

Okay. I want to talk a little bit about impact significance now after we've gone through the steps of writing good analysis. Why do we worry about impact significance? Well, sometime you don't have to worry about it as much. But if you're working on an EA process, at some point you're going to have to make a determination on significance, whether it's in the EA itself or in the decision record, the decision notice for the EA. If you're going to write a finding of no significant impact, you obviously have to make a determination on impact. And -- on impact significance. And with that, that's often really a challenge, because that also can be subjective. With all NEPA processes, you want to avoid the evil term of "arbitrary and capricious," and what that means is whatever you do, make sure and have a rationale.

Typically, a lead agency and the public want to know how severe, quote severe, those impacts are going to be, and significance is what CEQ is talking about to assess that.

One of the things to make it objective and defensible is the use of good rationale that's well documented. I'm going to show you some quick significance overview to show you rationale, especially from what your concerns are if you want to comply with CEQ regulations, which you do, what you need to get out of this.

Severity and context is what is the key for significance. A more sensitive context means that a lower intensity impact can still be significant. If you're impacting one acre of spotted salamander habitat and it happens to be the last acre that's left in the state, that's going to be a significant impact. Whereas if you're impacting one acre of spotted salamander habitat and there's a million acres of habitat in the state, that's not significant, even though the impact is identical.

From CEQ regulations there's certain factors that CEQ uses to determine

significance. Now, these are going to be useful as a background, but at the same time, they still don't help you in terms of rationale. But let's start off with these. First off, CEQ recognizes that significant impacts can be beneficial or adverse. Second, the degree to which a proposed action affects public health and safety is seen as a significance criteria. If you are going to adversely affect public health and safety, that's generally seen as a significant adverse impact. If you're going to impact a place with unique characteristics of a certain geographic area, Yellowstone Park or the Old Man on the Mountain in New Hampshire, Laconia, those are unique areas and any impact there is more likely to be seen as significant.

If the impact is very highly controversial or you're uncertain what's going to come out of it, or it's precedent-setting, that also pushes you more towards justifying that's a significant adverse impact.

Other factors... if cumulatively you're adding to cumulative impacts to the point that it pushes it towards significance, obviously you're having a significant adverse impact. Now, that doesn't really help you in terms of figuring that out, but it just let's you know that you have to consider your cumulative impacts when you're going through significance.

Now, some of the others are pretty cut and dried. If you're going to impact objects eligible for listing on the National Register of Historic Places, it's likely to be seen as a significant adverse impact, which is one reason that you would pay close attention to your 106 consultation with the SHPO, to make sure that you can avoid that as much as possible. The degree to which you could impact endangered species or their habitat pushes you towards a significant adverse impact. And definitely if you're going to violate a federal, state or local law or requirements for the protection of the

environment, that's seen as a significant impact.

Now, some of this stuff is pretty intuitive. So you're wondering, "Well, the CEQ regs don't really help me in figuring out some of that." So let's talk about -- these are some techniques for determining impact significance, and I want to stress, they're not cut and dried techniques. They're techniques for developing rationale to support your determination. Because in the end, that's pretty much what you have to do.

First is what I call by comparison and conclusion, and this goes back to the context idea. If we are impacting only 1% of the habitat, it's not significant. If we're impacting 80%, then that's a good rationale for saying it is significant.

You can assess significance according to the opinion of a recognized expert, the disadvantage being that expert better be preeminent because there's apt to be somebody who disagrees with him. So there's some risk with that one.

According to the policy of agencies, organizations with administrative jurisdiction. That is an excellent tool for determining significance, because the courts defer to agencies with jurisdictional responsibility, and it's a management policy, and so it works very well. It's very defensible. An example would be if the Forest Service Plan Standards and Guidelines state that you must maintain at least 30% vegetation cover on a stream, you can use that as a significance threshold and assume as long as we're not impacting over 30% and we're meeting that guideline that we're not having a significant adverse impact.

According to experience or example works well if you have a similar project that's been implemented in a similar area and you've been able to assess those consequences, whether they're significant or not. The disadvantage here is it's kind of tough sometimes to find an exact identical project with exact context.

According to law or regulations. This is similar to according to the regulatory process of the different agencies. It's a very good technique for establishing a significance threshold. An example would be national ambient air quality standards. As long as we're not violating those, this isn't a significant adverse impact. If we do violate those, it is a significant adverse impact. It's pretty defensible, and it's very cut and dried, and it works well for some of the physical environmental issues like air quality or water quality where there's regulatory processes in place to monitor those.

Now, another one is according to the critical nature of the resource, the action of the impact. Again, this is one where you would use it to develop your rationale instead of necessarily having a cut and dried answer. This is a very critical spawning habitat for an endangered fish, and because of that, any impact to that is going to be significant. That's helping you develop the rationale.

According to the threshold from an approved model or analysis approach. This has come out more frequently recently with computer modeling and you have, you know, models like [indiscernible] or [indiscernible] models that are older models that can be applied very rigorously now, and there's certain thresholds where some of those models that you can use as a significance threshold. But two things you got to remember... it needs to be a model that agency with jurisdictional authority -- or expertise approves of and you need to have the data to populate that model so what it's saying is meaningful to support your determination.

So those are just some techniques to think about if you need to determine significance as part of your NEPA process. Now, I also might add, if you're working on an EIS, you may not even really need to make a statement regarding significance because a priority with an EIS process assumes there's a likelihood for a significant

adverse impact, in which case you can disclose the context and severity of the impact through the comparisons I talked about earlier, those steps on impact analysis, and just leave it at that.