

USDA United States Department of Agriculture
Rural Development

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1970 Environmental Regulation

IACC October, 2016

Background - National Environmental Policy Act (NEPA)

- NEPA Enacted Jan 1, 1970
- NEPA required all executive federal agencies to prepare environmental assessments and environmental impact statements for federal actions.
- NEPA *does not* apply to the President, Congress, or the federal courts.

Why Environmental Review?

- Outgrowth of environmental awareness in the Late 60's early 70's
- Development/enforcement of new policies and federal govt. itself needed to do better in considering environmental values in its decision-making

Beyond 'Compliance'

As a federal agency we are required to comply w/laws and regulations, including environmental. *But* environmental review also:

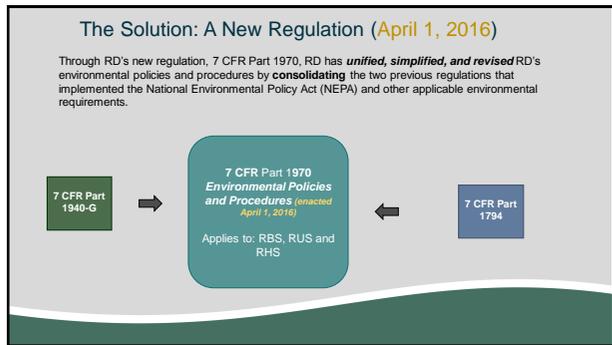
- > Better informs our decision making
- > Provides opportunity for stake holder review and comment
- > Assists in Project planning
- > Allows consideration of competing societal values and goals

NEPA Responsibility

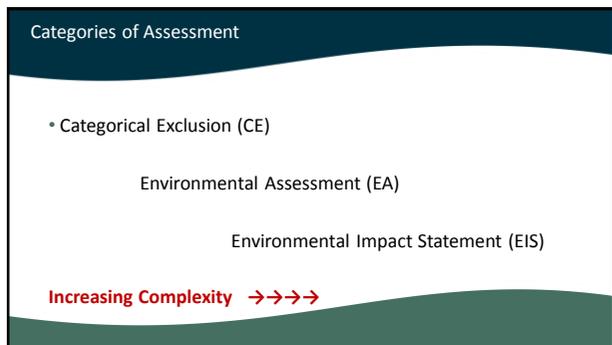
NEPA Responsibility rests with the Federal Agency

RD's Past Implementation of NEPA

<p>7 CFR Part 1940-G Environmental Program</p> <p>Published in 1984 and amended in 1988 by Farmers Home Administration.</p> <p>Applied to: RBS and RHS</p>	<p>7 CFR Part 1794 Environmental Policies and Procedures</p> <p>Published in 1984 by Rural Electrification Administration. Revised in 1998 to integrate the WWD program from FmHA into newly created RUS. Amended in 2003.</p> <p>Applied to: RUS</p>
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1. Changes	Benefits
Clarifies roles of staff and applicants in the environmental process (e.g. coordinating with other agencies).	Provides increased predictability to applicants regarding their involvement in the process.
Updates references to environmental laws and Executive Orders.	Ensures that RD staff and applicants are aware of their responsibilities under current laws and regulations.
Synchronizes classes of actions (CE, EA, EIS) with other similar federal agency partners' actions.	Improves coordination with other federal agencies and tribes through preparation of joint documentation.
Expands listing of Categorical Exclusions (CE) and simplifies CE environmental documentation.	Expedites the review process for actions with <i>de minimus</i> impacts.
Simplified public involvement process; eliminates EA with scoping classification.	Focuses the efforts of agency staff and the public on actions with the potential to cause significant effects.



Categorical Exclusion (CE/CATEX)

Actions with minimal to no effect, individually or cumulatively; essentially no documentation required but.... Consider "Extraordinary Circumstances"

What does "No Documentation Required" really mean?

- Must complete Cat Ex form RD 1970-1 (Loan Specialist)
- Must complete 'Section 106 Consultation' with DAHP and appropriate Tribes (RD Staff)

Categorical Exclusion (CE/CATEX)

The Categorical Exclusion Form asks if a number of different resources are present. If *any* are present it asks if these resources will be affected by the project.

It also asks if there are any 'extraordinary circumstances' present. (important farm land, environmental justice concerns, etc.) if yes the project *may* be elevated to an environmental assessment or an environmental impact statement.

Categorical Exclusion (CE/CATEX)

Extraordinary Circumstances (= CATEX w/Report)

- Definition: "when a normally CatEx'ed action, due to a unique situation presented by a specific proposal requires further analysis."
- Examples:
 - Wetlands, endangered species, or historic properties adversely affected

Environmental Assessment (EA)

- "A concise public document used by the Agency to determine whether to issue a FONSI or prepare an EIS. If, at any point during the preparation of an EA, it is determined that the proposal will have a potentially significant impact on the quality of the human environment, an EIS will be prepared."
- Unless otherwise determined by the Agency, EAs will be prepared for all "Federal actions" unless such actions are categorically excluded, or require an EIS. *(so, in between a CATEX and an EIS)*

Environmental Assessment (EA)

- The EA must focus on resources that might be affected and any environmental issues that are of public concern.
- (a) The amount of information and level of analysis provided in the EA should be commensurate with the magnitude of the proposal's activities and its potential to affect the quality of the human environment. At a minimum, the EA must discuss the following: ... *(almost everything!)*

Environmental Assessment (EA) ... more public notice

- If the Agency finds the EA acceptable, the Agency will prepare or review a "Notice of Availability of the EA" and direct the applicant to publish the notice in local newspapers or through other distribution methods as approved by the Agency. The notice must be published for three consecutive issues (including online) in a daily newspaper, or two consecutive weeks in a weekly newspaper. If other distribution methods are approved, the Agency will identify equivalent requirements. The public review and comment period will begin on the day of the first publication date or equivalent if other distribution methods are used. **A 14- to 30-day public review and comment period, as determined by the Agency, will be provided for all Agency EAs.**

Environmental Assessment (EA)

- After reviewing and evaluating all public comments, the Agency determines whether to:
 - **Modify the EA,**
 - **Prepare a FONSI, or**
 - **Prepare an EIS**
- If the Agency determines that a FONSI is appropriate, and after preparation of the FONSI, the Agency will prepare or review a public notice announcing the availability of the FONSI and direct the applicant to publish the public notice in a newspaper(s) of general circulation, as described in § 1970.14(d)(2). *(more public notice)*

Environmental Impact Statement (EIS)

An EIS is required, but not limited to:

- (1) Proposals for which an EA was initially prepared and that may result in significant impacts that cannot be mitigated;
- (2) Siting, construction (or expansion), and decommissioning of major treatment, storage, and disposal facilities for hazardous wastes.
- (3) Proposals that change/convert the land use of an area greater than 640 contiguous acres;
- (4) New electric generating facilities, other than gas-fired prime movers or renewable systems (solar, wind, geothermal), with a rating greater than 50 average MW, and all new associated electric transmission facilities... *(and more)*

Time and Timing ... What can slow you up?

- SEPA: If your project requires a SEPA review, get that done and a copy to us as soon as you can.
- Section 106 consultation: this usually means a 30 day comment period.
- A certificate of consistency with Washington's Coastal Zone Management program (CZM)
 - **(The coastal zone includes Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum and Whatcom counties.)*

Time and Timing ... What can slow you up?

- A DETAILED project description (EARLY ON)
 - A map, legal description, address etc. of the project location
 - Pictures of the site or project
- Lack of communication with your loan specialist
- Public involvement
- Determination/disclosure if other federal agencies have done/are doing NEPA on the same action
- Start Early – the environmental assessment document must be complete and accepted *BEFORE* the agency will commit funding

Time and Timing ... What can slow you up?

- Work closely with your loan specialist – remember, your success is our success so we WANT you to be successful
- Be patient – we are learning this new regulation too

Self-Help Housing Projects

ANY QUESTIONS?



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