



GOLD BELT MEETING 2024

NEPA Overview and Implementation

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Presentation Topics

- Overview of NEPA 2.0
- Overview of Fiscal Responsibility Act
- Implementation
 - BLM NV IM
 - Management Process for external NEPA projects



Very Brief History of NEPA

- **Jan 1 1970** - (NEPA) enacted
- **November 29 1978** - First CEQ NEPA implementing regulations
- **July 16 2020** – 2020 Rule
- **April 20 2022** – Phase 1 Rule
- **June 3 2023** – 2023 NEPA amendments enacted in the FRA of 2023
- **July 31, 2023** Bipartisan Permitting Reform Implementation (BPRI) / Phase 2 Proposed Rule
- **May 1 2024** Final BPRI / Phase 2 Rule



Key NEPA Requirements	1978 Rule	2020 Rule	Phase 1 Rule	Phase 2 Rule
Major Federal Action	Action (or reviewable inaction) with “significant” effects that is “potentially” subject to Federal control	Action subject to Federal control	Not addressed	Agency actions that are subject to substantial Federal control and responsibility
“Significant”	Agencies must consider “context” and “intensity” of environmental effects. 10 factor intensity rule	Deletes definition of “significantly” 4 factor intensity rule	Not addressed	Restores “context” & “intensity” and duration 8 factor intensity rule



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"Effects"	Includes direct, indirect, and cumulative impacts	Impacts with a "reasonably close causal relationship" to proposed action	Direct, indirect and cumulative restored	"Disproportionate and adverse effects on communities with EJ concerns" and "climate change-related effects"
Statement of Purpose and Need (P&N)	In EIS, agencies must "briefly specify" P&N for the proposed action and alternatives	Agency must base P&N "on the goals of the applicant and the Agency's authority"	Restored 1978 provision	Agency must "briefly summarize" P&N for the proposed action"

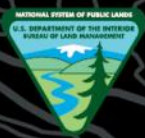
*Red text denotes required by Fiscal Responsibility Act



Key NEPA Requirements	1978 Rule	2020 Rule	Phase 1 Rule	Phase 2 Rule
Sponsor-led NEPA	Not addressed	Yes, under supervision of the Agency	Restored 1978 provision	Yes, pursuant to guidance adopted by the Agency for EIS* EA already occurs
Tiering to Programmatic Analyses	“encourage” to Tier EISs as appropriate	Provided additional guidance	Not addressed	Can tier within 5 years w/o further review unless “substantial new circumstances” After 5 years with review*



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Agencies use other Agencies CXs	Not addressed	Yes	Not addressed	<p>Yes</p> <p>Agencies can also establish CXs through LUPs or PEIS</p> <p>*DOI level approval for Agency to adopt</p>
Time Limits	None	<p>1 years for EIS 6 mo for EA</p> <p>(1 yr and 6 mo as per BLM NV policy)</p>	Not addressed	<p>2 years for EIS 1 year for EA</p> <p>*NV retains 1 yr and 6 mo as per 2020 rule</p>



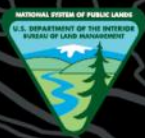
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Page Limits	EIS 150/300 pages	EISs 150/300 pages EA 75 pages	Not addressed	Retains 2020 Rule
Analysis of “reasonable alternatives	Agencies must “rigorously explore” all alternatives to proposed action, <i>including those outside agency’s jurisdiction</i>	must provide “limited” analysis of “technically and economically feasible” alternatives that meet project’s “P&N”, are within lead agency jurisdiction and ideally meet applicant’s goals	Deletes “and ideally meet applicant’s goals”	Must “rigorously explore alternatives that are T&EF and P&N “May” explore alternatives outside lead agency’s jurisdiction Must ID “environmentally preferred alternative(s)”



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Relevant Data	Agencies must ensure “professional” and “scientific integrity”	Agencies should use “reliable data” Agencies not required to do new studies	Not addressed	Must ensure “scientific integrity” and use “reliable data” including “best available science” Deletes language that agencies aren’t required to conduct new studies Agencies to use (quantifiable) projections, including climate related effects, “where appropriate”



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Mitigation	Adopt “monitoring and enforcement program” for mitigation “where applicable”	<p>Redefined mitigation</p> <p>Requires agencies to cite statutory authority when specifying mitigation</p> <p>Monitoring and enforcement program only required for “enforceable” commitments</p>	Not addressed	<p>Requires mitigation be enforceable when the FONSI is based on mitigation</p> <p>Unenforceable mitigation may be approved if mitigation is not used in the determination of significant impact</p> <p>Agency to ID authority for enforceable mitigation in “monitoring and compliance” plan which must be</p>



Now on to Implementation

