

## **Unit 2.1.**

### **Understanding Context of Planning**

#### **Unit Objectives**

- Describe the primary events leading to the need for new plans (and this course)
- List the key land use issues, challenges, and opportunities for BLM



2.1 - 1

## Question

What do you feel are attributes of a successful plan?



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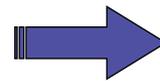
## Exercise B. Preliminary Planning Issues

- Each small group develops a list of the 3 most important issues, circumstances, or events facing the BLM in your office that need to be addressed in your upcoming plan.
- Present results

2.1 - 3

## Examples of Circumstances and Issues Leading to Current Planning Emphasis

- Changing demographics, pace of change is accelerating
- Rural/urban interface issues
- Old plans are outdated
- Changing circumstances (listed species)
- Updated Land Use Planning Handbook (2005)
- Newer planning approaches and techniques



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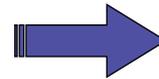
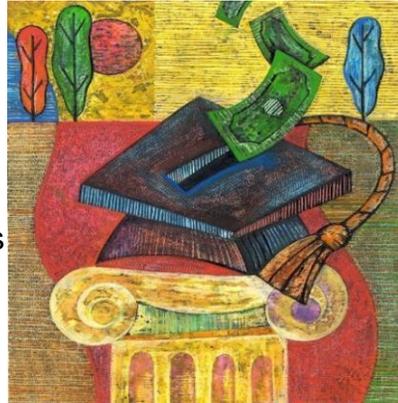
## Events, Circumstances, and Issues Leading to Current Planning Emphasis (Cont.)

- Pressure to complete plans in less time
- Interest in collaborative, landscape-based plans
- Opportunities for "on-the-ground" management based on plans
- Increased public scrutiny and litigation
- Technological change
  - ◆ GIS
  - ◆ Internet

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## Emphasis in Current Planning Efforts

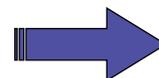
- Emphasis on collaboration
- Inter-jurisdictional
- Incorporates adaptive management
- Improved cumulative effects analysis
- Large-scale analysis of effects, temporally and geographically



2.1 - 6

## Emphasis in Current Planning Efforts (Cont.)

- Holistic view of entire ecosystem, not species-by-species or resource-by-resource approach
- Emphasis on ecosystem restoration
- Protecting and connecting fragmented habitats
- Incorporating fire into the ecosystem, especially in urban-rural-wildland interface areas
- Improved integrated weed management



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## **Emphasis in Current Planning Efforts (Cont.)**

- Protecting/Improving/Restoring “jewel” areas
- Identifying patterns across the landscape (vegetation, key habitats)
- Analysis of social and economic effects
- Using more/better science

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## **Legal Framework for BLM Planning**

- Required by law and regulation to meet specific legal requirements
- Laws establish legal sideboards for planning decisions
- Courts and Administrative Law Judges use laws and regulations as standards
- BLM should explain legal framework at public meetings

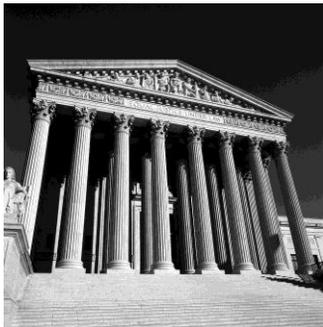
## Unit Objectives

- Describe the major laws and regulations that guide and influence planning at BLM



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## Legal Framework for BLM Planning



- FLPMA
  - ◆ **Federal Land Policy and Management Act** [43 USC 1701 - 1782]
  - ◆ **BLM Planning Regulations** [43 CFR 1600]
  - ◆ **BLM Planning Handbook** [H-1601-1; revised March 3, 2005]

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## Legal Framework for BLM Planning

### ■ NEPA

- ◆ **National Environmental Policy Act** [42 USC 4311]
- ◆ **CEQ NEPA Regulations** [40 CFR 1500 - 1508]
- ◆ **Department of the Interior NEPA Guidance**  
[Department Manual Part 516; 69 Federal Register 10866 and 70 Federal Register 32840]
- ◆ **BLM NEPA Guidance** [516 DM 11, revised August 14, 2007; 72 Federal Register 45504]
- ◆ **BLM NEPA Handbook** [H-1790-1], updated 2008

DOI will codify their NEPA guidance into a CFR (IM 2008-055, 73 Federal Register 126 [Jan 02, 2008])

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## Exercise C. Federal Land and Policy Management Act

- Review Section 202 of the BLM's Organic Act.
- Each small group will read a section of FLPMA and explain it to the rest of the class.

2.1 - 13

## **Exercise D. BLM Planning Regulations**

- Each small group will read the section(s) of the regulations that is assigned to them.
- Explain it to the rest of the class.

2.1 - 14

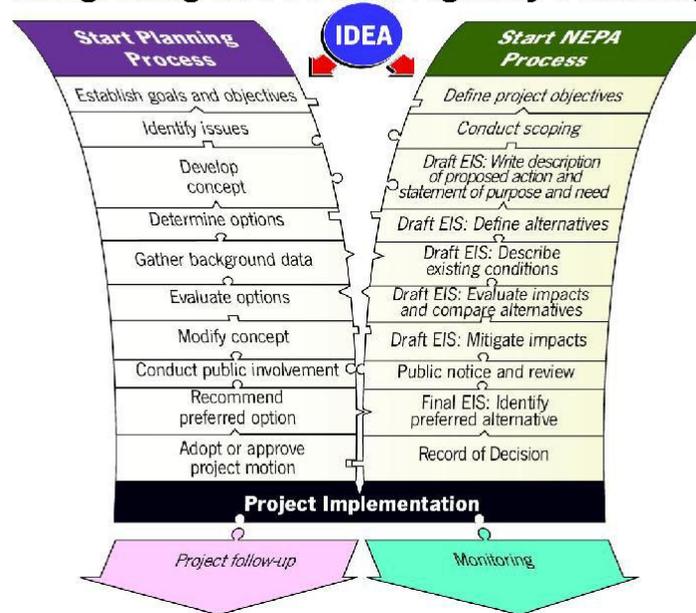
## **NEPA**

- Spirit of NEPA (Section 101)
- Letter of the Law of NEPA (Section 102)



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## Integrating NEPA with Agency Planning



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## Key Administrative Laws Involved in BLM Planning

- Federal Advisory Committee Act (FACA) [5 U.S.C. Appendix 2 §§ 1-15; 41 CFR 102-3]
- Freedom of Information Act (FOIA) [5 U.S.C. 552]
- Administrative Procedure Act (APA) [5 U.S.C. §§ 551-559, 701-706 and 801-808]

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## Federal Advisory Committee Act (FACA)

### ■ Purpose

- ◆ Reduce narrow interest groups influence on federal decision making
- ◆ Foster equal access to the process
- ◆ Control costs by avoiding the establishment of unnecessary advisory committees



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## Federal Advisory Committee Act (FACA) (Cont.)

### ■ When does FACA apply?

- ◆ Is there a group of individuals who are not employees of tribal, State, local government or Federal agencies?
- ◆ Does the group have a formal organizational structure?
- ◆ Was the group established by the BLM?
- ◆ Is the group subject to any degree of BLM control or management?
- ◆ Is the group providing advice to the BLM on any subject?

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## Federal Advisory Committee Act (FACA) (Cont.)

- Requirements for FACA compliance
  - ◆ Formal charter
  - ◆ Designated BLM representative
  - ◆ Notice of meetings in Federal Register
  - ◆ Meetings open to public
  - ◆ Detailed minutes required



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## Federal Advisory Committee Act (FACA) (Cont.)

- FACA information sources:
  - ◆ Appendix B, Land Use Planning Handbook
  - ◆ [www.usdoj.gov/04foia/facastat.pdf](http://www.usdoj.gov/04foia/facastat.pdf)
  - ◆ [www.gsa.gov/](http://www.gsa.gov/)
  - ◆ [www.fido.gov/facadatabase/](http://www.fido.gov/facadatabase/)
  - ◆ See FACA booklet on back table: FACA, What BLM Staff Need to Know When Working with ADR-Based Collaborative Community Working Groups

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## **U.S. Freedom of Information Act**

- Information subject to FOIA requests:
  - ◆ Information on “public record,” including final opinions and orders made in the adjudication of cases, statements of policy and interpretation, administrative staff manuals and instructions, and the final votes in every agency proceeding.
  - ◆ May also include information submitted by other members of the public and other federal, state, or local agencies

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## **U.S. Freedom of Information Act (Cont.)**

- Exemptions:
  - ◆ Internal pre-decisional information
  - ◆ National security
  - ◆ Law enforcement
  - ◆ Sensitive business info
  - ◆ Internal agency deliberations
  - ◆ Personal privacy information

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## **U.S. Freedom of Information Act (Cont.)**

- BLM compliance:
  - ◆ Keep copies of everything referenced in public documents
  - ◆ Get FOIA Coordinator involved as soon as receive FOIA request (and possibly FOIA attorney in Solicitor's office)
  - ◆ Make planning process consistent with "open door policy"
  - ◆ 20-day response time requirement
  - ◆ Have request form
  - ◆ Implications for organization of administrative record
- See IM 2003-133, 2008-059
- See OCIO Bulletin 2003-001

2.1 - 24

## **Administrative Procedures Act**

- Procedures that federal agencies must follow, including:
  - ◆ public information,
  - ◆ open meetings,
  - ◆ privacy of information requirements, and
  - ◆ provisions for hearings, adjudications, rule making and judicial and congressional review of agency actions

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## Notes

- What I have learned so far....

## Notes

- What I am going to do differently when I get back to my office...