



2010 Financial Assistance Workshop

GMD Connected: The New Decade

**The National Environmental Policy Act and Federal
Assistance
For Recipients**

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Outline

1. Introduction to NEPA and the CEQ Regulations
2. Introduction to NOAA Administrative Order 216-6
3. NEPA and Federal Assistance



Introduction to NEPA and the CEQ Regulations

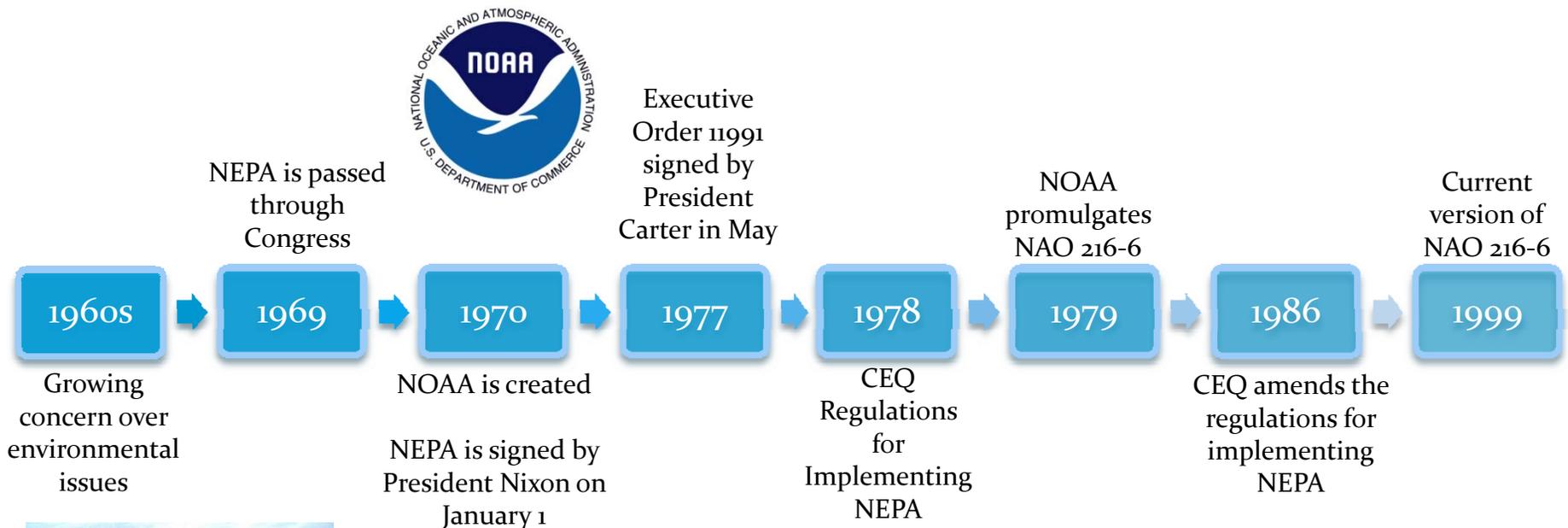


What is the National Environmental Policy Act (NEPA)?

- Signed into law on January 1, 1970, NEPA:
 - Established a national policy for considering environmental effects during Federal decision-making
 - Established a White House Council on Environmental Quality (CEQ)
 - CEQ established procedures to follow for reviewing actions for environmental effects: 40 CFR 1500 - 1508
- NEPA calls for all Federal agencies, when planning programs, projects, issuing permits, or funding activities to conduct environmental reviews before making a decision.



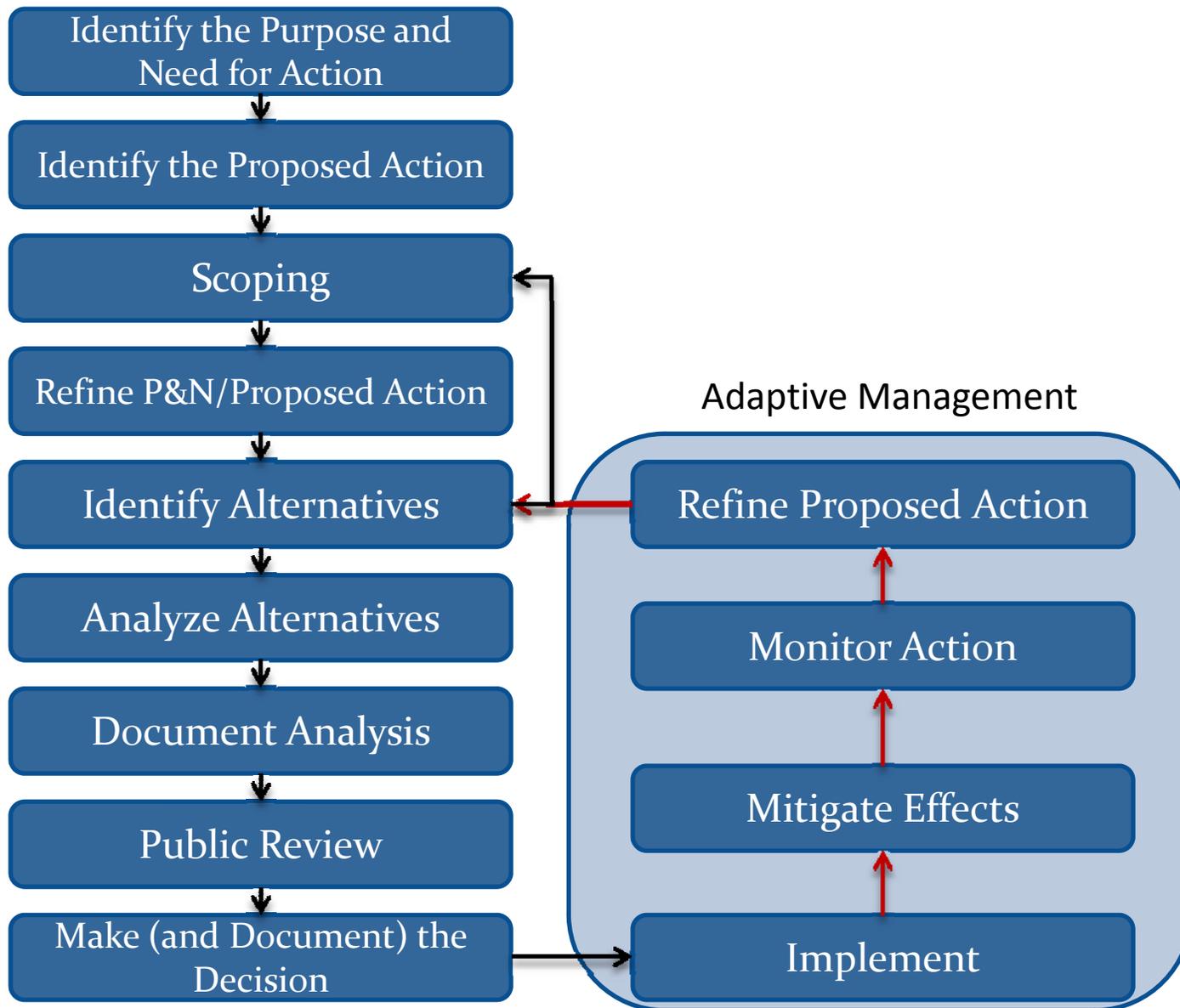
Brief History of NEPA and NOAA





What are the requirements of NEPA?

- Analyze impacts:
 - in clear language the impacts of the agency's action and any alternatives to that action
- Evaluate impacts:
 - the impacts of the action and any alternatives (including not doing the action at all)
- Disclose impacts to the public:
 - Agencies must the analysis to the public significant actions are taken
- Consider impacts when making decisions:
 - Must the human environment in all decisions





Purpose and Need

- To define a purpose and need, one must:
 - Identify the need or requirements
 - Describe the current situation and the *effect* of that situation (positive or negative) or the unacceptable condition that is created
 - Discuss the relationship between the desired future condition and the current situation
- Questions to Consider:
 - Why is the action being taken?

Proposed Action

- Questions to Consider:
 - Who is proposing the action?
 - What is being proposed?
 - When will it happen?
 - Where will it occur?
- Actions to Consider:
 - Connected actions
 - Similar actions
 - Cumulative actions

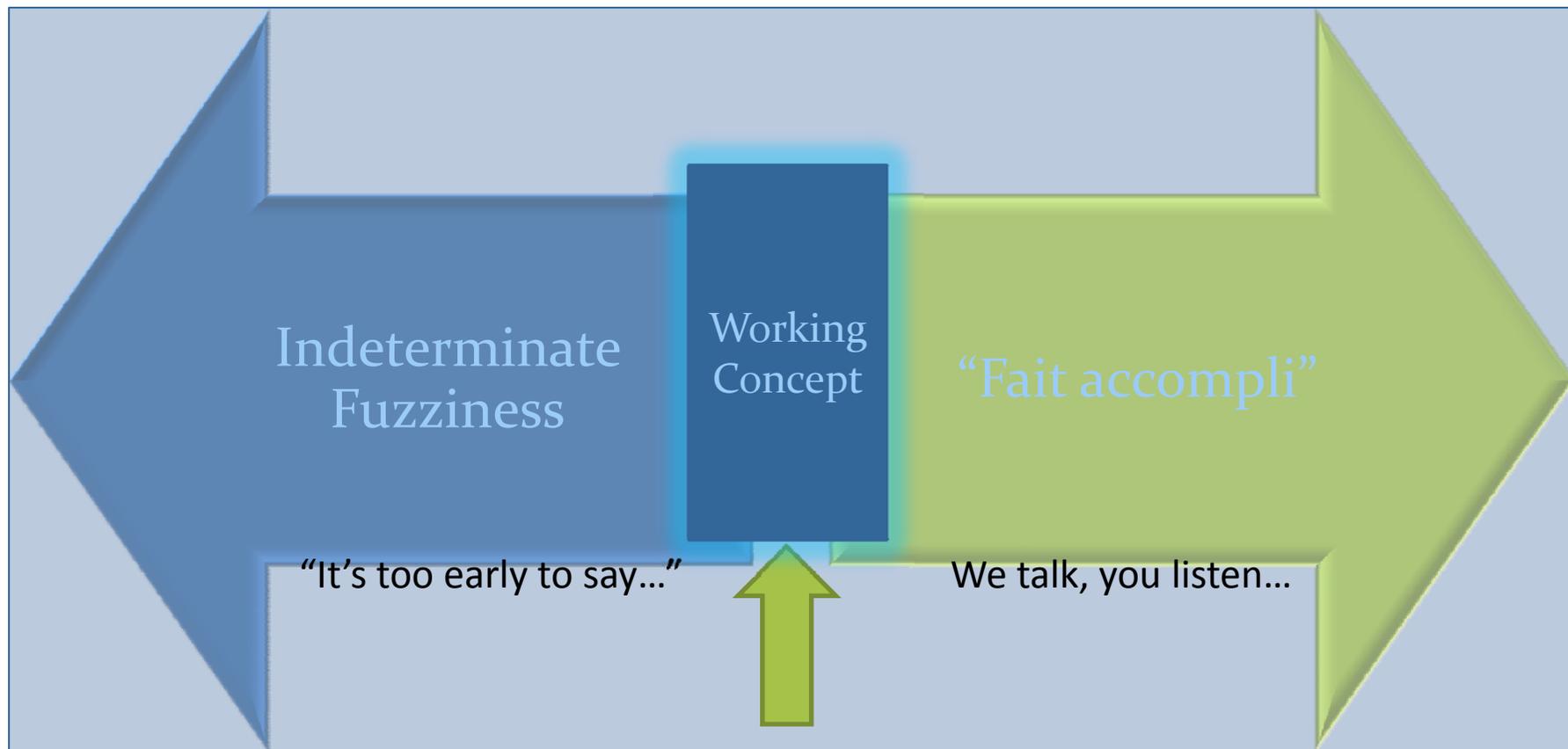




Scoping

- Scoping is a process that allows the agency to discuss the proposed action with stakeholders, interested parties and the public.
- Scoping is required for EISs and encouraged for EAs.
- A “Notice of Intent” to prepare an EIS is published.
- Scoping may include:
 - Meetings (private or public, formal or informal)
 - Research of other analyses and existing documents
 - Identification of other agencies who may assist in the analysis
 - Exploration of any preliminary alternatives
 - Refinement of purpose and need or project scope

Scoping Approaches



Basics defined, details to be done.
Ask: "What do you think?"
This is the hardest, but BEST approach.



Alternatives Development

- The purpose and need statement defines the range of reasonable alternatives.
 - That is, only those alternatives that will achieve the purpose of and need for the proposed action should be evaluated in detail.
- Reasonable Alternatives:
 - Support the purpose and need
 - Are within the scope of the proposed action
 - Relevant to the decision
 - Implementable
 - Technically feasible

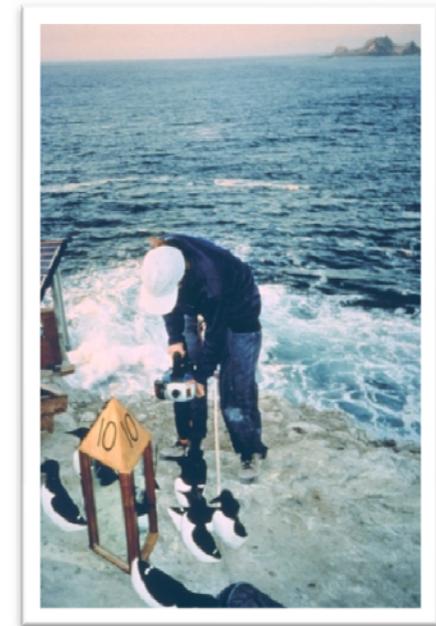


Analysis of Alternatives

- An analytic comparison of the alternatives is the heart of the NEPA process.
- Consider the objective attributes of the alternatives
 - Size, proximity, function, timing, environment, special features
- There are many techniques and methodologies that can be used to analyze alternatives.
 - Trend analysis, qualitative comparison, quantitative modeling, landscape evaluation, checklists, matrices, etc.

Determining Impacts

- Identify direct, indirect and cumulative impacts.
- The affected environment serves as the analytic baseline for resource-based analysis.
- Examples include, but are not limited to:
 - Land Use
 - Biological Resources (i.e. critters)
 - Water Quality/Air Quality
 - Geology and the Physical Environment
 - Socio-economic impacts
- Determine “significance”



Types of NEPA Analyses

- **Categorical Exclusions**

- Established in agency policy
- Used for proposed actions which individually or cumulatively do not significantly impact the environment

- **Environmental Assessments**

- Used for proposed actions which may impact the environment, but the impacts are either not significant, or are not known to be significant

- **Environmental Impact Statements**

- Used for proposed actions where there are known significant environmental impacts or significant controversy surrounding the action
- Such as:
 - Adoption of new programs or regulations
 - Adoption of formal plans
 - Approval of specific projects, such as construction or management activities

Categorical Exclusion

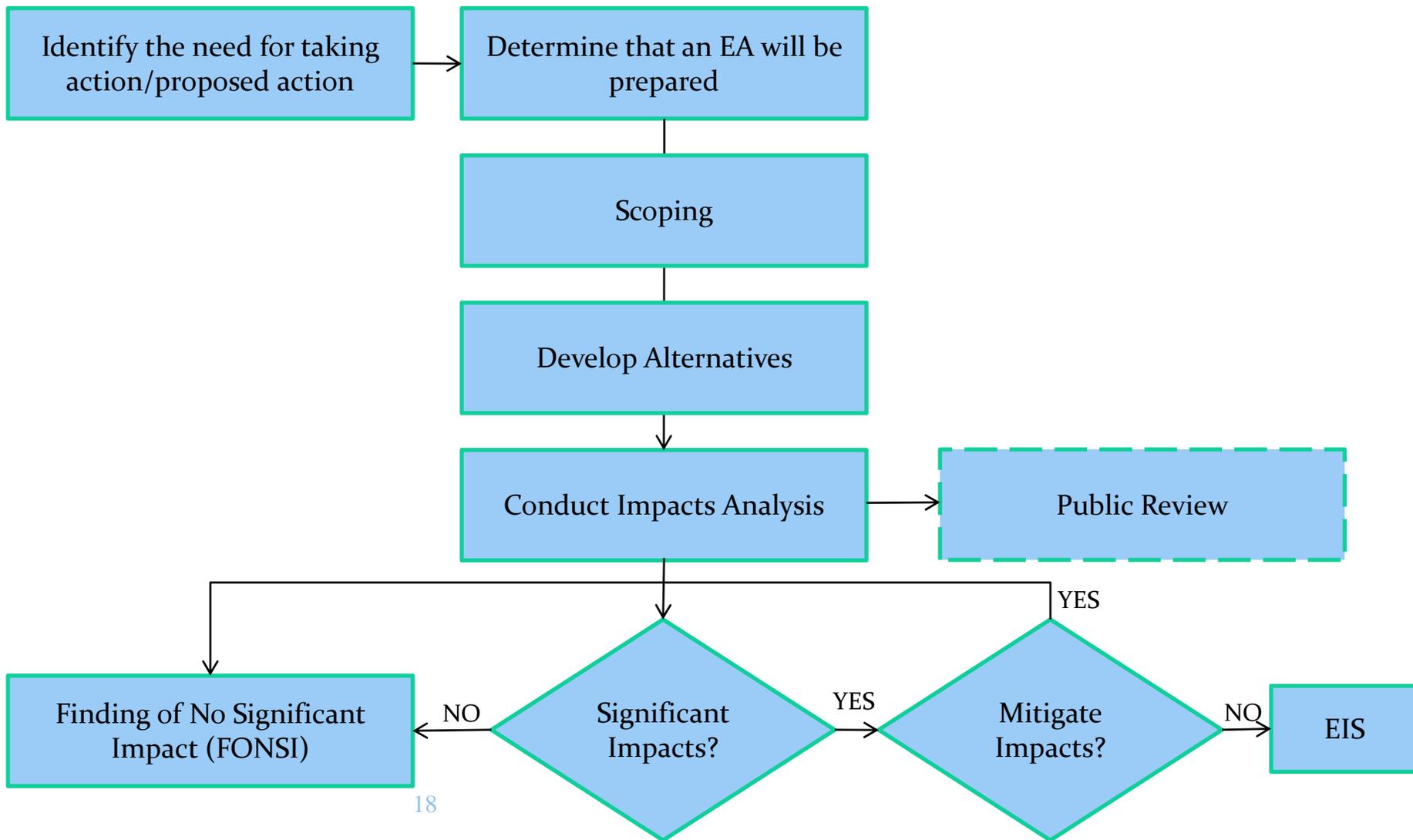
- Common **misconception** that a CE is excluded from NEPA entirely – not true!
- A CE is a type of NEPA analysis (40 CFR 1508.4)
- Financial assistance awards may qualify for a CE





Environmental Assessments

- An EA is a concise public document that serves to determine whether to prepare an EIS or a finding of no significant impact (FONSI) per 40 CFR 1508.9(a).
- An EA must contain (NAO Section 5.03b):
 - Sufficient evidence and analysis for determining whether to prepare an EIS or FONSI
 - Purpose and Need for the action
 - Discussion of environmental impacts of the proposed action and alternatives
 - Listing of agencies and persons consulted
 - A FONSI, if appropriate





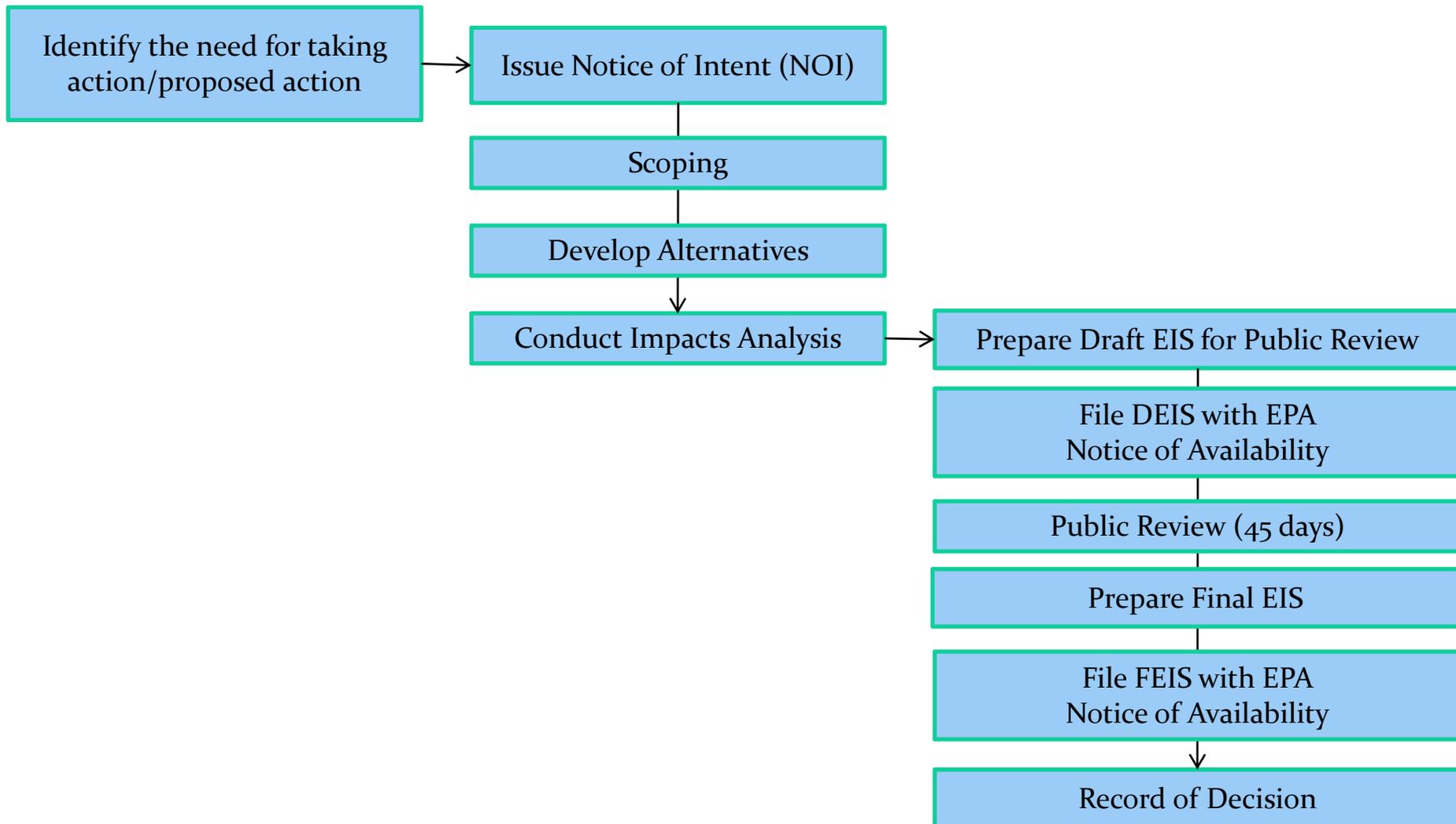
Environmental Impact Statement

- An EIS provides a full and fair discussion of significant environmental impacts and informs decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment (40 CFR 1502.1)
- An EIS requires specific process steps by regulation:
 - Notice of Intent (40 CFR 1501.7)
 - Public Involvement (40 CFR 1506.6)
 - Public Comment Period (40 CFR 1506.10)
- Record of Decision (40 CFR 1505.2)



Environmental Impact Statement

- The EIS must contain (NAO Section 5.04b):
 - A cover sheet/table of contents
 - Purpose and need for action
 - Summary of the EIS, including any issues to be resolved, and in the FEIS the major conclusions and areas of controversy
 - Alternatives
 - Description of the affected environment
 - Succinct description of the environmental impacts, including cumulative impacts
 - Listing of agencies and persons consulted and to whom copies of the EIS are sent
 - A ROD, in the case of an FEIS; and
 - An index and appendices, as appropriate.





What is the public comment period?

- CEQ requires that certain NEPA documents be released to the public for review and comment.
 - Environmental Assessments – *may* be released. Release depends on context and public interest. Usual time period is for 30 calendar days.
 - Environmental Impact Statements – *must* be released for a minimum of 45 calendar days.
- Agencies must assess and consider comments both individually and collectively.
- Agencies shall respond to public comments, which must be disclosed in Final EISs.



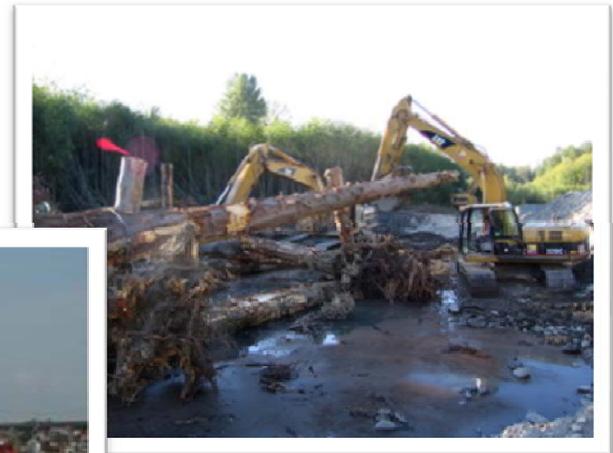
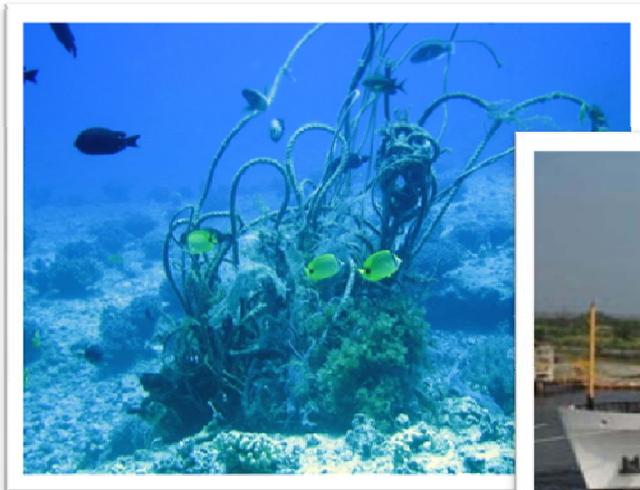
Lead and Cooperating Agencies

- In some cases, two or more federal agencies are involved in the NEPA process.
- The Lead Agency:
 - Is determined by the magnitude, duration of involvement
 - Is ultimately responsible for the NEPA document (including noticing, scope, and schedule)
 - Is expected to request the participation of cooperating agencies at earliest time
- Cooperating Agencies:
 - Special expertise or jurisdiction by law
 - May provide studies, analyses, or personnel to assist



NEPA is a process... not paper

- NEPA is a project and program planning tool.
- NEPA helps federal agencies to make informed decisions.
- NEPA is about places and people.





NOAA Administrative Order 216-6

An Introduction to NOAA's procedures for NEPA



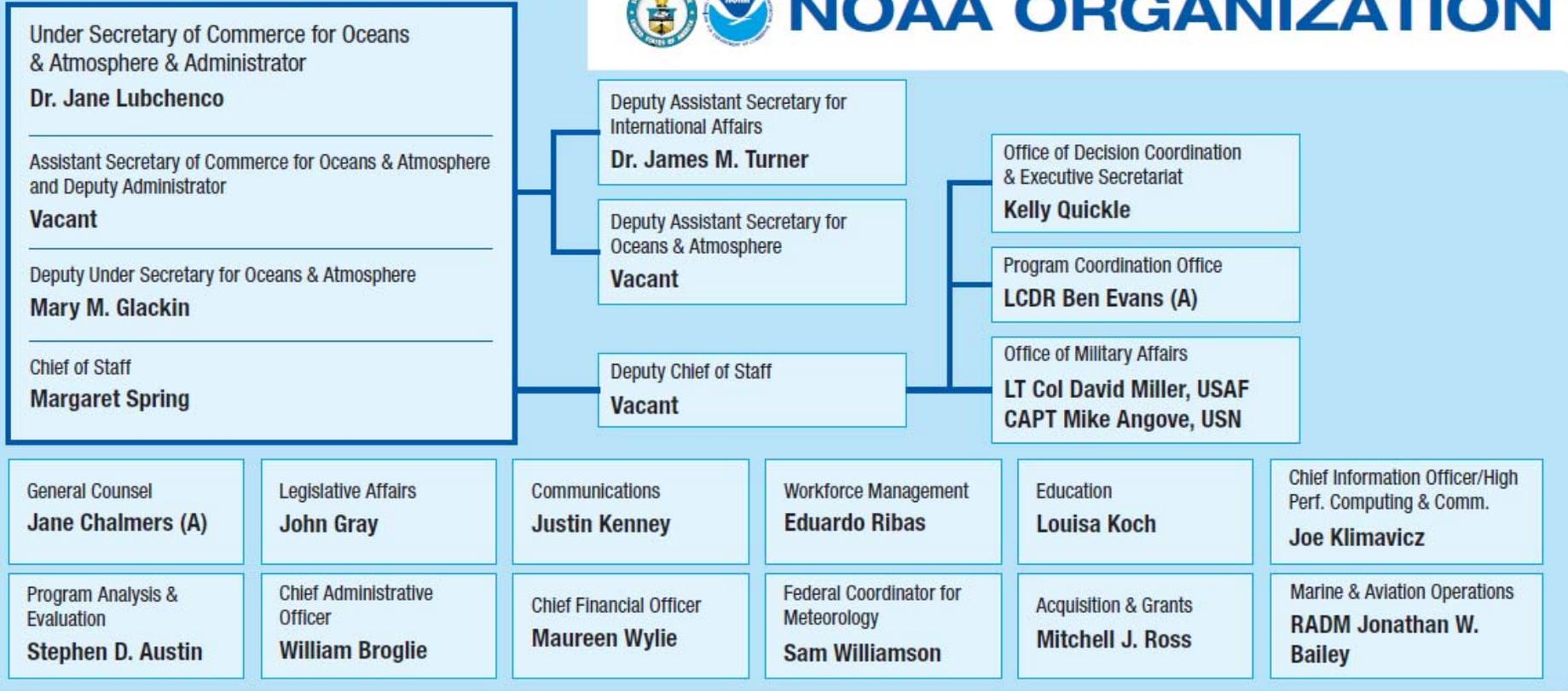
NOAA Administrative Order 216-6

- NOAA's agency-wide policy and procedures on how to comply with NEPA during decision-making per 40 CFR 1507.3
- All line and staff offices must comply with the NAO.
- The NAO:
 - Establishes NOAA's policy on NEPA
 - Outlines the procedures NOAA follows to comply
 - Establishes the NOAA NEPA Coordinator
 - Identifies roles and responsibilities of NOAA staff

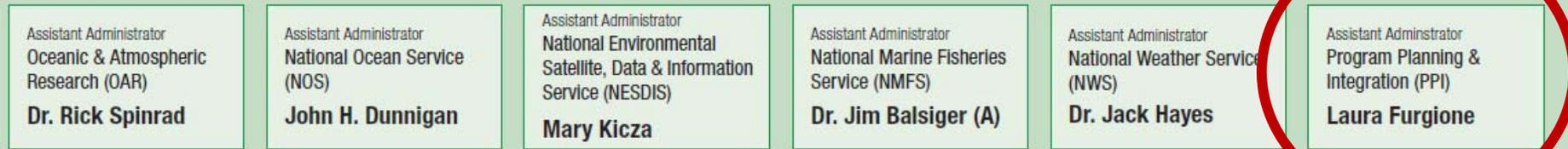
CORPORATE FUNCTIONS



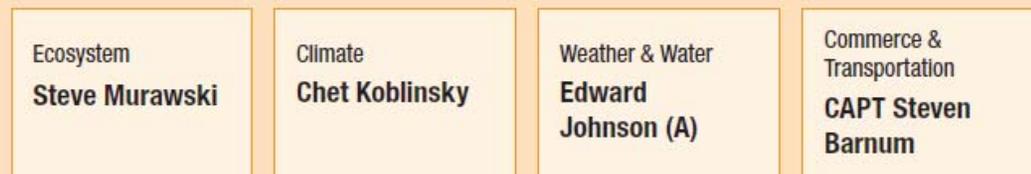
NOAA ORGANIZATION



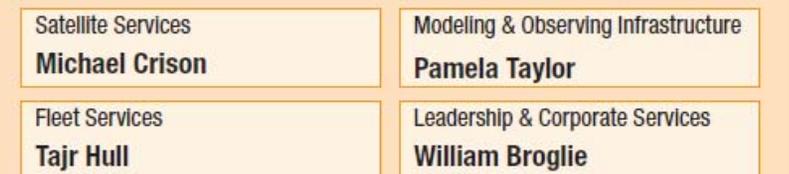
LINE OFFICES



MISSION GOALS



MISSION SUPPORT





What does PPI do?

- The NOAA NEPA Coordinator's role includes:
 - Review and Clearance of NEPA documents, signs transmittal letters
 - Coordinates NOAA's review of other agencies' EISs
 - Maintains templates, tools, and training on NEPA for all NOAA staff
 - NOAA's Liaison between NOAA and CEQ/EPA
 - Develops and maintains the NEPA policy and procedures for NOAA
 - Acts as a "hotline" for questions for NEPA procedures for NOAA
 - Unique responsibilities include consulting with CEQ (e.g., emergencies and pre-decision referrals)



NOAA's NEPA Policies

- In meeting the requirements of NEPA, NOAA will:
 - Fully integrate NEPA into the agency planning and decision-making process;
 - Fully consider the impacts of NOAA's proposed actions on the quality of the human environment;
 - Involve interested and affected agencies, governments, organizations, and individuals early in the agency planning and decision-making process when significant impacts are or may be expected to the quality of the human environment from implementation of proposed major Federal actions;
 - Conduct and document reviews and related decisions appropriately and efficiently;
 - The scope of the analysis will be to consider the impacts of actions on the marine environment both within and beyond the U.S. EEZ



NAO and Scoping

- The scoping process should include, where relevant, consideration of the impact of the proposed action on:
 - Floodplains/sites in the National Trails/Nationwide Inventory of Rivers
 - Sites nominated or designated by the ACHP
 - Any national marine sanctuary or national estuarine research reserve
 - Habitat as described in 1) the NMFS 1983 habitat conservation policy and 2) the National Habitat Plan (1996)
 - Affected state CZM Plans
 - The environmental/health impact on low-income and minority populations
 - American Indian Religious Freedom Act
 - ESA Section 7
 - Section 305(b) of the Magnuson-Stevens Act
 - Non-indigenous species



NAO and EAs

- An EA must contain:
 - Sufficient evidence and analysis for determining whether to prepare an EIS or FONSI
 - Purpose and Need for the action
 - Discussion of environmental impacts of the proposed action and alternatives
 - Listing of agencies and persons consulted
 - A FONSI, if appropriate.
- Mitigating Effects:
 - Mitigation used in determining a FONSI are only relied upon if they are imposed by statute or regulation or are part of the proposed action.



NAO and Public Involvement

- Public involvement may be solicited through:
 - Public Hearings/Meetings
 - Solicitation of comments on draft or final NEPA documents
- When conducting public involvement, the RPM must:
 - Provide public notice of NEPA-related hearings/meetings
 - Provide notification of the availability of NEPA documents
- Public involvement is encouraged for EAs (NAO Section 5.02b.1)



NAO and EISs

- The EIS must contain:
 - A cover sheet/table of contents
 - Purpose and need for action
 - Summary of the EIS, including any issues to be resolved, and in the FEIS the major conclusions and areas of controversy
 - Alternatives
 - Description of the affected environment
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 - An index and appendices, as appropriate.



NAO and Public Comment

- EPA publishes a Notice of Availability in the Federal Register every Friday
- Copies of each DEIS or FEIS must be sent to agencies, public groups, individuals who may have interest in the project
- Public comment period = 45 calendar days
- FEIS must include all substantive comments or summaries of comments received on the DEIS



NEPA and Federal Assistance



NOAA and Applicant Responsibilities

NOAA, as the federal agency, must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA federal funding opportunities.

Applicants:

- Are required to provide **detailed information** on the activities to be conducted
- Are required to cooperate with NOAA in identifying and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal (dependent on funding)
- May also be requested to provide direct information to assist NOAA in drafting of a NEPA document

NOAA is ultimately responsible for the NEPA analysis and will independently evaluate information submitted by applicants during the NEPA process.

Applicant Responsibilities

Provide detailed project information:

- Location and timing
- Types of activities (e.g., construction)
 - Construction
 - Data collection
 - Research methods
 - Sampling methods
- Permits that may be required
 - Scientific research permits
- Known Environmental Concerns:
 - Threatened/Endangered species
 - Cultural/historical resources





Environmental Compliance Questionnaire

- Ensures the appropriate information is received
- Applicants are not required to answer every question – questions pertinent to the award should be indicated in the Announcement of Federal Funding Opportunity
- Many questions are yes/no
- More information may be attached to the questionnaire

A copy of the questionnaire may be found at NOAA's NEPA Website:

<http://www.nepa.noaa.gov/grants.html>



Where can I get more information?

- The NOAA NEPA Website:
<http://www.nepa.noaa.gov/>
- CEQ's NEPA.net (New and Improved!):
<http://www.nepa.gov>