



BLM Planning: Overview of FLPMA and NEPA

The Nevada Association of Counties

July 18, 2017

The Federal Land Management and Policy Act (FLPMA)

An Act To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes.

Directs the Secretary to use and observe the principles of multiple use and sustained yield in the formation of the plans and in all management activities.

The Act gives both regulatory and enforcement authority, provides funding, and authorizes the Secretary to undertake studies and enter into contracts and cooperative agreements.

5-12 Treatise on Environmental Law § 12.02 (2017)



FLPMA

NEPA



	percentage of total land area	NFS land in million acres (1,000 sq km)	BLM land in million acres (1,000 sq km)
NEVADA	76.7%	5.9 (24)	48.0 (194)
UTAH	70.2%	8.2 (33)	29.9 (120)
IDAHO	60.5%	20.5 (83)	8.9 (36)
OREGON	46.2%	15.7 (64)	15.7 (64)
CALIFORNIA	35.4%	20.8 (84)	15.2 (62)
COLORADO	34.4%	14.5 (59)	8.4 (34)
ARIZONA	32.2%	8.3 (34)	12.2 (49)
WYOMING	29.5%	9.2 (37)	18.4 (75)
NEW MEXICO	29.4%	9.4 (38)	13.5 (55)
MONTANA	28.5%	17.0 (69)	8.0 (32)
ALASKA	25.7%	22.0 (89)	87.0 (352)
WASHINGTON	22.7%	9.3 (37)	0.4 (16)

**PUBLIC LANDS HELD BY THE NATIONAL FOREST SERVICE
AND THE BUREAU OF LAND MANAGEMENT**

Source: <http://www.wildlandfire.com/docs/2007/western-states-data-public-land.htm>

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FLPMA Planning

“The national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts.” 43 U.S.C.S. § 1701(a)(2)



FLPMA

NEPA

FLPMA § 202(c)(9)

Criteria for development and revision of land use plans, the Secretary shall... coordinate...

- land use inventory, planning, and management activities
- land use planning and management programs
- including, but not limited to, the statewide outdoor recreation plans
- considering the policies of approved State and tribal land resource management programs.
- plans that are germane in the development of land use plans for public lands;
- assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans,
- RMPs will be consistent with State and local plans to the maximum extent the Secretary finds consistent with Federal law and the purposes of this Act.

(See statute for exact language (**43 USCS § 1712(c)(9)**))



FLPMA

NEPA

Nevada State Planning Laws

- County Land Use: County Ordinances (NRS 244.095-244.119); Powers of Counties (NRS 244.137-244.195); County Parks (NRS 244.300-244.3091); Outdoor Assemblies (NRS 244.354-244.3548); Public Health and Safety (NRS 244.355-244.368)
- Planning and Zoning (NRS 278.010-278.025)(NRS 278.570)(NRS 278.640)(NRS Chapter 270)
- Master Plans (NRS 278.160); Zoning Districts and Regulations (NRS 278.250)
- Land Divisions (NRS 278.320)(NRS 278.461)(NRS 278.480)(NRS Chapter 534)
- City and County Planning Commissions (NRS 278.030)
- Regional Planning (NRS 278.02507)(NRS 278.026)(NRS 278.0274)
- State Planning Agency (NRS 321.640-321.770)
- Open Space Planning (NRS Chapter 376A, 361A)
- Special Districts (NRS 463.3072)(NRS Chapter 384)(NRS Chapter 497)(NRS Chapter 410)
- Conservation Districts (NRS Chapter 547)(NRS Chapter 548)
- Conservation Easements Conservation and Solar Easements (NRS 111.370-111.440); Energy Policy; (NRS Chapter 701)(NRS Chapter 37)
- GID's (NRS Chapter 318)(NRS 318.080)
- PUD's (NRS Chapter 278A)(NRS Chapter 278B)
- Others (Town Boards, City Planning, Annexation)



FLPMA

NEPA

BLM Planning Implementation

- **Planning Regulations**
- **Manuals**
 - Contain policy and procedures to manage programs.
- **Handbooks**
 - Provide detailed instructions for implementing the policy and direction described in the BLM manual sections
- **Instruction Memorandum**
 - Directives that supplement the BLM manual sections and handbooks. Instruction memoranda or IMs contain new policy or procedures that must reach BLM employees quickly, interpret existing policies or provide one-time instructions.



FLPMA

NEPA

See <https://www.blm.gov/media/blm-policy>

What Are the Most Important Sections of BLM Planning Regulations for State and Local Government?

§1601.0-2 Objective and changes in priority (81 F.R. 9683)

§1601.0-5 Definitions. (81 F.R. 9685)

Consistent, Cooperating agency (adopting NEPA Regs), Deciding Official, land use plans

§ 1601.0-8. Principles (81 F.R. 9688)

Impacts to local economies and the local uses on the land

§ 1610.3 Coordination (81 F.R. 9701)

§1610.4 Planning Assessment (81 F.R. 9705)

Consistency review doesn't take place until the development of Alternatives

§ 1610.5-2 Protest Procedures (81 F.R. 9714)

Adds requirements that will make it harder for the public to protest



FLPMA

NEPA

The National Environmental Policy Act (NEPA)

All agencies of the Federal Government shall... include in every recommendation or report on proposals for... major federal actions significantly affecting the quality of the human environment, a detailed statement ... on the environmental impact of the proposed action." 42 U.S.C. § 4332 (2)(C)(i).



The Purpose of NEPA

NEPA is simply a planning tool where federal agencies consider the impacts of their proposed actions to determine whether a different action would result in a better final decision.

Important Point: It only mandates a particular decision-making process, not particular results.



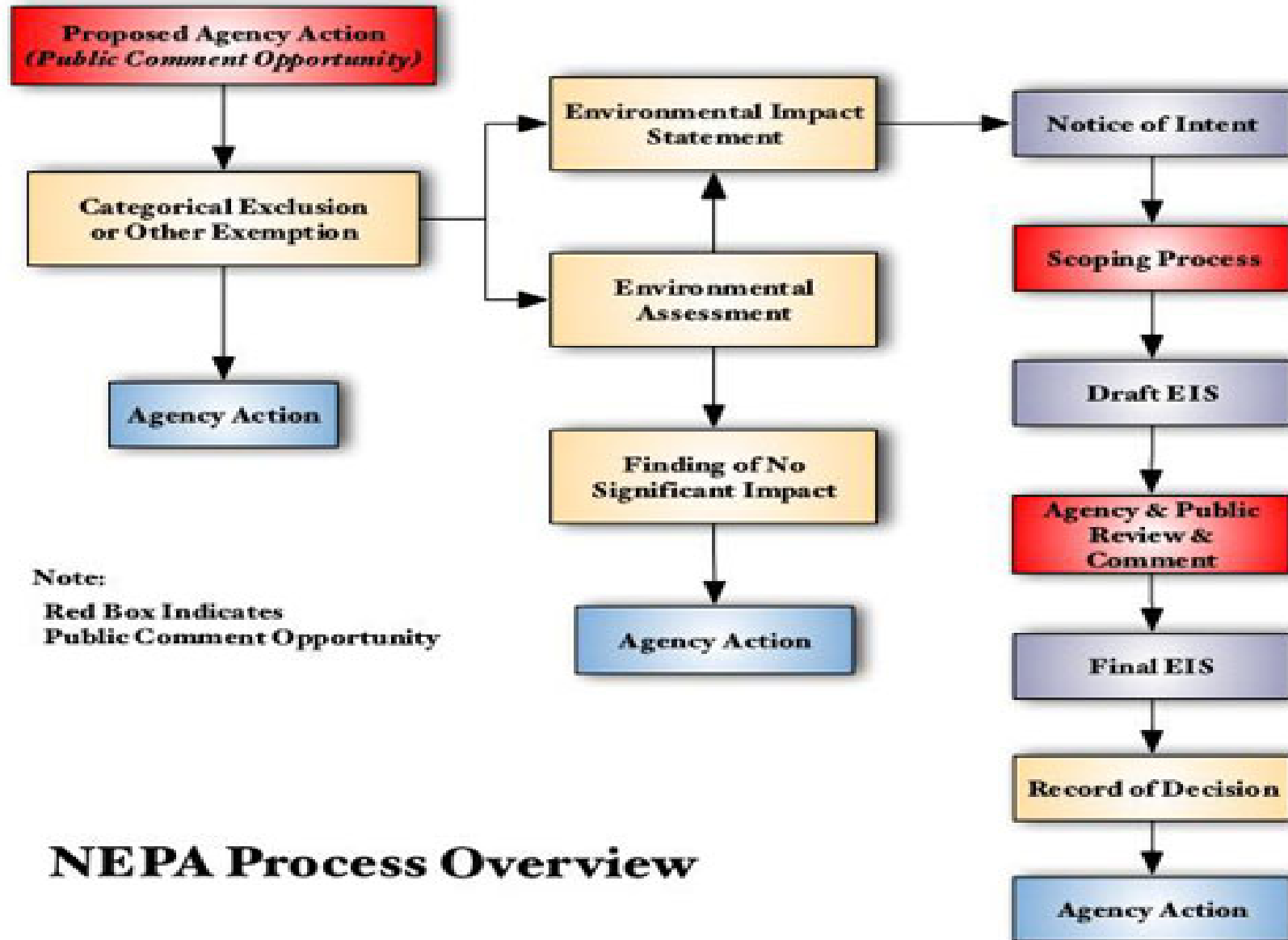
Special Local Government Participation (Cooperating Agency Status)

- Official mechanism for counties to participate
- Opportunity to shape the outcome of the project using local expertise and information
 - Selecting the appropriate individuals to be involved in the assessment will ensure that more adequate (and accurate) consideration is given to potential impacts associated with the development.
- Standing for legal recourse

Important Point: Invest the time, if you can, to be a cooperating agency. If you cannot, then write a letter to the agency explaining why and submit comments, even if they are only a page. This is your only opportunity to think about desired outcomes and engage participants who can work with the agencies if you cannot.



The EIS Process Generally



Questions?