by Executive Order 12044. This may necessitate modifying the recommended CEQ format. If documents are combined, the RFO is to include the information and sections required by the CEQ regulations (40 CFR 1502.10). The environmental impact statement should indicate those considerations, including factors not related to environmental quality, that are likely to be relevant to a decision.

(2) The RFO is to establish the format and content of each document giving full consideration to the guidance and requirements of the CEQ regulations. The NRCS technical service center director is to provide guidance and concurrence on the format and content if the NRCS state conservationist is the RFO. The results of scoping are to determine the content of the EA or the EIS and the amount of detail needed to analyze the impacts.

(3) In addition to the minimum requirements of the CEQ regulations (40 CFR 1502.10), environmental assessments and environmental impact statements are to include—

(i) A brief description of public participation activities of agencies, groups, and individuals during the environmental evaluation;

(ii) A description of the hazard potential of each alternative, including an explanation of the rationale for dam classification and the risk of dam failure from overtopping for other causes;

(iii) Information identifying any approved regional plans for water resource management in the study area (40 CFR 1506.2(d)) and a statement on whether the proposed project is consistent with such plans;

(iv) All Federal permits, licenses, and other entitlements that must be obtained (40 CFR 1502.25(b)); and

(v) A brief description of major environmental problems, conflicts, and disagreements among groups and agencies and how they were resolved. Unresolved conflicts and the NRCS's proposal for resolving the disagreements before the project is implemented are to be summarized.

(4) Letters of comment and responses. (40 CFR 1503.4, 1502.9(b)) Letters of comment that were received and the responses to these comments are to appended to the final EIS. Other views and other substantive comments that were not adequately discussed in the draft EIS are to be incorporated in the final EIS.

(5) Appendix. The RFO may use an appendix to an EA or EIS. If an appendix is too voluminous to be circulated with the EIS, the RFO is to make it available on request. If an appendix is included it is to—

(i) Meet the requirements of 40 CFR 1502.18;

(ii) Identify any methodologies used (40 CFR 1502.24) and make explicit reference to other sources relied on for conclusions; and

(iii) Briefly describe the relationship between the benefit-cost analysis and any analyses of unquantified environmental impacts, values, and amenities. “For purposes of complying with the Act, the weighing of the merits or drawbacks of the various alternatives need not be displayed in a monetary cost benefit and should not be when these are important qualitative considerations.” (40 CFR 1502.23).

§ 650.12 NRCS decisionmaking.

(a) General. The purpose of these procedures is to insure that environmental information is provided to decision makers in a timely manner. The NEPA process is a part of NRCS decisionmaking. The RFO is to insure that the policies and purposes of NEPA and CEQ regulations are complied with in NRCS decisionmaking by:

(1) Including in all decision documents and supporting environmental documents a discussion of all alternatives considered in the decision. Alternatives to be considered in reaching a decision will be available to the public.

(2) Submitting relevant environmental documents, comments, and responses with other decision documents through the review process.

(3) Including in the record of formal rulemaking or adjudicatory proceedings relevant environmental documents, comments and responses.

(4) Providing for pre- and post-project monitoring (40 CFR 1505.2(c), 1505.3) and evaluation in representative projects to insure that planning and evaluation procedures are performed according to sound criteria.
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(b) Decision points in NRCS-assisted projects. NRCS administers programs that may have a significant effect on the human environment. Program procedures incorporate provisions for compliance with NEPA and for providing environmental information to the public, other agencies, and decision makers in a timely manner. NRCS provides technical and financial assistance for projects under the Watershed Protection and Flood Prevention and the Resource Conservation and Development (RC&D) programs. These usually require the preparation of project EA's or EIS's. The major decisionmaking points and their relation to NEPA compliance are as follows:

(i) Application for assistance by the sponsoring local organization (SLO).

(ii) A preauthorization report identifying goals, alternatives, and effects of alternatives (including environmental impacts) prepared by the RFO and submitted to the applicant for decision. It is circulated to local, State, and Federal agencies and public comment is solicited. A decision is made to stop planning assistance or to develop a watershed plan.

(iii) Granting of planning authorization by the Administrator. The RFO must provide an evaluation of the potential environmental impacts to obtain the authorization.

(iv) A watershed agreement between the SLO and NRCS. The agreement is based on a completed watershed plan and associated environmental documents, which have been adequately reviewed within NRCS.

(v) A project agreement between the SLO and the RFO executed after the NEPA process is complete and the watershed plan has been approved and final plans and specifications have been developed.

(2) For RC&D measure plans:

(i) A request for assistance (measure proposal) is reviewed by the RC&D council to insure that the proposal is in accordance with the RC&D area plan. The proposal is then referred to NRCS.

(ii) A preliminary report is prepared by the RFO to identify goals, alternatives, and effects (including environmental impacts). The report is submitted to the sponsor for review. The sponsor may then apply to NRCS for planning assistance for measures considered in the preliminary report.

(iii) An authorization for planning assistance is granted by the RFO.

(iv) The RC&D measure plan is signed by the applicant and the RFO after the preparation and review of the measure plan and environmental documents.

(v) A project agreement is signed between the applicant and the RFO after the NEPA process is complete, the measure plan has been approved, and final plans and specifications have been prepared.

(c) Environmental Impact Statement (EIS) and Record of decision The RFO is to prepare a concise record of decision (ROD) for actions requiring an EIS. The record of decision is to be prepared and signed by the RFO following the 30-day administrative action period initiated by the EPA's publication of the notice of availability of the final EIS in the FEDERAL REGISTER. It is to serve as the public record of decision as described in 40 CFR 1505.2 of the CEQ regulations. The ROD is to be distributed to all who provided substantive comments on the draft EIS and all others who request it. A notice of availability of the ROD will be published in the FEDERAL REGISTER and local newspapers serving the project area. The RFO may choose to publish the entire ROD.

(d) Environmental Assessments and Finding of No Significant Impact (FNSI)—(1) EA's. If the EA indicates that the proposed action is not a major Federal action significantly affecting the quality of the human environment, the RFO is to prepare a finding of no significant impact (FNSI).

(2) Availability of the FNSI (40 CFR 1501.4(e)(2)). In accordance with CEQ regulations at 40 CFR 1501.4(e)(2), NRCS shall make the EA/FNSI available for public review for thirty days in the following instances: The proposed action is, or closely similar to, one which normally requires the preparation of an EIS as defined by NRCS NEPA implementing regulations at §650.7, or the nature of the action is one without precedent. When availability for public review for thirty days...
is not required, NRCS will involve the public in the preparation of the EA/FONSI and make the EA/FONSI available for public review in accordance with CEQ regulations at 40 CFR 1501.4(b) and 1506.6.

(e) Changes in actions. When it appears that a project or other action needs to be changed, the RFO will perform an environmental evaluation of the authorized action to determine whether a supplemental NEPA analysis is necessary before making a change.

[44 FR 50579, Aug. 29, 1979, as amended at 73 FR 35886, June 25, 2008]

§ 650.13 Review and comment.

In addition to the requirements of 40 CFR 1503, 1506.10 and 1506.11, NRCS will take the following steps in distributing EIS’s for review and comment:

(a) Draft EIS’s. Five copies of the draft EIS are to be filed by the RFO with the Office of Environmental Review, A–104, Environmental Protection Agency (EPA), Washington, D.C. At the same time, the RFO is to send copies of the draft EIS to the following:

(1) Other Federal agencies. The regional office of EPA and other agencies that have jurisdiction by law or special expertise with respect to any environmental effect, other Federal agencies (including appropriate field and regional offices), and affected Indian tribes.

(2) State and local agencies. OMB Circular No. A–95 (Revised), through its system of State and areawide clearing-houses, provides a means for obtaining the views of State and local environmental agencies that can assist in the preparation and review of EIS’s.

(3) Organizations, groups, and individuals. A copy of the draft EIS is to be sent to the appropriate official of each organization or group and each individual of the interested public (§650.9(d)(3)(i)) and to others as requested. A charge may be made for multiple copy requests.

(b) Time period for comment. The time period for review ends 45 days after the date EPA publishes the notice of public availability of the draft in the FEDERAL REGISTER. A 15-day-extension of time for review and comment is to be considered by the RFO when such requests are submitted in writing. If neither comments nor a request for an extension is received at the end of the 45-day period, it is to be presumed that the agency or party from whom comments were requested has no comments to make.

(c) News releases. In addition to the notice of availability published in the FEDERAL REGISTER by EPA, the RFO is to announce the availability of the draft EIS in one or more newspapers serving the area.

(d) Revising a draft EIS. If significant changes in the proposed action are made as a result of comments on the draft EIS, a revised draft EIS may be necessary. The revised draft EIS is to be recirculated for comment in the same manner as a draft EIS.

(e) Final EIS’s. After the review period for the draft EIS, the RFO is to prepare a final EIS, making adjustments where necessary by taking into consideration and responding to significant comments and opposing viewpoints received on the draft EIS. The following steps are to be taken in filing and distributing the final EIS:

(1) Letters of comment are to be appended to the final EIS. If numerous repetitive responses are received, summaries of the repetitive comments and a list of the groups or individuals who commented may be appended in lieu of the actual letter.

(2) The RFO is to send five copies of the final EIS to EPA’s Office of Environmental Review, and a copy of the final EIS to each State and Federal agency, organization, group, and individual who commented on the draft EIS. Single copy requests for copies of the final EIS will be provided without charge. A charge may be made for multiple copy requests.

(3) During the 30-day administrative action period noted in §650.12(c), NRCS will make its final EIS available to the public (40 CFR 1506.10).

(f) Supplements to EIS’s. (1) If NRCS determines that it is necessary to clarify or amplify a point of concern raised after the final EIS is filed, appropriate clarification or amplification is to be sent to EPA with information copies furnished to those who received copies of the final EIS. The waiting periods do not apply.