



Forest Service
U.S. DEPARTMENT OF AGRICULTURE

OVERVIEW OF
THE PROCESS

AND PUBLIC
PARTICIPATION
OPPORTUNITIES

NATIONAL ENVIRONMENTAL POLICY ACT

NEPA 101

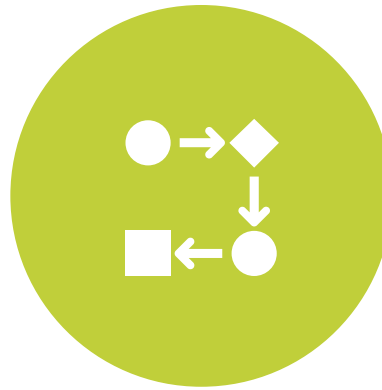
This training is maintained as part of the Washington Office
Ecosystem Management Coordination Staff Training Program.

Content Updated: October 27, 2021

OBJECTIVES



PURPOSE OF NEPA
AND WHEN IT APPLIES



THE NEPA PROCESS



ENGAGING IN
THE PROCESS

PURPOSE

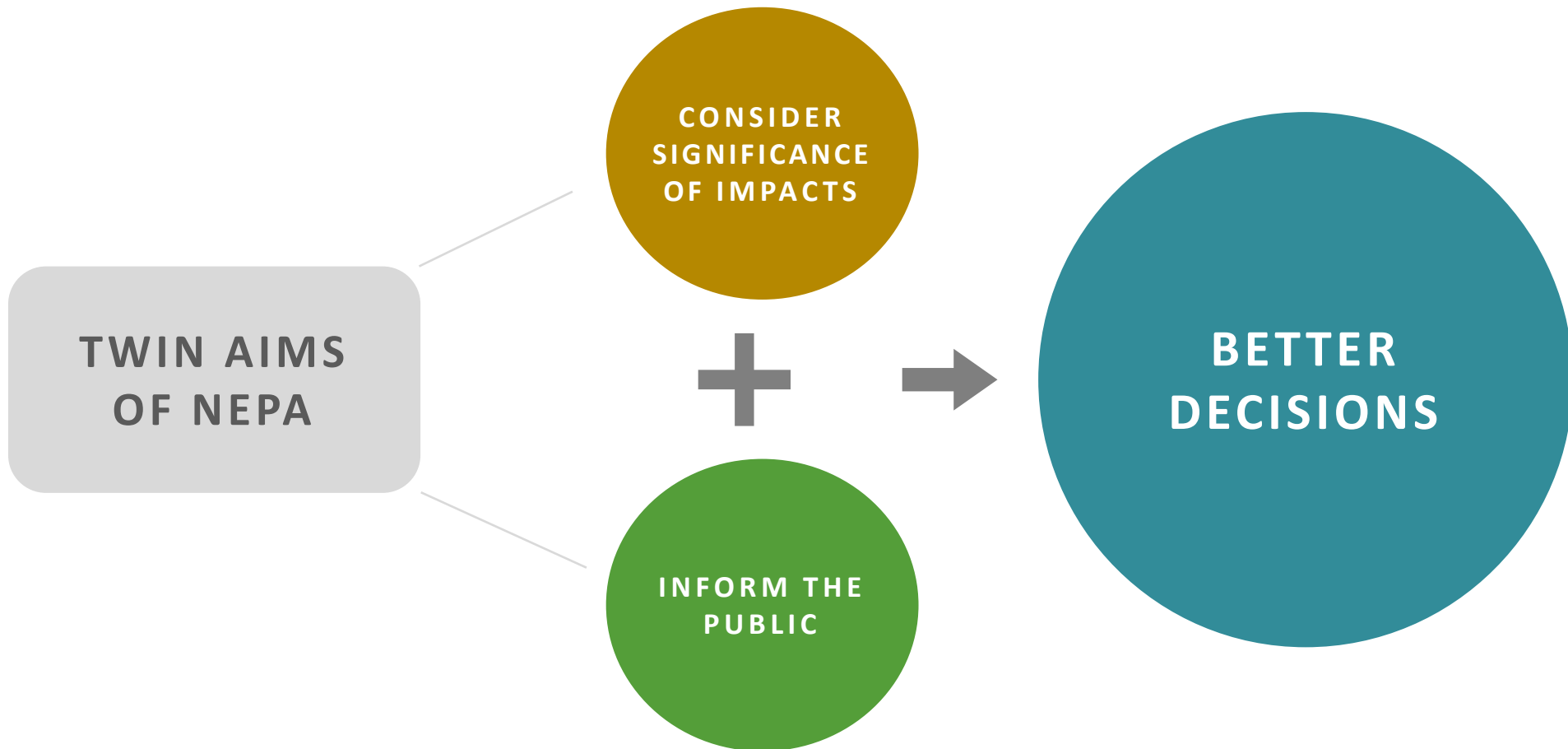
ENACTMENT OF THE NATIONAL ENVIRONMENTAL POLICY ACT



- Signed in 1970.
- Applies to federal agencies.
- Many federal agencies have regulations on how they implement NEPA.

Processes described in this presentation are specific to Forest Service NEPA regulations (36 CFR 220).

TWIN AIMS AND OVERALL INTENT OF NEPA



NEPA APPLICABILITY

**MAJOR ACTIONS SUBJECT TO
FEDERAL CONTROL AND
RESPONSIBILITY**



ACTIONS TYPICALLY REQUIRING NEPA

LIVESTOCK GRAZING

**MINING AND
MINERAL
EXPLORATION**

**VEGETATION
MANAGEMENT
AND/OR
HAZARDOUS FUEL
REDUCTION**

**TRANSPORTATION
AND RECREATION
MANAGEMENT**

**PERMITTING
INSTALLATION OF
UTILITIES/
INFRASTRUCTURE
ON NFS LANDS**

**DEVELOPING,
AMENDING OR
REVISING LAND
MANAGEMENT
PLANS**

LEVELS OF ANALYSIS UNDER NEPA

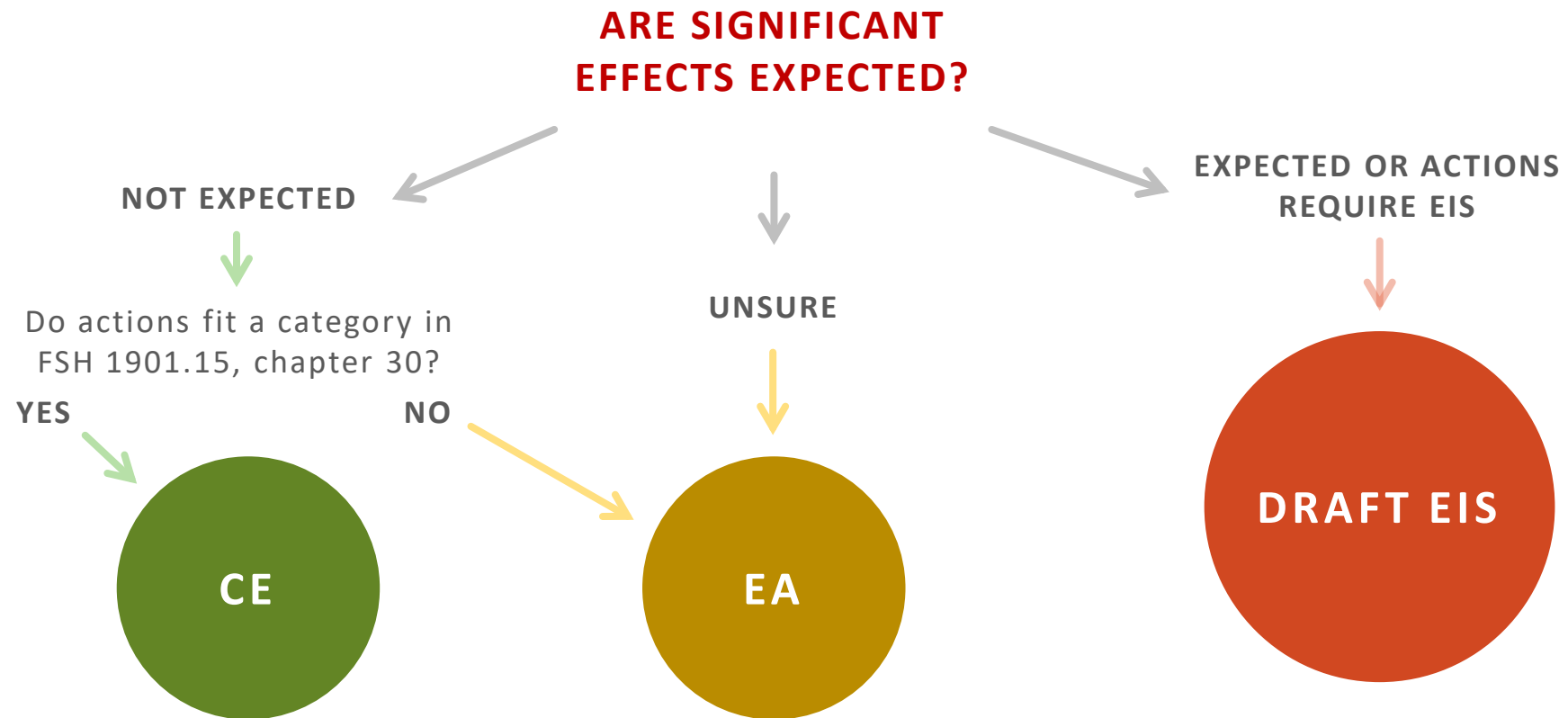
LEAST
COMPLEX



MOST
COMPLEX

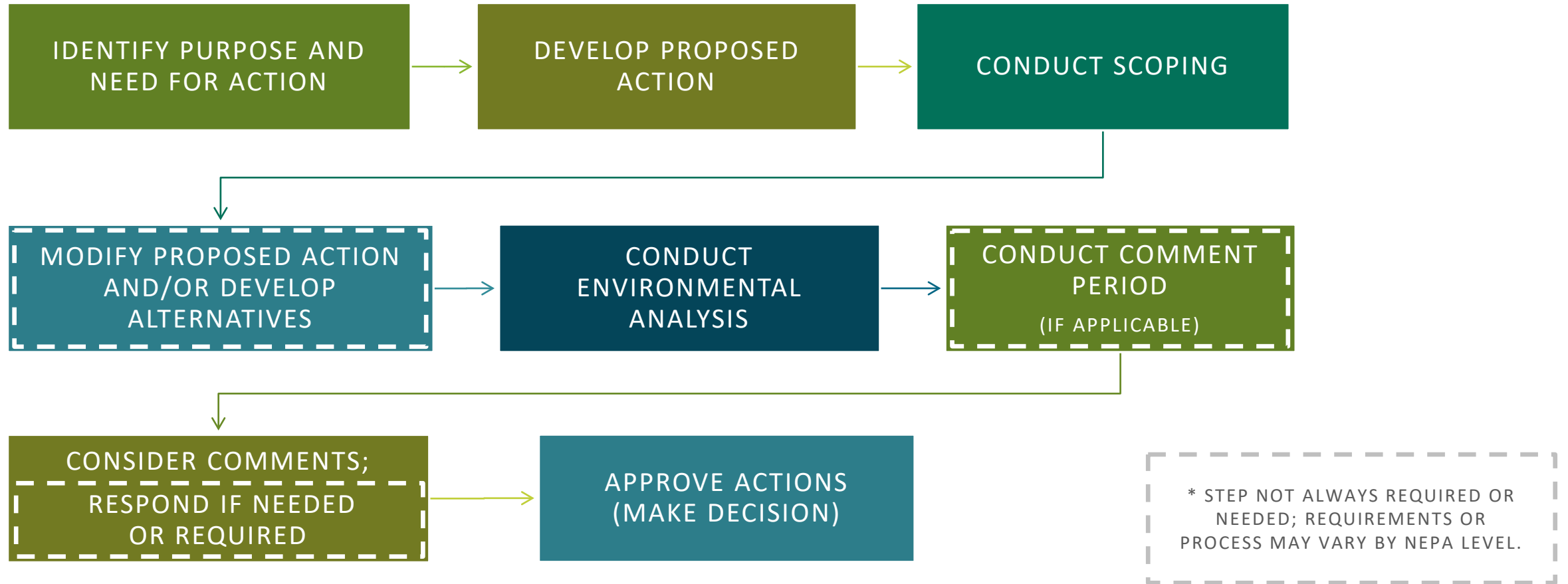
LEVEL OF NEPA	ASSOCIATED DECISION DOCUMENT	PURPOSE OF REVIEW
CATEGORICAL EXCLUSION (CE)	DECISION MEMO (DM) (FOR SOME CATEGORIES)	DETERMINE IF AN EXTRAORDINARY CIRCUMSTANCE EXISTS.
ENVIRONMENTAL ASSESSMENT (EA)	DECISION NOTICE (DN); FINDING OF NO SIGNIFICANT IMPACT (FONSI)	DETERMINE IF THERE ARE SIGNIFICANT EFFECTS.
ENVIRONMENTAL IMPACT STATEMENT (EIS)	RECORD OF DECISION (ROD)	DISCLOSE SIGNIFICANT EFFECTS AND DEVELOP/ANALYZE ALTERNATIVES THAT CAN LESSEN IMPACTS.

DETERMINING LEVEL OF NEPA

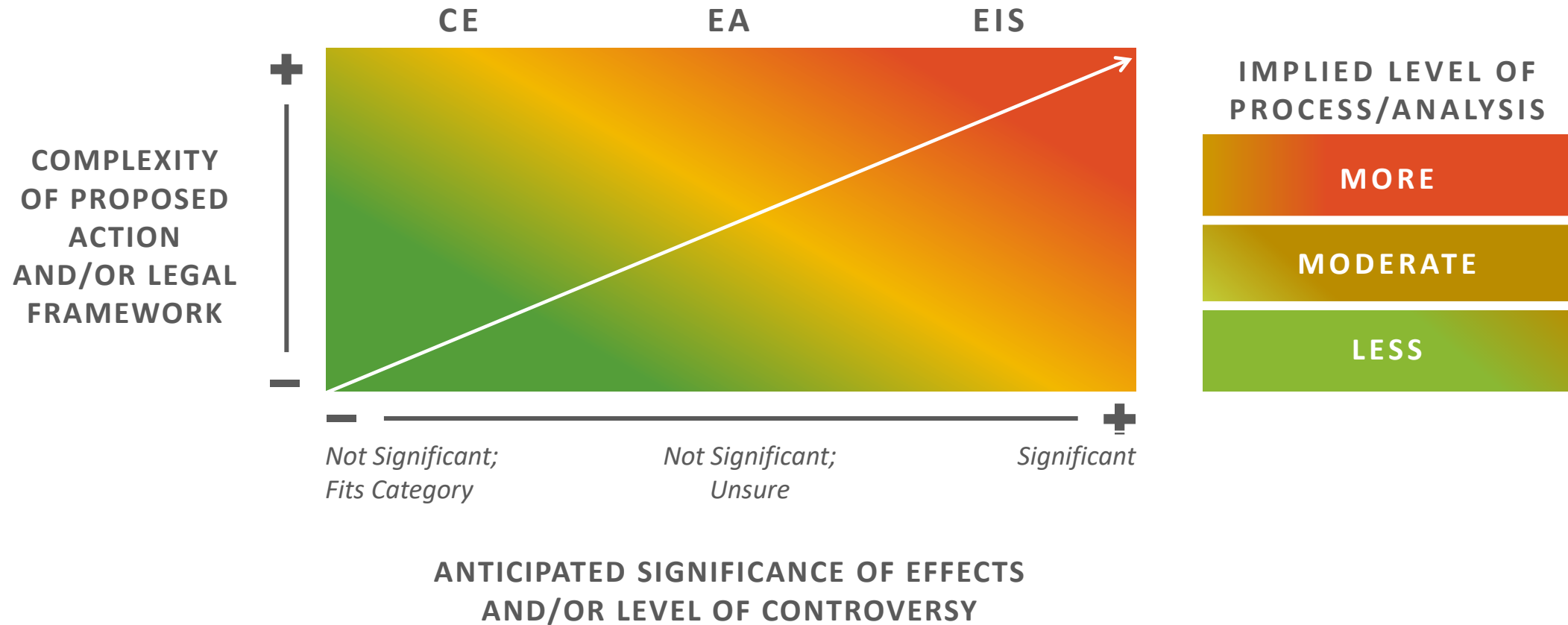


PROCESS

MAJOR STEPS IN THE NEPA PROCESS



LEVEL OF PROCESS AND ANALYSIS



NEPA PROCESS: PURPOSE AND NEED

IDENTIFY PURPOSE
AND NEED FOR ACTION

PURPOSE AND NEED:

- Succinct description of need for management action and its objectives.
- Drives proposed actions.

NEPA PROCESS: PROPOSED ACTION

DEVELOP PROPOSED ACTION

PROPOSED ACTION:

- Describes who is proposing actions and what, where, when, and how management actions will occur.
- Should be developed to comply with applicable laws and regulations.

NEPA PROCESS: CONSIDER OTHER LAWS



NEPA PROCESS: CONSIDER OTHER LAWS



TYPE AND LOCATION OF ACTIONS
MAY TRIGGER CONSIDERATION OF
OTHER LAWS.

NEPA PROCESS: SCOPING

CONDUCT SCOPING

SCOPING:

- An early and open process to determine the scope of issues for analysis.
- May begin as soon as practicable after the proposed action is sufficiently developed.
- No single scoping technique is required or prescribed.

NEPA PROCESS: MODIFICATIONS AND/OR ALTERNATIVES

MODIFY PROPOSED
ACTION AND/OR
DEVELOP ALTERNATIVES

MODIFICATIONS AND/OR ALTERNATIVES:

- Issues may be resolved by modifying the proposed action.
- Alternatives may be developed when issues cannot be resolved or to understand tradeoffs.

NEPA PROCESS: ENVIRONMENTAL ANALYSIS

CONDUCT
ENVIRONMENTAL
ANALYSIS

PURPOSE OF ANALYSIS:

- Demonstrate need to modify actions to ensure compliance with applicable laws (preliminary analysis).
- Disclose environmental effects.
- Make findings/conclusions necessary to demonstrate compliance with applicable laws.

NEPA PROCESS: COMMENT PERIOD

CONDUCT COMMENT
PERIOD

(IF APPLICABLE)

COMMENT PERIOD:

- Solicit written comments.
- Does not apply to categorical exclusions.
- Timing and process can vary for environmental assessments.
- Required for environmental impact statements.
- Notice provided by legal notice published in the newspaper of record.

NEPA PROCESS: COMMENT CONSIDERATION AND RESPONSE

CONSIDER COMMENTS;
RESPOND IF NEEDED
OR REQUIRED

CONSIDERATION:

- Responsible official will consider all comments and include them in the record.

RESPONSE:

- Response is required for environmental impact statements.
- Responsible official may choose to document response for environmental assessments (and for categorical exclusion scoping comments).

NEPA PROCESS: RESPONSE TO COMMENTS



Modifying
alternatives,
including the
proposed
action.



Developing
and evaluating
alternatives not
previously
given serious
consideration.



Supplementing,
improving, or
modifying
analyses, or
making factual
corrections.



Explaining why
the comments do
not warrant
further agency
response.

NEPA PROCESS: APPROVE ACTIONS

APPROVE ACTIONS
(MAKE DECISION)

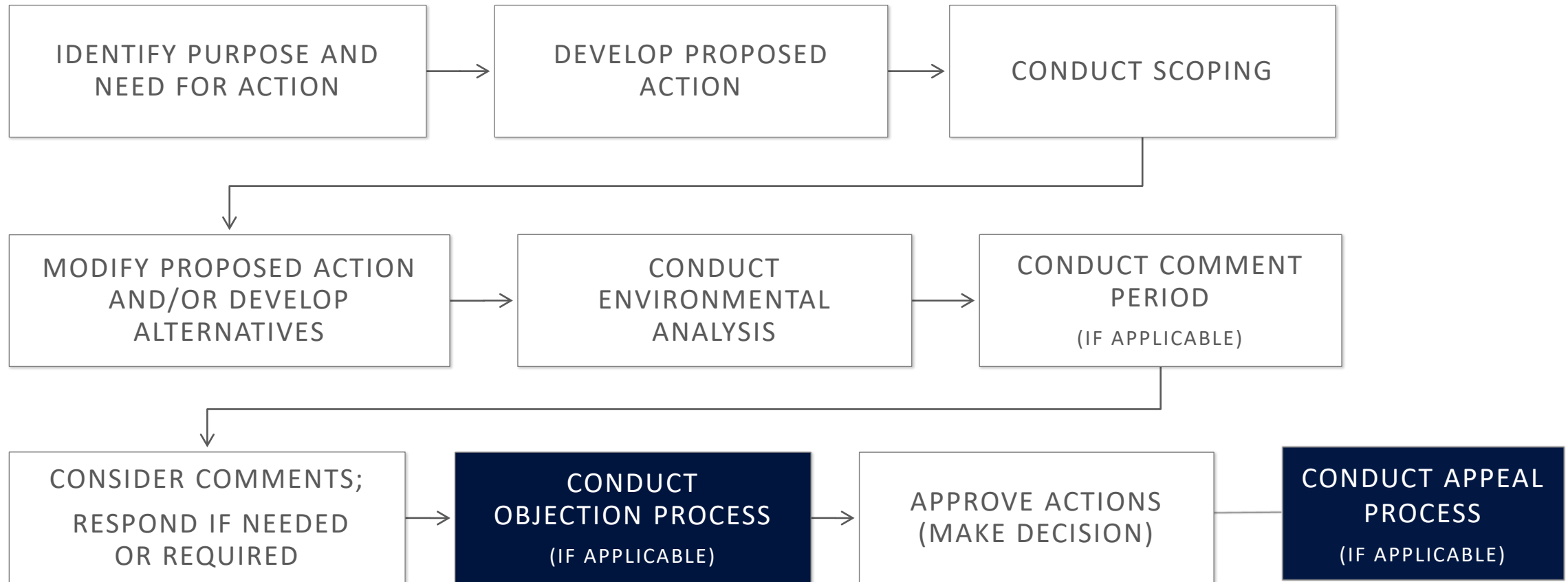
MAKING THE DECISION:

- Responsible official will choose the approved actions.
- Decision can be signed once all required analysis and processes are completed.

OBJECTION AND APPEAL PROCESSES

OBJECTIONS AND APPEALS		
218 OBJECTIONS PRE-DECISION <i>(36 CFR 218)</i>	219 OBJECTIONS PRE-DECISION <i>(36 CFR 219)</i>	214 APPEALS POST-DECISION <i>(36 CFR 214)</i>

WHEN OBJECTION AND APPEAL PROCESSES OCCUR

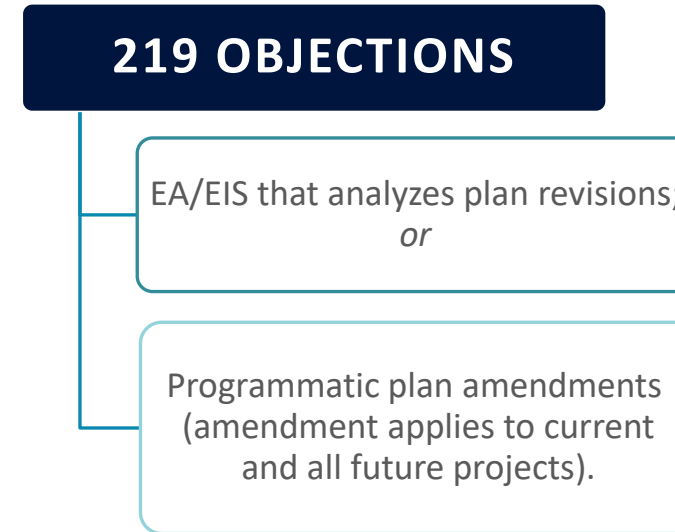
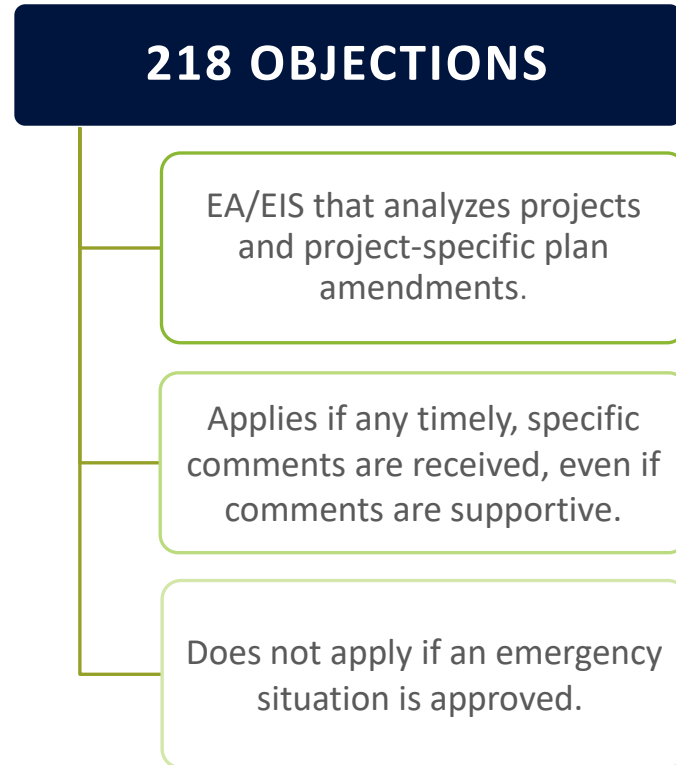


OBJECTION PROCESS

CONDUCT OBJECTION
PROCESS
(IF APPLICABLE)

- Pre-decisional.
- Notice of opportunity is provided by publication of a legal notice in the newspaper of record.
- Two types of objection processes.

OBJECTION PROCESS(ES)



ONLY THOSE WHO PREVIOUSLY SUBMITTED TIMELY WRITTEN COMMENTS MAY OBJECT, UNLESS THERE IS NEW INFORMATION THAT WASN'T SUPPLIED DURING THE INITIAL COMMENT PERIOD.

OBJECTION PROCESS TIMELINES

OBJECTION PROCESS	FILING PERIOD	RESPONSE PERIOD	TOTAL DAYS
218 HFRA	30 DAYS	30 DAYS; NO OPTION TO EXTEND	60 DAYS
218 NON-HFRA	45 DAYS	45 DAYS; OPTION TO EXTEND 30 DAYS	90-120 DAYS
219	60 DAYS FOR EIS; 45 DAYS FOR NON-EIS	90 DAYS; OPTION TO EXTEND WITH NO LIMIT ON DAYS	135-150 DAYS MINIMUM

APPEAL PROCESS

CONDUCT APPEAL
PROCESS
(IF APPLICABLE)

- Post-decisional.
- Applies to decisions involving a written instrument, such as a permit, that authorizes the occupancy or use of National Forest System lands and resources.

APPEAL PROCESS

214 APPEALS

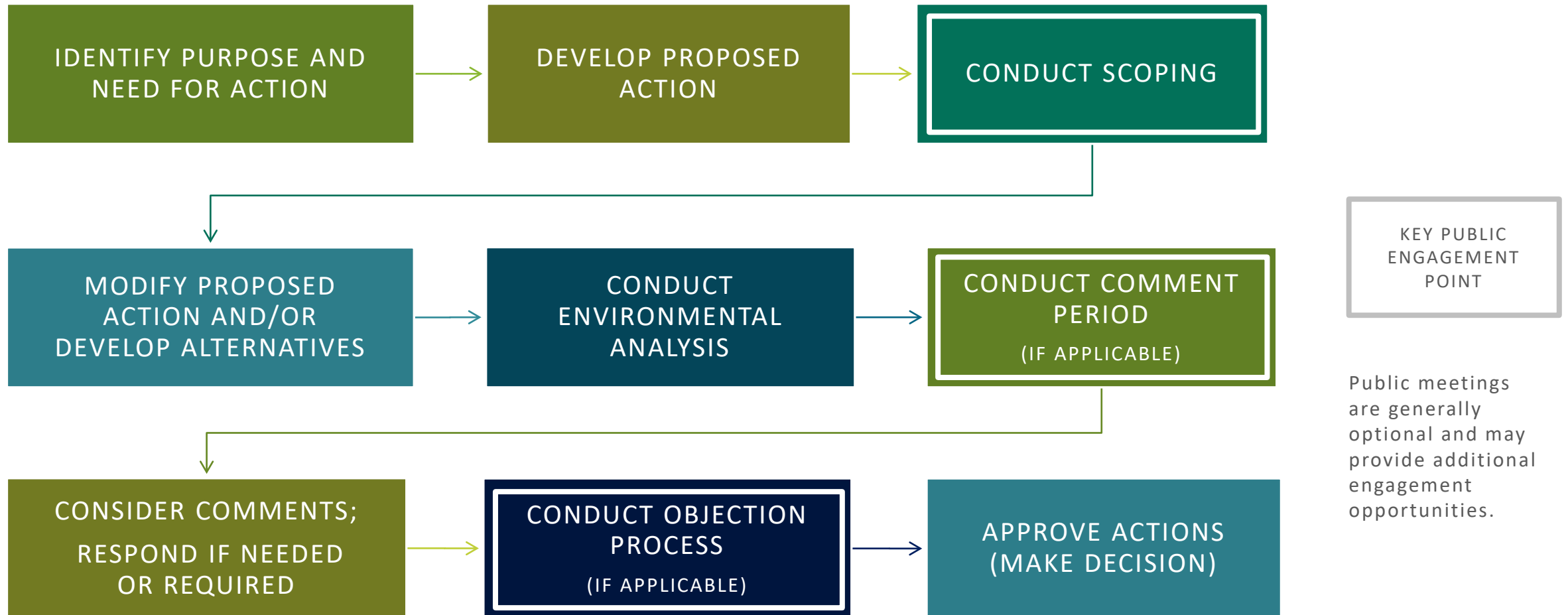
- Only holders, operators, and solicited applicants may appeal; general public cannot appeal.
- Can apply to decision memos (categorical exclusions), decision notices (environmental assessments), or records of decision (environmental impact statements).

AN APPEAL **AND** OBJECTION PROCESS
COULD APPLY FOR AN:

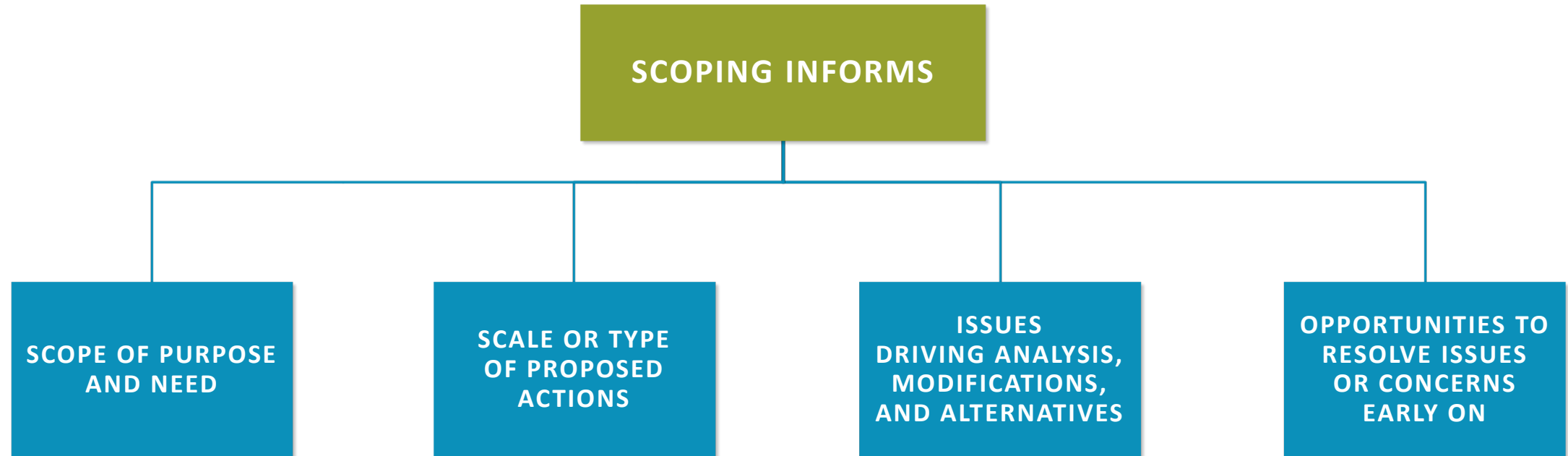
- Environmental assessment
- Environmental impact statement

ENGAGING IN THE PROCESS

KEY PUBLIC ENGAGEMENT POINTS

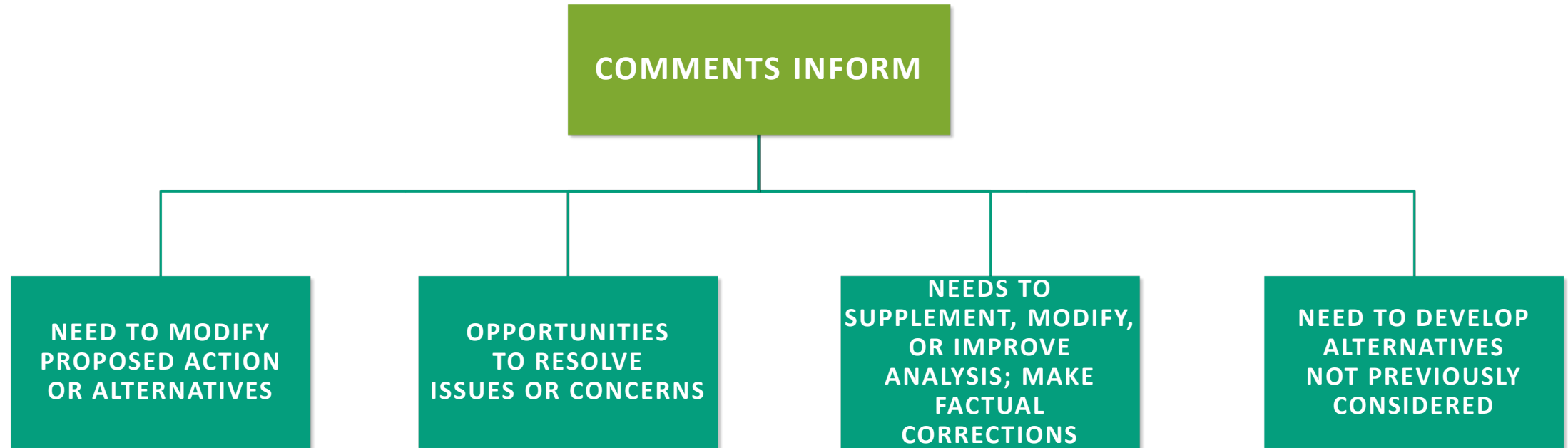


ENGAGING IN THE PROCESS: SCOPING



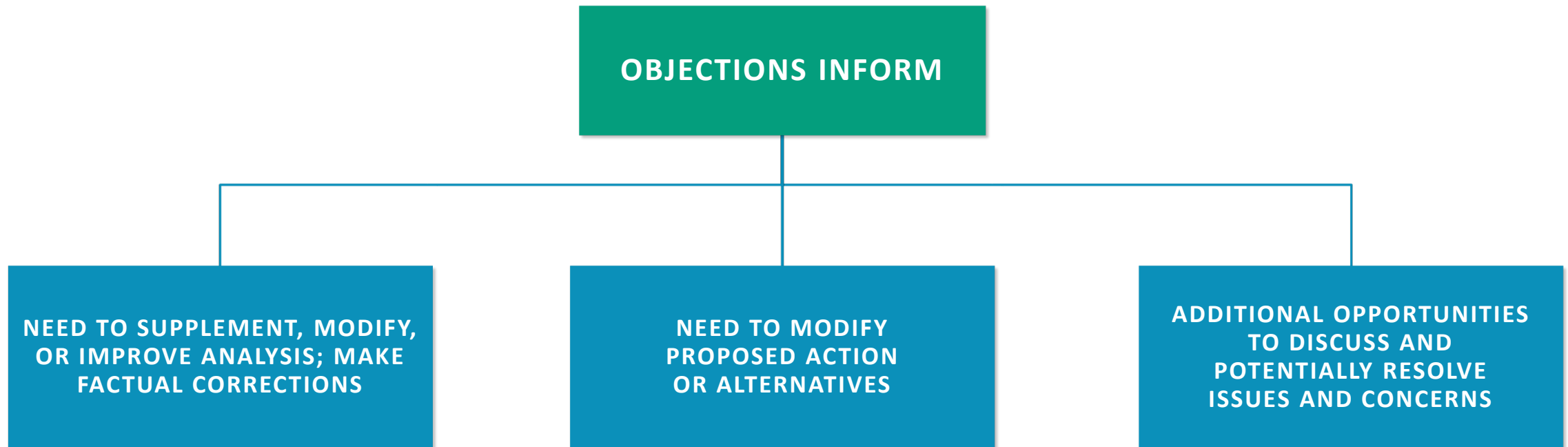
SCOPING OCCURS EARLIER IN THE PROJECT DEVELOPMENT PROCESS.

ENGAGING IN THE PROCESS: COMMENT PERIOD



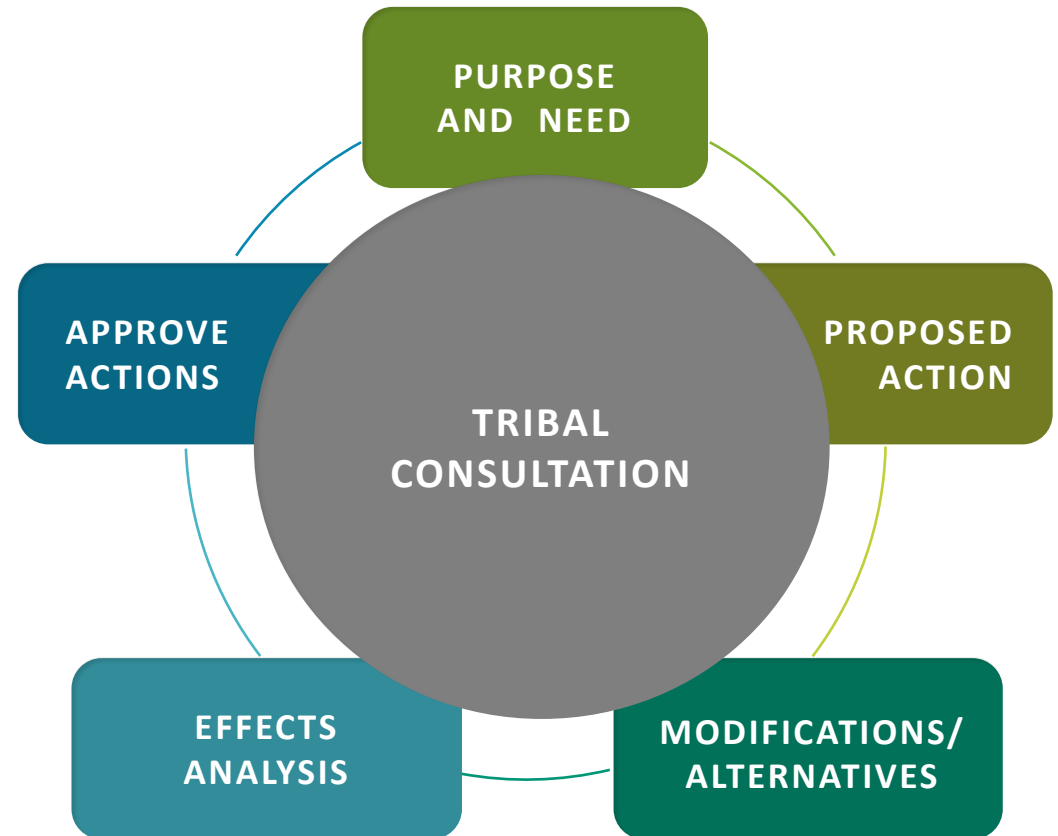
COMMENT PERIODS GENERALLY OCCUR WHEN MORE IS
KNOWN ABOUT THE ANTICIPATED EFFECTS.

ENGAGING IN THE PROCESS: OBJECTION PERIOD

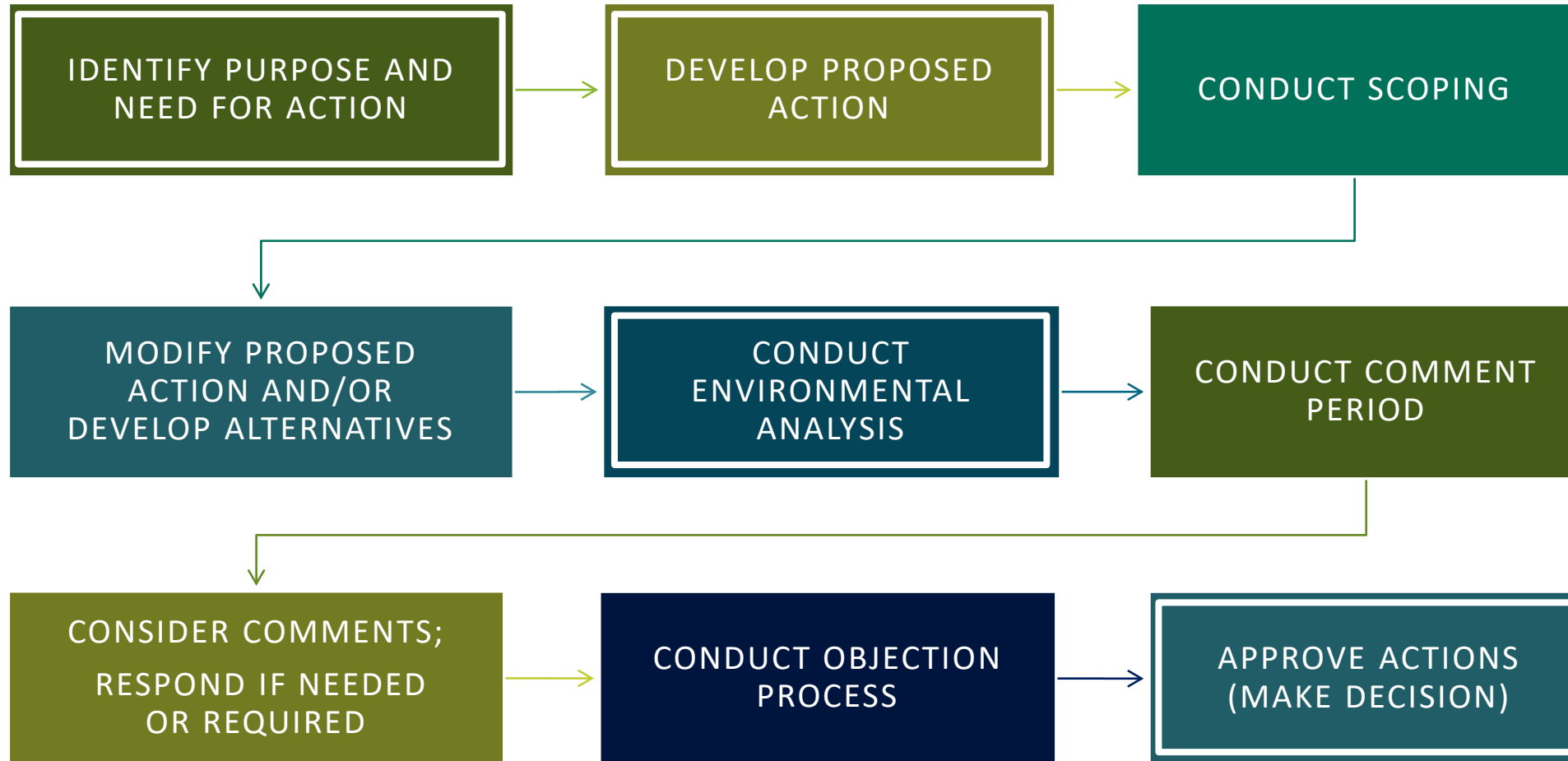


CONSULTATION WITH FEDERALLY RECOGNIZED TRIBES

- Tribal consultation is separate from NEPA public engagement requirements.
- Getting input at key project development stages helps the agency be more responsive to concerns and/or opportunities.
- Consult early and throughout the project development, analysis, and approval process.



KEY STAGES FOR TRIBAL FEEDBACK



KEY PROJECT
DEVELOPMENT
STAGE WHERE
TRIBAL FEEDBACK
IS HELPFUL

The Forest Service recognizes that Tribal consultation processes and timeframes may not align with scoping, comment, and objection periods.

TRIBAL PARTICIPATION IN 218 OBJECTION PROCESS

- Culturally sensitive information may not be documented in writing.
- Comments/feedback received outside of scoping and comment periods still gives Tribes standing to object.
- Tribes may choose to file objections or continue consultation discussions with the responsible official separate from the objection process.
- The objection reviewing officer determines if other parties may participate in objection resolution meetings.

TRIBAL PARTICIPATION IN 219 OBJECTION PROCESS

- Tribal comments need to be submitted in writing during scoping or other comment opportunities, such as consultation, to have standing to object.
 - ▶ Some information may be culturally sensitive and not documented in writing.
- Tribes may choose to file objections while continuing consultation discussions with the responsible official separate from the objection process.
- Tribes may become interested persons by simply notifying the reviewing officer of their intent.

WRITING EFFECTIVE COMMENTS

- Be specific about actions, locations, timing, etc.
- Use cause and effect statements. Cause equals action and effect equals outcome that is different from existing condition.
- Explain if an action violates a law, regulation, or the land management plan.
- Identify and explain recommendations and remedies.
 - *NFS Trail 123 runs through units A, B, and C, where commercial thinning is proposed.*
 - *The proposed commercial thinning actions will displace recreationists during peak use seasons of summer and fall.*
 - *This is a violation of the land management plan because you are not seeking to minimize displacement of recreationists during peak use, as required by guideline REC-001.*
 - *Limit commercial thinning in units A, B, and C to winter only, or develop an alternative that eliminates commercial thinning altogether in these units.*

EFFECTIVE COMMENT EXAMPLES

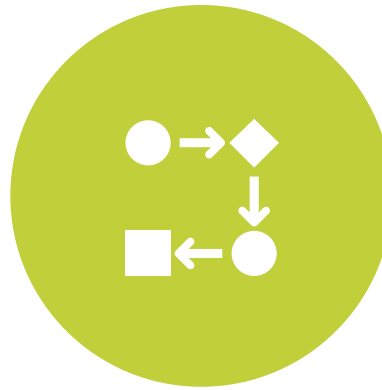
INEFFECTIVE	EFFECTIVE
Do not build the 0.5 miles of permanent road.	Building the 0.5 miles of permanent road next to my private property will increase dust and noise and disturb my privacy indefinitely. Consider making this a temporary road (obliterate after management actions are implemented) or consider an alternative that includes no permanent road building next to my property.
There will be significant impacts to threatened and endangered species.	Commercial thinning in units A, B, and C will remove critical lynx habitat, which we think violates the Endangered Species Act. Drop all commercial thinning in critical lynx habitat or explain in the analysis how this is not a violation of the Act.

CONCLUSION

REVIEW OF OBJECTIVES



PURPOSE OF
NEPA AND WHEN
IT APPLIES



THE NEPA
PROCESS

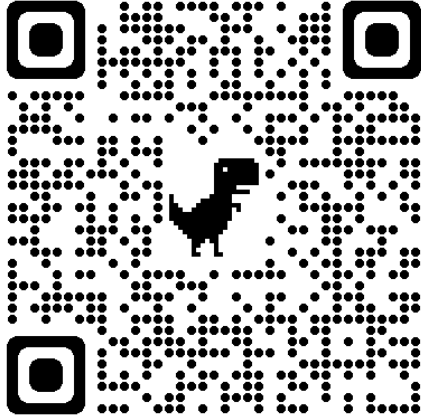


ENGAGING IN
THE PROCESS

WHERE TO FIND ADDITIONAL INFORMATION

VIEW PROJECTS ON THE Inyo National Forest WEBSITE:

- <https://www.fs.usda.gov/projects/inyo/landmanagement/projects>



SUBSCRIBE TO RECEIVE PROJECT INFORMATION:

- Go to the webpage to the left.
- Click on the project you are interested in
- On the right side of the page, click, “Subscribe to email updates” under the “Get Connected” heading.

Not all projects have subscriptions set up, so if you do not see the link to subscribe, then click Request More Info to request to be notified.

FOR MORE INFORMATION ABOUT THE NEPA PROCESS ON THE INYO NATIONAL FOREST, AND HOW YOU CAN BE INVOLVED, CONTACT THE ENVIRONMENTAL COORDINATOR:

ERIN NOESSER

erin.noesser@usda.gov

THANK YOU!