



United States  
Department of  
Agriculture

## Rural Development



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# Don't Fear the NEPA!

*Farm Bill Broadband Loan and Community Connect Grants*  
*January 2017*

# 7 CFR PART 1970

- Effective as of April 1, 2016
- Replaces two former regulations
  - RHS/RBS regulation 7 CFR 1940-G
  - RUS regulation 7 CFR 1794

# 7 CFR PART 1970

- This regulation separates all agency actions into four levels of environmental review:
  1. Categorical Exclusion (Subpart B, 1970.53)
  2. Categorical Exclusion with an Environmental Report (Subpart B, 1970.54)
  3. Environmental Assessment (Subpart C)
  4. Environmental Impact Statement (Subpart D)

# 1970 SUBPART A

- Applicants may employ a design or environmental professional or technical service provider to assist them in the preparation of their environmental review documents.
- As appropriate, the Agency will determine whether extraordinary circumstances (see 1970.12) or the potential for significant environmental impacts warrant a higher level of review.
- Applicants must wait until the environmental review process is complete prior to initiating project activities.
  - If not, the applicant risks losing their funding.

## Subpart B: Categorical Exclusions (CatEx/CEs)

# CATEGORICAL EXCLUSION (CE)

- CEs are classes of actions that the Agency has determined do not individually or cumulatively have a significant effect on the human environment.
- ALL CATEGORICAL EXCLUSIONS (CEs) MUST BE REVIEWED FOR EXTRAORDINARY CIRCUMSTANCES.

# 1970.53: CE W/O AN ENVIRONMENTAL REPORT (ER)

- This section is for proposals that involve no or minimal alterations in the physical environment and typically occur on previously disturbed land.
- Agency may request documentation at any time, specifically if the Agency determines that an extraordinary circumstance may exist.

# 1970.54: CE WITH AN ER

- Projects that may involve alteration of the physical environment and therefore require an applicant to submit an ER with their application to facilitate our determination that no extraordinary circumstances exist that would elevate the project to an Environmental Assessment (EA).

# Environmental Questionnaire (Environmental Report)

# QUESTIONNAIRE

- Fill out all of the parts of the questionnaire. If your project is listed as a CatEx or CE with ER (1970.54), please be more expansive with your answers as we will probably need more information on these projects

# ENVIRONMENTAL REPORT (ER)

## a) Project Description and Location

- Complete project description of all project-related activities (e.g. clearing, grading, excavating, paving, fencing, etc.)
- Topographic map
- Project map on an aerial photograph
- Ground-level photos
- Note: All project elements must be clearly shown on any map provided

# ENVIRONMENTAL REPORT (ER)

## b) Land Ownership and Land Use should identify

- The amount of property to be affected or disturbed by each project site
- Land ownership and regulating agencies
- Formally classified land (e.g. parks, wilderness areas, state or national forests, etc.)
- Information regarding environmental justice (low-income and minority populations that may be affected)
- Consultation with state and local governments
- Will any Prime Farmland be directly or indirectly converted? If so, AD-1006 will be necessary

# ENVIRONMENTAL REPORT (ER)

## c) Wetlands should identify

- Any wetlands on or near the project site
- Include in the file:
  - National Wetland Inventory map
  - NRCS hydric soils map
  - Army Corps of Engineers consultation, if necessary
  - Wetland delineation, if necessary

# ENVIRONMENTAL REPORT (ER)

d) Threatened and Endangered Species/Biological Resources should identify

- Any project sites or activities that may directly or indirectly affect any threatened, endangered, proposed, or candidate species, or would adversely affect designated critical habitat
- File should include
  - US Fish and Wildlife's IPAC report
  - State endangered species list
  - Consultation with US Fish and Wildlife Service and the state wildlife protection agency, if necessary

# ENVIRONMENTAL REPORT (ER)

e) Floodplains should identify

- Any floodplains located on or adjacent to the site
- Include in the file:
  - FEMA flood map
  - Standard Flood Hazard Determination Form from the applicant
  - Elevation Certificate if a dwelling is in a floodplain

# ENVIRONMENTAL REPORT (ER)

f) Coastal Areas should identify

- Any coastal zones or coastal barriers on or adjacent to the site
- File should include (if applicable)
  - Coastal barrier map
  - Coastal zone map
  - Consultation with US Fish and Wildlife Service
  - Consultation with the state coastal zone management agency

# ENVIRONMENTAL REPORT (ER)

## g) Brownfields

- Will the project be located within a brownfield?

# ENVIRONMENTAL REPORT (ER)

- h) Historic Preservation should include
- Discussion of any historical resources within the area of potential effects
  - Description of all steps taken to identify historic properties
  - All correspondence with the SHPO/THPO
  - All correspondence with Tribes
  - Any documentation/data used to make our determination
  - Archaeological survey, if required

# Subpart C: Environmental Assessments (EAs)

# EA BASICS

- An EA is a concise public document used by the Agency to determine whether to issue a Finding of No Significant Impact (FONSI) or prepare an EIS
- Will need to work with RUS if your project requires an EA
- Requires public notice

If you are applying to do this for your CCG project:	Then, this is the anticipated environmental review requirements and the categorical exclusion that would likely apply:
<b>1. Actions Outside a Plant</b>	
a. Buried cable	1970.53(d)(2); 1970.54(b)(4) depending on if new or replacement. If using 1970.53(d)(2), no further action for NHPA is required. If using 1970.54(b)(4), need to contact SHPO and tribes for S106 review. Need to avoid wetlands or identify why project must be in a wetland.
b. Aerial cable – existing cable, possibly with new poles	1970.53(d)(1); 1970.54(b)(4) depending on if new or replacement. If using 1970.53(d)(2), no further action for NHPA is required. If using 1970.54(b)(4), need to contact SHPO and tribes for S106 review.
c. Underground cable	1970.53(d)(2); 1970.54(b)(4) depending on if new or replacement. If using 1970.53(d)(2), no further action for NHPA is required. If using 1970.54(b)(4), need to contact SHPO and tribes for S106 review. Need to avoid wetlands or identify why project must be in a wetland.
<b>2. Towers</b>	
a. New construction	1970.54(a)(6), if under 450 feet and not visible from areas of documented scenic value. Will need to consider impacts to prime farmland and listed species. Maps regarding floodplains and wetlands are generally needed. Need to contact SHPO and tribes for S106 review.
b. Existing towers, equipment collocation only	1970.53(d)(5), no further action for NHPA is required
c. Equipment put on building instead of tower	1970.53(d)(5), no further action for NHPA is required
<b>3. Buildings</b>	
a. New building	1970.54(a)(3) – if it meets other requirements of the categorical exclusion. Will need to consider impacts to prime farmland and listed species. Maps regarding floodplains and wetlands are generally needed. Need to contact SHPO and tribes for S106 review.
b. Modular building	1970.54(a)(3) Need to contact SHPO and tribes for S106 review. Will need to consider impacts to prime farmland and listed species. Maps regarding floodplains and wetlands are generally needed.
c. Renovating existing building	1970.53(c)(2) Need to contact SHPO and tribes for S106 review. Impacts of siting project in floodplain may need to be addressed.
<b>4. Equipment</b>	
a. Within existing building	1970.53(c)(2) Need to contact SHPO and tribes for S106 review.
b. Outside in a field	1970.54(b)(4) Need to contact SHPO and tribes for S106 review. Will need to consider impacts to prime farmland and listed species. Maps regarding floodplains and wetlands are generally needed.

<https://www.rd.usda.gov/publications/environmental-studies/environmental-guidance>

Questions?



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*USDA Rural Development is committed to the future of rural communities.*