



# HOW TO WRITE NEPA SCOPING COMMENTS

## WHAT IS NEPA?

The National Environmental Policy Act (NEPA) requires federal agencies to consider all of the environmental and social impacts of proposals before taking action (e.g. permitting a mine or road). It requires the agencies to prepare a detailed study on the impacts of any proposed action that may “significantly affect the quality of the human environment.”<sup>1</sup> This study can take one of two forms:

1. **Environmental Assessment (EA)**, a brief analysis used to determine the significance of impacts resulting from a federal action, or
2. **Environmental Impact Statement (EIS)**, a detailed and thorough analysis used for those actions that are expected to result in significant impacts.

## WHAT IS SCOPING?

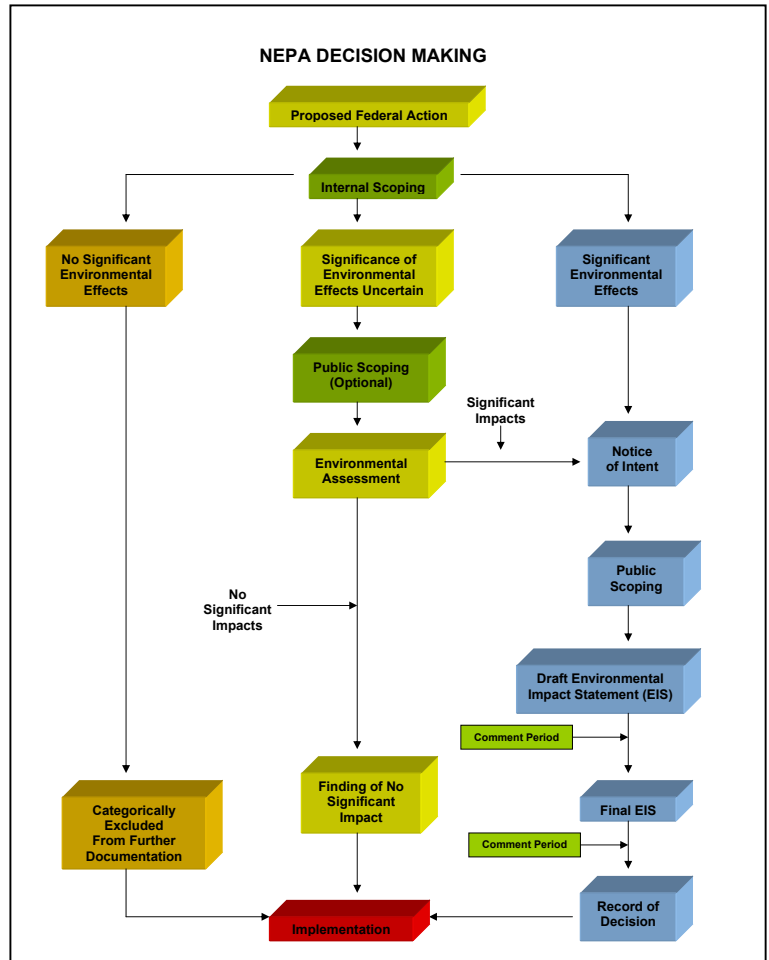
The first step in that process is scoping.

Federal agencies are required to go through a public “scoping process” in order to determine the scope of issues that should be addressed in an EA or EIS. Scoping also helps the agency determine the likely significance of an action’s impacts, and whether an EA or an EIS will be required. Scoping is very important. It’s up to you to tell the agencies what you want included—and why. When assessing potential impacts, the agency must look at:

**1) Direct impacts:** Those that “are caused by the action and occur at the same time and place.”

- For example, the direct impacts of a mine discharge on water quality, or the impact to fish and water quality from road sediment.

**2) Indirect impacts:** Those that “are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.”





EARTHWORKS

## HOW TO WRITE NEPA SCOPING COMMENTS

- For example, the impacts on wildlife habitat of increased population resulting from development.

**3) Cumulative impacts:** Those that “result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such actions.” Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.”<sup>2</sup>

- For example, the cumulative impact of the proposed project, along with multiple other development projects within the watershed that are reasonably foreseeable actions.

**REMEMBER:** Topics left out of the scope of review won't be studied, so include everything that you want to see covered in the study.

A scoping comment can be made especially effective by describing how or why the impact you're concerned about may be:

- **HARMFUL** - the impact affects people, water quality, subsistence, etc.
- **SIGNIFICANT** - the impact affects a lot of people, or a few people severely
- **REASONABLY FORESEEABLE** - the impact is likely to result from the proposed development.

### HERE IS AN OUTLINE FOR WRITING COMMENTS:

**1. Impact:** Introduce yourself, state your purpose for writing, and the potential impacts that concern you. These could include such things as: water quality, air quality, water quantity, fish and wildlife, subsistence resources, culture, economics, health etc.

- ✓ Be specific by stating the direct, indirect, or cumulative impact you want studied. For example:
  - Please study the health effects of asbestos that could be released to air, water and land.
  - Please study the impacts of mineral exploration on wildlife habitat.
  - Please study the impact of increased poaching resulting from an influx of workers into the area.
- ✓ Avoid stating an opinion (“I oppose...,” “I do not believe that...,” “I fear....”).

**2. Significance:** Describe the significance of the impact.

- ✓ Define the breadth of the scoping necessary to adequately address the significance of the impact in terms of time, geography, and all populations impacted. For example:



## HOW TO WRITE NEPA SCOPING COMMENTS

- Please study the impacts of the proposed mine on the salmon population in the (describe the geographic area), because it is a very significant food source for our village.
- Please do a detailed study on the impacts of the proposed mine to water quality in perpetuity because acid mine drainage is expected to continue for hundreds to thousands of years.

3. **Foreseeable:** Provide support as to why this impact is foreseeable.

- ✓ Link the proposed project to effects that are reasonably foreseeable. For example: Please study the impact of increased poaching on the caribou herd because development of the road may will bring significantly more people into the region.
- ✓ Provide supporting information or relevant research when arguing potential harms of the impact.

4. **Alternatives:** Discuss the alternative(s) you want the study to consider, including: (a) no action alternative where the project isn't permitted, (b) the proposal with mitigations, and (c) other reasonable courses of action.

5. **Traditional Ecological Knowledge (TEK):** Traditional ecological knowledge can be used to evaluate the environmental impacts of a proposal or to develop alternatives. Some examples include subsistence harvest practices, subsistence resources that may be affected by project, knowledge of migratory patterns of fish and wildlife, etc.

***REMEMBER: You don't have to do the analysis for the agency.*** At the scoping stage, you just need to identify the issues and potential impacts that must be analyzed. You should also submit any research or supporting documentation that is relevant to assessing the significance of the project's potential impacts. The agency is obligated to consider this material when drafting the EA or EIS.

---

1 National Environmental Policy Act (NEPA), 42 USC § 4332(C) (1982).

2 Council for Environmental Quality, NEPA Implementing Regulations, 40 CFR § 1508.8 (2010).