.

21 Notices of Intent

21.1 Preparation and Distribution of Notices of intent

Prepare and publish a notice of intent in the **Federal Register** as soon as practicable after deciding that an environmental impact statement (EIS) will be prepared. The purpose of a notice of intent to prepare an environmental impact statement is to begin the scoping process for the EIS.

CEQ regulations require that:

* * * The notice shall briefly:

(a) Describe the proposed action and possible alternatives.

(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meetings will be held.

(c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement. (40 CFR 1508.22)

In addition, the notice of intent must include the following information:

a. Name and address of the responsible official(s);

b. A description of the nature and scope of the proposed action and the decision to be made;

c. Tentative or preliminary issues and alternatives which have been identified;

d. Identification of permits or licenses required to implement the proposed action and the issuing authority;

e. The lead, joint lead, or cooperating agencies (sec. 05);

f. The estimated dates (month and year) for filing the draft and final EIS;

g. An address to which comments may be mailed; and

h. The reviewer's obligation to comment during the review period rather than after completion of the final EIS. Use the standard paragraphs in exhibit 01.

Follow the **Federal Register** document preparation requirements and mailing instructions in section 67. Send one copy of the signed notice of intent to the Washington Office Director of Environmental Coordination (hard copy: Chief (1950); DG address: EC:WO1c). When the Chief or the Secretary is the responsible official, the appropriate field unit or WO staff shall prepare the notice of intent and send it to the Washington Office Director of Environmental Coordination for review, processing, and submission to the Office of the Federal Register.

Once the title of the EIS under preparation has been identified in the notice of intent, use the same title on the cover of the draft and final EIS.

21.1 Exhibit 01—Standard Paragraphs Required in Notices by Intent

The comment period on the draft environmental impact statement will be [enter correct time period (45-day minimum)] from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the (enter correct time period) comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

21.2 Revision of Notices of Intent

The official responsible for preparation of an EIS must notify the appropriate Regional, Station, or Area Environmental Coordinator and the Washington Office Director of Environmental Coordination whenever there is a major change in the information shown in the notice of intent. Major changes require publishing a revised notice of intent in the **Federal Register** (sec. 21.1).

Examples of major changes which require a revised notice of intent are:

1. A delay of more than six months in filing either the draft or final EIS;

2. A change in the proposed action or the decision to be made; or

3. Designation of a different responsible official by title.

A revised notice of intent shall refer to the date and page number of all prior notices relevant to the proposed action which were published in the **Federal Register**. Prepare and distribute a revised notice of intent in the same manner as the original (sec. 21.1 and 67).

21.3 Cancellation of a Notice of Intent

Publish a cancellation notice in the **Federal Register** to terminate the environmental analysis process if, after publication of a notice of intent or distribution of a draft EIS, a decision on a proposed action is no longer necessary. A cancellation notice must refer to the date(s) and page number(s) of previously published notice(s) of intent or the notice of availability of an EIS which were published in the **Federal Register**. Prepare and distribute a cancellation notice in the same manner as the notice of intent (sec. 21.1 and 67). In addition, send a copy of the cancellation notice to the Environmental Protection Agency's Office of Federal Activities (sec. 22.4).

When the Chief or the Secretary is the responsible official, the appropriate field unit or WO staff prepares the cancellation notice as soon as there is a decision to terminate the process and sends the notice to the Director of Environmental Coordination for review, processing, and submission to the Office of the Federal Register and Environmental Protection Agency's Office of Federal Activities.

22 Uniform Requirements for Environmental Impact Statements (Sec. 05)

The CEQ regulations require EIS's as follows:

As required by sec. 102(2)(C) of NEPA environmental impact statements ({1508.11) are to be included in every recommendation or report. On proposals ({1508.23).
For legislation and ({1508.17).
Other major Federal actions ({1508.18).
Significantly ({1508.27).
Affecting ({{1508.3, 1508.8).
The quality of the human environment ({1508.14). (40 CFR 1502.3)

22.1 Page Limits

The text of final environmental impact statements * * * shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages. (40 CFR 1502.7)

22.2 Writing

Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them. (40 CFR 1502.8)

22.3 Content and Format

An EIS must contain the following:

Agencies shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless the agency determines that there is a compelling reason to do otherwise:
(a) Cover sheet.
(b) Summary.
(c) Table of contents.
(d) Purpose of and need for action.
(e) Alternatives including proposed action (sections 102(2)(C)(iii) and 102(2)(E) of the Act).
(f) Affected environment.
(g) Environmental consequences (especially sections 102(2)(C) (i), (ii), (iv), and (v) of the Act).
(h) List of preparers.
(i) List of Agencies, Organizations, and persons to whom copies of the statement are sent.
(j) Index.
(k) Appendices (if any). If a different format is used, it shall include paragraphs (a), (b), (c), (h), (i), and (j), of this section and shall include the substance of paragraphs (d), (e), (f), (g), and (k) of this section, * * * (40 CFR 1502.10)

1. *Cover Sheet.* The cover sheet shall not exceed one page. It shall include:
(a) A list of the responsible agencies including the lead agency and any cooperating agencies.
(b) The title of the proposed action that is the subject of the statement (and if appropriate the titles of related cooperating agency actions), together with the State(s) and county(ies) (or other jurisdiction if applicable) where the action is located.
(c) The name, address, and telephone number of the person at the agency who can supply further information.
(d) A designation of the statement as a draft, final, or draft or final supplement.
(e) A one paragraph abstract of the statement. (40 CFR 1502.11)

Also include the name, title, and address of the responsible official.

The abstract of the EIS should include the alternatives considered and identification of the preferred alternative(s) if one or more exists.

If the EIS is a draft, the cover sheet must include the date by which comments must be received. The cover sheet for a draft EIS must also contain a standard statement as set out in exhibit 01 about the reviewer's obligation to comment during the review period. It may be necessary to reduce the type size to accommodate this information.

22.3 Exhibit 01—Standard Paragraph for Draft EIS Cover Sheet

Reviewers should provide the Forest Service with their comments during the review period of the draft environmental impact statement. This will enable the Forest Service to analyze and respond to the comments at one time and to use information acquired in the preparation of the final environmental impact statement, thus avoiding undue delay in the decisionmaking process. Reviewers have an obligation to structure their participation in the National Environmental Policy Act process so that it is meaningful and alerts the agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v *Hodel* (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Comments on the draft environmental impact statement should be specific and should address the adequacy of the statement and the merits of the alternatives discussed (40 CFR 1503.3).

2. *Summary.* Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary will normally not exceed 15 pages. (40 CFR 1502.12)

3. *Table of Contents.* List the major sections as well as a list of tables and exhibits.

4. *Purpose and Need.* The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action. (40 CFR 1502.13)

5. *Alternatives Including the Proposed Action.* This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment ({1502.15) and the Environmental Consequences ({1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:
(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.
(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.
(c) Include reasonable alternatives not within the jurisdiction of the lead agency.
(d) Include the alternative of no action.
(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.
(f) Include appropriate mitigation measures not already included in the proposed action or alternatives. (40 CFR 1502.14).

Additionally, for proposed actions on National Forest System lands, the description of each alternative must state whether or not it is consistent with the Forest Land and Resource Management Plan (36 CFR 219.10(c)).

6. *Affected Environment.* The environment impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced.
Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement. (40 CFR 1502.15).

7. *Environmental Consequences.* This section forms the scientific and analytic basis for the comparisons under (1502.14. It shall consolidate the discussions of those elements required by sections 102(2)(C) (i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of section 102(2)(C)(iii) as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of

man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in (1502.14. It shall include discussions of:

(a) Direct effects and their significance (1508.8).

(b) Indirect effects and their significance ((1508.8).

(c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See (1506.2(d).)

(d) The environmental effects of alternatives including the proposed action. The comparisons under (1502.14 will be based on this discussion.

(e) Energy requirements and conservation potential of various alternatives and mitigation measures.

(f) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.

(g) Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

(h) Means to mitigate adverse environmental impacts (if not fully covered under (1502.14(f)). (40 CFR 1502.16)

8. *List of Prepares.* The environmental impact statement shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement ((1502.6 and 1502.8). Where possible the persons who are responsible for a particular analysis, including analyses in background papers, shall be identifies * * * (40 CFR 1502.17)

9. *List of Agencies, Organizations, and Persons to Whom Copies of the Statement Are Sent.* The list should include names only and not addresses.

10. *Index.* All EIS's must include indexes. The purpose of an index is to make the information in the EIS fully available to the reader without delay. See section 62 for preparation of indexes.

11. *Appendix.* If an agency prepares an appendix to an environmental impact statement the appendix shall:

(a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference (1502.21)).

(b) Normally consist of material which substantiates any analysis fundamental to the impact statement.

(c) Normally be analytic and relevant to the decision to be made.

(d) Be circulated with the environmental impact statement or be readily available on request. (40 CFR 1502.18)

22.31 Tiering

Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review (1508.28). Whenever a broad environmental impact statement 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 environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action. The subsequent document shall state where the earlier document is available. Tiering may also be appropriate for different stages of actions. (40 CFR 1502.20)

The EIS which accompanies a land and resource management plan is an example of a "broad" EIS prepared for a program or policy statement.

22.32 Adoption

(a) An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion there of meets the standards for an adequate statement under these regulations.

(b) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section.

(c) A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.

(d) When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under part 1504, or when the statement's adequacy is the subject of a judicial action which is not final, the agency shall so specify. (40 CFR 1506.3)

22.33 Incorporation by Reference

Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference. (40 CFR 1502.21)

22.34 Incomplete or Unavailable Information

Refer to section 13 of this handbook for guidance on addressing incomplete or unavailable information.

22.35 Documentation of Cost-Benefit Analysis

If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an eid in evaluating the environmental consequences. To assess the adequacy of compliance with section 102(2)(B) of the Act the statement shall, when a cost-benefit analysis is prepared, discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities. For purposes of complying with the Act, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. In any event, an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, which are likely to be relevant and important to a decision. (40 CFR 1502.23)

22.36 Identification of Methodology and Scientific Accuracy

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix. (40 CFR 1502.24)

22.4 Filing, Circulation, and Availability of Environmental Impact Statements

Environmental impact statements together with comments and responses shall be filed with the Environmental Protection Agency, attention Office of Federal Activities (A–104), 401 M Street SW., Washington, DC 20460. Statements shall be filed with EPA no earlier than they are also transmitted to commenting agencies and made available to the public. (40 CFR 1506.9)

* * * * *

Agencies shall circulate the entire draft and final environmental impact statements except for certain appendices as provided in (1502.18(d) and unchanged statements as provided in (1503.4(c). However, if the statement is unusually long, the agency may circulate the summary instead, except that the entire statement shall be furnished to:

(a) Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental

impact involved and any appropriate Federal, State or local agency authorized to develop and enforce environmental standards.

(b) The applicant, if any.

(c) Any person, organization, or agency requesting the entire environmental impact statement.

(d) In the case of a final environmental impact statement any person, organization, or agency which submitted substantive comments on the draft.

If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for that requestor only shall be extended by at least 15 days beyond the minimum period. (40 CFR 1502.10)

A summary of the EIS distributed as a separate document must:

a. State how the full EIS can be obtained, and

b. Have a cover sheet attached.

23 Requirements Specific to Draft Environmental Impact Statements

23.1 Identification in Draft Environmental Impact Statements of Permits Necessary to Implement Proposal

(b) The draft environmental impact statement shall list all Federal permits, licenses, and other entitlements which must be obtained in implementing the proposal. If it is uncertain whether a Federal permit, license, or other entitlement is necessary, the draft environmental impact statement shall so indicate. (40 CFR 1502.25(b))

23.2 Circulating and Filing a Draft Environmental Impact Statement

1. Circulate a draft environmental impact statement (EIS) to agencies and to the public prior to or at the same time of transmittal to the Environmental Protection Agency (EPA) in Washington, DC. If the statement is unusually long, a summary may be circulated instead (40 CFR 1502.19). However, the responsible unit must file the entire document with EAP and furnish it to other agencies that have jurisdiction by law or special expertise. The entire EIS must also be furnished to the project proponent and other individuals and groups who have requested it.

2. File five copies of a draft EIS with the Environmental Protection Agency at the following address:

Management Information Unit, Office of Federal Activities (A-104), Environmental Protection Agency, Room 2119 Mail, 401 M Street, SW., Washington, DC 20460.

EPA will then publish the Notice of Availability in the **Federal Register.**

3. The following are the mandatory mailings for all EIS's prepared by the Forest Service.

Environmental Protection Agency Regional Office (Regions, addresses, and number of copies are listed in Chapter 60)

	DEIS	FEIS
Director, Environmental Coordination, (Chief, 1950), Forest Service—USDA, Box 96090, Washington, DC 20090-6090	3	3
Head, Acquisitions and Serials Branch, USDA-National Agricultural Library, 10301 Baltimore Blvd., Beltsville, MD 20705	3	3
Office of Environmental Affairs, Department of the Interior, MS 2340, Washington, DC 20240:		
Projects east of the Mississippi River	12	7
Projects west of the Mississippi River	18	12

Always send copies of EIS's to these agencies by expeditious methods of delivery. These methods also may be desirable for other key recipients. Base any other distribution to Federal agencies on agency expertise and legal jurisdiction as indicated in section 63. The addresses and number of copies required by each agency are shown in section 63.1.

4. Calculate the review period from the day after EPA's notice of availability appears in the **Federal Register**

(a) The Environmental Protection Agency shall publish a notice in the **Federal Register** each week of the environmental impact statements filed during the preceding week. The minimum time periods set forth in this section shall be calculated from the date of publication of this notice.

* * * * *

(d) The lead agency may extend prescribed periods. The Environmental Protection Agency may upon a showing by the lead agency of compelling reasons of national policy reduce the prescribed periods and may upon a showing by any other Federal agency of compelling reasons of national policy also extend prescribed periods, but only after consultation with the lead agency * * * Failure to file timely comments shall not be a sufficient reason for extending a period. If the lead agency does not concur with the extension of time, EPA may not extend it for more than 30 days * * * (40 CFR 1506.10)

Allow a minimum of 45 days for comments on an EIS unless a different time period is required by law or regulation. If the prescribed period must be reduced for compelling reasons of national policy, contact the Washington Office Director of Environmental Coordination prior to issuing a draft EIS. Contact the Washington Office Environmental Coordination Staff regarding questions on the date of publication in the Federal Register.

23.3 Solicit Comments on a Draft Environmental Impact Statement

The CEQ regulations require the following:

Inviting comments. (a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:

(1) Obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.

(2) Request the comments of:

(i) Appropriate State and local agencies which are authorized to develop and enforce environmental standards;

(ii) Indian tribes, when the effects may be on a reservation; and

(iii) Any agency which has requested that it receive statements on actions of the kind proposed * * *

(3) Request comments from the applicant, if any.

(4) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected. (40 CFR 1503.1)

Conduct public participation sessions, if appropriate. See FSH 1609.13 for suggestions on methods to involve the public in Forest Service planning and decisionmaking activities.

23.4 Extending The Comment Period on a Draft Environmental Impact Statement

The responsible official determines that an extension of the review period on the draft EIS is appropriate, notify interested and affected agencies, organizations, or persons in an appropriate manner (ch. 10). Forward one copy of the notice to EPA's Management Information Unit, Office of Federal Activities at the address listed in section 23.2 and one copy to the Washington Office Director of Environmental Coordination. EPA will publish the notice of the extension of the comment period in the **Federal Register** on the Friday following the week the notice is received.

24 Requirements Specific to a Final Environmental Impact Statement

24.1 Use of Comments on a Draft Environmental Impact Statement in a Final Environmental Impact Statement

1. Review, analyze, evaluate, and respond to substantive comments on the draft EIS.

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

(1) Modify alternatives including the proposed action.

(2) Develop and evaluate alternatives not previously given serious consideration by the agency.

(3) Supplement, improve, or modify its analyses.

(4) Make factual corrections.

(5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.

(c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a) (4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated ({1502.19).

The entire document with a new cover sheet shall be filed as the final statement ({1506.9). (40 CFR 1503.4)

2. When the responsible official determines that a summary of responses is appropriate, the summary must reflect accurately all substantive comments received on the draft EIS. Comments that are pertinent to the same subject may be aggregated by categories.

3. As a minimum, include in an appendix of a final EIS copies of all comments received on the draft EIS from Federal, State, and local agencies and elected officials.

24.2 Filing and Distributing a Final Environmental Impact Statement

1. File a final environmental EIS with the Environmental Protection Agency (EPA) as shown in section 23.2, along with all substantive comments or a summary of the comments on the draft EIS. The official filing date is the date that the EPA receives the EIS, not the date that EPA's notice of availability appears in the **Federal Register**. The Washington Office Director of Environmental Coordination files with EPA the statements for which the Chief or the Secretary is the responsible official.

2. Distribute a final EIS to other agencies and to the public prior to or at the same time of filing it with EPA (40 CFR 1506.9). If the statement is unusually long, a summary may be circulated instead (40 CFR 1502.19). However, the responsible official must file the entire document including appendices, with EPA and furnish it to other persons or agencies specified in sections 23.2.

If changes resulting from comments to a draft EIS are minor, they may be written on an errata sheet and attached to the draft EIS. In this case only the comments, the responses, and the changes need to be circulated. File the entire document with a new cover sheet as the final EIS (40 CFR 1503.4(c)).

3. After filing an EIS with the EPA, ensure that a reasonable number of copies of the statement are available free of charge.

4. Calculate the implementation date from the date the legal notice of the decision is published as required by 36 CFR part 217.

24.3 Review of Other Agency Environmental Impact Statements

Because of special agency expertise or jurisdiction by law, the Forest Service may be asked to review and comment on EIS's prepared by other agencies.

Duty to comment. Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved and agencies which are authorized to develop and enforce environmental standards shall comment on statements within their jurisdiction, expertise, or authority. Agencies shall comment within the time period specified for comment in (1506.10). A Federal agency may reply that it has no comment. If a cooperating agency is satisfied that its views are adequately reflected in the environmental impact statement, it should reply that it has no comment. (40 CFR 1503.2)

Specificity of comments. (a) Comments on an environmental impact statement or on a proposed action shall be as specific as possible and may address either the adequacy of the statement or the merits of the alternatives discussed or both.

(b) When a commenting agency criticizes a lead agency's predictive methodology, the commenting agency should describe the alternative methodology which it prefers and why.

(c) A cooperating agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the draft statement's analysis of significant site-specific effects associated with the granting or approving by that cooperating agency of necessary Federal permits, licenses, or entitlements.

(d) When a cooperating agency with jurisdiction by law objects to or expresses reservations about the proposal on grounds of environmental impacts, the agency expressing the objection or reservation shall specify the mitigation measures it considers necessary to allow the agency to grant or approve applicable permit, license, or related requirements or concurrences. (40 CFR 1503.3)

24.31 Referrals to Council on Environmental Quality

Part 1540 of the CEQ regulations provide the following:

(a) This part establishes procedures for referring to the Council Federal interagency disagreements concerning proposed major Federal actions that might cause unsatisfactory environmental effects. It provides means for early resolution of such disagreements.

(b) Under section 309 of the Clean Air Act (42 U.S.C. 7609), the Administrator of the Environmental Protection Agency is directed to review and comment publicly on the environmental impacts of Federal activities, including actions for which environmental impact statements are prepared. If after this review the Administrator determines that the matter is "unsatisfactory from the standpoint of public health or welfare or environmental quality," section 309 directs that the matter be referred to the Council (hereafter "environmental referrals").

(c) Under section 102(2)(C) of the Act other Federal agencies may make similar review of environmental impact statements, including judgments on the acceptability of anticipated environmental impacts. These reviews must be made available to the President, the Council and the public. (40 CFR 1504.1)

When Forest Service field review of another agency's draft EIS concludes that the proposed action is environmentally unacceptable, the affected field unit shall immediately contact the Washington Office Director of Environmental Coordination who will coordinate the referral procedure.

The 25-day time period allowed the review is extremely short; therefore, begin referral immediately after determining that the proposal is environmentally unacceptable.

24.4 Review of Forest Service Legislative or Service-Wide Environmental Impact Statements

Unless otherwise assigned by the Chief, officials in the Washington Office shall review and comment on EIS's prepared on Forest Service legislative proposals, Service-wide policies and regulations, or national program

proposals. The Director of Environmental Coordination shall coordinate these reviews and responses.

25 Other Planning and Preparation Requirements for Environmental Impact Statements

25.1 Consultation Requirements

Refer to FSM 23600 for consultation requirements on archaeological and cultural resources and FSM 2670 for consultation requirements with the Fish and Wildlife Service on threatened and endangered species.

Environmental review and consultation requirements. (a) To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*), the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), and other environmental review laws and executive orders. (40 CFR 1502.25(a))

25.2 Elimination of Duplication With State and Local Procedures

(a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law.

Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

(1) Joint planning processes.

(2) Joint environmental research and studies.

(3) Joint public hearings (except where otherwise provided by statute).

(4) Joint environmental assessments.

(c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law. (40 CFR 1506.2)

25.3 Combining Documents To Eliminate Duplication

Any environmental document in compliance with NEPA may be combined with any other agency document to reduce duplication and paperwork. (40 CFR 1506.4)

Examples include Wilderness Study Reports and Wild and Scenic River Study Reports which may be combined with a supporting EIS.

25.4 Federal Agencies With Legal Jurisdiction or Special Expertise

See section 63 for the Council on Environmental Quality's list of agencies with jurisdiction by law or special expertise. See section 63.1 for addresses and recommended document distribution when an agency is determined to have special expertise.

26 Responsibilities When Applicants and Contractors Are Involved

The responsible official my require project proponents to conduct studies and provide data and documentation for consideration and use in preparing an EIS. However, the Forest Service does not have authority to require a proponent to prepare or fund the preparation of an EIS.

Agency responsibility. (a) Information. If an 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 (1502.17. It is the intent of this paragraph that acceptable work not be redone, but that it be verified by the agency.

* * * * *

(c) *Environmental impact statements.* Except as provided in ((1506.2 and 1506.3 any environmental impact statement prepared pursuant to the requirements of NEPA shall be prepared directly by a contractor selected by the lead agency or where appropriate under (1501.6(b), 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 * * * (40 CFR 1506.5 (a) and (c)).

27 Documentation of Decisions

27.1 Timing of a Decision

The following time limits apply to decisions supported by an EIS:

Timing of agency action. (a) The Environmental Protection Agency shall publish a notice in the Federal Register each week of the environmental impact statements filed during the preceding week. The minimum time periods set forth in this section shall be calculated from the date of publication of this notice.

(b) No decision on the proposed action shall be made or recorded under (1505.2 by a Federal agency until the later of the following dates:

(1) Ninety (90) days after publication of the notice described above in paragraph (a) of this section for a draft environmental impact statement.

(2) Thirty (30) days after publication of the notice described above in paragraphs (1) of this section for a final environmental impact statement. (40 CFR 1506.10)

27.2 Record of Decision

If an EIS has been prepared, the responsible official shall document the decision in a record of decision. Prior to signing a record of decision, the responsible official shall read and understand the environmental effects displayed in an EIS. CEQ requirements for a record of decision are as follows:

At the time of its decision ((1506.10) or, if appropriate, its recommendation to Congress, each agency shall prepare a concise public record of decision. The record, which may be integrated into any other record prepared by the agency, * * * shall:

(a) State what the decision was.

(b) Identify all alternatives considered by the agency in reaching its decision, specifying the alternatives or alternatives which were considered to be environmentally preferable. An agency may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. An agency shall identify and discuss all such factors including any essential considerations of national policy which were balanced by the agency in making its decision and state how those considerations entered into its decision.

(c) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation. (40 CFR 1505.2)

The record of decision must also include consistency and conformance findings which are required by laws and regulations relevant to the decision being made. A record of decision for a National Forest System proposed action must display consistency with the relevant forest plan.

27.21 Format and Content

Records of decision should generally conform to the following format and must meet the following content requirements. Sections of the format may be combined or rearranged in the interest of clarity and brevity. Records of decision should reflect the analysis documented in the EIS and contain the following elements.

1. *Heading.* The heading must identify:

(a) Agency.

(b) Type of decision document, that is, record of decision.

(c) The title of the proposed action.

(d) The location of the proposed action, including administrative unit, county, and state.

2. *Decision and Reasons for the Decision.* Describe the decision being made, including the permits, licenses, grants, or authorizations needed to implement the decision. Identify the specific location of the alternative selected, including the legal land subdivision if pertinent. Refer to or include any mitigation and monitoring program related to the decision.

This section also identifies:

(a) Applicable laws, regulations, and policies.

(b) How environmental issues were considered and addressed.

(c) Factors other than environmental consequences considered in making the decision.

(d) Identification of environmental document(s) considered in making the decision.

3. *Public involvement conducted.* Identify the issues which determined the scope of the analysis. Provide a brief summary of the public participation that relates to the decision. Agencies, organizations, or persons raising issues or asserting opposing viewpoints may be identified and their positions discussed.

4. *Alternatives considered.* All alternatives considered (including the no-action) should be briefly discussed with specific references to the EIS. Mitigation measures, management requirements, and monitoring provisions that are pertinent to environmental concerns should be discussed with specific citations to pages of the EIS.

5. *Findings required by other laws.* Include any findings required by any other laws. For example, findings of consistency with the forest plan, suitability, and vegetation management required by the National Forest Management Act.

6. *Identify the Environmentally Preferable Alternative.* Based on the definition in section 05, state which alternative(s) is environmentally preferable.

7. *Implementation date.* Identify the date when the responsible official intends to implement the decision (sec. 51).

8. *Administrative review or appeal opportunities.* Clearly state whether the decision is subject to review or appeal (citing the applicable regulations), and identify when and where to file a request for review or appeal.

9. *Contact Person.* Identify the name, address, and phone number of a contact person who can supply further information.

10. *Signature and Date.* The responsible official signs and dates the record of decision on the date the decision is made.

(a) For decisions subject to review under the Forest Service appeal regulations (36 CFR part 217), the responsible official may sign and date the record of decision on the date that it is transmitted with the final EIS to the Environmental Protection Agency and made available to the public.

(b) For decisions not subject to review, the responsible official may not sign and date the record of decision sooner than 30 days after EPA's notice of availability of the final EIS is published in the **Federal Register** (sec. 27.1).

(c) For legislative proposals, the record of decision may be signed up to 30 days prior to filing and distributing the legislative EIS.

When an EIS identifies joint lead agencies (sec. 11.31a) or cooperating agencies with jurisdiction by law, the responsible official from each agency shall sign and date a record of decision for those actions within the authority of each agency.

When the Chief or Secretary is the responsible official, the appropriate field unit or WO staff prepares the record of decision with assistance from the WO Environmental Coordination staff. The Washington Office Director of Environmental Coordination coordinates the review and signing of the record of decision, involving the appropriate WO staff(s), Deputy Chief, Chief, or Secretary, as necessary. The signed original is then filed in WO Environmental Coordination Staff office files and the WO Environmental Coordination Staff forwards a copy to the appropriate field unit or WO staff for necessary distribution.

28—Notice and Distribution of the Record of Decision

Distribute the record of decision as soon as it is signed to agencies, organizations, and persons interested in or affected by the proposed action.

1. The responsible official shall promptly mail the record of decision to those who have requested it in writing and to those who are known to have participated in the decisionmaking process.

2. For decisions subject to appeal under 36 CFR part 217, in addition to the notice required by paragraph 1, the responsible official shall publish a notice of the availability of the record of decision in the legal section of a newspaper(s) with general circulation in the area where the proposed action will take place as required by 36 CFR part 217. The responsible official may also elect to publish a summary of the decision or the complete text of the record of decision.

3. The responsible official will provide other form of notice appropriate to the importance of the decision.

4. The responsible official shall enter the date of the record of decision on the schedule of proposed actions.

When required by E.O. 12372, Intergovernmental Review of Federal Programs, send copies to the State Single Point of Contact or, in cases where a State has elected not to establish a Single Point of Contact, the State official(s) involved.

Chapter 30—Categorical Exclusion From Documentation

Contents

30.3 Policy
30.5 Definitions

31 Categories of Actions Excluded From Documentation

31.1 Categories for Which a Project or Case File and Decision Memo Are Not Required
31.1a Categories Established by the Secretary
31.1b Categories Established by the Chief
31.2 Categories of Actions for Which a Project or Case File and Decision Memo Are Required

32 Documentation of Decisions

32.1 Decision Memo Not Required
32.2 Decision Memo Required
32.3 Format and Content of a Decision Memo

33 Notice and Distribution of Decision Memo

Chapter 30—Categorical Exclusion From Documentation

For reference, USDA regulations for NEPA are set out in boldface type.

30.3 Policy

1. A proposed action may be categorically excluded from documentation in an environmental impact statement (EIS) or environmental assessment (EA) only if the proposed action:

a. Is within one of the categories in the Department of Agriculture (USDA) NEPA policies and procedures in 7 CFR part 1b.

b. Is within a category listed in sec. 31.1b or 31.2; and there are no extraordinary circumstances related to the proposed action.

2. Extraordinary circumstances include, but are not limited to, the presence of the following:

a. Steep slopes or highly erosive soils.

b. Threatened and endangered species or their critical habitat.

c. Flood plains, wetlands, or municipal watersheds.

d. Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas.

e. Inventoried roadless areas.

f. Research Natural Areas.

g. Native American religious or cultural sites, archaeological sites, or historic properties or areas.

3. Scoping is required on all proposed actions, including those that would appear to be categorically excluded. If scoping indicate that extraordinary circumstances are present and it is uncertain that the proposed action may have a significant effect on the environment, prepare an EA (ch. 40). If scoping indicates that the proposed action may have a significant environmental effect, prepare an EIS (ch. 20).

4. If an action has been sufficiently analyzed in a completed EIS or an (EA), but not approved in the appropriate decision document, issue a record of decision of a decision notice and finding of no significant impact without considering the categories in this chapter (ch. 30). If an action has been sufficiently analyzed in a completed EIS or EA and approved in the appropriate decision document, it can be implemented without considering the categories in this chapter (ch. 30).

30.5 Definitions

Categorical Exclusion. (sec. 05).

Decision Memo. (sec. 05).

Extraordinary Circumstances. Conditions associated with a normally excluded action that are identified during scoping as potentially having effects which may significantly affect the environment (sec. 05).

31 Categories of Actions Excluded from Documentation

31.3 Categories for Which a Project or Case File and Decision Memo Are Not Required

At the discretion of the responsible official, a project or case file and a decision memo are not required but may be prepared for the categories of actions set forth in sections 31.1a and 31.1b.

31.1a Categories Established by the Secretary

The rules at 7 CFR 1b.3 exclude from documentation in an EIS or an EA the following categories:

(a) * * *

(1) Policy development, planning and implementation which relate to routine activities, such as personnel, organizational changes, or similar administrative functions;

(2) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(3) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(4) Educational and informational programs and activities;

(5) Civil and criminal law enforcement and investigative activities;

(6) Activities which are advisory and consultative to other agencies and public and private entities, such as legal counseling and representation;

(7) Activities related to trade representation and market development activities abroad. (7 CFR 1b.3)

31.1b Categories Established by the Chief

The following categories of routine administrative, maintenance, and other actions normally do not individually or cumulatively have a significant effect on the quality of the human environment (sec. 05) and, therefore, may be categorically excluded from documentation in an EIS or an EA unless scoping indicates extraordinary circumstances (sec. 30.5) exist:

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 bighorn sheep during lambing season.

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 wilderness.

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 agreeing on land values.

f. Establishing procedures for amending or revising Forest Land and Resource Management Plans.

3. *Repair and maintenance of administrative 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.

d. Applying registered pesticides for rodent or vegetation control.

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.

d. Applying registered pesticides for rodent or vegetation control.

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.

31.2 Categories of Actions for Which a Project or Case File and Decision Memo Are Required

Routine, proposed actions within any of the following categories may be excluded from documentation in an EIS or an EA; however, a project or case file is required and the decision to proceed must be documented in a decision memo (sec. 32). As a minimum, the project or case file should include any records prepared, such as: (1) The names of interested and affected people, groups, and agencies contacted; (2) the determination that no extraordinary circumstances exist; (3) a copy of the decision memo (sec. 30.5 (2); (4) a list of the people notified of the decision; (5) a copy of the notice required 36 CFR Part 217, or any other notice used to inform interested and affected persons of the decision to proceed with or to implement an action that has been categorically excluded. Maintain a project or case file and prepare a decision memo for routine, proposed actions within any of the following categories.

1. *Construction and reconstruction of trails.* Examples include but are not limited to:

a. Constructing or reconstructing a trail to a scenic overlook.

b. Reconstructing an existing trail to allow use by handicapped individuals.

2. *Additional construction or reconstruction of existing telephone or utility lines in a designated corridor.* Examples include but are not limited to:

a. Replacing an underground cable trunk and adding additional phone lines.

b. Reconstructing a power line by replacing poles and wires.

3. *Approval, modification, or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land.* Examples include but are not limited to:

a. Approving the construction of a meteorological sampling site.

b. Approving the use of land for a one-time group event.

c. Approving the construction of temporary facilities for filming of staged or natural events or studies of natural or cultural history.

d. Approving the use of land for a 40-foot utility corridor that crosses one mile of a National Forest.

e. Approving the installation of a driveway, mailbox, or other facilities incidental to use of residence.

f. Approving an additional telecommunication use at a site already used for such purposes.

g. Approving the removal of mineral materials from an existing community pit or common-use area.

h. Approving the continued use of land where such use has not changed since authorized and no change in the physical environment of facilities are proposed.

4. *Tiber harvest which removes 250,000 board feet or less of merchantable wood products or salvage which removes 1,000,000 board feet or less of merchantable wood products; which requires one mile or less of low standard road construction (Service level D, FSH 7709.56); and assures regeneration of harvested or salvaged areas, where required.* Examples includes but are not limited to:

a. Harvesting (FSM 2401.1 and 2401.2) 60,000 board feet of merchantable timber from 100 acres, including the construction of one-half mile of additional roads.

b. Salvaging (FSM 2435 and 2470.5) an estimated volume of 750,000 board feet of merchantable wood products timber from dead or dying trees, including the construction of one mile of access road, from an area that is generally flat with good drainage.

c. Thinning (FSM 2431 and 2470.5) an estimated 200,000 board feet of timber from over-stocked timber stands, which requires construction of one-quarter mile of additional access road.

5. *Regeneration of an area to native tree species, including site preparation which does not involve the use of herbicides or result in vegetation type conversion.* Examples include but are not limited to:

a. Planting seedlings of superior trees in a progeny test site to evaluate genetic worth.

b. Planting trees or mechanical seed dispersal of native tree species following a fire, flood, or landslide.

6. *Timber stand and/or wildlife habitat improvement activities which do not include the use of herbicides or do not require more than one mile of low standard road construction (Service Level D, FSH 7709.56).* Examples include but are not limited to:

a. Girdling trees to create snags.

b. Thinning or brush control to improve growth or to reduce fire hazard including the opening of an existing road to a dense timber stand.

c. Prescribed burning to control understory hardwoods in stands of southern pine.

d. Prescribed burning to reduce natural fuel build-up and improve plant vigor.

7. *Modification or maintenance of stream or lake aquatic habitat improvement structures using native materials or normal practices.* Examples include but are not limited to:

a. Reconstructing a gabion with stone from a nearby source.

b. Adding brush to lake fish beds.

c. Cleaning and resurfacing a fish ladder at a hydroelectric dam.

8. *Short-term (one year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than one mile of low standard road (Service Level D, FSH 7709.56), or use and minor repair of existing roads.* Examples include but are not limited to:

a. Authorizing geophysical investigations which use existing roads that may require incidental repair to reach sites for drilling core holes, temperature gradient holes, or seismic shortholes.

b. Gathering geophysical data using shorthole, vibroseis, or surface charge methods.

c. Trenching to obtain evidence of mineralization.

d. Clearing vegetation for sight paths or from areas used for investigation or support facilities.

e. Redesigning or rearranging surface facilities within an approved site.

f. Approving interim and final site restoration measures.

g. Approving a plan for exploration which authorizes repair of an existing road and the construction of one-third mile of temporary road; clearing

vegetation from an acre of land for trenches, drill pads, or support facilities.

9. *Implementation or modification of minor management practices to improve allotment condition or animal distribution when an Allotment Management Plan is not yet in place.* Examples include but are not limited to:

a. Rebuilding a fence to improve animal distribution.

b. Adding a stock watering facility to an existing water line.

c. Spot seeding native species of grass or applying lime to maintain forage condition.

32 Documentation of Decisions

32.1 Decision Memo Not Required

If a proposed action has been categorically excluded from documentation in an EIS or an EA under USDA categories (7 CFR 1b.3) or the categories listed in section 31.1b, a Decision Memo is not required; however, interested and affected persons must be informed in an appropriate manner of the decision to proceed with the proposed action (see. 11.7).

32.2 Decision Memo Required

If the proposed action has been categorically excluded from documentation in an EIS or an EA under the categories listed in section 31.2, document the decision to proceed with the proposed action in a decision memo. Section 32.3 sets forth the format and content of a decision memo.

When the Chief or Secretary is the responsible official, the appropriate field unit prepares the decision memo with assistance from the Washington Office (WO) Environmental Coordination Staff. The WO Environmental Coordination Staff coordinates the review and signing of the decision memo, involving the appropriate WO staff(s), Deputy Chief, Chief, or Secretary, as necessary. The signed original will be filed in WO Environmental Coordination Staff office files. The WO Environmental Coordination Staff will forward a copy to the appropriate field unit or WO staff for necessary distribution.

32.3 Format and Content of a Decision Memo

The format of a decision memo is not intended to replicate the format of a correspondence memorandum (FSH 6209.17). Generally, decision memos should conform to the following format and content, although sections may be combined or rearranged in the interest of clarity and brevity.

1. *Heading.* The heading will identify:

a. Title of document, that is decision memo.

b. Agency.

c. The title of the proposed action.

d. The location of the proposed action (including administrative unit, county, and state). If appropriate, include the legal land description.

2. *Decision.* Describe the decision to be implemented and the reasons for categorically excluding the proposed action. Include:

a. The category (sec. 31.2) of the proposed action.

b. A finding that no extraordinary circumstances exist (see. 30.5).

3. *Public Involvement.* List any interested and affected agencies, organizations, and persons contacted.

4. *Findings required by other laws.* Include any findings required by any other laws. For example, findings of consistency with the Forest Land and Resource Management Plan as required by the National Forest Management Act (FSM 1922.41 and FSH 1909.12); or a public interest determination (36 254.3(c) and FSM 5430.3).

5. *Implementation date.* Include the date when the responsible official intends to implement the decision, and identify any conditions related to implementation (sec. 50.3).

6. *Administrative review or appeal opportunities.* State whether the decision is subject to review or appeal, cite the applicable regulations, and identify when and where to file a request for review of appeal.

7. *Contact Person.* Include the name, address, and phone number of a contact person who can supply further information about the decision.

8. *Signature and Date.* The responsible official must sign and date the decision memo on the date the decision is made.

33 Notice and Distribution of Decision Memo

Distribute a decision memo as soon as it is signed to agencies, organizations, and persons interested in or affected by the proposed action.

1. The responsible official shall promptly mail the decision memo to those who requested it.

2. As a minimum, for a decision subject to appeal under 36 CFR part 217, in addition to the notice required by paragraph 1, the responsible official shall publish a notice of the availability of the decision memo and a summary of the decision as required by 36 CFR part 217. The responsible official may elect to publish the complete text of the decision memo.

3. The responsible official may provide other forms of notice appropriate to the importance of the decision.

4. The responsible official shall enter the date of the decision memo on the schedule of proposed actions (sec. 07).

5. When required by E.O. 12372, Intergovernmental Review of Federal Programs, send copies to the State Single Point of Contract or, in cases where a State has elected not to establish a Single Point of Contact, the State official(s) involved.

Chapter 40—Environmental Assessments and Related Documents

Contents

41 Environmental Assessments

41.1 Purpose of Environmental Assessments
41.2 Content

42 Other Considerations in Preparing Environmental Assessment

42.1 Tiering
42.2 Adoption
42.3 Incorporation by Reference

43 Documentation of Decisions

43.1 Finding of No Significant Impact (FONSI)
43.2 Decision Notice
43.21 Format and Content

44 Notice and Distribution of FONSI and Decision Notice

Chapter 40—Environmental Assessments and Related Documents

For ease of reference and use, portions of the relevant CEQ regulations are set out in boldface type throughout the text of this chapter.

41 Environmental Assessments

Prepare environmental assessments (EA's) to document the results of environmental analyses and to disclose the environmental consequences for proposed actions that are not categorically excluded from documentation and for which the need for an environmental impact statement has not been determined.

The CEQ Regulations provide that an environmental assessment is not necessary if the agency had decided to prepare an environmental impact statement (40 CFR 1501.3(a)). Therefore, if, prior to completion of the environmental assessment, the responsible official determines an environmental impact statement should be prepared, discontinue the environmental assessment documentation, prepare a notice of intent (sec. 21), and proceed with the preparation of an environmental impact statement (ch. 20).

41.1 Purpose of Environmental Assessments

The purpose of an environmental assessment is to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary. (40 CFR 1508.9(a))

41.2 Content

An environmental assessment may be prepared in any format useful to facilitate planning, decisionmaking, and public disclosure as long as the requirements of this chapter are met. The length and detail of an environmental assessment may vary according to the complexity of the issues involved in the analysis. An environmental assessment:

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by section 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted. (40 CFR 1508.9(b))

42 Other Considerations in Preparing Environmental Assessments

42.1 Tiering

Tier EA's to other environmental documents of broader scope to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision. See sections 05, 22.31, and 25.3 for additional information about tiering.

42.2 Adoption

Adopt other existing EA's or portions thereof to eliminate duplication and reduce excessive paperwork if the document meets Forest Service standards and requirements. Sections 22.32 and 25.2(c) contain additional guidance on adoption.

42.3 Incorporation by Reference

Incorporate material into EA's by reference when the result will be to cut down on bulk without impeding agency and public review of the proposed action and alternatives. Include a brief summary of the material being incorporated by reference. See section 22.33 for additional guidance on incorporation by reference.

43 Documentation of Decisions

43.1 Finding of No Significant Impact (FONSI)

When an environmental assessment has been prepared, the responsible official shall review the document and determine whether the proposed action may have significant effect on the quality of the human environment. The CEQ Regulations define a finding of no significant impact (FONSI) as:

* * * a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded ((1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it ((1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference. (40 CFR 1508.13)

If the responsible official determines that the proposed action may have a significant effect on the quality of the human environment, publish a notice of intent to prepare an environmental impact statement (ch. 20) in the **Federal Register**. Otherwise, prepare a FONSI. A FONSI may be separate document or included as part of a decision notice (sec. 43.2).

Use the criteria in the definition for "significantly," section 05, for determining whether the action will have a significant effect on the human environment.

In some situations, a FONSI must be available for a minimum of 30 days before a decision to implement a proposed action can be made (sec. 44).

For additional guidance on FONSI's, see sec. 65.12 CEQ 40 Most Asked Questions, questions 37a, 37b, 38, 39, and 40.

43.2 Decision Notice

If an environmental assessment and a FONSI have been prepared, document the decision to proceed with an action or activity in a decision notice. The responsible official shall read and concur in the environmental assessment and finding of no significant impact prior to signing a decision notice.

If a FONSI cannot be prepared because the proposed action may have a significant effect on the environment, a decision notice is not required. If this is the case, prepare and issue a notice of intent to prepare an environmental impact statement. Note the status of the environmental analysis on the schedule of proposed actions (sec. 07.1).

When the Chief or Secretary is the responsible official, the appropriate field unit or Washington Office (WO) staff(s) prepares the decision notice with assistance from the WO Environmental Coordination Staff. The WO Environmental Coordination Staff coordinates the review and signing of the decision notice, involving the appropriate WO staff(s), Deputy Chief, Chief, or Secretary as necessary. The signed original is retained in WO Environmental Coordination files.

The WO Environmental Coordination Staff then forwards a copy to the appropriate field unit or WO staff for necessary distribution.

43.21 Format and Content

Decision notices should reflect the conclusions drawn and the decision(s) made from the analysis documented in the environmental assessment. Generally, they should conform to the following format and content suggestions. Sections may be combined or rearranged in the interest of clarity and brevity.

1. *Heading.* The heading must identify:

a. Title of document (Decision Notice or Decision Notice and Finding of No Significant Impact).

b. Agency.

c. The title of the proposed action.

d. The location of the proposed action, including administrative unit, county, State. In some cases, it may be appropriate to include the legal land description.

2. *Decision and Reasons for the Decision.* Describe the selected alternative and the nature of the decision. In addition, this section identifies:

a. Applicable laws, regulations, and policies.

b. How issues were considered.

c. Factors other than environmental effects considered in making the decision.

d. Identification of environmental document(s) considered in making the decision.

e. How considerations in the preceding paragraphs a–d were weighed and balanced in arriving at the decision.

3. *Alternatives considered.* All alternatives considered, including the no-action alternative, should be briefly discussed with specific citations to relevant information in the environmental assessment.

Relevant mitigation measures, management requirements, and monitoring provisions should be discussed with specific citations to pages of the environmental assessment.

4. *Public involvement.* Provide a brief summary of how the public was involved in the analysis.

Persons or groups raising issues or asserting opposing viewpoints may be identified and their views discussed in light of the decision.

5. *Finding of No Significant Impact (FONSI).* The decision notice must either contain or refer to a finding of no significant impact (sec. 43.1).

6. *Findings required by other laws and regulations.* Include any findings required by any other laws which apply to the decision being made. For example, findings regarding consistency

with the forest plan, suitability for timber production, and vegetation management criteria required by the National Forest Management Act and 36 CFR part 219.

7. *Implementation date.* Identify the date when the responsible official intends to implement the decision (sec. 52).

8. *Administrative review or appeal opportunities.* State whether the decision is subject to administrative review or appeal, cite the applicable regulations, and indicate when and where to file a request for review or appeal.

9. *Contact person.* Identify the name, address, and phone number of a contact person who can supply additional information.

10. *Signature and Date.* The responsible official must sign and date the decision notice on the date the decision is made.

44 Notice and Distribution of Fonsi and Decision Notice

Distribute EA's, decision notices, and FONSI's to agencies, organizations, and persons interested in or affected by the proposed action.

Under certain circumstances, the responsible official may issue a FONSI and decision notice separately.

The circumstances are:

(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to § 1507.3, or

(ii) The nature of the proposed action is one without precedent. (40 CFR 1501.4(e)(2))

In such cases the FONSI must be issued first in accordance with the following CEO rule:

* * * the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. (40 CFR 1501.4(2))

The responsible official shall promptly mail the FONSI and decision notice to those who, in writing, have requested it and to those who are known to have participated in the decisionmaking process.

As a minimum, for a decision subject to appeal under 36 CFR part 217, in addition to the notice required by paragraph 1, the responsible official shall publish a notice of the availability of the decision notice and a summary of the decision as required by 36 CFR part 217. The responsible official may elect to publish the complete text of the decision notice.

The responsible official may provide other forms of notice appropriate to the nature and scope of the decision.

The responsible official shall enter the date of the FONSI and the decision notice on the schedule of proposed actions (sec. 07).

When required by E.O. 12372, Intergovernmental Review of Federal Programs, send copies to the State Single Point of Contact or, in cases where a State has elected not to establish a Single Point of Contact, the State official(s) involved.

Chapter 50—Implementation and Monitoring

Contents

50.3 Policy
51 Implementing Decisions Documented in a Record of Decision
52 Implementing Decisions Documented in a Decision Notice
53 Monitoring

Chapter 50—Implementation and Monitoring

For ease of reference and use, portions of the relevant CEQ regulations are set out in boldface type in the text of this chapter.

50.3 Policy

Commitments for mitigation and monitoring included in the final environmental impact statement (EIS) and record of decision, a finding of no significant impact (FONSI) and decision notice, or a decision memo must be met.

51 Implementing Decisions Documented in a Record of Decision

A decision documented in a record of decision can be implemented no sooner than 30 days following the date the Environmental Protection Agency publishes the Notice of Availability of the related final EIS in the **Federal Register** (40 CFR 1506.10).

52 Implementing Decisions Documented in a Decision Notice

When a proposed action is similar to one that normally requires an EIS or when the nature of a proposed action is without precedent, do not implement the decision until after the decision notice and a FONSI have been available for public review for 30 days (40 CFR 1501.4(e)(2)).

At the end of the 30-day period, consider public comment and implement the decision, or publish a notice of intent to prepare an EIS.

53 Monitoring

Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (§ 1505.2(c)) and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

(a) Include appropriate conditions in grants, permits or other approvals.

(b) Condition funding of actions on mitigation.

(c) Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which were adopted by the agency making the decision.

(d) Upon request, make available to the public the results of relevant monitoring. (40 CFR 1505.3)

In addition to complying with relevant monitoring requirements of an existing Forest Land and Resource Management Plan (FSH 1909.12, Ch. 6), monitor actions to ensure that:

1. Mitigation measures and terms and conditions of permits or other land use authorizations are met.

2. Anticipated results are achieved.

3. Necessary adjustments are made to achieve desired results.

Chapter 60—References

Contents

61 Environmental Factors [Reserved]
61.1 Physical Factors [Reserved]
61.2 Biological Factors [Reserved]
61.3 Economic Factors [Reserved]
61.4 Social Factors [Reserved]
62 Indexing Standards [Reserved]
62.05 Definitions [Reserved]
62.1 Length [Reserved]
62.2 Layout [Reserved]
62.3 Conventional Practices [Reserved]
62.4 Methodology [Reserved]
62.5 References [Reserved]
63 List of Federal Agencies and Federal-State Agencies With Jurisdiction by Law or Special Expertise on Environmental Quality Issues [Reserved]
63.1 List of Federal and Federal-State Agencies for Distribution Purposes [Reserved]
64 Laws [Reserved]
64.1 National Environmental Policy Act of 1969 as Amended [Reserved]
64.2 Environmental Quality Improvement Act [Reserved]
64.3 Section 309. Clean Air Act [Reserved]
65 Regulations and Supplementary Information [Reserved]
65.1 Council on Environmental Quality (CEQ) Regulations [Reserved]
65.11 CEQ Supplementary Information [Reserved]
65.12 CEQ 40 Most-Asked Questions [Reserved]
65.13 CEQ Scoping Guidance [Reserved]
65.14 CEQ Guidance Regarding NEPA Regulations [Reserved]
65.2 Department of Agriculture NEPA Policies and Procedures [Reserved]
65.3 Environmental Protection Agency Rating System [Reserved]
66 Executive Orders [Reserved]