

# ENVIRONMENTAL REVIEW PROCESS

## NEPA – National Environmental Policy Act



Committed to the future of rural communities.

# NEPA

- The National Environmental Policy Act (NEPA) is our basic national charter for protecting environmental resources and contains provisions to ensure the Federal agencies act in accordance with the letter and spirit of the law.
- “NEPA requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions.” (EPA)



# RD Compliance with NEPA

- 7 CFR 1794  
Title 7—Agriculture, Code of Federal Regulations,  
Part 1794 Environmental Policies and Procedures  
<http://www.usda.gov/rus/water/regs.htm>
- RUS Bulletin 1794A-602  
Guide for Preparing the Environmental Report for Water & Environmental Program  
Proposals  
[http://www.rurdev.usda.gov/RDU\\_Bulletins\\_Water\\_and\\_Environmental.html](http://www.rurdev.usda.gov/RDU_Bulletins_Water_and_Environmental.html)
- Colorado State Supplement  
Colorado Natural Resources Management Guide  
<http://www.rurdev.usda.gov/co/environmental-resources.htm>



# Responsibilities in the Environmental Process

- Applicant's Responsibilities
  - Prepares and submits the Environmental Report (ER)
  - Publishes Availability of Environmental Assessment
  - Publishes Notice of FONSI
- Agency's Responsibilities
  - Reviews and Evaluates the Environmental Report
  - Classifies the Proposal (Cat Ex or EA)
  - Ultimately accepts the ER as its EA
  - Determines FONSI and authorizes publication
- Citizen's Responsibilities
  - Attends the public hearing
  - Gets acquainted with the proposal and voices any concerns



# General Process

1. Applicant prepares and submits an ER
2. Agency reviews, evaluates and classifies ER
3. Agency accepts or declines ER as AE
4. Agency authorizes Publication of Notice of Availability of an Environmental Assessment
5. Agency evaluates any public comments
6. Agency Determines FONSI and authorizes its publication
7. NEPA process complete



# Format of the Environmental Report

- 1.0 Purpose and Need of the Proposal
- 2.0 Alternatives to the Proposed Action
- 3.0 Affected Environment / Environmental Consequences
- 4.0 Summary of Mitigation
- 5.0 Correspondence
- 6.0 Exhibits
- 7.0 List of Preparers



## 3.0 Affected Environment

| <u>Evaluated Resource</u>   | <u>Primary Contact/Resource</u> |
|---|---------------------------------|
| 1. Land Use <ul style="list-style-type: none"><li>• Important Farmlands</li><li>• Formally Classified Lands</li></ul> | NRCS<br>NPS, BLM, CDNR          |
| 2. Floodplains  | FEMA, USACE                     |
| 3. Wetlands   | NRCS, USACE                     |
| 4. Historic Properties  | SHPO, THPO                      |
| 5. Biological Resources   | USFWS, CDOW                     |
| 6. Water Quality  | CDPHE                           |



## 3.0 Affected Environment (continued)

### Evaluated Resource

### Primary Contact/Resource

7. Socio-Economic/ Env. Justice

Census Bureau, EPA

8. Miscellaneous Issues

- Air Quality
- Transportation
- Noise

EPA, CDPHE  
CDOT  
EPA, HUD



# Assessment Steps

1. Determine the Area of Potential Effect (APE)
2. Collect Information and Data
3. Determine if any Env. Resources occur in the APE
4. Determine Proposals' Potential Effects
  - Direct Effects
  - Indirect Effects
  - Cumulative Effects
5. Submit Analysis to Regulatory Agency
6. Document Research and Consultation in the ER
7. Describe any Mitigation Measure to be Implemented



## Other Evaluated Documents

- Minutes of the General Public Meeting
- Intergovernmental Review Letters
- FEMA 81-93 Standard Flood Hazard Determination (Buildings Only)\*
- RD Form 2006-38 Env. Justice and Civil Rights Impact Analysis\*

\*Completed by USDA RD



# Publication Requirements

## Categorical Exclusions

Proposing to Convert Important Farmland,  
Wetlands, Floodplains, Historic Properties?

YES = Publish Preliminary and Final Notice

NO = Publication Not Required

Preliminary Notice Review Period = 30 Days

Final Notice Review Period = 0 Days



# Publication Requirements (continued)

## Environmental Assessment

Regardless of whether or not the project proposes to convert Important Farmland, Wetlands, Floodplains, Historic Properties, applicant is required to publish:

- Notice of Availability of an EA
- Notice of FONSI

Notice of Availability Review Period = 30 Days

Notice of FONSI Review Period = 0 or 15 Days



# Publication Requirements (continued)

## Newspaper Notices

- Reasonable size and prominence
- NOT printed in the classifieds or legal section
- NOT printed in an obscure portion of the newspaper
- Printed for 3 consecutive days for daily newspapers
- Printed for 2 consecutive weeks in weekly newspapers
- Proof of publication/publisher's affidavit



# Do's and Don'ts

## Do

- Apply NEPA early in the planning process
- Involve the Public early in the planning process
- Author the ER as a stand alone document
- Follow the format as outlined in 1794A-602

## Don't

- Take action on the proposal that would affect the Agency's ability to evaluate environmental impacts of the proposed action, or alternatives to the proposed action
- Publish EA or FONSI notices until authorized by the Agency



# Pitfalls and Common Mistakes

- Making foregone conclusions
- Assuming State approval will equal Federal approval
- Making a finding w/o supporting documentation
- Unsupported determination of “No Practical Alternative”
- No consideration of the “No Action” Alternative
- Referring the reader the PER for further information
- Consultation letters not specific to Regulatory Agency’s environmental resource
- Generalizing mitigation measures



# Conclusion

The NEPA process is meant to protect Public, not the Government.

QUESTIONS?

Thank you.



Godzilla versus the bureaucracy