

***Laws, regulations and Guides for Federal Agency-County Government
Coordination and Cooperation***

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A. Federal Requirements

Forest and Rangeland Renewable Resources Planning Act of 1974 (16 USC 1600) (RPA). Sec. 1604(a) of the RPA provides that resource management plans of the National Forest System be coordinated with the land and resource management planning processes of State and local governments. Priority consideration of economically dependent forest communities is specifically mentioned in Sec. 14.

Multiple-Use Sustained-Yield Act of 1960 (16 USC 530)(MUSY). Sec. 3 of this act states: “In the effectuation of this Act the Secretary of Agriculture is authorized to cooperate with interested State and local government agencies and others in the development and management of the national forests.”

Forest Service Manual (FSM). 1921.63(a) states: The Responsible Official shall provide opportunities for **coordination** with State, local, and other Federal agencies and Tribal governments).

National Environmental Policy Act of 1969 Sec. 101(a) “...declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

Sec.102(C) states: Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

NEPA also directs federal agencies "...to improve and coordinate Federal plans, functions, programs, and resources to to... achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities;" **(42 USC § 4331(b)(5))**

President's Council of Environmental Quality statement that "Agencies shall cooperate to the fullest extent possible to reduce duplication of effort",

40 CFR §1506.2. (as well as *Federal Register*, Vol. 57, No. 182 (9/18/92, §25.2).

Sec. (b) 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.

Sec. (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... 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.

Sec. (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 Sec. 1501.6 Cooperating agencies. states: "The purpose of this section is to emphasize agency cooperation early in the NEPA process... 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:

4. Participate in the NEPA process at the earliest possible time.
5. Participate in the scoping process (described below in Sec. 1501.7).

6. 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.
7. Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability.
8. 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.

Memorandum for Heads of Federal Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act, from James Connaughton, Chair, January 30, 2002., states:

“to ensure that all Federal agencies are actively considering designation of Federal and non-federal cooperating agencies in the preparation of analyses and documentation required by the National Environmental Policy Act (NEPA), The CEQ regulations addressing cooperating agencies status (40 C.F.R. §§ 1501.6 & 1508.5) implement the NEPA mandate that Federal agencies responsible for preparing NEPA analyses and documentation do so "in cooperation with State and local governments" and other agencies with jurisdiction by law or special expertise. (42 U.S.C. §§ 4331(a), 4332(2)). The benefits of enhanced cooperating agency participation in the preparation of NEPA analyses include: disclosing relevant information early in the analytical process; applying available technical expertise and staff support; avoiding duplication with other Federal, State, Tribal and local procedures; and establishing a mechanism for addressing intergovernmental issues. Other benefits of enhanced cooperating agency participation include fostering intra and intergovernmental trust (e.g., partnerships at the community level) and a common understanding and appreciation for various governmental roles in the NEPA process, as well as enhancing agencies' ability to adopt environmental documents.

It is incumbent on Federal agency officials to identify as early as practicable in the environmental planning process those Federal, State, Tribal and local government agencies that have jurisdiction by law and special expertise with respect to all reasonable alternatives or significant environmental, social or economic impacts associated with a proposed action that requires NEPA analysis.

The Federal agency responsible for the NEPA analysis should determine whether such agencies are interested and appear capable of assuming the responsibilities of becoming a cooperating agency under 40 C.F.R. § 1501.6. Whenever invited Federal, State, Tribal and local agencies elect not to become cooperating agencies, they should still be considered for inclusion in interdisciplinary teams engaged in the NEPA process and on distribution lists for review and comment on the NEPA documents.

In order to assure that the NEPA process proceeds efficiently, agencies responsible for NEPA analysis are urged to set time limits, identify milestones, assign responsibilities for analysis and documentation, specify the scope and detail of the cooperating agency's contribution, and establish other appropriate ground-rules addressing issues such as availability of pre-decisional information. Agencies are encouraged in appropriate cases to consider documenting their expectations, roles and responsibilities (e.g., Memorandum of Agreement or correspondence). Establishing such a relationship neither creates a requirement nor constitutes a presumption that a lead agency provides financial assistance to a cooperating agency.

Integrated Resource Management Guide for the USFS Southwest Region III. (Sept. 1993)

(Also, refer to 36 CFR §219.7(A-E))

- Cooperate to develop joint planning, research, public hearings, and environmental assessments when there are duplications between NEPA and local requirements to the fullest extent possible.
- Prepare joint environmental impact statements whenever possible.
- In environmental assessments discuss any inconsistencies between a proposed action and local plans or policies to the extent effects on local plans and policies have been raised as issues.
- Consult local governments early and invite their participation and comments on all proposed actions.
- Consult on significance of preliminary issues with local governments.
- Inform local government of scoping results using personal contacts.
- Consider designating local agencies as joint lead or cooperating agencies for EIS and EA preparation.
- Make monitoring results available.

To comply with all of the NEPA and NFMA requirements Forest Service employees should consider:

- Developing memoranda of understanding to define how joint planning will be carried out.
- Becoming familiar with local government requirements and the issues affecting local communities.
- Inviting local agency participation on all proposed actions in writing early in the process.
- Making an extra effort to keep local agencies informed as planning progresses.
- Recognizing and displaying the conflicts between proposed actions and local agency requirements.

(Abstracted from IRM, Page 24)

Executive Order -- Facilitation of Cooperative Conservation, George W. Bush, The White House, August 26, 2004 states:

“Sec 1. The purpose of this order is to ensure that the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local

participation in Federal decisionmaking, in accordance with their respective agency missions, policies, and regulations.”