

ARE YOU NEW TO NEPA?

What does “NEPA” stand for?

“NEPA” is the name made up of the first letter initials of the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852; U.S.C. 4321 (note), 4321, 4331-4335, 4341-4346, 4346a-b, 437).

How and why did the statute come into being?¹

NEPA is a statute that introduced the environmental impact statement and transformed decision making by federal agencies.

In 1969 Senator Henry “Scoop” Jackson, Chair of the Senate Committee on Interior and Insular Affairs, introduced S. 1075, the bill that eventually became the National Environmental Policy Act of 1969. Senator Jackson stated on the floor of the Senate, just before the bill was approved, the committee intended NEPA to be “the most important and far-reaching environmental and conservation measure ever enacted by congress.”

NEPA was a response to the American public’s insistence that protection of the environment become national policy. NEPA established a national policy to protect and manage the environment. Of this policy, Senator Jackson stated:

A statement of national policy is more than a statement of what we believe as a people and as a nation. It establishes priorities and gives expression to our national goals and aspirations. It provides a statutory foundation to which administrators may refer for guidance in making decisions which find environmental values in conflict with other values.

NEPA included “action-forcing” mechanisms to ensure that the nation’s environmental policy would be carried out. Senator Jackson recognized that “too much of our past history of dealing with environmental problems has been focused on efforts to deal with ‘crises’ and to ‘reclaim’ our resources from abuses.” NEPA was intended to address environmental concerns on a “preventative and anticipatory basis” by requiring the government to evaluate potential consequences before it undertakes environmentally damaging activities.

What does NEPA involve?

¹ Reference: *The NEPA Litigation Guide*. 1998. by [Mark Squillace](#) (Editor), [Karin P. Sheldon](#) (Editor), [American Bar Association](#).

NEPA calls for both a “process” and a “product”. Federal agencies must: 1) consider the effects of actions that have significant impacts on the environment, 2) involve the public in this evaluation, and 3) document the process in comprehensive impact statements.

What have been the benefits of NEPA?

The statute can be credited with at least four significant accomplishments:

- 1.** NEPA introduced many federal agencies to the environmental consequences of their actions by requiring them to integrate environmental concerns into their decision making;
- 2.** The Act created the Council on Environmental Quality, elevating environmental issues to the level of the White House and providing for a comprehensive overview of the myriad statutes, regulations, and agency actions that have environmental impact;
- 3.** NEPA exposed Americans to agency decision making by allowing them to comment on environmental impact statements; and
- 4.** The statute must be credited for the growth of environmental law. The eloquent opinions of judges such as J. Skelly Wright of the D.C. circuit ensured that NEPA did not become a paper tiger and that “important legislative purposes, heralded in the halls of Congress, [were] not lost or misdirected in the vast hallways of the federal bureaucracy.” Judge Wright and others insisted that NEPA establish a strict standard of compliance and make “environmental protection a part of the mandate of every federal agency and department.”

What does NEPA require?²

NEPA requires all federal agencies to prepare a detailed statement on all actions significantly affecting the quality of the human environment. This statement must describe the environmental impact, set out the unavoidable adverse effects, discuss alternatives to the proposed action, and deal with the long-term and irreversible effects that the action entails.

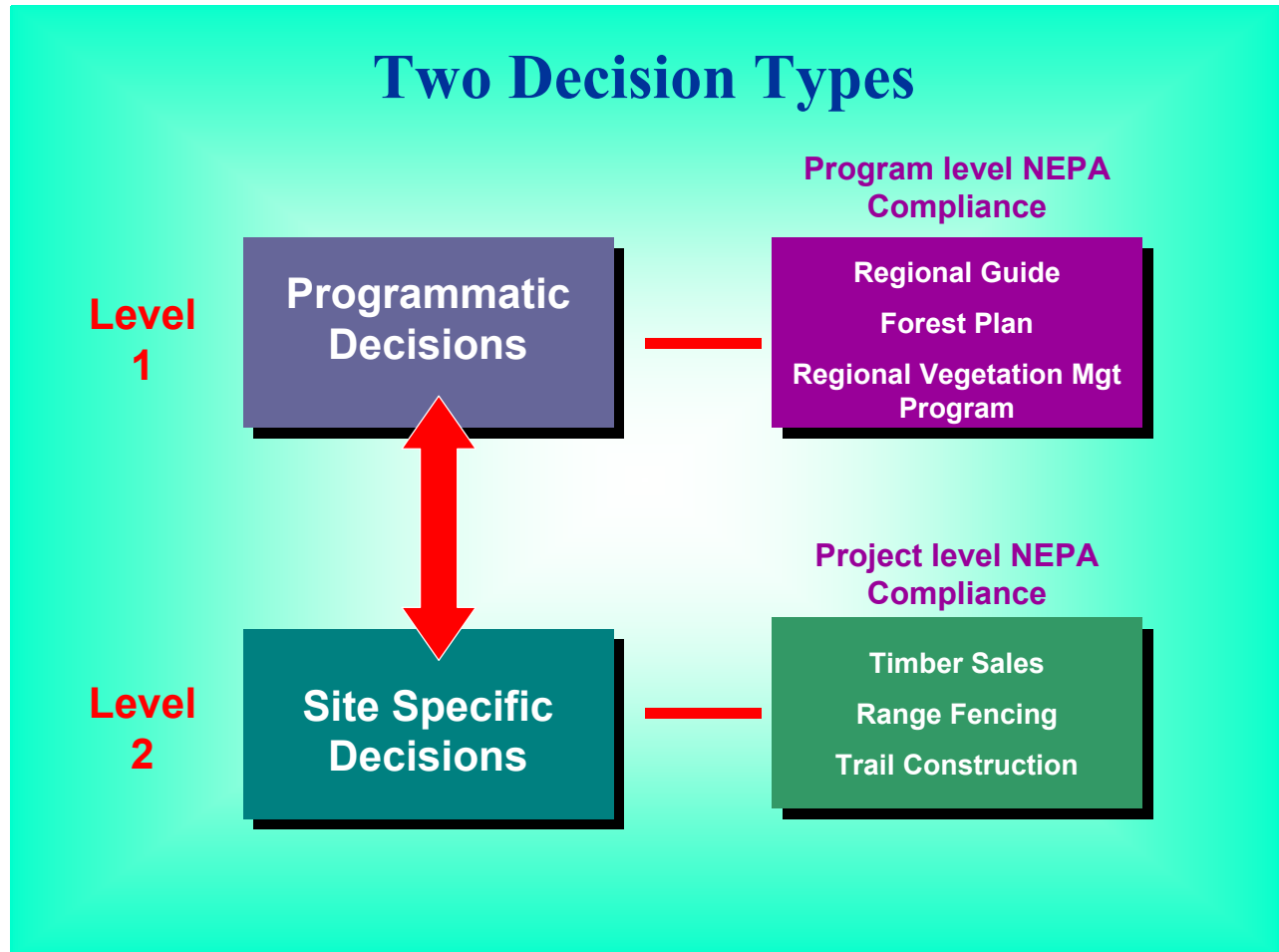
Is NEPA effective?

The effectiveness of NEPA is due, in large part, to the fact that it provides a point of entry for concerned citizens to be involved in and to challenge government actions. The government moves through the guidelines and procedures to implement the law and make decisions

² Reference: *NEPA in the courts: a legal analysis of the National environmental policy act. 1973* by [Frederick R. Anderson](#) Resources For the Future, Inc.

What types of decisions does the Forest Service make?

The Forest Service makes two types of decisions:

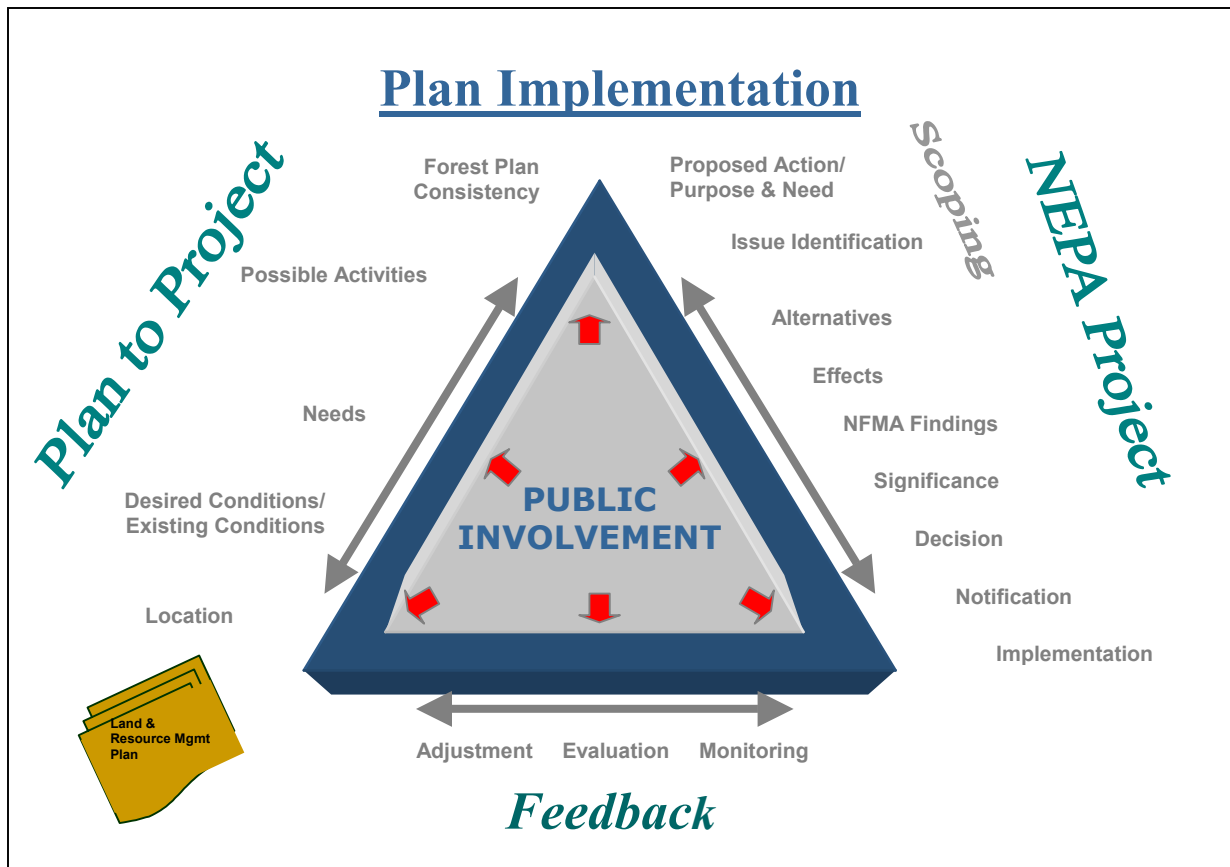


Programmatic decisions – provide program-level decisions. For example a Forest Plan: sets management direction through the establishment of short- and long-range goals and objectives; prescribes the standards, practices, and approximate timing and vicinity necessary to achieve goals and objectives; and prescribes monitoring and evaluation needs to ensure that direction is carried out, measures quality and quantity of actual operations against predicted outputs and effects, and forms the basis to implement revisions.

Site-specific decisions – implement programmatic decisions on a specific area of land. If the proposed action, the alternatives, and the disclosure of effects in an environmental document apply only to one predetermined area, then the decision is site-specific.

What is the NEPA “process” at the project level?

The NEPA “process” is part of an overall process for implementing a land and resource management plan at the project level. This overall process can be thought of as a triangle, with NEPA being one of the sides.



Plan to project – The “plan-to-project” side of the process can be thought of as the information gathering side of the process. The Forest Plan is used to determine goals and objectives and the desired condition for a particular area. Data on the area is gathered, and the existing condition is defined. In comparing the existing condition with the desired condition, the project team identifies any needs for change and possible activities to meet these needs.

NEPA Project – The project side of the process is where NEPA is applied. This part of the process follows the NEPA implementing regulations for conducting and documenting the environmental analyses and decisions. The product of this aspect of the process is a NEPA document and accompanying decision. The steps to be followed are outlined in the Code of Federal Regulations.

Feedback – The feedback side of the process involves monitoring and evaluation of activities to determine how well Forest Plan direction was carried out, were the effects of the activities as expected, and is there a need to make any adjustments to activities in the future?

How can I become involved in the NEPA process?

If you look at the Plan Implementation diagram above, you see that public participation is an important part of the NEPA process. Each specific project may use a different level of public involvement. To become involved you can contact a national forest by mail, phone, or e-mail, or you can log on to a Forest's website to ask about current projects. If you are interested in a specific project, ask how you can become involved. You may request available newsletters; participate in public meetings; provide comments on proposed actions during the scoping period; provide comments on pre-decisional and draft NEPA documents; become involved in the appeals process; and participate in evaluation and monitoring.

When can I become involved in NEPA? NOTE: I suggest only using terms they will need in responding to proposals. Reference what is from FS regulation vs. CEQ.

- **Scoping**

An integral part of environmental analysis. Scoping requires examining a proposed action and its possible effects; establishing the depth of environmental analysis needed; determining analysis procedures, data needed, and task assignments. **The public is encouraged to participate and submit comments on proposed projects during the scoping period.** Usually there is a date associated with the end or closure of the scoping period. It is that date by which your response to the formal scoping statement is due; this is usually 30 days after release of the scoping statement. Your concerns regarding potential environmental impacts of our proposed actions are valuable at this early stage.

- **Environmental Assessment (EA)**

This document discloses the environmental impacts to be expected from the proposed action and from specific alternatives to the proposed action. An EA is prepared when significant environmental impacts are not anticipated or when there is a question as to the extent of the impacts. Your comments are requested within 30 days of release of an EA. **Your comments are considered prior to making the final decision** and are responded to in an appendix to the EA.

- **Environmental Impact Statement (EIS)**

A formal public document prepared to analyze the impacts on the environment of a proposed project or action and released for comment and

review. An EIS is prepared, instead of an EA, when significant environmental impacts are anticipated. Your comments are requested within 45 days after the release of a Draft Environmental Impact Statement (DEIS). **Your comments are considered prior to making the final decision** and are responded to in the Final Environmental Impact Statement (FEIS).

- **Legal Notice**

A notice of an appealable decision published in the Federal Register or in the legal notices section of a newspaper or general circulation as required by 36 CFR 217.2