

**FSH 1909.15 – NATIONAL ENVIRONMENTAL POLICY ACT HANDBOOK  
CHAPTER 50 – IMPLEMENTATION AND MONITORING**

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This chapter focuses on implementation and monitoring guidance for decisions. Previous chapters provided guidance on the environmental analysis (ch. 10) and documentation (ch. 20, 30 and 40), with definitions in the zero code.

For ease of reference, [Council on Environmental Quality \(CEQ\) regulations](#) for implementing requirements of the National Environmental Policy Act (NEPA) are set out in **boldface type** and block-indented and [Forest Service regulations](#), that supplement the CEQ regulations, are in **boldface type, italicized**, and block indented.

## **51 - IMPLEMENTING DECISIONS DOCUMENTED IN A RECORD OF DECISION**

A decision documented in a record of decision (ROD) can be implemented no sooner than 30 days following the date the Environmental Protection Agency (EPA) publishes the notice of availability of the related final environmental impact statement (EIS) in the *Federal Register*.

**No decision on the proposed action shall be made or recorded ... by a Federal agency until ... Thirty (30) days after publication of the notice ... for a final environmental impact statement ... (40 CFR 1506.10 (b)(2))**

Because the Forest Service has formally established appeal processes, the 30-day delay provision at 40 CFR 1506.10(b)(2) seldom applies unless a decision is not subject to appeal or unless implementation will be allowed to proceed during an appeal filing period. When a decision documented in a ROD is appealable the ROD may be issued at the same time as the final environmental impact statement (EIS).

**An exception to the rules on timing may be made in the case of an agency decision which is subject to a formal internal appeal. Some agencies have a formally established appeal process which allows other agencies or the public to take appeals on a decision and make their views known, after publication of the final environmental impact statement. In such cases, where a real opportunity exists to alter the decision, the decision may be made and recorded at the same time the environmental impact statement is published. This means that the period for appeal of the decision and the 30-day period prescribed in paragraph (b)(2) of this section may run concurrently. In such cases the environmental impact statement shall explain the timing and the public's right of appeal. (40 CFR 1506.10 (b)(2))**

Review the applicable appeal regulation to determine when a decision may be implemented.

See section 53 that follows, when appeals, administrative reviews, or objections apply.

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## **52 - IMPLEMENTING DECISIONS DOCUMENTED IN A DECISION NOTICE OR DECISION MEMO**

Implementation of decisions documented in a decision notice (EA) or a decision memo (CE) is mostly governed by the appeal procedures ([36 CFR 215.9](#)). Decisions made under the Healthy Forest Restoration Act (HFRA) authorities are governed by the objection process ([36 CFR part 218](#)).

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 publish a decision notice until after a finding of no significant impact (FONSI) has been available for public review for 30 days:

**... the agency shall make the finding of no significant impact available for public review ... for 30 days ... before the action may begin (40 CFR 1501.4(e)(2)).**

At the end of the 30-day period, consider public comments and publish the decision, or publish a notice of intent to prepare an EIS (see sec. 44).

## **53 - IMPLEMENTING DECISIONS WITH APPEALS, ADMINISTRATIVE REVIEWS, OR OBJECTIONS**

Appeals, administrative reviews, and objections also affect when decisions can be implemented. If there are conflicting time periods, the longest time for public opportunity to participate applies.

## **54 - MONITORING**

**Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (40 CFR 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).**

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In addition to complying with relevant monitoring requirements of an existing Forest Land and Resource Management Plan (FSH 1909.12, sec. 12), 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.

### **54.1 - Monitoring and Adaptive Management**

In an adaptive management approach, “implement-monitor-adapt” (see sec. 14.1), monitoring provides the essential information to determine what response, if any, is needed. Use monitoring information to:

1. Determine if desired conditions are being met.
2. Identify inaccurate initial assumptions.

If monitoring demonstrates that desired conditions are not being achieved through the initial management action, modify the action to one or more of the identified adaptive management actions disclosed in the environmental document.

If monitoring indicates that the environmental effects of each action do not exceed the bounds of those disclosed in the environmental document, and the actions serve to move the project toward the desired conditions, continue implementation using the “implement-monitor-adapt” cycle without the need for new or supplemental NEPA review. A schematic of this strategy is shown in section 14.1, exhibit 01.

In the case that new information or changed circumstances result in environmental impacts of a proposed action not disclosed or analyzed, further interdisciplinary review should occur as described in section 18.