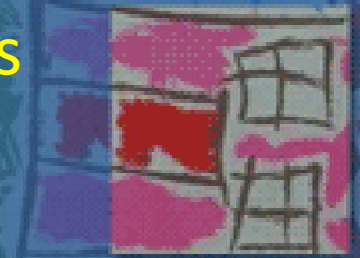


# NEPA and Keys for Streamlining

EPA Presentation for COMPASS  
Planners

May 22, 2012

EPA Region 10, NEPA Reviewers  
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# Presentation Overview



- Understanding the Basics National Environmental Policy Act (NEPA)
- When NEPA is applied
- Levels of NEPA Analysis
- What is an Environmental Impact Statement (EIS)?
- Facilitating Meaningful Participation
- EPA's Responsibility
- Transportation Planning Ideas
- Land Management Case Example
- NEPA Resources



# NEPA

**Declare a national policy** to encourage productive and enjoyable harmony between man and his environment

- ... prevent or eliminate damage to the environment,
- ... stimulate the health and welfare of man,
- ... enrich understanding of natural resources important to the nation

**Use all practical means and measures to ...**

- ... foster and promote the general welfare
- ... create and maintain conditions under which man and nature exist in productive harmony
- ... fulfill social, economic, and other requirements of present and future generations of Americans



- Economic, Social, and Environmental Effects
- Executive Order 12898 (Environmental Justice)
- Public involvement, interagency coordination
- Tribal consultation
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- Noise Standards
- Public Hearing Requirements
- Americans with Disabilities Act
- Wild and Scenic Rivers Act
- Endangered Species Act – Section 7
- Section 4(f) of USDOT Act (49 USC 303) - Parks, recreation, etc
- Clean Air Act
- Safe Water Drinking Act
- Clean Water Act Sections 311, 402, and 404.
- Farmland Protection Policy Act
- National Historic Preservation Act
- Floodplains
- Magnuson-Stevens Fishery Conservation and Management Act
- Migratory Bird Treaty Act

# National Environmental Policy Act -- When is it applied?

- Applies to virtually any activity undertaken, funded, or permitted by a federal agency that affects the environment
- Some examples:
  - Transportation Projects
  - Development projects involving fill of wetlands
  - Forest Plans
  - Dams and Hatcheries



Newberg Dundee Bypass Proposal, Oregon

# NEPA Process

Planning/ Pre NEPA Document

Proposed Action

Coordination and Analysis

Significant Impact ?

NO

YES

Listed CE

Documented CE

Coordination and analysis as needed

Document appropriately

Agency Action

Unknown

Environmental Assessment

Significant impact

No significant impacts

Finding of No Significant Impact (FONSI)

Agency Action

Notice of Intent & Scoping Process

Draft EIS

Public Comment

Final EIS

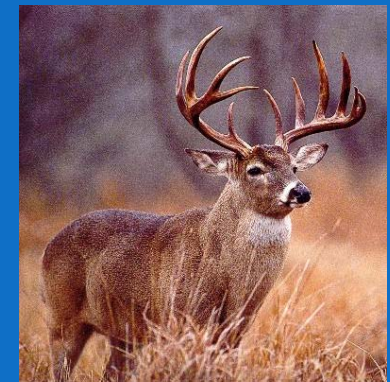
Record of Decision (ROD)

Agency Action

# What is an Environmental Impact Statement (EIS)?

An EIS is triggered by actions that “significantly” affect the quality of the human environment.

- Alternatives analysis based on Purpose and Need
- Impact analysis
- Mitigation
- Public involvement
- Interagency coordination
- Documentation





# Environmental Impact Statements - **WANTED: Your Input for an Analysis**



- Identify People and Organizations Interested in the Project – Get to the Table EARLY.
- Provide Opportunities for Meaningful Participation
  - Establish Cooperating Agencies.
  - Establish Local Collaboratives.
  - Public Meetings (hearings), Open Houses (Information Sessions), Site Visits.
  - Promotes less time in the long run.
- Inform Decision Makers of Potential Issues.
  - Avoid Sensitive Areas
  - Design Development to Work for Your Community.
- Helps Alternatives Development
- Transparent Planning - Creates Avenue for Decisions that Parties Can Be On Board with



# Cooperating Agency in NEPA

- A commitment among agencies (Federal, State, Local or Tribal Government) to share responsibility in preparing a Draft EIS:
  - To offer expertise
  - Shared decision making
  - If there are impacts to resources



# EPA's Responsibility to Review EISs

- EPA is required (Section 309 Clean Air Act) to review and comment on all Draft EISs
- EPA rates a draft EIS based on Two Aspects:

**1** Environmental Impacts

**2** Adequacy as Public Disclosure Document



# Keys to Streamlining

Early Involvement and more...



# This presentation...

- The Board's NEPA issues
- Background: What gives rise to those issues?
- Solutions for Transportation planning

# NEPA : a four-letter word?

What's wrong with NEPA?

**Nothing!**

Why does it take so long?

**GAO: NEPA is not the culprit.**

How can we make the process run more smoothly?

**Use the Keys to Streamlining!**



# Keys to Streamlining...



CEQ NEPA Regulations require  
early involvement:

“Agencies shall integrate the NEPA process with other planning at the earliest possible time to:

- Insure planning and decisions reflect environmental values;
- Avoid delays later in the process;
- Head off potential conflicts.” [40 CFR Part 1501.2]

# Early involvement...



## CEQ 40 Most Asked Questions (#8):

- Section 1501.2(d) requires federal agencies to take steps toward ensuring that private parties and state and local entities initiate environmental studies *as soon as federal involvement in their proposals can be foreseen*.
- These provisions are intended to *encourage and enable private and other non-federal entities to build environmental considerations into their own planning processes* in a way that facilitates the application of NEPA and avoids delay.



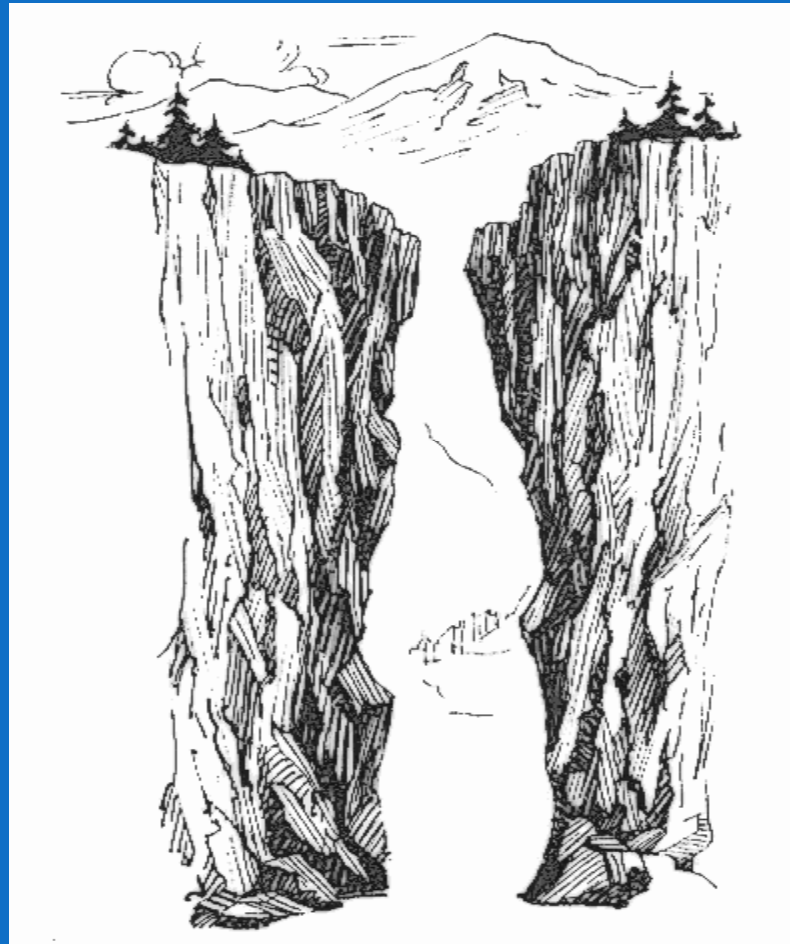
# So what happened to early involvement?

Congress:

Transportation planning is exempt from NEPA.

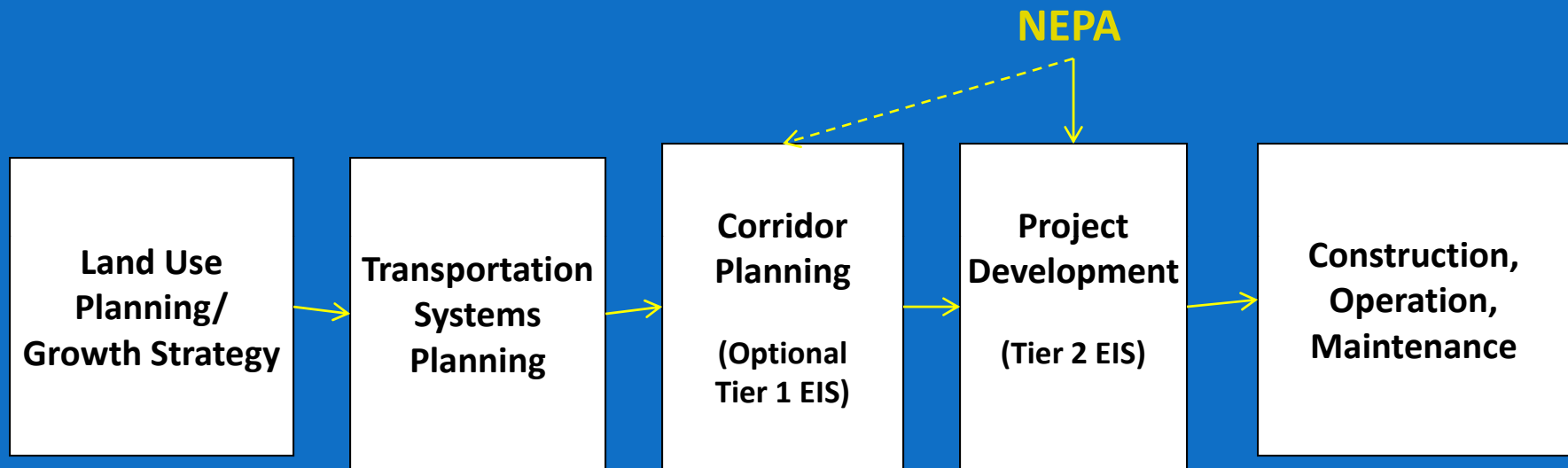
# The Result...

Planning



NEPA

# “Traditional” Practice



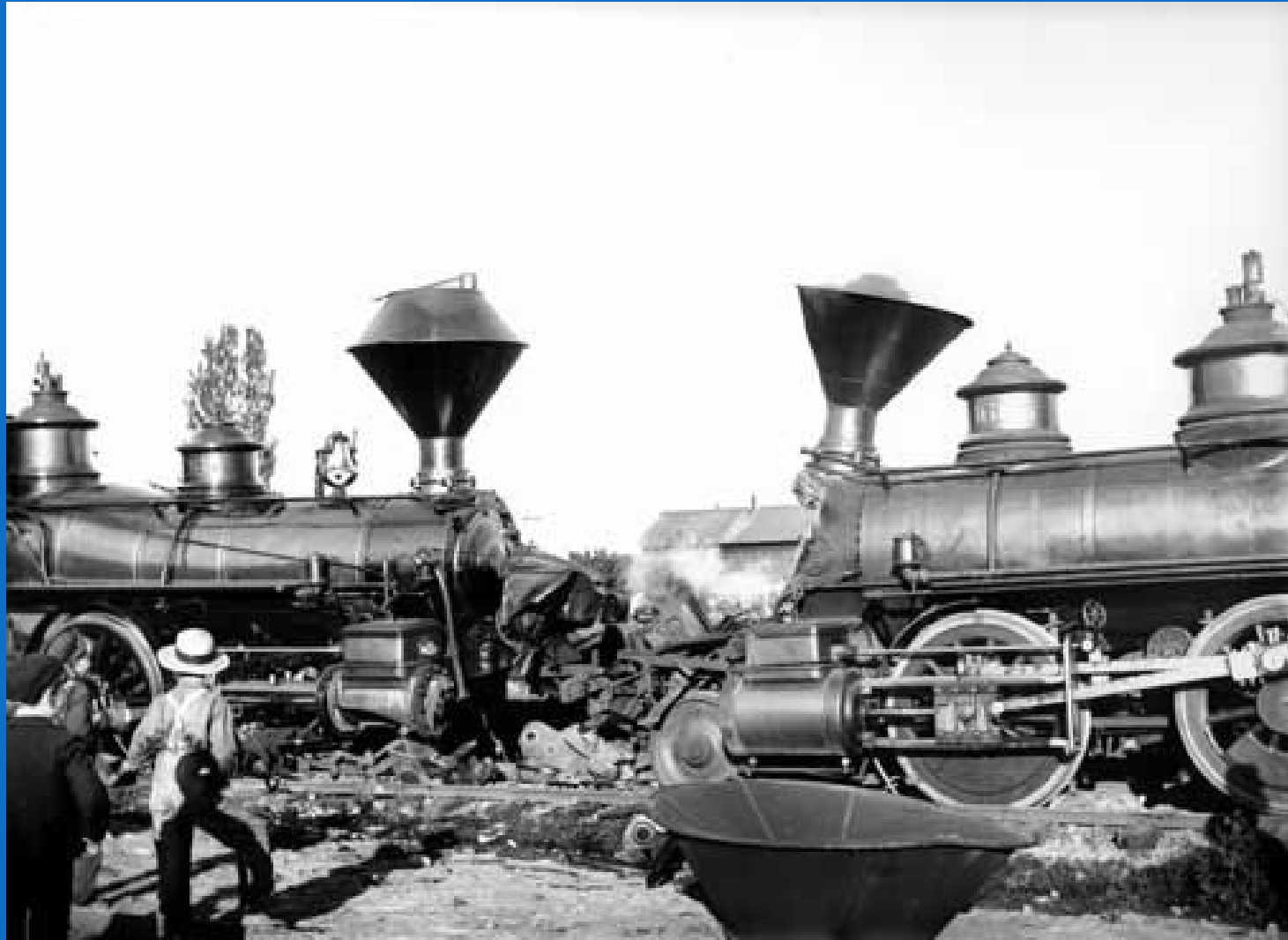
- Environmental issues
- Agency and public involvement
- NEPA documentation
- Information sharing

# The Problem...

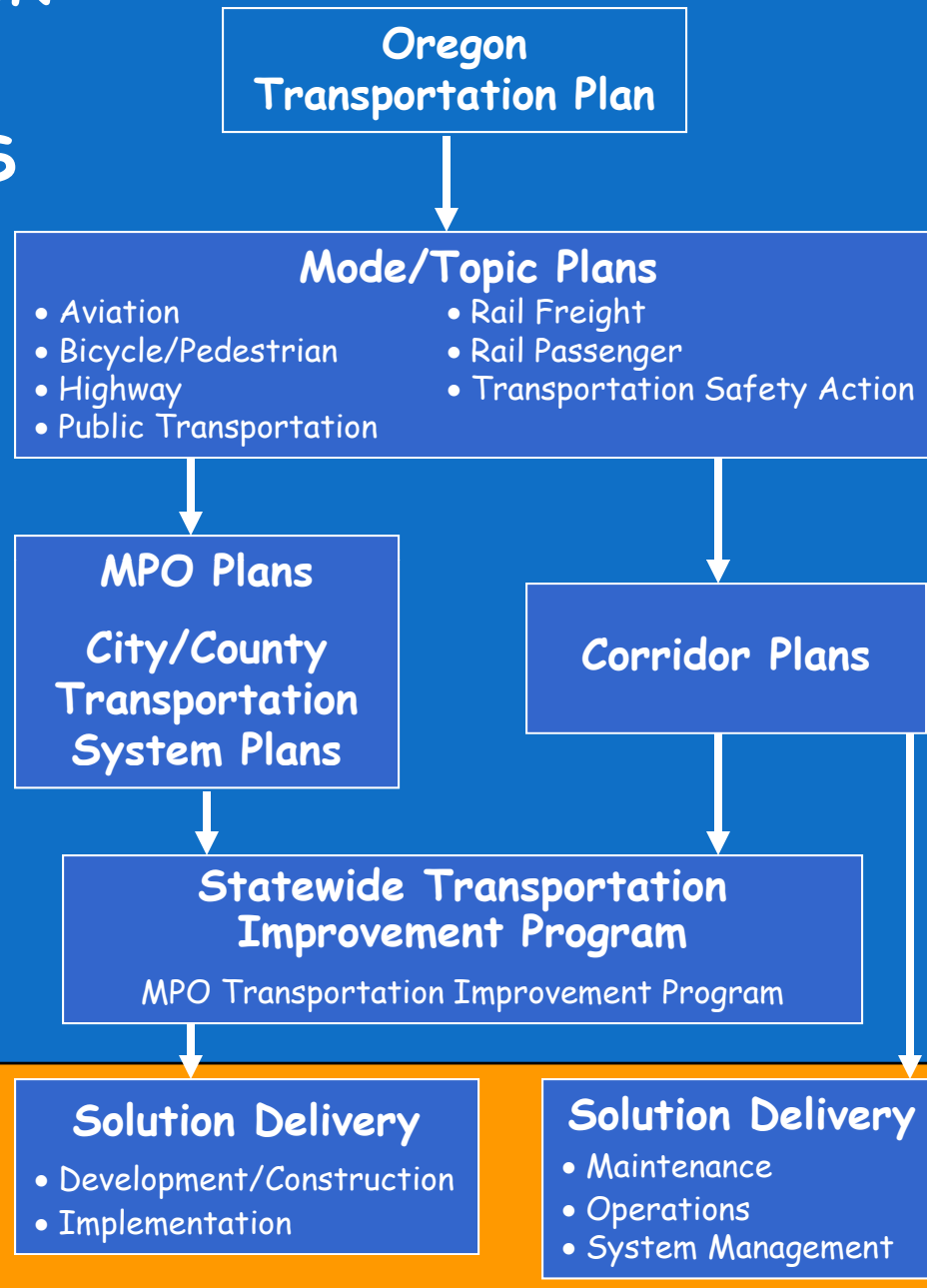
- With environmental analysis in the Project Development stage:
  - Transportation planning often does not incorporate environmental factors.
  - Environmental agencies have little understanding of or influence on transportation plans and programs.
  - Planning decisions are often revisited under NEPA.
  - Environmental reviews often are conducted without knowledge of prior planning studies and activities.
  - Public and elected officials become impatient, confused, and frustrated over apparent revisiting of previous decisions.



# The outcome...



# TRANSPORTATION PLANNING - Before CETAS



**Purpose and Need  
Criteria**  
**Range of Alternatives**  
**Preferred Alternative**  
**Permit**

# INTEGRATED TRANSPORTATION PLANNING - After CETAS

Oregon  
Transportation Plan

**Mode/Topic Plans**

- Aviation
- Bicycle/Pedestrian
- Highway
- Public Transportation
- Rail Freight
- Rail Passenger
- Transportation Safety Action

**MPO Plans**  
City/County  
Transportation  
System Plans

**Corridor Plans**

Problem Statement  
Mode & Location Decisions  
Range of Alternatives

**Statewide Transportation  
Improvement Program**  
MPO Transportation Improvement Program

**Solution Delivery**

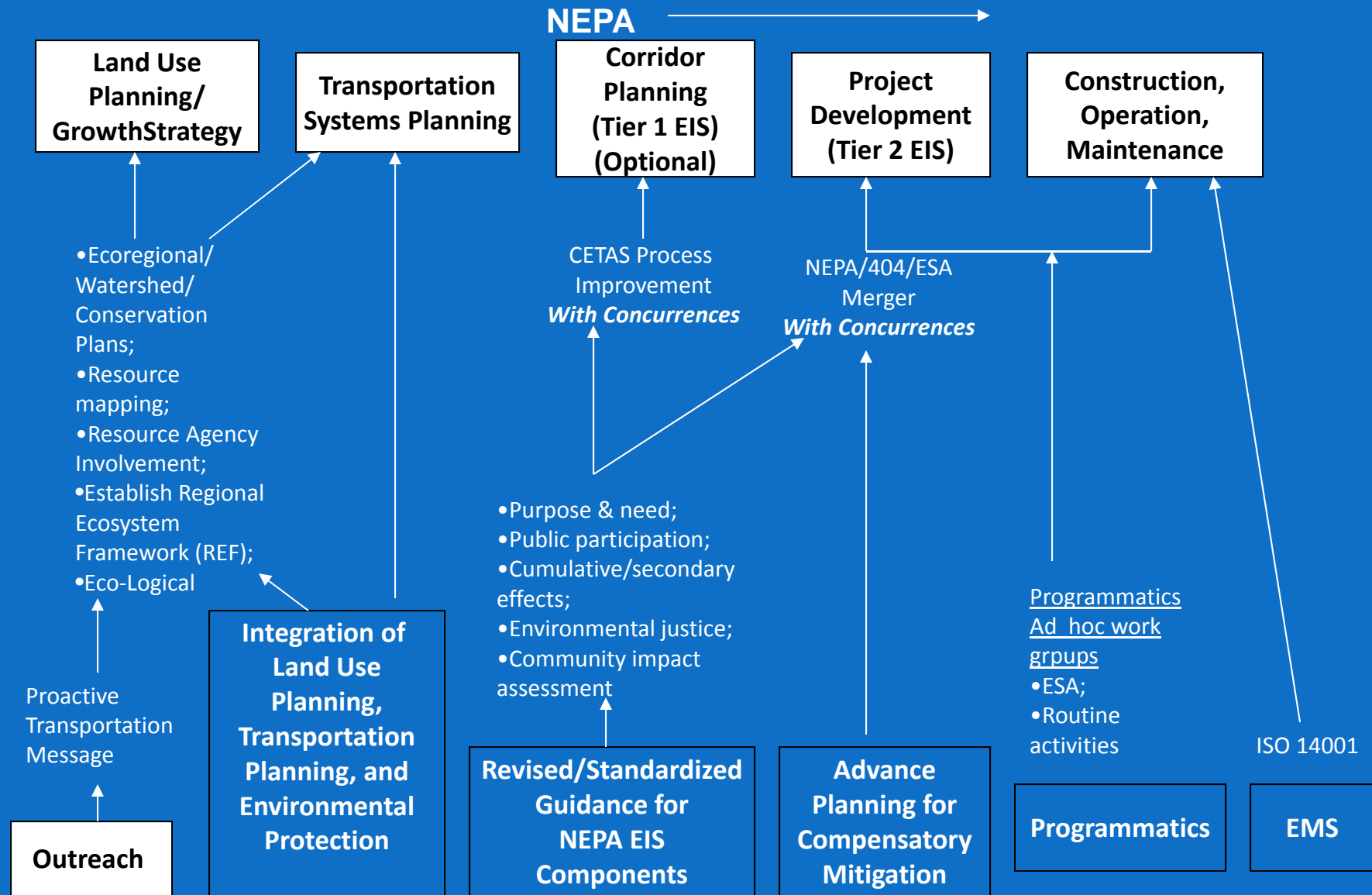
- Development/Construction
- Implementation

**Solution Delivery**

- Maintenance
- Operations
- System Management

Range of Alternatives  
Preferred Alternative  
Permit






Attributes of **Comprehensive Streamlining** (= Early Involvement)



# Remedial legislation...

- ISTEA (1991): reform 1950's era; MIS
- TEA-21 (1998): streamline
- **SAFETEA-LU (2005): prescriptive early involvement**
  - **Section 6001** (requires states and MPOs to integrate planning and environment; CFR 23 **Appendix A: Guidance for Linking Transportation Planning and NEPA**) 
  - **Section 6002** (project development/NEPA – cooperating and participating agencies)

# “New” Guidance, Directives



- **Appendix A:** Linking the Transportation Planning and NEPA Processes (23 CFR Part 450)
- **CEQ Guidance:** Improving the Process for Preparing Efficient and Timely Environmental Reviews Under NEPA (3/9/12)
- **Presidential Memo:** Speeding Infrastructure Development Through More Efficient and Effective Permitting and Environmental Review (8/31/11)
- **Executive Order:** Improving Performance of Federal Permitting and Review of Infrastructure Projects (3/22/12)

# Appendix A: Voluntary Guidance



- To use planning products in NEPA:
  - Follow the 3-C principles – comprehensive, cooperative, and continuous.
  - Incorporate the intent of NEPA.
  - Involve environmental, regulatory, and resource agencies.
  - Thoroughly document information, analysis, and decision.
  - Vet results through public involvement.
  - There are no guarantees.

# Helpful Planning Processes & Tools



- S. 6001: Maps, GIS data, Conservation Plans – have many uses!
- Appendix A
- PEL: Integrated Planning + Linking Planning & NEPA
  - FHWA PEL Questionnaire
- Green Infrastructure - Regional Ecosystem Framework
- Scenarios/Alternative Futures Planning
- Collaborative Interagency Process Improvements:
  - +/- MOAs and Concurrence Points; in-person or online
- **Eco-Logical:** 8-step process
  - Greater interagency collaboration
  - Minimal duplication of efforts
  - Stronger environmental outcomes

# Eco-Logical

Eco-Logical



- Integrated planning, mitigation options, performance measurement
- Eight step process:
  - Build and strengthen collaborative partnerships
  - Identify management plans
  - Integrate plans
  - Assess effects
  - Establish and prioritize opportunities
  - Document agreements
  - Design projects consistent with Regional Ecosystem Framework
  - Balance predictability and adaptive management
- Predictability, Connectivity, Conservation, Transparency

# Streamlining keys...



- **Early involvement** -- Comprehensive, Cooperative, Continuous
- **Integrated planning** – gather and use environmental plans, information in planning; engage environmental agencies, Tribes
- **Consider MOA/MOU** – articulates policy/intent, forms partnerships, creates commitment, provides starting point
- **Establish a Regional Ecosystem Framework** -- Identify Green Infrastructure; rarity, diversity, sustainability
- **Public participation** – Planning and NEPA stages
- **Inform mitigation approach** – Use data from integrated planning/REF

Note: Environmental data, once gathered and integrated, has many uses.



## Example of Early Engagement: Collaborative Forest Landscape Restoration Program (CFLRP)

- Established in 2009 to foster collaborative, science - based restoration
- Goals of the CFLRP:
  - Create Job Stability
  - Achieve a Reliable Wood Supply
  - Restore Forest Health
  - Reduce the Cost of Fire Suppression
- **“Working together is how we do business. We will continue to encourage greater public involvement to maintain and restore healthy landscapes. We not only are taking care of the ecosystem, but also supporting healthy, thriving communities through collaborative forest restoration.”**
  - Tom Tidwell Forest Service Chief

# Deschutes National Forest CFLRP

- Made up of **multiple landscape restoration projects**, each requiring a NEPA document across 95,000 acres of federal forestland.
- There is **broad support** among a range of stakeholders for these projects because they were **collaboratively developed**.
- They have **established a framework** that allows **for trust** to be built among all of the stakeholders.
- **NEPA served as catalyst** to bring these parties together. Without NEPA, the various stakeholders might never have had occasion to pull together to identify such a broad suite of restoration actions.

# Testimonial From the USFS Report on CFLRP

- “As a founding member of the Blue Mountains Forest Partners, I can tell you that our collaborative group and its work are different. Rather than continuing to engage in litigation and distrust while this magnificent forest declined, our partners decided to take a risk by working together rather than against each other. Thousands of acres of restoration treatments are already on their way to implementation. Litigation has dropped to zero. We are on the cusp of something great in the Southern Blues, and the Collaborative Forest Landscape Restoration Program will help get us across the finish line, together.”
  - Susan Jane Brown, Attorney, Western Environmental Law Center

# GAO Report on Collaboration...

- **GAO Report on Collaborative Efforts to Reduce Conflicts in Natural Resource Management Projects --**
- **Findings from Interviews:**
  - Experts generally agree with collaborative efforts.
  - Most found successful cooperation and able to reduce or avoid conflict.
- Determine whether or not to participate in a collaborative effort
- Some limitations:
  - Can take more time on front end
  - Can be more staff resource intensive
- Develop open, transparent decision making
- Identify goal
- Follow through on commitments
- Communicate road blocks

# Resources

- **NEPAnet**

<http://ceq.eh.doe.gov/nepa/nepanet.htm>

- **NEPA Success Stories**

[http://ceq.hss.doe.gov/nepa\\_information/success\\_stories.html](http://ceq.hss.doe.gov/nepa_information/success_stories.html)

- **A Citizens Guide to NEPA**

[http://ceq.hss.doe.gov/nepa/Citizens\\_Guide\\_Dec07.pdf](http://ceq.hss.doe.gov/nepa/Citizens_Guide_Dec07.pdf)

- **EPA Database of EISs and EPA Comment Letters**

<http://www.epa.gov/oecaerth/nepa/eisdata.html>

- **Collaboration in NEPA**

[http://ceq.hss.doe.gov/ntf/Collaboration\\_in\\_NEPA\\_Oct\\_2007.pdf](http://ceq.hss.doe.gov/ntf/Collaboration_in_NEPA_Oct_2007.pdf)



# Questions?

