



U.S. DEPARTMENT OF
ENERGY



National Environmental Policy Act (NEPA) at the Savannah River Site (SRS) – A Primer for the SRS Citizens' Advisory Board (CAB)

Tracy Williams, NEPA Compliance Officer

DOE Savannah River Operations Office

Office for the Assistant Manager for Infrastructure & Environmental Stewardship (AMIES)

Environmental Quality Management Division (EQMD)

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Purpose

- Provide an overview of the National Environmental Policy Act (NEPA) and some examples of how NEPA is applied at Savannah River Site

NEPA Introduction

➤ Signed by President Nixon January 1, 1970

- First major U.S. environmental law
- Called the "Magna Carta" of Federal environmental laws
 - *Both promote government transparency and gives the public voice in government decision-making*
- Major components
 - *Establishment of overarching national environmental policies and goals*
 - *Provisions for federal agencies to enforce such policies and goals*
 - *Creation of the Council on Environmental Quality (CEQ)*



Major NEPA Components Explained

➤ CEQ's Role

- Issues NEPA procedural requirements, guidance and interpretation
- Reviews and approves Federal agency NEPA procedures
- Approves alternative arrangements for compliance with NEPA for emergencies,
- Resolves disputes between Federal agencies and with other governmental entities and the public



CEQ: 40 CFR 1500 – 1508
DOE: 10 CFR 1021

Major NEPA Components Explained (cont'd)

➤ Overarching goals and policies

- NEPA's objective - Protect and enhance human and environmental quality by:
 - *Planning Federal actions to integrate environmental considerations as early as possible*
 - *Weighing environmental, technical, and economic considerations during decision making and before any actions are taken;*
 - *Ensuring the decision maker and **the public** are aware of environmental consequences of proposed Federal actions and that informed decisions are made.*



Major NEPA Components Explained (cont'd)

➤ Federal agencies' 'enforcement' of goals and policies

- 'Action-forcing': Legislation carries no criminal or civil sanctions
 - *Enforcement through court system*
- What NEPA requires Federal agencies to do
 - *Environmental impacts considered early during planning and decision-making*
 - *Disclosure about alternatives, environmental effects, and mitigation*
 - *Public participation in the planning process*
 - *Codify agency NEPA procedures*



Major NEPA Components Explained (cont'd)

- **Federal agencies' 'enforcement' of goals and policies**
 - . What NEPA doesn't require Federal agencies to do
 - *Decide a specific outcome*
 - *Prevent environmental impacts from happening*
 - *Guarantee decisions*
 - *Prohibit any actions*
 - *Doesn't exempt compliance with other regulations*
 - ✓ Federal Agencies use NEPA to address compliance with other regulations
 - ✓ Coordinate "to the fullest extent possible" with environmental review laws and executive orders



NEPA ≠ all environmental laws

The NEPA Process

- *Identify proposed action*
- *Determine appropriate level of NEPA review*
- *Prepare required NEPA documentation*
- *Make “environmental” decision*
- *Implement project, as well mitigations and monitoring, as required*



The NEPA Process (cont'd)

- **Broad range of Federal actions subject to NEPA**
 - Proposed on or requires passage on Federal land
 - Funded by Federal money
 - Requires a Federal permit
 - Federal Agency is a partner
- **When: A Federal agency develops a proposal addressing a need**
 - Has a goal
 - Is actively making a decision
 - Has one or more alternative ways of accomplishing that goal
 - Can meaningfully evaluate the effects of a proposed action



Addressing Environmental Justice (EJ) in the NEPA Process

EO 12898, Section 1-101

“...each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations...”

Presidential Memorandum on EO 12898

...“Each Federal agency shall analyze the environmental effects, including human health, economic and social effects, of Federal actions, including effects on minority communities and low-income communities, when such analysis is required by the National Environmental Policy Act of 1969 ...”(NEPA), 42 U.S.C. section #321 et seq.

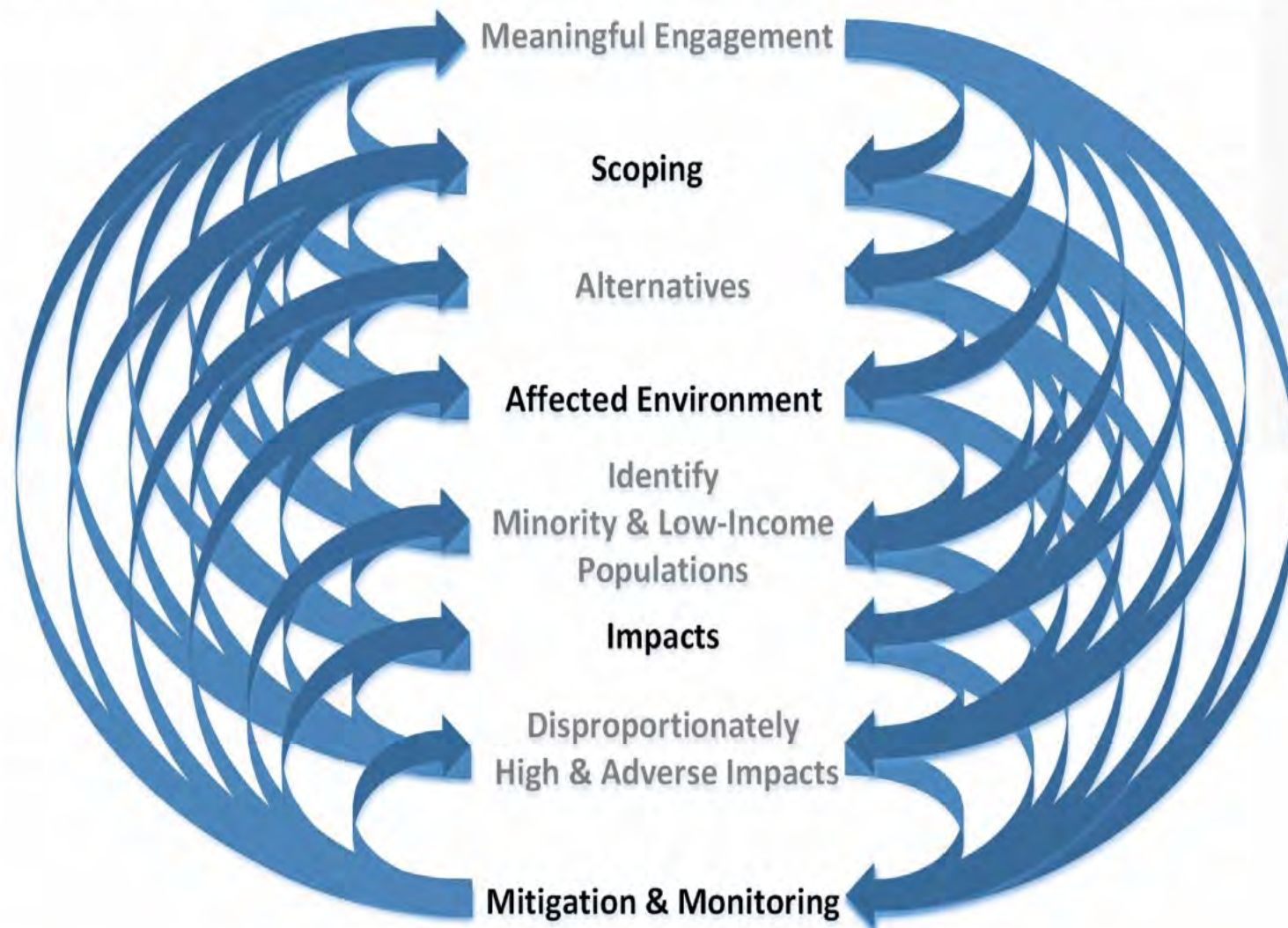


On February 11, 1994, President William J. Clinton signed Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.

Addressing Environmental Justice (EJ) in the NEPA Process (cont'd)

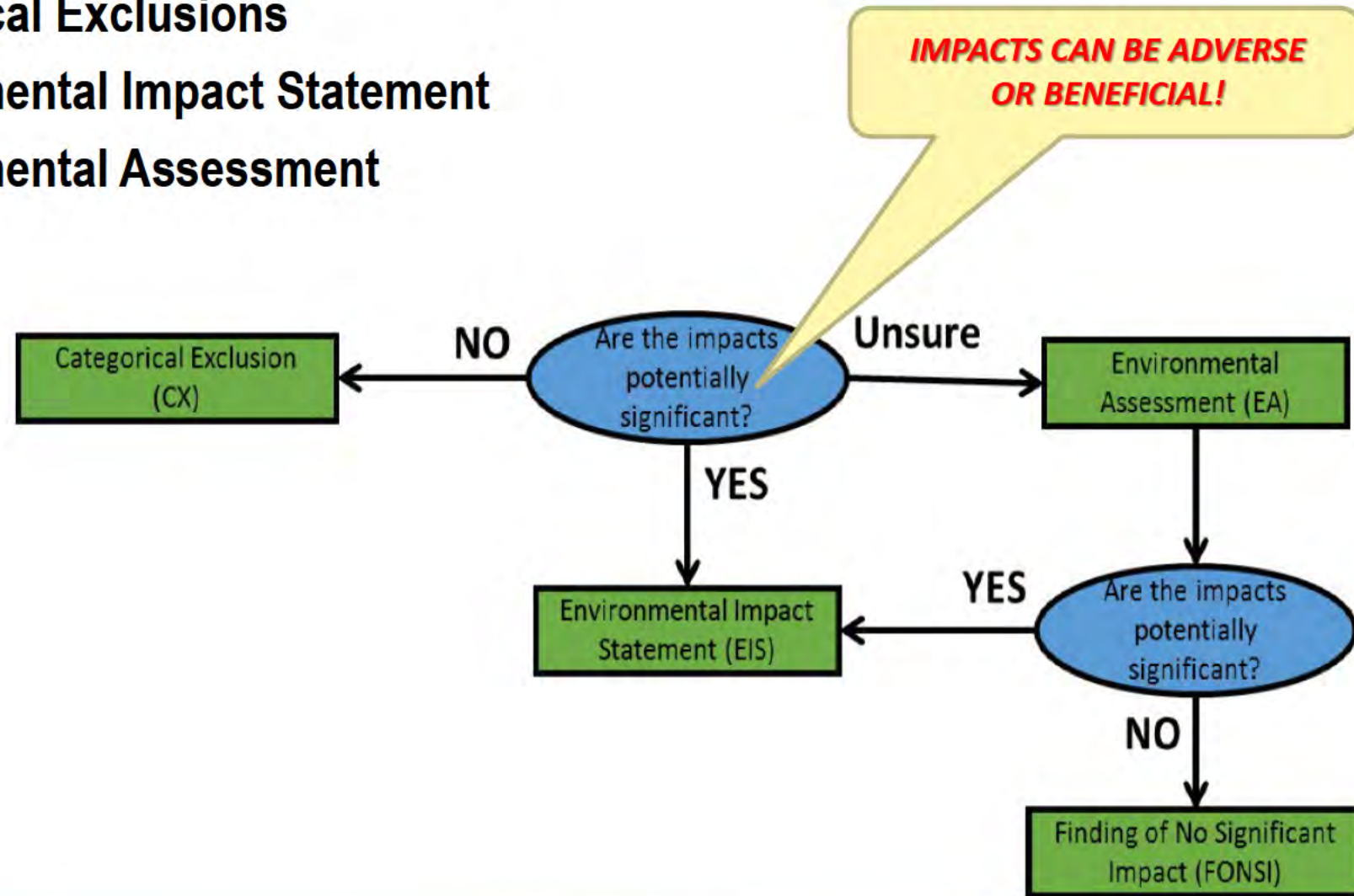
➤ EJ and NEPA Common Themes

- Both promote healthy and sustainable communities and equitable distribution of benefits for all.
- Federal agencies must ensure that everyone is treated fairly as they develop and implement actions, laws, regulations, and policies.
- Potentially affected populations have the opportunity to participate in the decision-making process.



Levels of NEPA Evaluations

- Categorical Exclusions
- Environmental Impact Statement
- Environmental Assessment



Levels of NEPA Evaluations (cont'd)

➤ Categorical Exclusions (CX)

- Environmental effects of action(s) – separately and cumulatively - not likely to be significant
- Most actions (90+%) meet CX criteria
 - *Over 100 classes of actions listed in DOE regulations*
 - ✓ Examples - R&D/lab operations; environmental monitoring and sampling; routine maintenance/repairs

➤ Environmental Impact Statement (EIS)

- Environmental effects of action likely to be significant
- Actions typically (but not all inclusively) requiring an EIS
 - *Nuclear processing and uranium enrichment facilities; nuclear material production, test and research reactors*

➤ Environmental Assessment (EA)

- Uncertain whether environmental effects of action(s) are significant
- Outcomes of EA
 - *Finding of No Significant Impact (FONSI) or EIS*
- Actions typically (but not all inclusively) requiring an EA
 - *Cultural resources/fish and wildlife habitat protection; energy demonstration projects*

Documenting NEPA Determinations at SRS

- Neither CEQ nor DOE NEPA regulations mandate specific methodology
- SRS uses automated checklist as internal mechanism to support compliance with NEPA
 - Initiates NEPA evaluation
 - Provides basis for NEPA determination
 - *Identifies environmental resources potentially impacted by proposed action*
 - *Documents CX criteria (if applicable) for proposed action*
 - *Supports justification for other NEPA determination (EA, EIS, etc.)*
 - *Provides confirmation whether proposed action is covered under existing NEPA documentation*
 - Collateral/dual-purpose for environmental compliance
 - *Identifies environmental permitting and other requirements*
 - ❑ Approval of checklist does NOT constitute approval of other environmental requirements

Key NEPA Players at SRS

- **DOE is final approver of NEPA documents**
 - Site Manager: Approves EAs and FONSIIs
 - *Office of Environmental Management (EM) approves higher—level NEPA documents*
 - NEPA Compliance Officer (NCO)
 - *Advises management on NEPA strategies*
 - *Approves CX determinations*
 - NEPA Document Manager
 - Office of Chief Council
 - Office of External Affairs
 - Program Office/Elements
 - *Office of Environmental Management, National Nuclear Security Administration, Office of Nuclear Energy,*
- **Management & Operations (M&O) Contractor**
 - Line organizations and project personnel
 - Processed SRS internal NEPA/environmental screening forms for proposed actions
- **The Public**



Public Participation in the NEPA Process

➤ CX Determinations

- Posted on DOE and SRS external NEPA webpages

➤ EIS

- Public scoping (30 days minimum)
 - *Minimum one (1) public meeting*
- Public comment on draft EIS (45 days minimum)
 - *Minimum one (1) public hearing*
- 30-day 'waiting' period for Record of Decision (ROD) after final EIS

➤ EA

- Input from host State and Tribe mandatory
 - *EA and FONSI made publicly available*

Major SRS NEPA Actions

➤ Recent Actions

– SRS

- *Supplement Analysis for the Spent Nuclear Fuel Accelerated Basin De-inventory Mission for H-Canyon at SRS, DOE/EIS-0279-SA-07 (March 2022)*
- *Amended ROD to Savannah River Site Spent Nuclear Fuel Management Final EIS: Accelerated Basin De-inventory Mission for H-Canyon at SRS, 87 FR 23504 (April 20, 2022)*

– DOE

- *Final Versatile Test Reactor EIS, DOE/EIS-0542 (May 2022): Office of Nuclear Energy*
- *Final Versatile Test Reactor ROD, 87 FR: Office of Nuclear Energy (August 3, 2022)*
- *EA for the Commercial Disposal of Defense Waste Processing Facility Recycle Wastewater from SRS, DOE/EA-2115 (August 2020)*
- *FONSI for the Commercial Disposal of Defense Waste Processing Facility Recycle Wastewater at SRS, 85 FR 48236 47400 (August 4, 2020)*

SRS issues a monthly report to track major NEPA actions:

<https://www.energy.gov/srs/articles/srs-nepa-status-reports>

Major SRS NEPA Actions (cont'd)

➤ **Pending Actions**

– SRS

- *Proposed Construction and Operation of Training Facilities and Infrastructure by South Carolina Army National Guard (SCARNG) on SRS Lands*
- *Revised SRS Natural Resources Management Plan*

– DOE

- *Draft EIS/Overseas EIS for the Disposal of Decommissioned, Defueled Ex-Enterprise (CVN 65) and its Associated Naval Reactor Plants, DOE/EIS-0524 (August 2022): cooperating agency with Department of the Navy*
- *Draft EA for the Commercial Disposal of Savannah River Site Contaminated Process Equipment, DOE/EA-2154 (December 2021)*

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Test Your NEPA Knowledge

➤ Which of these actions are subject to NEPA review?

- A) Replacing a roof on a contractor-occupied building at a Federal-owned facility

Yes, subject to NEPA: Proposed activity is taking place on Federal lands

- B) Federal agency funding construction of a new research laboratory in Any County, USA

Yes, subject to NEPA: Proposed activity is Federally-funded

- C) Federal agency leasing office space in Anytown, USA

Yes, subject to NEPA: Proposed activity is Federally-funded;
Agency is acquiring property

- D) State highway repairing bridge requires laydown area on adjacent Federal land

Yes, subject to NEPA: Passage on/access to Federal land is needed

For more information:
Email: NEPA-SRS-EM@srs.gov

QUESTIONS?

ACRONYMS

- CEQ – Council on Environmental Quality
- CFR – Code of Federal Regulations
- CX – Categorical Exclusion
- EA – Environmental Assessment
- EIS – Environmental Impact Statement
- FONSI – Finding of No Significant Impact
- FR – Federal Register
- NCO – NEPA Compliance Officer
- NEPA – National Environmental Policy Act
- ROD – Record of Decision