

Department of the Interior NEPA Procedures Soon To Be Regulations

The Department of the Interior (Department) is in the final phase of converting the NEPA procedures from Chapter 516 of the Departmental Manual (DM) to 43 CFR to Part 46 of the Code of Federal. The proposed rule was published in the Federal Register on January 2, 2008 (73 FR 126). The 60-day comment period closed on March 3, 2008. The primary purpose of this regulation is to promote greater transparency and accountability to the public and to streamline the NEPA implementation process.

The final regulation contains Departmental policies and procedures for compliance with NEPA, Executive Order 11514, E.O. 13352, and the Council on Environmental Quality's (CEQ) NEPA regulations. The Department believes that the revised procedures will provide an environmental analysis process that better fits with contemporary thinking on decision-making, collaboration, and adaptive management. The conversion of the Department's NEPA procedures to regulations resulted in a number of key changes. The rule:

- Clarifies the criteria for determining Federal actions that are subject to NEPA;
- Clarifies NEPA immediate emergency response requirements and procedures;
- Incorporates CEQ guidance stating that a past action must be "relevant" in illuminating or predicting direct and indirect effects of a proposed action when conducting cumulative effects analysis.
- Clarifies that the agency has discretion to determine, on a case-by-case basis, how to involve the public in the preparation of EAs;
- Clarifies that adaptive management strategies may be incorporated into alternatives, including the proposed action.
- Incorporates language from the statute and CEQ guidance that states environmental assessments (EAs) need only analyze the proposed action if there are no unresolved conflicts concerning alternative uses of available resources (Section 46.310(b)).

The NEPA rule is currently undergoing final Departmental approval, prior to final review by CEQ and the Office of Management and Budget. Bureau-specific NEPA implementing procedures in 516 DM Chapters 8-15 will continue to be available in the DM for their respective use. In addition, other information and directives addressing NEPA will be included separately in bureaus' NEPA handbooks or in other Departmental documents such as the DM and Environmental Statement Memoranda (ESM). The Department anticipates publication of the final rule by December 2008.