



Unit Objectives

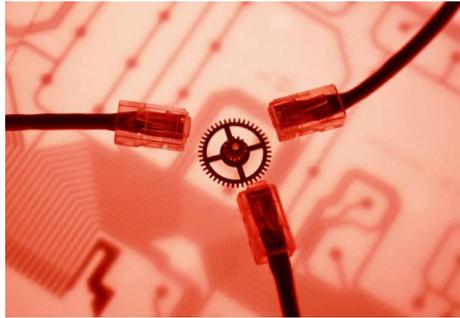
- Integrate legal requirements into the planning process
- Discuss laws with review and consultation requirements



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Why Integrate?

- Why is it important to integrate throughout the planning process?



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Why Integrate?

- Single document concept
- Avoid duplication of effort
 - ◆ Saves time
 - ◆ Saves budget
- Identify legal sideboards
- Consistency in addressing issues
- Enhance collaborative planning

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Challenges of Integration



What are some of the reasons that integration can fail?

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NEPA Regulations

"To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act, the National Historic Preservation Act of 1966, the Endangered Species Act of 1973, and other environmental reviews laws and executive orders."

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Key Agencies and Laws with Review and Consultation Requirements

- USFWS — Endangered Species Act; Fish and Wildlife Coordination Act
- SHPO/ACHP — National Historic Preservation Act, Sec. 106
- Tribes – THPO/NHPA; Native American Graves Protection and Repatriation Act ; American Indian Religious Freedom Act; Indian Trust Assets Act; E.O. 13007: Sacred Sites
- EO 12898 – Environmental Justice
- EPA/State Water Quality Agency/USACE — Clean Water Act, Section 402; Sec. 404 (and Rivers and Harbors Act, Sec. 10)
- EPA/State Air Agency — Clean Air Act

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Endangered Species Act, Section 7

- Requires federal agencies ensure actions do not jeopardize the continued existence of listed species or adversely modify or destroy critical habitat
- Informal Consultation:
 - ◆ Species list requested for listed species in plan area
 - ◆ Biological Assessment prepared to assess adverse project effects on listed species and critical habitat within the plan area
- Formal Consultation:
 - ◆ BLM requests in writing
 - ◆ USFWS or NOAA Fisheries issue Biological Opinion on jeopardy and adverse modification of critical habitat (may include incidental take authorization)

ESA, 16 USC 1536; 50 CFR Part 402

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National Historic Preservation Act, Section 106

- Requires federal agencies to evaluate the effects of action on properties list or eligible for listing on NRHP
- Process:
 - ◆ Historic, archaeological, and cultural resources identified and evaluated (“eligibility” based on historic person or event, important design, important period in history)
 - ◆ Effects of the undertaking assessed
 - ◆ SHPO (& possibly other agencies) consulted
 - ◆ Memorandum of agreement (MOA) signed
 - ◆ ACHP may comment in certain instances
 - ◆ Project proceeds according to MOA conditions

16 USC 470

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Tribal Consultations

- BLM required to provide government officials of federally recognized tribes with opportunities to comment on and participate in development of RMP. Plan must address:
 - ◆ Consistency with tribal plans
 - ◆ Protection of treaty rights
 - ◆ Observance of specific planning and coordination authorities

See BLM Land Use Planning Handbook

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Environmental Justice

- Fair and equitable treatment of people, regardless of race and income level, in the implementation of environmental laws, regulations, and policies.
- BLM Planning Handbook, Appendix D, page 11.



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Environmental Justice

- CEQ Guidance and Executive Order 12898 (www.epa.gov/fedrgstr/eo/eo12898.pdf) requires:
 - ◆ Special outreach during scoping and public involvement
 - ◆ Identification of any disproportionate impacts to low income or minority populations during impact evaluation

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Clean Water Act



- Through oversight by EPA, states may adopt water quality plans to implement the CWA. Elements of state programs include NPDES permitting; setting TMDLs for impaired waters; and water quality certification
- Section 404 of the CWA requires USACE to issue permit prior to discharges of dredged or fill material into waters of the United States
- Section 10 of the Rivers & Harbors Act of 1899 requires USACE to issue permit prior to activities over, under, or through navigable waters to protect the navigable servitude

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Clean Air Act

- Through oversight by EPA, CAA delegates authority to states to set standards and issue permits related to air quality
- Requires federal agency to obtain a consistency analysis for actions that could affect state implementation plan standards



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Planning Scenario: Video 1 The Barbershop

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Discussion About Video

- What are the resource issues that were discussed?
- What laws affect this planning area, besides NEPA?
- Describe the existing and potential collaboration and public involvement opportunities in this scenario.

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