



# Legal Framework for BLM Planning

# Objective

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



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## ■ 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 2005]

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## ■ NEPA

- **National Environmental Policy Act** [42 USC 4311]
- **CEQ NEPA Regulations** [40 CFR 1500 - 1508]
- **Department of the Interior Manual** [Part 516]
- **Department of the Interior NEPA Regulations** [43 CFR 46 (73 Federal Register 61292-61323)]
- **BLM NEPA Guidance** [516 DM 11, revised August 2007 (72 Federal Register 45504)]
- **BLM NEPA Handbook** [H-1790-1], revised January 2008

# **Exercise 1 Debrief**

## **Federal Land and Policy Management Act**

- For Exercise 1, you read the following sections of FLPMA:
  - Section 202(a)
  - Section 202(c) (1) - (9)
- FLPMA is called the BLM Organic Act because it consolidated and articulated BLM's management responsibilities.
- Many land and resource management authorities were established, amended, or repealed by FLPMA.

# Exercise 2 Debrief:

## BLM Planning Regulations

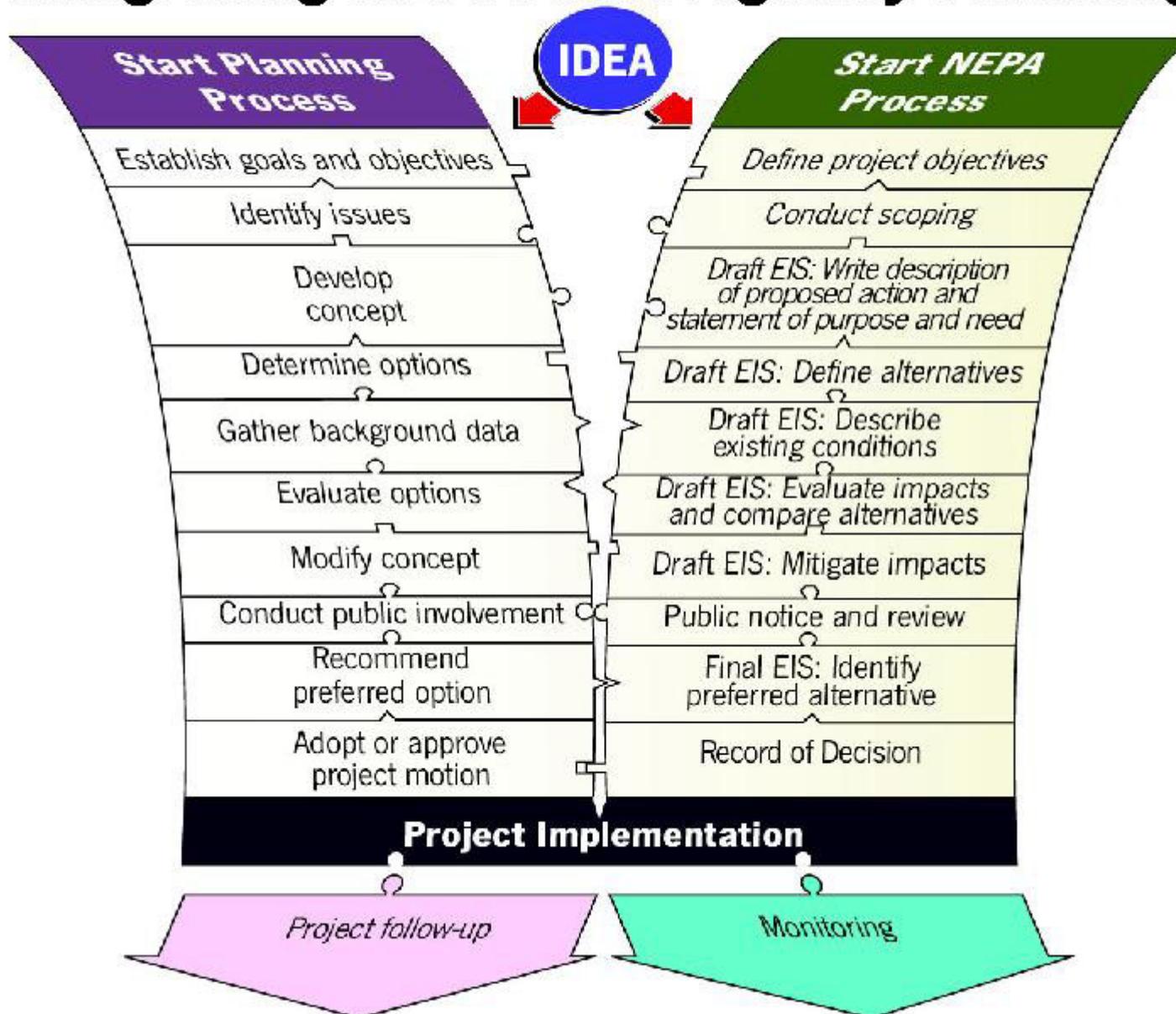
- For Exercise 2, you read the following sections of the BLM Planning Regulations:
  - 43 CFR 1601.0-1, -2, -4
  - 43 CFR 1610.0-5(n)
  - 43 CFR 1610.2(a)-(c)
  - 43 CFR 1610.3-1(a)-(c)
  - 43 CFR 1610.3-2(a)-(c)
  - 43 CFR 1610.7-2
  
- These regulations set out the purpose, objectives, and responsibilities of BLM in land use planning.

# NEPA

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



# Integrating NEPA with Agency Planning



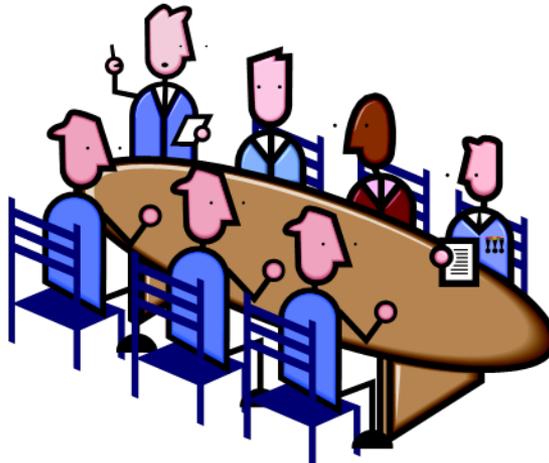
# Key Administrative Laws Involved in BLM Planning

- 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]

# Federal Advisory Committee Act (FACA)

## ■ Purposes

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



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

- When does FACA apply?
  - Are any members of the group 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?

# 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



# 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/)
  - “FACA, What BLM Staff Need to Know When Working with ADR-Based Collaborative Community Working Groups” booklet

# 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
    - copies of all records that have been released or may be requested, along with an index of those records.
  - May also include information submitted by other members of the public and other federal, state, or local agencies.

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

## ■ Possible Exemptions:

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

# 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.

## ■ For more information, see the DOI FOIA website:

<http://www.doi.gov/foia/policy.html>

# 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.

