

BACKGROUND on Forest Service NEPA Procedures

Signed into law on January 1, 1970, the National Environmental Policy Act (NEPA) was the first major environmental law in the United States and established this country's environmental policies. To implement these policies, NEPA instructs agencies to assess the environmental effects of their proposed actions before making decisions. Two of the major purposes of this process are to:

- Disclose environmental effects, and
- Make informed decisions.

Under NEPA, Congress established the Council on Environmental Quality (CEQ) in the Executive Office of the President to ensure that Federal agencies met their obligations under the Act and to establish implementing procedures in regulation. CEQ regulations, found at 40 CFR 1507.3, require Federal agencies to:

- Adopt procedures as needed to supplement CEQ regulations implementing NEPA and
- Consult with CEQ during the development of proposed procedures and before publishing them in the Federal Register.

NEPA further encourages agencies to publish internal agency explanatory guidance for CEQ regulations and agency procedures.

In 1979, the Forest Service decided to combine its implementing procedures and explanatory guidance in its directive system: Forest Service Manual (FSM) 1950 and Forest Service Handbook (FSH) 1909.15. The blending of NEPA implementing procedures with internal explanatory guidance required the Forest Service to consult with CEQ whenever the Forest Service amended any guidance explaining CEQ or Forest Service procedures even if the changes were very small or insignificant. This has resulted in an unnecessary administrative burden for the Forest Service and CEQ.

Moving the NEPA procedures to the CFRs better meets CEQ regulations (40 CFR 1507.3) and mirrors other federal agencies by having its procedures in regulation.

The Forest Service will continue to provide additional guidance to field units about NEPA implementation in its directives. The Forest Service Directives System includes manuals and handbooks. Manuals contain legal authorities, objectives, policies, responsibilities, instructions, and guidance that Forest Service line officers and primary staff need on a continuing basis to plan and implement their programs and activities. Handbooks are specialized guidance and instruction on how to carry out FSM direction and have the same force and effect as manual direction.

The Forest Service NEPA procedures in the CFRs will still require consultation with CEQ and the public for any changes. On the other hand, changes to the handbook to respond more quickly to new ideas, new information, interpretation of procedures, training needs, and editorial changes may be made more expeditiously.

Nearly 11,000 comments on the draft NEPA procedures rule were received and considered. Respondents generally approved the move of the implementing regulations to the Code of Federal Regulations. Some respondents had concerns with some of the details and made recommendations, many of which were incorporated in the final rule.

Since the last major update of Forest Service NEPA policy in 1992, CEQ has issued guidance memos the Forest Service felt was important to incorporate in its regulation including:

- “Guidance on the Consideration of Past Actions in Cumulative Effects Analysis;”
and
- “Emergency Actions and NEPA.”

The Forest Service also wanted to incorporate widely used public collaboration and adaptive management principles being used in the field into the Forest Service NEPA procedures.

The NEPA procedures rule also:

- Clarifies the Forest Service’s existing NEPA procedures
- Better aligns the Forest Service’s NEPA procedures with its decision processes.