



National Environmental Policy Act

Congress passed the National Environmental Policy Act (NEPA) in 1969 in response to increasing public concern in the 1950s and 1960s about the effects of human activity on the environment. The stated purpose of NEPA is to “encourage productive and enjoyable harmony between man and his environment.” While NEPA focuses on environmental protection, the law does not mandate any minimum substantive standards for environmental quality. Rather, NEPA establishes a procedural framework that obligates all federal agencies to consider environmental impacts prior to taking any “major Federal actions significantly affecting the quality of the human environment.”¹

Methods

Under NEPA, all federal agencies are required to assess potential environmental impacts of “major Federal actions;” including any major actions funded under a program of federal grants.²

Complying with the procedural requirements of NEPA often includes multiple steps (Figure 1). First, the agency must determine if their proposed major federal action has significant environmental impacts—typically through an Environmental Assessment (EA).² If the EA reveals no significant impacts, the agency may proceed with the action after issuing a Finding of No Significant Impact (FONSI). If the EA reveals significant impacts, however, then the agency must prepare a detailed report known as an Environmental Impact Statement (EIS). This EIS must report on a variety of items including, but not limited to:²

- A statement on the proposed need for the action and what the agency expects to achieve;
- discussion of the direct and indirect environmental effects of the proposed action and their significance;
- any adverse environmental effects which cannot be avoided should the proposal be implemented;
- alternatives to the proposed action (including no action) and their environmental impacts

In preparing an EIS, the federal agency must consult with and obtain comments from cooperating agencies regarding any environmental impact involved in the proposed action. This includes inviting and responding to public comments through the regulatory process beginning with a Notice of Intent in the Federal Register and concluding with a Record of Decision.²

Results

Typically, less than one percent of federal actions require an EIS. In 2012, federal agencies began preparation on 404 EISs, including: 102 (25%) from the U.S. Forest Service; 56 (14%) from the Bureau of Land Management; 21 (5%) from the National Park Service; and 19 (5%) from the U.S. Fish and Wildlife Service.³

Discussion

Since the law’s passage, courts have played a significant role in NEPA implementation due to a variety of factors including the central role of public participation in the NEPA process. Affected stakeholders often file a lawsuit to challenge agency compliance with NEPA—which can slow proposed federal actions—though most NEPA analyses do not result in litigation. While NEPA is primarily a procedural law, the preparation of an EA, and more importantly an EIS, can lead to more informed agency decision making by discovering and addressing design problems while providing greater transparency and opportunity for the public to voice their concerns.

Implications for Wildlife Professionals

Wildlife professionals play an integral role in developing or contributing to the preparation of an EA or EIS whether through direct consultation with the agency or through the notice and comment period. Preparation of an EIS, though, can take time and affect a federal agency’s ability to swiftly address emerging natural resource issues—of the 197 Final EISs prepared in 2012 the average preparation time was 4.6 years. As a result, it’s important for wildlife professionals working for or with federal agencies to integrate NEPA early in the planning process.⁵

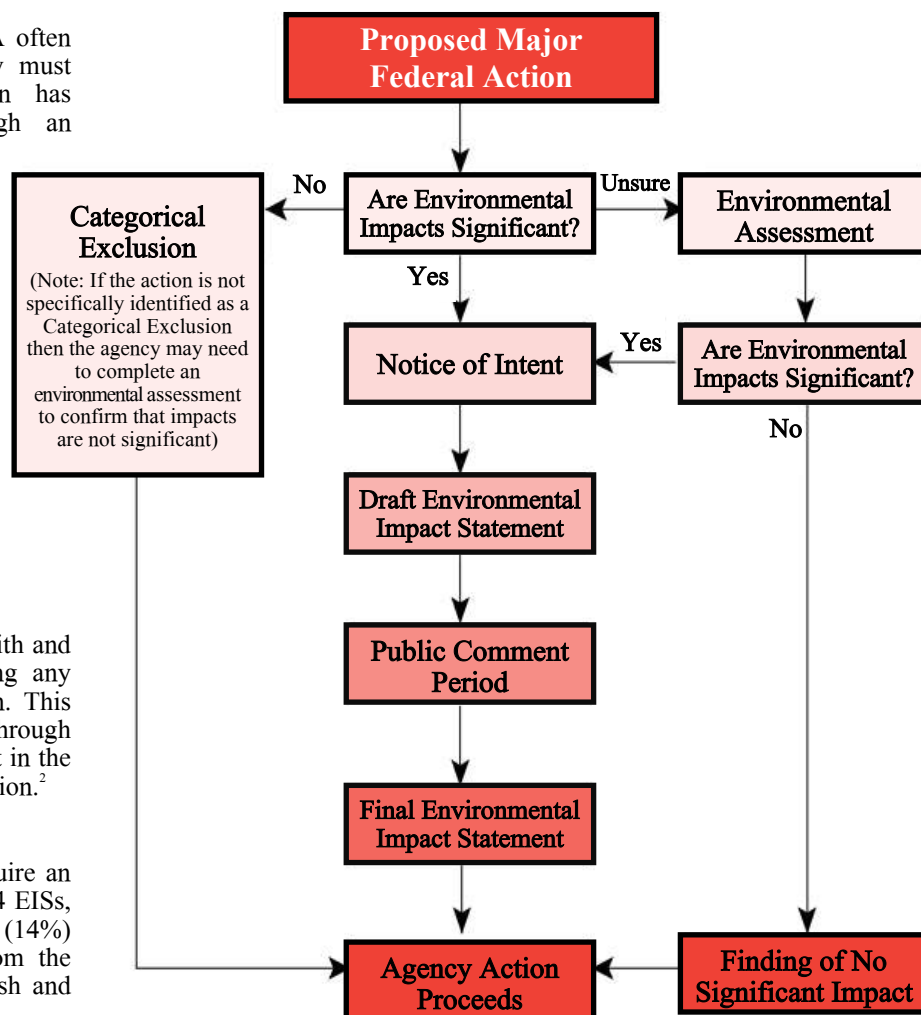


Figure 1. Simplified version of NEPA process (Credit: Adapted from 40 C.F.R. §§ 1501-1506)

National Environmental Policy Act: Features



Council on Environmental Quality^{4,5}

The Council on Environmental Quality (CEQ), established by NEPA, oversees implementation of the law's procedural requirements through issuing guidance and interpreting regulations. This includes requiring each federal agency to develop specific NEPA Implementing Procedures that are consistent with the statute and CEQ regulations, but that reflect the unique mandate and mission of the agency. CEQ also produces an annual report for the President on the state of the environment and develops/recommends national policies to the President that promote the improvement of environmental quality.

Council on Environmental Quality Seal (Credit: Citizen's Guide to NEPA)

Categorical Exclusion^{2,6}

CEQ defines a Categorical Exclusion (CATEX) as any "category of actions which do not individually or cumulatively have a significant effect on the human environment." Each agency may establish a CATEX within their adopted NEPA Implementing Procedures for any federal actions that, "based on past experience with similar actions, do not involve significant environmental impacts." Since these actions do not have a significant impact, "neither an environmental assessment nor an environmental impact statement is required." Examples of a CATEX activity for the Bureau of Land Management includes constructing nesting platforms for wild birds and constructing snow fences for safety.



Nesting platform (Credit: Utah DNR)



Smoke stacks (Credit: Library of Congress)

Human Environment⁵

CEQ defines the "human environment" as the natural and physical environment and the relationship of people with that environment. As a result, actions that only produce economic or social effects in the absence of environmental effects, do not require preparation of an EIS. There must be some type of environmental effect associated with the proposed action. Once the potential environmental impact is established, however, all ecological, aesthetic, historic, cultural, economic, social, or health impacts as interrelated with the natural or physical environmental effects must be considered in the EIS. Depending on the scope of the proposed action, the agency preparing an EIS may have to consider a complex matrix of effects.

1. Senate Committee on Environment and Public Works. 2000. National Environmental Policy Act of 1969. <<https://www.epw.senate.gov/nepa69.pdf>> Accessed 19 Jun 2017.
2. EPA. 2017. National Environmental Policy Act Review Process. <<https://www.epa.gov/nepa/national-environmental-policy-act-review-process>> Accessed 19 Jun 2017.
3. U.S. Government Accountability Office. 2014. National Environmental Policy Act. <<http://www.gao.gov/assets/670/662543.pdf>> Accessed 19 Jun 2017.
4. Council on Environmental Quality. 2017. NEPA.gov <<https://ceq.doe.gov/>> Accessed 19 Jun 2017.
5. White House. 2017. About CEQ. <<https://www.whitehouse.gov/ceq/about>> Accessed 19 Jun 2017.
6. BLM. 2012. Managing the NEPA Process. <<https://elips.doi.gov/ELIPS/DocView.aspx?id=1721>> Accessed 19 Jun 2017.

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