



# Environmental Requirements Overview



Rural Development

USDA RUS ReConnect Program

# Agenda

- **Environmental Review and Clearance Process. Section 106 Review**
  - Presented by Anthony High, Environmental Protection Specialist, Rural Utilities Service (RUS) Telecommunications Policy and Outreach Division Engineering Branch (PODEB)
- **Q&A**



# Environmental Review and Clearance Process

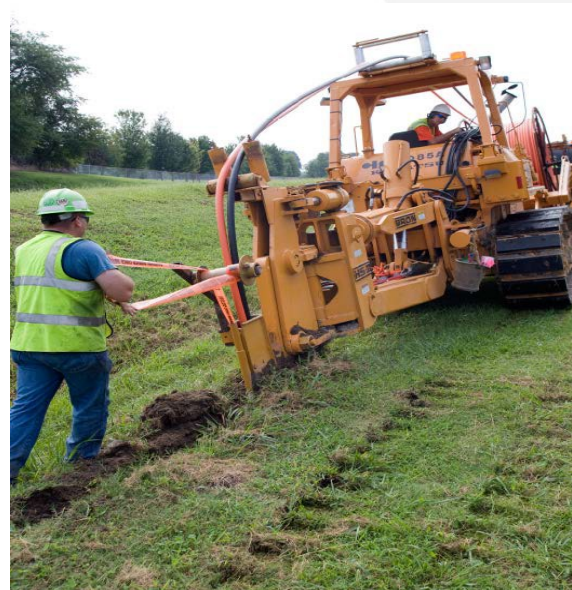


# What is the Environmental Review Process?

- The environmental review process under the National Environmental Policy Act (NEPA) is a way of evaluating the environmental impacts of federal actions and identifying ways of meeting the need.



**Plowing Method of Installation**



**Plowing along a roadside**



# National Environmental Policy Act of 1969

- NEPA requires RUS and other federal agencies to consider the environmental impact of proposed actions early in the planning process and decision-making process
- This process is designed to encourage public participation
- Documents must be available to the public



**Directional Boring Machine**

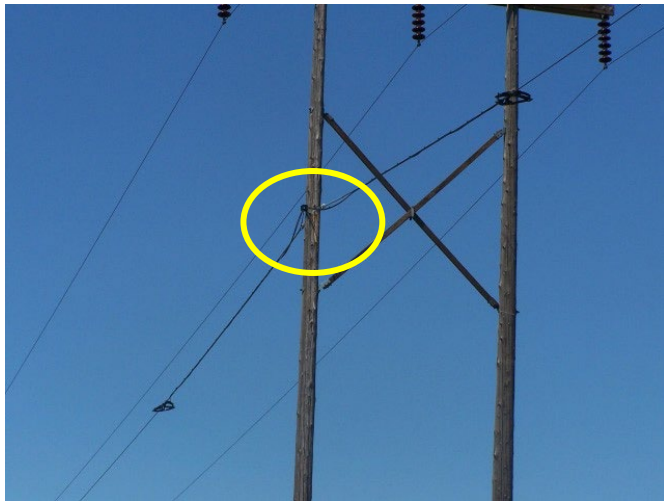
# Examples of Special Purpose Laws

- Statutes
  - Endangered Species Act (ESA)
  - National Historic Preservation Act (NHPA)
  - Magnuson-Stevens Act (MSA)
  - Clean Water Act (CWA)
  - Clean Air Act (CAA)
  - Wild and Scenic Rivers Act (WSRA)
  - Safe Drinking Water Act (SDWA)
  - Resource Conservation and Recovery Act (RCRA)
- Executive Orders
  - Floodplain Management
  - Wetland Protection
  - Environmental Justice (EJ)

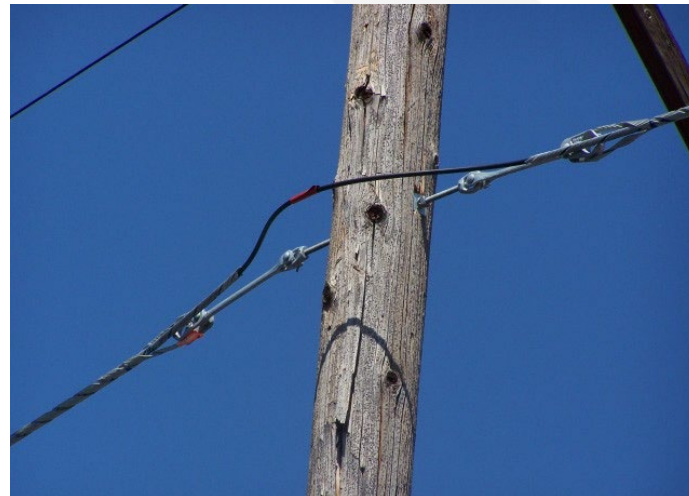
# RUS's Environmental Regulations

- 7 CFR Part 1970 – RUS Environmental Policies and Procedures

<https://www.ecfr.gov/current/title-7/subtitle-B/chapter-XVIII/subchapter-H/part-1970>



**Fiber optic cable anchored by a strong cable and attached to an empty area on an existing utility pole**



**Cable placement on an existing pole along a stabilizing cable.**

# RUS Telecommunications Responsibilities

- Responsible for all environmental review decisions and findings related to its actions
- Encourage awardees to design proposals to protect, restore, and enhance the environment
- Outline types of information and analyses required in guidance documents when awardees are required to submit environmental information
- Ensure mitigation measures described in environmental review and decision documents are included as conditions of financial assistance



# Awardee Responsibilities

- Consult with RUS staff to determine the appropriate level of environmental review
- Contact state and Federal agencies to initiate consultation
- Provide information to RUS necessary to evaluate the proposal's potential environmental impacts and alternatives.
- Provide any additional studies, data, and document revisions requested by RUS during the environmental review and decision-making process.
  - Examples of studies/data that RUS may require includes Official Species Lists, Special Status Plant and Wildlife Species Table, and biological assessments or surveys for ESA, cultural surveys for NHPA, Essential Fish Habitat Assessments for MSA, and consistency determinations for Coastal Zone Management Act (CZMA) compliance

## Awardee Responsibilities continued

- Ensure that no actions are taken (such as any demolition, land clearing, or initiation of construction) with respect to their proposal, that may have an adverse impact on the quality of the human environment or that may limit the choice of reasonable alternatives during the environmental review process.
- Promptly notify RUS when changes are made to their proposal so that the environmental review and documentation may be supplemented or otherwise revised as necessary.
- Incorporate any mitigation measures identified and any required monitoring in the environmental review process into the plans and specifications and construction contracts for the proposals

# Levels of Environmental Review

- The environmental review process involves three levels of review:
  - Categorical Exclusion (CE), §1970.53 and §1970.54
  - Environmental Assessment (EA), §1970.101
  - Environmental Impact Statement (EIS), §1970.151
- Most Telecom projects are classified as CEs under NEPA



**Handhole in a neighborhood**



## § 1970.52 (a) Extraordinary Circumstances

- Extraordinary circumstances are unique situations presented by specific proposals:
  - Characteristics of the geographic area
  - Scientific controversy about the environmental effects
  - Uncertain effects or effects involving unique or unknown risks
  - Unresolved conflicts concerning alternate uses of resources
- In the event of extraordinary circumstances, a normally excluded action will be the subject of an additional environmental review to determine the potential to cause significant adverse environmental effects
- If extraordinary circumstances are identified, RUS can require an EA or an EIS



Directional Boring in a sensitive area

# Eligibility for a CE

- For a proposal to be eligible for a CE, the following conditions must be ruled out (§ 1970.52):
  - Adverse effect to:
    - Historic properties
    - Federally listed threatened and endangered species /critical habitat, candidate species
    - Wetlands
    - Floodplains
    - Formally classified lands, special sources of water, coastal barriers, coastal zone management areas, and coral reefs
  - When the action will:
    - Result in a violation of a regulation or permit
    - Involve construction/expansion of a RCRA storage or disposal facility
    - Pose the likelihood of uncontrolled/unpermitted pollutants
    - Involve controversy on effect to the environment brought up by a Federal, tribal, state, or local government agency

## §1970.53 Categorical Exclusions involving no or minimal disturbance without an Environmental Report (ER)

- These actions normally do not require an awardee to submit environmental documentation with their applications
- However, based on the review of the project elements and description, RUS may request additional environmental documentation from the awardee at any time, specifically if RUS determines that extraordinary circumstances may exist.
- Example of actions classified under §1970.53:
  - Minor amendments to previously approved projects
  - Upgrade/rebuild of existing telecom facilities or addition of aerial cable on existing poles in developed, existing rights-of-way (ROWs)
  - Buried fiber cable in developed, existing ROWs
  - Collocation of telecom equipment on existing infrastructure

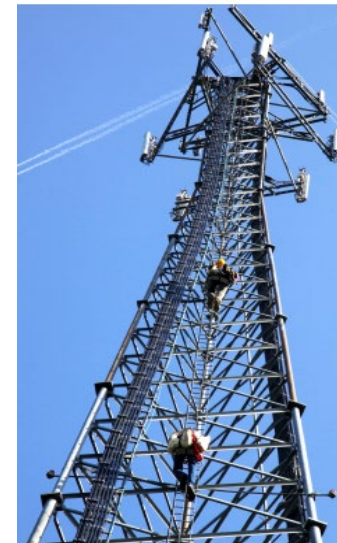


Collocation of a cell tower 14



# §1970.54 Categorical Exclusions with an Environmental Report (ER)

- These actions require awardees to submit an ER with their application to facilitate RUS determination of extraordinary circumstances
- The ER provides project-specific information including an evaluation of the proposal's potential to impact specific environmental resources and historic properties so that RUS can either complete the required environmental review process or determine if additional impact analysis may be needed.
- Example of actions classified under §1970.54:
  - New telecom towers less than 450 feet in height
  - New linear telecom facilities and related equipment and infrastructure outside of developed, existing ROWs



**New cell tower**



**New microwave tower**

## §1970.101 Environmental Assessment (EA)

- EA is a concise public document used by RUS to determine whether to issue a Finding of No Significant Impact (FONSI) or prepare an EIS
  - EAs must be prepared in accordance with RD Instruction 1970-C, Exhibit B – Guidance to Applicants for Preparing Environmental Assessments
- An EA must be prepared for all forms of financial assistance unless:
  - Categorically excluded under §1970.53 or §1970.54
  - Required to be subject of an EIS

**\* Most Telecom projects that require an EA are in Alaska**

## §1970.151 Environmental Impact Statement (EIS)

- EISs are for EA-level proposals with significant impacts
- Informs decision-makers and the public of the reasonable alternatives to avoid or minimize adverse impacts
- Once authorized by the Agency in writing, applicants are responsible for funding all third-party contractors used to prepare the EIS.

**\* EISs are not common in the Telecommunications Program**



# When is the environmental review process formally concluded?

- The environmental review process is formally concluded when RUS:
  - Reviews the appropriate environmental document for completeness
    - Stakeholder consultations completed (i.e., U.S. Fish & Wildlife Service, National Marine Fisheries Service, State Historic Preservations Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), Indian Tribes, U.S. Army Corps of Engineers, and Land Managing Agencies)
  - All required public notices have been published and public comment periods have lapsed; public comments received have been considered and properly addressed
  - Executes environmental review decision documents
    - Approves (Exhibit D) for Categorical Exclusion (CE)
    - Issues Finding of No Significant Impact (FONSI) for EA
    - Issues a Record of Decision (ROD) for EIS
  - Environmental review status letter submitted to awardee

# Section 106 Review



# Section 106 Review

- Do not initiate consultation until directed to by RUS
- Template letters are available
- TDAT (Tribal Directory Assessment Tool): <https://egis.hud.gov/TDAT/>
- Further Guidance

# Proposed Funded Service Area, Route, APE and Research Area

## Telecom:

**Proposed Funded Service Area (PFSA):** The area (whether all or part of an existing or new service area) where an applicant is requesting funds to provide broadband service.

**Route:** Refers to geographic location for proposed aerial or buried fiber cable to bring broadband service to all premises

## Archaeology (Section 106):

**Area of Potential Effect (APE):** Per 36 CFR 800.16: "APE means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking."

**Research Area:** The area a Class I (desktop study) will review for their report. Depending on the state and consulting parties this can be from ½ to 5 miles off either side of the APE (usually between ½ to 1 mile).







Rural Development

U.S. DEPARTMENT OF AGRICULTURE