



United Four Wheel Drive Associations, Inc.

...An International Organization

The Public Process NEPA Explained

United Land Use Conference

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Public Participation ...

- **Key to Developing Land Management Policies and Procedures**
- **Through:**
 - **Public Comment Meetings**
 - **Public Comment Periods**

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Access to trails and areas is controlled by management policies and procedures.

Those policies and procedures are directed by environmental issues and concerns.

Public participation can affect the outcome.

Public Process ...

- **Participation provides legal standing -- a prerequisite to successfully sue -- should a final plan or rule result in personal harm.**
- **SILENCE IMPLIES CONSENT**



Public Process -- Political Process

- **Complete with Bureaucrats and Politicians**
 - **Get to Know Them, Meet with Them, Work with Them, Talk with Them**

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Find Out Their Concerns

Let Them Know Your Concerns

Let them know your expectations.

Learn their expectations.

Know About Your Public Lands

- **Flora and Fauna**
- **History**
- **Geography and Geology**
- **Routes**

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Be educated and informed; educate and inform others.

Find ways to bridge interests.

Public input and public access to the process is important.

NEPA Establishes the “Process”

- **National Environmental Policy Act**
 - Signed into Law - January 1, 1970
- **Guides:**
 - Land Manager Responsibilities
 - Public Involvement

NEPA Established Two Policies

- **... encourage productive and enjoyable harmony between man and his environment, and prevent damage to the environment ...**
- **Council on Environmental Quality**

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Each Federal Agency established their own NEPA instructions.

All federal agencies are covered by NEPA.

All share common procedures

They do have different specific rules defining their process.

EPA is the “master” authority.

CEQ establishes guidance overall.

NEPA ...

- **Assess the Impacts of Actions on the Physical, Biological, and Human Environment**
- **Intent is to Produce a Reasonable Balance of the Human and Natural Environment**

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NEPA is a collection of procedural instruction issued to guide the agencies.

NEPA establishes a process that outline federal agency responsibilities and guides public involvement.

NEPA ...

- **Documents Decision Making Process**
- **Provides for:**
 - **Public Involvement**
 - **Notification of Federal Actions Significantly Affecting the Quality of the Human Environment**

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NEPA is a process that includes notification rules, public involvement in decision making, and timelines for decisions.

Anyone who could be harmed by the proposed action should comment in writing.

Significantly Affecting ...

- **Environmental Assessment:**
 - **Used to determine “significance” of a proposed agency action**
 - **Significance is either in context or intensity**

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NEPA applies to “major federal actions.”

“Major” applies to the significance of the impacts on the environment.

NEPA Requires the Agency to ...

- **Disclose the Environmental Effects of Their Actions**
- **Identify Alternatives and Mitigation Measures**
- **Document Management Actions and Decisions**

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NEPA “assesses” the impacts of the action on the environment.

The Agency is ...

- **Required to Consider Economic and Social Issues**
- **Not Required to Implement Environmentally Preferred Alternatives or Mitigation Measures**

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The public can and should be involved as early as possible in any project affecting their area of interest.

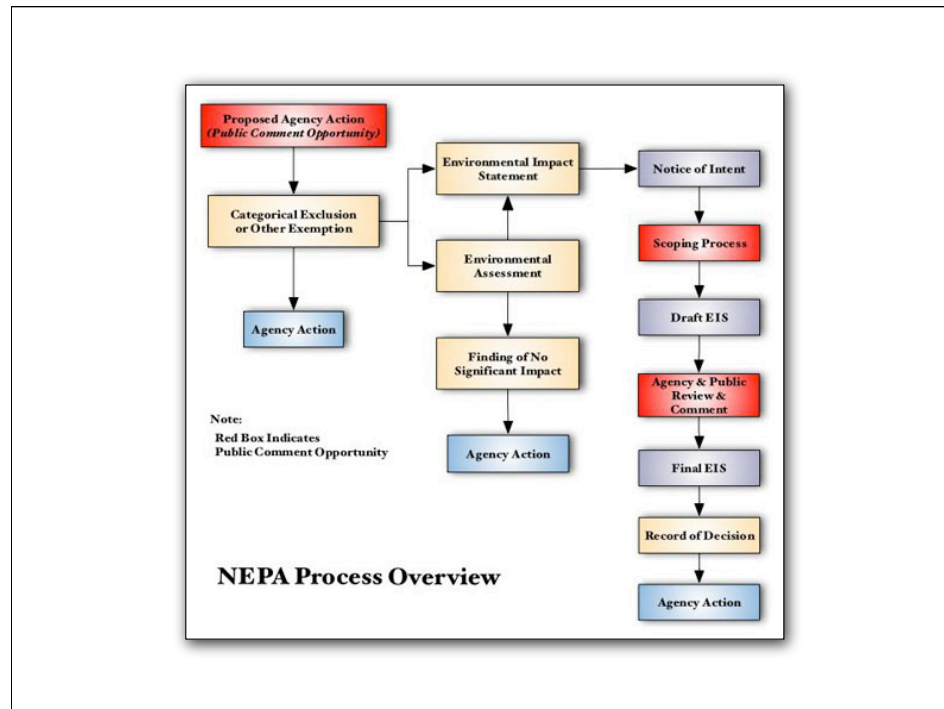
NEPA ...

- **Formal Planning Process**
- **Outlines Responsibilities**
- **Guides Public Involvement**
- **Starts With**
 - **Proposed Agency Action**

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Four main objectives:

- 1 – Collect information and document the area.
- 2 – Determine the objectives of the planning effort.
- 3 – Develop a timeline and budget.
- 4 – Identify stakeholders.



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The “red” blocks denote a public participation opportunity.

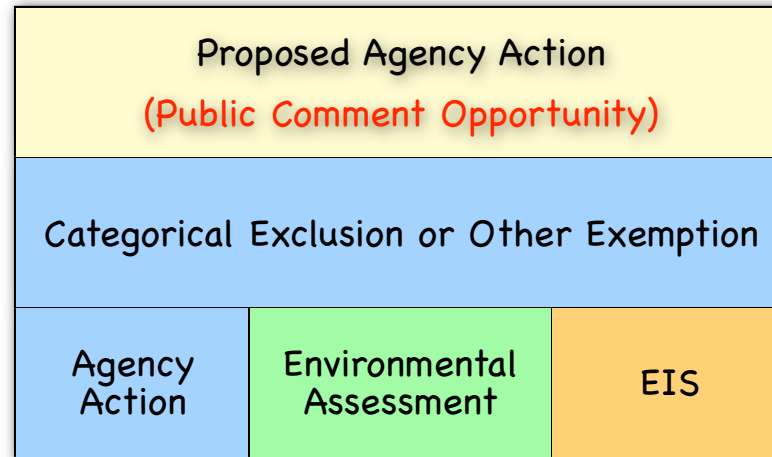
These steps are the common, shared procedures among all federal agencies.

Most agencies have specific rules regarding each step of the procedure.

All steps require public notice

-- Some require public involvement

NEPA - An Overview



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Know your public land managers

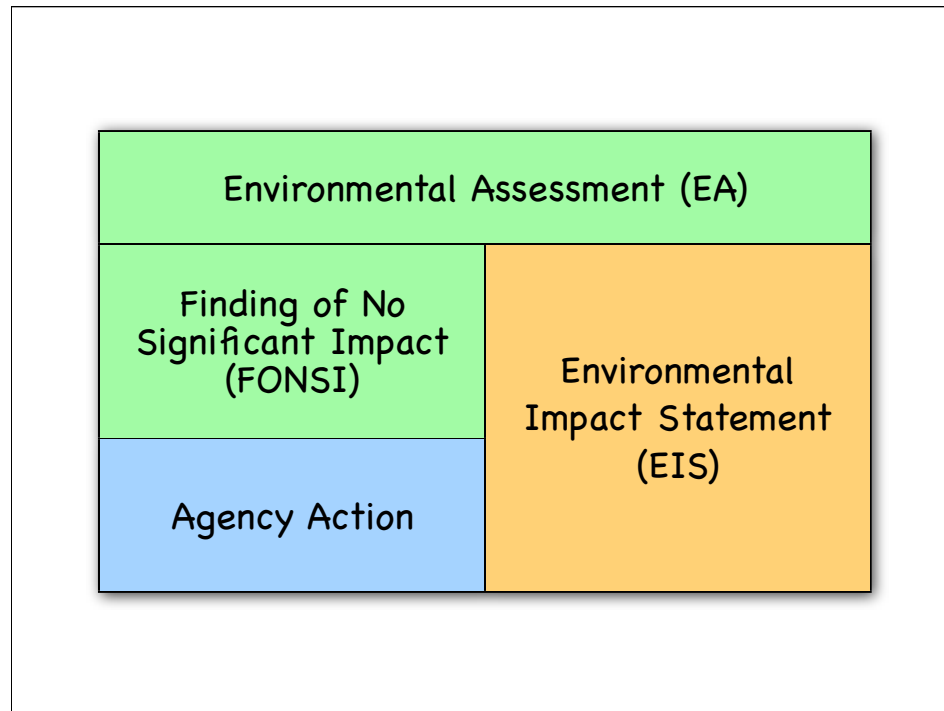
- Their concerns
- Let them know your concerns

Public involvement may help form an exclusion or exemption.

It can also help determine if an EA or EIS is required.

CatEx's apply to small routine projects.

“other exemptions” are generally authorized by legislation.



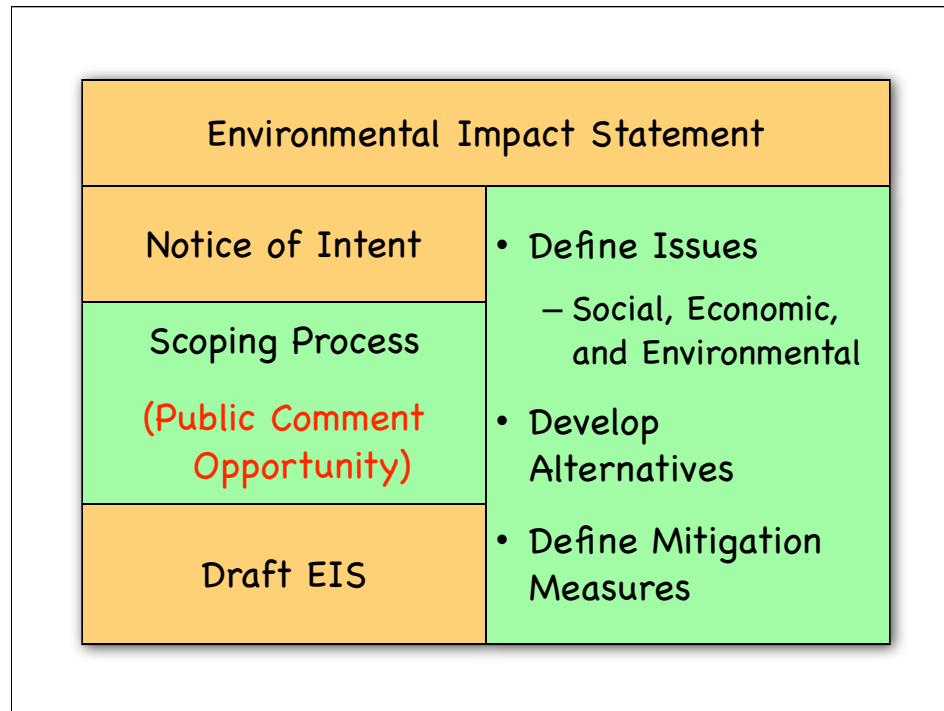
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EA is used to help determine if the impacts of the proposed action will be “significant”

EA must consider “cumulative impacts”

Agency is required to provide public notice of an EA availability.

Each agency has their own procedure for providing public notice.



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For an action to “affect” the environment, it must have a “causal” relationship
Direct, indirect, or cumulative

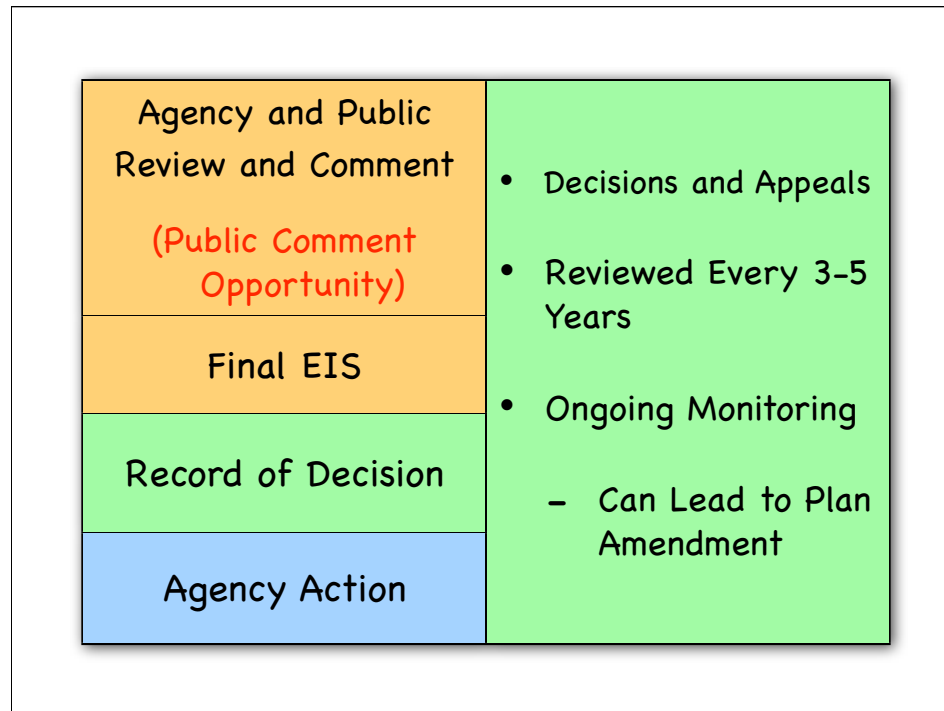
EIS is required to provide full and fair discussion of environmental impacts of proposed alternatives

EIS can be:

Individual – single proposed action

Programmatic – Broad issues; adoption of regulation, policies, or plans

Legislative – Prepared for proposed legislation



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Data and comments gathered during the scoping phase are used to develop the draft EIS.

Draft is submitted to the public for comment.

Those comments are incorporated into the Final EIS and a Record of Decision is issued.

Three Opportunities for Public Involvement

- Proposed Agency Action**
- Scoping Period**
 - EIS Only**
- Comment Period**
 - EA and EIS**

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Information and comments collected during public involvement are used to develop alternatives and define mitigation measures.

Proposed Action ...

- **Not Necessary to Wait for a Formal Planning Process**
 - **Get to Know Your Land manager**
 - **Get to Know your Representatives**
- **Submit Your Comments and Concerns Frequently**

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Your comments and involvement can affect the out come.

Scoping ...

- **Public Involvement**
- **Draft EIS**
 - **Public Comment**
- **Final EIS**
- **Record of Decision (ROD)**

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Frequently, “scoping” will introduce the need for Travel Management Plans.

It is important to submit data on existing or incorrectly identified routes.

Scoping Period ...

- **Identifies and Determines:**
 - **Issues (Social, Economic, and Environmental)**
 - **Range of Alternatives**
- **Public is Asked to Provide Comments, Concerns, and Suggestions**

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EIS is required to have at least three alternatives;
No Action, Agency Preferred, and Environmentally Preferred

Agency – best fulfills agency mission and legal responsibility
Environmental – best promotes the national environmental policy

Selected alternative does not have to be the “preferred” or “proposed” alternative.

It can be a compromise and is often qualified with conditions identified during comment periods.

EA/EIS Comment Period ...

- **Point Out Conflict with Legal Mandates**
- **Highlight Deficiencies in the Analysis**
- **Offer a New Idea or New Alternative**
- **Identify Incomplete or Incorrect Information**

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The public is permitted to submit an alternative for consideration.

Alternatives are reviewed and compared using scientific and analytical basics to determine environmental effects and and adverse effects that can and can not be mitigated.

EA/EIS Comment Period ...

- **Describe**
 - **Why an Alternative or Element Would or Would Not Work**
- **Explain**
 - **How You Use the Area and How the Proposal Would Affect Your Use**

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Data contained in the Draft EIS and public comments are used to develop the final actions that protect, restore, and enhance the environment.

Compromise and balance are key operative words.

Comments May Include ...

- **Your Concerns About Conditions or Activities**
- **Suggestions for Improvement**
- **How You Feel About Agency Actions**
- **Quality of Your Visit**

Effective Comments Address ...

- **How the Area is Used**
- **How the Project Might Affect that Use**
- **Concerns about Conditions or Activities**
- **Suggestions For Improvement**

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Effective comments are “substantive comments”

They are reasonable, logical, and supported by facts.

Effective Comments Address ...

- **Alternative Approaches and Ideas**
- **Interaction With Other Projects**
- **Environment, Social, and Economic Issues**
- **Related Information and Research**

Effective Comments ...

- **Must Be:**
 - **Relevant to the Proposal**
 - **Specific and Detailed**
 - **Suggest a Solution**
- **A Little Emotion is Okay**

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The “selected” alternative does not have to be the “preferred” or “proposed” alternative.

It can be a compromise between listed alternatives.

Public Process Is ...

- **Your Chance to Express YOUR Concerns**
 - To Public Land managers
 - To Your Elected Representatives
- **Your Chance to Be Involved**

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NEPA requires agencies disclose the environmental effects of their actions and identify alternatives and mitigation measures.

-- Does not require agencies implement the environmentally preferred alternatives or mitigation measures.

Agency responsibility does not stop with the ROD.

New data can generate a new EA/EIS as an ammendment.

Get Involved - Be Involved With ...

- **Public Land Managers**
- **Elected Officials**
- **Local Clubs**
- **Regional/State Associations**
- **National Associations**

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NEPA contains no enforcement mechanisms or authority

Enforcement is through law suits.

Courts have recognized that NEPA does not impose a substantive duty on federal agencies to protect the environment.

The courts have taken the role of ensuring the agency has adequately reviewed the environmental consequences and adequately documented their decisions.

Questions, Comments, Concerns???

 The logo is circular with a blue border. Inside, there's a yellow sun, green mountains, and a blue wave. Text includes 'UNITED' at the top, 'FOUR WHEEL DRIVE ASSOCIATIONS' around the bottom, 'www.ufwda.org' in the center, and '1-800-44-UFWDA' at the bottom.	<p>Director, Environmental Affairs United Four Wheel Drive Associations</p> <hr/> <p>Natural Resource Consultant California Association of 4 Wheel Drive Clubs</p>	 The logo is circular with a yellow border. Inside, there's a green map of California with a red 4WD vehicle on it. Text includes 'CALIFORNIA ASSOCIATION OF' at the top, '4WD CLUBS INC.' at the bottom, and two stars on either side.
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