

## NEPA and Comment Writing Information Packet

### What is NEPA?

The NEPA (National Environmental Policy Act) process requires federal agencies to determine if their proposed actions will have significant environmental effects and to consider the environmental, social, and economic effects of their proposed actions. This information is presented in the form of an Environmental Assessment (EA) or Environmental Impact Statement (EIS), while some actions are eligible for Categorical Exclusion (CE). Agencies are required to engage the public in the NEPA process, and respond to written comments received on their NEPA analysis. NEPA documents are supposed to be concise, written in plain English, and enable the reader to determine what actions are being considered and the impacts of those actions.

It is important to understand that *commenting on a proposal is not a "vote" on whether the proposed action should take place*. The information you provide during the EA and EIS process can influence the action's impacts on a particular resource, and in some cases can influence the final decision on an action.

### NEPA Documents

#### 1. Categorical Exclusion (CE)

A class of actions that a Federal agency has determined, after review by the Council on Environmental Quality (CEQ), do not have a significant effect on the human environment and neither an environmental assessment nor an environmental impact statement is normally required. The use of categorical exclusions can reduce paperwork and save time and resources. The reason for the exclusion is generally detailed in NEPA procedures adopted by each federal agency.

#### 2. Environmental Assessment (EA)

An EA determines whether or not a federal action has the potential to cause significant environmental effects. CEQ regulations do not say much about the content of an EA, but they do contain a substantial definition of what it means to have a "significant" impact. This can be used to structure the EA analysis. The EA leads either to a decision to produce an EIS or to a FONSI.

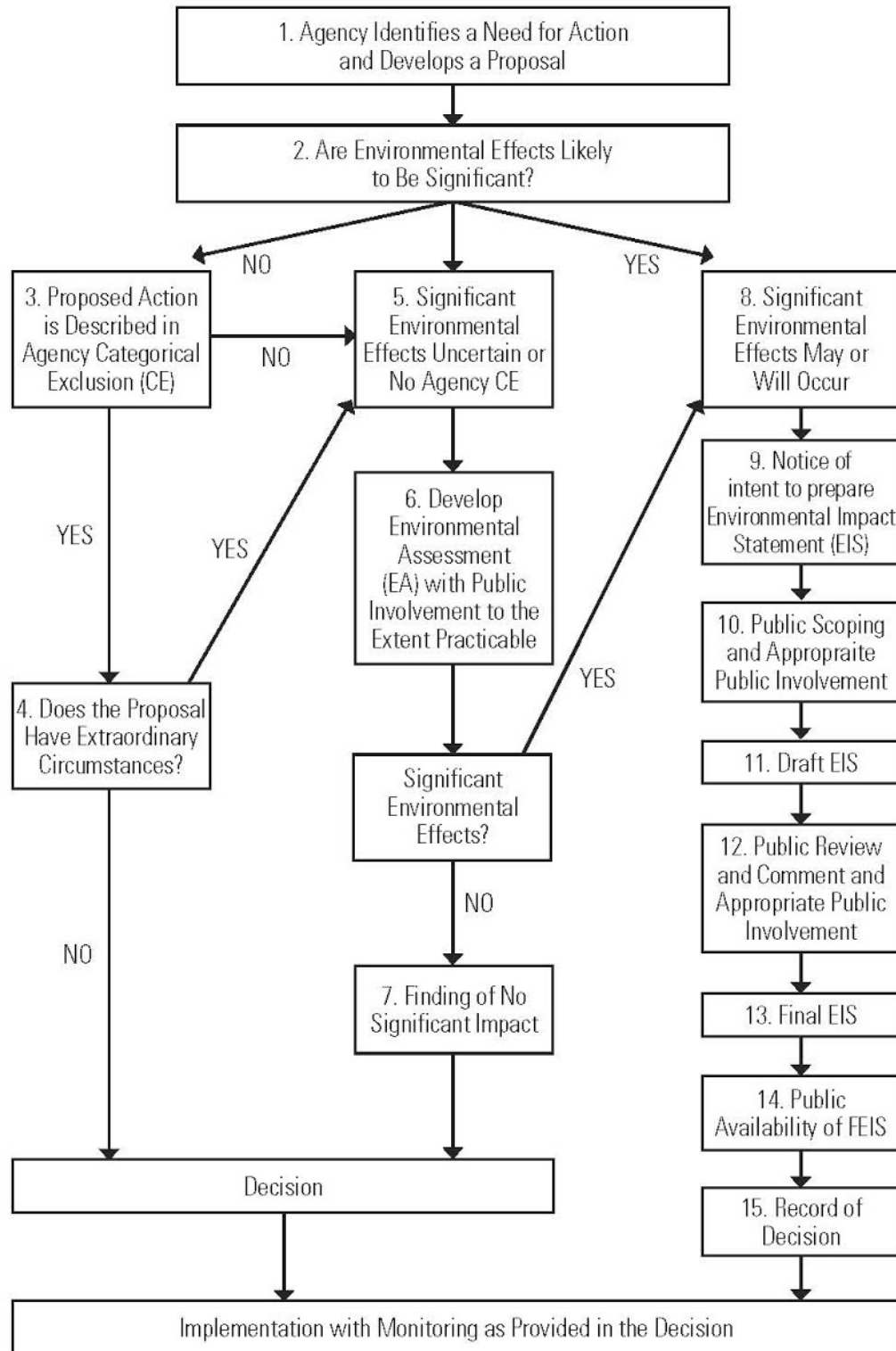
#### 3. Environmental Impact Statement (EIS)

An EIS is used for projects that may have a significant impact on the environment. The regulatory requirements for an EIS are more detailed and rigorous than the requirements for an EA.

### Key Elements of a NEPA Document

- Purpose and need
- Alternatives to the proposed action
- Affected environment (baseline)
- Analysis of environmental consequences
  - Direct and indirect effects
  - Mitigation measures
  - Cumulative effects

## The NEPA Process



*\*Significant new circumstances or information relevant to environmental concerns or substantial changes in the proposed action that are relevant to environmental concerns may necessitate preparation of a supplemental EIS following either the draft or final EIS or the Record of Decision (CEQ NEPA Regulations, 40 C.F.R. § 1502.9(c)).*

## Structuring Comments on a NEPA Document

### Be Efficient

You don't need to read the entire document! Focus on the resource you want to comment on, and use any maps or other appendices provided that clarify the information.

### Focus on Cause and Effect

- If you claim that the report does or does not do something, **clearly connect the dots**.

### Provide as Much Factual Support as Possible

- **Cite your sources!** Whether it's news articles, scientific articles, or statements you've heard made by agency staff or others. The more factual evidence you provide, the more seriously your comments will be considered. Unsupported claims are easily dismissable.
- **Do not rant.** Resist the urge. It weakens your argument and does not influence the proposed project in any way.

### Point out Inadequacies

- Point out areas where the document is not clear or is missing necessary information. Clearly state that you were not able to analyze potential impacts of the decision due to the lack of information.

## Section by Section Analysis of a NEPA Document

### Purpose and Need Section

The purpose is the goal or objective of the action, while the need is the problem the agency is trying to solve. The purpose and need serve as the framework for the alternatives analysis. For an alternative to be "reasonable", it must respond to the purpose and need for the project and be feasible to implement.

Ask:

- Has the agency stated their purpose and need for the project?
- Is the scope of the purpose and need appropriate? If the scope is too narrow, it will limit the range of alternatives the agency considers.
- If you have issues with the purpose and need, clearly state your issue, and provide a supporting argument.
- Usually, the agency's need will be limited to its duty to manage its resources in a specific manner. Example: *USFS manages its land to achieve multiple use objectives. However, if the overall economic burden and burden on other natural resources is high and the agency's need is low, that could tip the scales in favor of the no action alternative.*

### Alternatives Section

No Action Alternative (application denied)

- Provides the baseline for evaluating environmental impacts, and demonstrates the consequences of not meeting the purpose and need.

Action Alternatives

- Preferred Alternative - the action they are proposing
- Other reasonable alternatives that are practical and feasible from an economic and technical standpoint, achieve the purpose and need, and that are within the defined scope of the project.

Ask:

- Are there feasible alternatives with less impacts that the agency did not include? If so, set them out in as much detail as possible, including why they are practical and feasible, and noting (if applicable) the differences in economic and environmental burden from your suggested alternative.

Example:

- *"The agency failed to consider an alternative that would reduce the level of tree removal required to enhance riparian habitat in Unit X. Reducing the number of trees removed in Unit X would be practical because \_\_\_\_\_. It would still be feasible because \_\_\_\_\_. This alternative would have less impact on \_\_\_\_\_ resources etc."*

### Environmental Impacts

- Effects can be ecological, aesthetic, cultural, economic, social, or health related.
- The EA/EIS should analyze long-term and short-term effects.
- It should describe the methods and assumptions used to develop effects analysis in a manner that is easy for the reader to understand.

Ask:

- **Check their sources.** The agency should use "best available science" and use science that is peer-reviewed over that which is not. Or did they state a fact without citing a source?
- **Do your own research.** Does contradictory/more recent/more reputable data exist?
- Does their argument support their "significance determination" for each resource?
- Did the agency correctly describe the existing environment (baseline)?
- Are there effects that the agency did not consider or that the agency underestimated?

Example comment:

*"The agency's effects analysis was incomplete. First, the agency undervalued the impacts of the project on neighboring communities/wildlife/air quality etc. Section \_\_\_\_ of the (EIS/EA) states that \_\_\_\_\_. However, data (insert source) suggests that the actual impact is \_\_\_\_\_. Additionally, the agency failed to adequately consider mitigation measures for environmental impacts of the project on federal land. Section \_\_\_\_ of the (EIS/EA) states that the project will adversely affect \_\_\_\_ (species) habitat. However, there are effective mitigation measures that should have been included. These include \_\_\_\_\_."*

### Mitigation

- **Don't forget mitigation!** Are there effects for which mitigation was not adequately addressed?
- Mitigation includes specific means, measures, or practices that would reduce or eliminate the effects of the action alternatives.
- Where mitigation measures are proposed, check that they provide an adequate and reasonable solution for the impacts they address.
- Did the agency consider all possible mitigation in all alternatives?

### Direct and Indirect Effects

- Direct effects are those caused by the action that occur in the same time and place.
- Indirect effects are caused by the action that do not occur at the same time or place, but are still "reasonably foreseeable".
- Agencies are not required to distinguish between these, but your job is to make sure they don't leave out any important effects!

### Cumulative Impacts

- Cumulative impacts result from the combined effect of the proposed action and any other actions occurring at the same time and/or place, whether they are federal or non-federal actions.
- Pay attention to the geographic scope and timeframe used in the cumulative effects analysis.

### **Common Acronyms**

BLM	Bureau of Land Management
CE	Categorical Exclusion
CEQ	Council on Environmental Quality
EA	Environmental Assessment
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
FONSI	Finding of No Significant Impact
NEPA	National Environmental Policy Act
NLAA	Not Likely to Adversely Affect
NOI	Notice of Intent
ROD	Record of Decision
USFS	U.S. Forest Service
USFWS	U.S. Fish and Wildlife Service

### **Sources**

EPA.gov

*A Citizen's Guide to the NEPA*

Oregon Farm Bureau, Public Policy Council NEPA Guide

# Practice Comment Writing Outline

Name: \_\_\_\_\_

Address: \_\_\_\_\_

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Topic: \_\_\_\_\_

**Regulations:**

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**Content:**

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**Sources:**

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**Comment Submission**

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