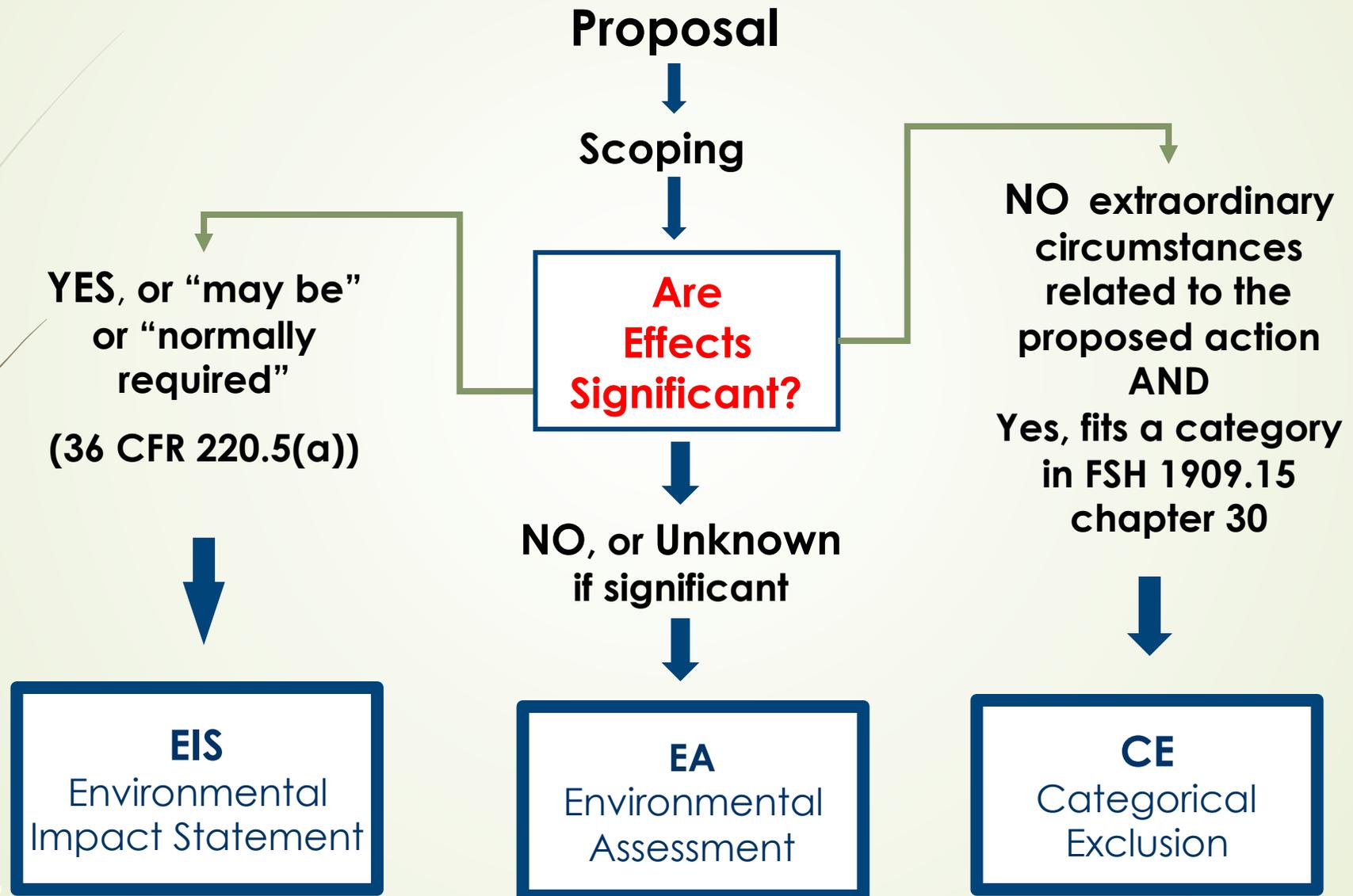


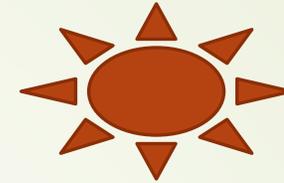
Differences between EA/EIS



Three NEPA document paths



Differences



- ▶ EIS = Addresses significance
- ▶ EA = No significant impact test (FONSI)
 - ▶ Both require a hard look at the impacts of the proposed action and alternatives to satisfy NEPA .

Generally for EAs:

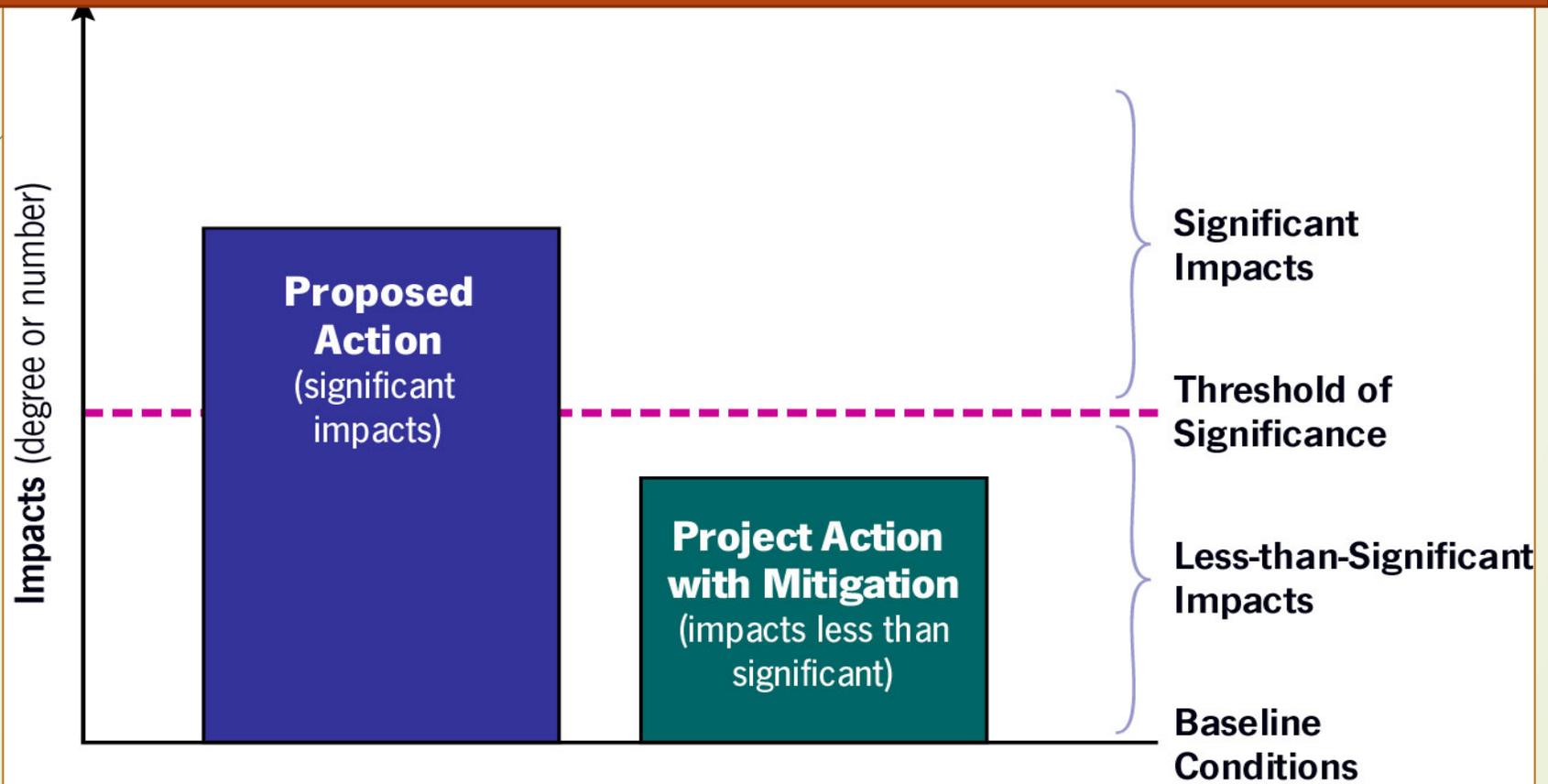
- ▶ not as high a bar for analysis, alternatives
- ▶ fewer required elements therefore shorter documents, less cost, less public review, less depth of analysis

Public Review for EAs:

- ▶ Scoping, 30 day Public Comment, Pre-decisional Objection Period (90 days) followed by Decision.

Environmental impacts

The Fundamental Question—Are Impacts Expected to Be “Significant” or Not?





Mitigations or Design Features

- ▶ Manipulate the what, where, when, and how of the project actions to minimize or mitigate the impacts.

Examples:

- ▶ Make a proposed campground smaller in size
- ▶ Move it further from an impacted river
- ▶ Minimize erosion from the project into nearby streams
- ▶ Construct it outside of breeding season of endangered species
- ▶ Survey for Sonoran desert tortoise prior to construction
- ▶ Access the site using existing roads rather than traveling cross country
- ▶ Construct using smaller equipment
- ▶ Avoid archeological sites



Determining Significance

"Significantly" as used in NEPA requires considerations of both context and intensity(40 CFR 1508.27):

- (a) **Context**. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action (i.e. Local versus National)
- (b) **Intensity**. This refers to the severity of impact....

Ten intensity factors -FSH 1909.15, 15(b)

1. Beneficial and adverse
2. Public health or safety
3. Unique characteristics of the geographic area
4. Effects likely to be highly controversial
5. Highly uncertain or involve unique or unknown risks
6. Establish precedent for future actions
7. Related to other actions with individually insignificant but cumulatively significant impacts
8. May adversely affect historic places
9. May affect endangered or threatened species or critical habitat
10. Threatens a violation of federal, state, or local laws



The FONSI

- The Finding of No Significant Impact (FONSI)
 - “a document by a Federal agency briefly presenting the reasons why an action . . . will not have a significant effect on the human environment” 40 C.F.R. § 1508.13.
 - The agency “must supply a **convincing statement of reasons** to explain why a project’s impacts are insignificant.” *Center for Biological Diversity v. Nat’l Highway Traffic Safety Admin.*, 538 F.3d 1172, 2007 WL 3378240 (9th Cir. 2007).
 - **This is the conclusion of the EA, and “the straight face test”. The whole EA should support the conclusion that there will be no significant impacts. If we cannot conclude this with a “straight face”, we must do an EIS or further modify the project actions until we can.**