Environmental Review and the HOME Program Training
Environmental Review Training

• Training offered under HUD’s CPD Institute
  – Local HUD officials present

• Who are we? ICF International trainers:
  – Kelly Price
    – Cathy Dymkoski
Getting to know you...

• Name
• Agency or organization
• My role in the environmental review process is...
• One primary thing I want to learn while I’m here is...
Course Objectives

• Familiarize trainees with the applicable laws & rules
• Identify standard procedures for conducting reviews and documenting environmental findings
• Discuss key steps in the environmental review process
• Answer common questions
• Share common pitfalls & best practices among PJs
Course Structure

- Agenda
- Breaks & lunch
- Training manual
- Overheads
- Exercises
- Use of the:
  - “Sticky questions” board
  - “Parking lot”
Organization of the Manual

• The manual provides detailed guidance on environmental review under HOME
  – Ch. 2-3 & 9-10 provide basic information on the process & requirements
  – Ch. 4-8 take you step-by-step through each level of review
    • Includes forms, notices and samples
  – Appendix contains regs, notices, forms and even more detailed guidance from the old “green book”
Logistics & Ground Rules

- Pagers/cell phones/PDAs off or in silent mode please!
- Location of telephones & restrooms
- Why no beverages or food?
- Feel free to ask questions
- Share ideas and advice
Module 1: HOME & Environmental Review
HOME Program Overview

• HOME authorized by National Affordable Housing Act of 1990

• Four types of activities eligible
  – Homeowner rehab
  – Homebuyer
  – Rental
  – Tenant based rental assistance (TBRA)

• Roles & relationships
  – PJs
  – CHDOs
  – Subrecipients
  – Other owners, developers, sponsors
Other HOME Background Info.

- HOME obligations include compliance with environmental review requirements
- Paying for environmental review OK with HOME funds
  - Typically an admin expense BUT
  - Can be charged to a project if directly associated with a specific, eligible project
Goals of Environmental Review

- Ensure that environmental concerns are identified and addressed before a project is undertaken
- Protect residents, neighborhoods, and communities, and land, air, and water
- Most of us can agree that these are worthwhile goals--these are NEPA’s goals, too
What is NEPA?

• National Environmental Policy Act of 1969
  – Basic national charter for protection of environment
• Established Council on Environmental Quality (CEQ)
• Federal agencies incl. HUD implement NEPA with their own regulations
NEPA

• Ensures that environmental information is available to public officials & citizens BEFORE decisions are made & BEFORE actions are taken

• NEPA intended to help public officials
  – Make decisions with an understanding of environmental consequences
  – To take actions that protect, restore & enhance the environment
What NEPA Applies To

- All proposals for major Federal actions affecting the quality of the human environment
- “Federal actions” include funding
  - No “trigger level” -- all levels of funding included in requirement
- Federal agencies develop agency-specific regulations and policies for implementing NEPA
The NEPA Process

- A formal process of review that examines the potential negative or beneficial environmental effects that will result from an activity
- Depending on the project this review process may be very simple or quite involved
Relevant Regulations

• The NEPA process requires that you look at ALL federal laws that address the environment:
  – Air
  – Water
  – Land
  – Flora
  – Fauna
  – Human health & safety
The Key HUD Regulation

- HUD regulation whereby PJs implement NEPA and related authorities is 24 CFR Part 58
Other Relevant Regulations

• National Historic Preservation Act
  – Historic properties, structures
• Endangered Species Act
• Coastal Zone Management Act
• Farmland Protection Policy Act
• Wild and Scenic Rivers Act
• Safe Drinking Water Act
  – Sole source aquifers
• Clean Air Act
Other Relevant Regulations

• HUD Requirements
  – Noise Abatement and Control
  – Explosive & Flammable Facilities
  – Toxic and Radioactive Materials
  – Airport/Runway Clear Zones
Relevant Executive Orders

• E.O. 11988 Floodplain Management
• E.O. 11990 Protection of Wetlands
• E.O. 11593 Protection and Enhancement of the Cultural Environment
• E.O. 12898 Environmental Justice
Key Environmental Review Terms & Acronyms

• Responsible Entity (RE) – next module
• Certifying Officer – next module
• Recipient – entity receiving HOME funds
• Environmental Review Record – written record of compliance with all applicable environmental requirements
• FONSI – Finding of no Significant Impact
• NOI RROF – Notice of Intent to Request Release of Funds
• EA – Environmental Assessment
Module 2: Environmental Roles and Responsibilities
Responsible Entity

• HUD authorizes the assumption of environmental review responsibility by the Responsible Entity (RE)
• The RE is a PJ or unit of local government receiving funds from a state PJ
• RE assumes responsibility for:
  – Environmental review
  – Environmental decision-making
  – Environmental action
Responsible Entity (cont.)

• RE must comply with:
  – Provisions of NEPA
  – CEQ regulations (40 CFR 1500-1508)
  – 24 CFR Part 58 (including ALL related Federal laws and authorities)
Responsible Entity (cont.)

- The RE must have the **technical capacity** and **administrative capability** to conduct environmental review:
  - Technical capacity = environmental expertise, either in-house or through consultants
  - Administrative capability = thorough record keeping and compliance with Part 58 processes
Responsible Entity (cont.)

- RE ensures any conditions, procedures, requirements resulting from the environmental review are implemented
- Re-evaluate an action when changes occur or become known
  - Nature, magnitude or extent of project changes substantially
  - New circumstances and environmental conditions arise
  - New alternative is proposed
Statutory authority for environmental decision-making given to the Certifying Officer:

– Chief executive officer of the RE, or
– Other officer qualified under Part 58 and formally delegated the responsibilities to act on behalf of the RE
Certifying Officer

• RE official authorized to certify environmental reviews & who has legal capacity to carry out NEPA/Part 58 responsibilities

• Assumes the role of “responsible Federal official” under NEPA & related Federal laws and authorities

• Accepts the jurisdiction of the Federal Courts for the RE in environmental matters
Environmental Review Record

• Written record of compliance with all applicable environmental requirements
• Legal challenges can be won or lost based on the completeness of the ERR
• ERR should contain all documentation:
  – Forms/Checklists
  – Notices (affidavit from newspaper)
  – Correspondence & relevant documents
Module 3: Environmental Review Procedures
Limits on Activities Prior to Clearance

• Neither a recipient nor any participant may commit or expend HUD funds prior to receiving HUD or state approval their certification (unless the activity is exempt or categorically excluded not subject to §58.5)
  – “Participant” includes public or private nonprofit or for-profit entities or their contractors
Limits on Activities Prior to Clearance

• Neither a recipient nor any participant may commit or expend **non-HUD funds** (even local monies) on an activity prior to approval IF:
  – the activity would have an adverse environmental impact, or
  – limit the choice of reasonable alternatives
Limits on Activities Prior to Clearance

• Recipients considering applications from prospective subrecipients or beneficiaries must ensure actions are not taken prior to receiving HUD or state approval

• Commitment does not include (and therefore is OK to make...):
  – A statement of funding reservation or
  – A non-legally binding agreement
Limits on Activities Prior to Clearance

- For land acquisition projects, an **option** agreement (to purchase land) is allowable prior to HUD approval **only when**:
  - It is subject to a RE determination of environmental desirability
  - It is of a **nominal** amount
Limits on Activities Prior to Clearance

• *One exception* -- When required by 24 CFR Part 42, relocation funds may be committed before approval of the certification.
Waivers and Exceptions

• Waivers and exceptions from Part 58 compliance are permissible only if:
  – The Asst. Secretary for Community Planning and Development determines there is good cause with appropriate conditions
  – Such approval is within the constraints of NEPA regulations and related laws and authorities
Aggregating Reviews

This is about *aggregation*, not *aggravation*!
Project Aggregation

• The RE must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions (§58.32)
Types of Project Aggregation

- Functional Aggregation
- Geographic Aggregation
- Multi-year Aggregation
Functional Aggregation

• Applies to a specific type of activity that is to take place in several locales or jurisdictions

• Group reviews for activities that will serve the same function and have the same potential impact regardless of the site

• Example: housing rehabilitation
Geographic Aggregation

• Used to evaluate *activities that are functionally different* but are to be carried out within a limited geographical area

• Goal is to assess the cumulative effect of all planned activities

• Example: combination of water, sewer & street improvements & housing development activities
Multi-Year Aggregation

• Used when project consists of a *series of activities implemented over several years*

• Goal is to address and evaluate cumulative environmental effects, regardless of funding source
  
  – ERR lists total project cost and activities
  
  – RE Certification and HUD/state approval covers entire project period
Multi-Year Aggregation (cont.)

- Example:
  - Year One - acquire land
  - Year Two - site development & infrastructure
  - Year Three - construct 10-unit apartment
Levels of Environmental Review

- Four levels of review:
  - Exempt
  - Categorically Excluded
  - Environmental Assessment (EA)
  - Environmental Impact Statement (EIS)
Exempt Activities

- Exempt = exempt from NEPA & related laws & authorities
- Activities which by their nature are unlikely to have environmental effects (e.g., planning activities or inspections for hazards)
- Simply need to document exemptions in ERR & review is complete
• Activities that don’t require an EA or EIS under NEPA except in extraordinary circumstances
• Activities can be categorically excluded under NEPA, but may be subject to NEPA-related authorities
• Examples: Down payment assistance or accessibility improvements
Environmental Assessment

• If not exempt or categorically excluded, an EA is required
  – Primarily projects that involve new construction or significant rehabilitation
  – Make either a Finding of No Significant Impact (FONSI) or Finding of Significant Impact
  – Publish a public notice describing the extent of environmental impact
Environmental Impact Statements

• Most involved level of review
• You perform an EIS when a project:
  – will have a potentially significant impact on human environment
  – is of a certain size--e.g., involves more than 2,500 housing units
• EIS is extremely rare exception for HUD-funded projects!
Timeframes for Performing Reviews

• Exemptions – an hour or less to complete
• Categorical exclusions not subject to §58.5 – an hour or less. If subject to §58.5, it may take 45-75 days
• EAs – 75-110 days to complete
• EISs – 1-1/2 to 2 years to complete
Acceptable Documentation

• Exhibit 3.3 in the manual provides guidance on credible sources for documenting environmental decisions:
  – Field observation
  – Personal contact
  – Printed materials
  – Reviewer’s experience
  – Special studies
Exercise 1

Limitations Prior to Environmental Clearance
Module 4: Exempt Activities
Exempt Activities (58.34)

- Exempt = exempt from NEPA and related laws and authorities
  - Under HOME Program rules, in order to qualify as project costs, exempt activities must be associated with a specific project, otherwise they are considered administrative costs
Exempt Activities (cont.)

• Includes (see 58.34):
  – Environmental studies, development of plans or strategies
  – Administrative and management services
  – Public services that will not have a physical impact or result in physical changes---e.g., housing or financial counseling associated with purchase of a home
Exempt Activities (cont.)

• Also includes:
  – Inspections and testing of properties for hazards or defects
  – Engineering or design costs
  – Emergency actions limited to protection, repair, or restoration necessary to control or arrest effects from disasters or imminent threat to public safety
    ---- More on this later
Documenting Exempt Activities

• Document ERR with determination of exemption (Exhibit 4.1)
  – Additional documentation is recommended:
    • Cite applicable reference: 24 CFR 58.34
    • Identify the specific exempt activities
    • Identify the amount of funds involved in the exempt activities
• Also, document compliance with applicable §58.6 regulations:
  – Flood insurance
  – Coastal resources
  – Runway clear zones

• Use Exhibit 4.1
Exercise 2
Initiating the Environmental Review Process
Module 5: Categorical Exclusions
NOT Subject to 58.5
Categorical Exclusions

- A slightly higher level of environmental review
- Activities that do not require an Environmental Assessment or Environmental Impact Statement under NEPA except in extraordinary circumstances
Categorical Exclusions

• Two groups of categorical exclusions:
  – Activities NOT subject to §58.5
  – Activities subject to §58.5
Categorically Excluded from NEPA & not Subject to §58.5

- Certain categorically excluded activities determined to not alter any conditions that would require compliance under Federal laws & authorities cited at §58.5

- No public notification, certification or HUD/State approval required unless extraordinary circumstances & conditions [see §58.2 (a)(3) & §58.35(c)]
Categorically Excluded from NEPA & not Subject to §58.5

• Includes [listed at §58.35 (b)]:
  – Tenant-based rental assistance (TBRA)
  – Activities to assist homeownership of existing or new dwelling units under construction, such as closing cost and down payment assistance, principal or interest buy downs & similar activities
  • Must include transfer of title
Categorically Excluded from NEPA and **not** Subject to 58.5

- Also includes:
  - Affordable housing pre-development costs with no physical impact
  - Approval of supplemental assistance (including insurance or guarantee) to project previously approved, provided:
    - Approval is made by the same RE, and
    - Re-evaluation of the original environmental finding is not required (per §58.47)...more later
Documenting Categorically Excluded not Subject to §58.5

• Document ERR with this determination (Exhibit 5.1)
  – Additional documentation is recommended:
    • Cite applicable reference: 24 CFR 58.34
    • Identify the specific exempt activities
    • Identify the amount of funds involved in the exempt activities
Documenting Categorically Excluded not Subject to §58.5

• Document compliance with §58.6 regulations:
  — Flood insurance
  — Coastal resources
  — Runway clear zones

• Use Exhibit 5.1
Notification for Categorical Exclusions not Subject to §58.5

• No Request for Release of Funds (RROF) needed
• Proceed with activity implementation
• No further environmental review or action needed
Module 6: Categorically Excluded Subject to 58.5
Categorically Excluded from NEPA and Subject to §58.5

• Includes [listed at 58.35(a)]
  – Acquisition/Rehabilitation of public facilities and improvements (other than buildings) when:
    • Facilities are in place
    • Same use
    • No more than 20% change in size or capacity
  – Special projects for removal of barriers that restrict mobility and accessibility of handicapped and elderly persons
Categorically Excluded from NEPA and Subject to §58.5

• Also includes:
  – Rehabilitation of buildings and improvements - Single Family (1-4 units):
    • Unit density is not increased beyond the 4 units
    • No change in land use
    • Footprint of the building is not increased in a floodplain or wetland
Categorically Excluded from NEPA and Subject to §58.5

• Also includes:
  – Rehabilitation of buildings and improvements - Multifamily:
    • No more than 20% unit density change
    • No change in land use
    • Cost of rehabilitation is <75% of replacement cost
Categorically Excluded from NEPA and Subject to §58.5

- Also includes:
  - Individual action on 1-4 family dwelling
    - “Individual action” = new construction, development, demolition, acquisition, disposition or refinancing
  - Individual action on 5 or more units
    - Scattered sites are more than 2,000 feet apart
    - No more than 4 single family units on any one site
Categorically Excluded from NEPA and Subject to §58.5

- Also includes:
  - Acquisition (including leasing) or disposition of, or equity loans on an existing structure provided the structure remain in the same use
Determine Compliance with Related Laws and Authorities

- For categorically excluded activities that are subject to sec. 58.5, complete the **Statutory Worksheet**
  - Exhibit 6.1
  - Determines compliance with related Federal laws and authorities (§58.5)
Completing the Statutory Worksheet

- Documentation must be credible, traceable & supportive of the environmental findings--becomes part of the ERR (public record)
- Acceptable sources (Exhibit 3.3):
  - Consult databases---e.g., historic preservation, endangered species, wetlands
  - Field observation of the general site conditions
  - Other sources---e.g., studies, land use plans, maps
• Acceptable sources (cont.)
  – Reviewer’s experience---professional judgement by staff with relevant expertise about the compliance issue
    • Knowledge gained from reviewing other projects in the same area
    • Reviewer has professional expertise in a specific environmental area
Completing the Statutory Worksheet (cont.)

• Acceptable sources (cont.)
  – Contact relevant authorities---e.g., designated authorities or oversight agencies
    • Provide authority contact a brief project description (purpose, scope, location & any further relevant material)
    • Bring concerned agencies into the process as early as possible to ensure timely response
    • Establish a relationship with authorities who will be called upon again in the future
Completing the Statutory Worksheet (cont.)

• Acceptable sources (cont.)
  – Contact relevant authorities---cont.
    • Request a documented decision from the authority (telephone records are acceptable)
    • Chapter 1 of Manual has contact information
Determine Compliance with Related Laws and Authorities

• National Historic Preservation Act (Section 106)
  – Take into account the effect of the undertaking on historic properties
  – Afford the Advisory Council on Historic Preservation an opportunity to comment
Historic Preservation

• What’s an undertaking?
  – The activity will have a physical impact:
    • New construction, demolition, reconstruction, rehabilitation of buildings/structures & improvements to sewer and water lines
  – The activity will cause a change in the character or use of a property:
    • Converting a building to another use, relocating a building/structure
Historic Preservation (cont.)

- Historic properties includes:
  - Any site, building, structure or object that possesses integrity of location, design, materials, workmanship or association related to:
    - Events significant in our history
    - Persons significant in our past
    - Distinctive architectural characteristics
    - Yielding information important to our history or prehistory
• Identify the area of potential effect (APE)
  – Geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties
  – Size of the APE is influenced by the scale and nature of an undertaking
Historic Preservation (cont.)

• Gather information
  – Document observations and findings about properties in the APE
    • Age of buildings, alterations in original design features, architectural style
  – Review existing information and data bases on historic properties
    • National Register of Historic Places, archeological archives, SHPO databases, etc.
• Gather information
  – Seek information from individuals or organizations likely to have knowledge or concerns
    • Certified local governments, historic commissions, tribes, historic foundations, etc.
  – Contract for special studies
    • Building survey, reconnaissance or intensive surveys for archeological resources, etc.
Tribal Consultation

• Must consult with appropriate tribes as part of Section 106 historic preservation process
  – Use HUD's Tribal Directory Assessment Tool to identify tribes interested in project area
  – Reach out directly to tribe for consultation -- the SHPO will not do this for HUD/RE
• Consult with SHPO and make a finding:
  – RE and SHPO agree no historic properties affected OR
  – RE adequatelydocuments its finding of no historic properties affected and SHPO does not object within 30 days OR
  – Programmatic Agreement (PA) between RE and SHPO, OR
Historic Preservation (cont.)

• Consult with SHPO and make a finding (cont.):
  – Project has an effect on historic properties:
    • RE and SHPO agree no adverse effect, or
    • RE and SHPO agree on resolution of adverse effects---execute Memorandum of Agreement (MOA) to implement mitigation measures

• Consultation with SHPO can be a lengthy process & may require special studies & investigations
Floodplain Management

• Floodplain Management = Executive Order 11988

• Its purposes are:
  – To avoid adverse impacts associated with the occupancy or modification of floodplains
  – To avoid floodplain development whenever there are “practicable” alternatives
Floodplain Management (cont.)

• What is “practicable”?
  – “Capable of being done within existing constraints” (U.S. Water Resource Council, 43 FR 6030, 2/10/78)

• E.O. 11988 requires that each agency shall:
  • Reduce the risk of flood loss
  • Minimize the impacts of floods on human safety, health and welfare
  • Restore and preserve the beneficial values served by floodplains
Floodplain Management (cont.)

- Applicable to:
  - Acquisition, management & disposition of lands and facilities
  - Construction & improvements
  - Other activities affecting land use
Floodplain Management (cont.)

• 24 CFR 55: HUD Procedure for Implementation of E.O. 11988
  – Applicable to special flood hazard areas designated by FEMA
    • 100-year floodplain---i.e., 1% chance of a flood event occurring in a given year (Zones A or V)
    • 500-year floodplain for critical actions---i.e., 0.2% chance of a flood event occurring in a given year (Zone B)
Special Flood Hazard Areas
Floodplain Management (cont.)

• Implementation of E.O. 11988 for unmapped flood hazard areas
  – Utilize the best available information
    • U.S. Corps of Engineers
    • Community Flood Administrators
    • U.S. Geological Survey Maps
    • USDA Natural Resource Conservation Service
    • State departments of water resources
Floodplain Management (cont.)

- Implementation of E.O. 11988 for unmapped flood hazard areas (cont.)
  - Utilize the best available information:
    - County public works
    - Local flood control or levee districts
    - Contracted special study
Floodplain Management (cont.)

- Floodways - areas of the floodplain where the flood hazard is greatest -- highest water depth and velocity
- No HUD financial assistance may be approved for use in a floodway (except for functionally dependent uses)
Floodplain Management (cont.)

- Decision making process under E.O. 11988 and 24 CFR 55.20
  - Step 1. Determine whether the proposed action is located in a floodplain
  - Step 2. Publish notice of the proposal to consider and action in the floodplain (15 calendar day for comment)
  - Step 3. Evaluate practicable alternatives to locating the proposed action in a floodplain
  - Step 4. Identify the potential impacts associated with occupancy and modification of the floodplain
Floodplain Management (cont.)

• Decision making process under E.O. 11988 and 24 CFR 55.20 (cont.):
  – Step 5. Design or modify the action to minimize adverse impacts and preserve the beneficial values of the floodplain
  – Step 6. Reevaluate whether the proposed action is practicable
  – Step 7. Publish notice of decision---why there’s “no practicable alternative”, alternatives considered & mitigation measures (7 calendar days)
  – Step 8. Implement proposed action & mitigation measures
Floodplain Management (cont.)

• Compliance finding as supported by documentation:
  – Project is not within a special flood hazard area (mapped by FEMA or best available information), or
  – The 8-step decision process is not applicable (§55.12), or
  – The 8-step decision process was completed (§55.20), there is no practicable alternative.
Wetland Protection

- Wetland Protection governed by E.O. 11990 and §404 of the Clean Water Act
  - The E.O. discourages Federally-assisted construction in wetlands whenever there is a practicable alternative (§55.20 process)
  - Filling wetlands requires a Section 404 permit form the U.S. Corps of Engineers where they have wetland jurisdiction
• Compliance finding as supported by documentation:
  – Project does not propose new construction or expanding the footprint of a building, or
  – Proposed construction* or expansion of a building footprint will not occur in a designated wetland, or
  – The 8-step decision process was completed (§55.20), there is no practicable alternative

* Includes draining, dredging, filling, excavating, diking, etc.
Coastal Zone Management

- Any HUD-funded activity proposed for a coastal area covered by a coastal zone management plan must be consistent with that plan
- Consult with State Coastal Zones Management Plan to ensure compliance or verify consistency with the State Coastal Commission or Districts
Coastal Zone Management (cont.)

• Compliance finding as supported by documentation:
  – The project is not located in a Coastal Zone Management Area OR
  – The project is within a coastal zone management area and is consistent with the Coastal Zone Management Plan
Sole Source Aquifers

• HUD-funded activities that might contaminate an EPA-designated sole source aquifer are prohibited under the Safe Drinking Water Act of 1974
  – A sole source aquifer is an underground water source that provides 50% or more of a community’s drinking water
• Consult with U.S EPA
  – Verify presence of a designated aquifer from EPA’s website
  – Regional Sole Source Aquifer Coordinator
Sole Source Aquifers (cont.)

• Compliance finding as supported by documentation:
  – The project is not within the boundaries of an EPA Designated Sole Source Aquifer (SSA), or
  – The proposed action is not a regulated activity within the boundaries of the SSA, or
  – EPA reviewed and commented on the proposed action; their recommendations were incorporated into the project
Endangered Species

- **Endangered Species Act (ESA)**
  - ESA (Section 7) mandates that Federally-assisted activities not jeopardize the existence of listed species or species proposed for listing.
  - RE must ensure that HUD-funded activities in areas harboring such species avoid destroying or adversely modifying their habitat.
  - USDI Fish and Wildlife Service (FWS) and USDC National Marine Fisheries Service (NMFS) have oversight role in ESA.
- Implementing regulation is 50 CFR 402.
Endangered Species (cont.)

- Prepare a biological assessment when:
  - May affect listed species or designated critical habitat
  - Likely to jeopardize species proposed for listing or critical habitat proposed for designation
Endangered Species (cont.)

• Consult with USFWS and/or NMFS:
  – Submit a biological assessment for review and comment if likely to adversely affect species or their habitat
  – The agency will prepare a biological opinion to conclude the consultation process
    • Usually includes mitigation requirements
Endangered Species (cont.)

- Determine if the proposed action will alter or destroy native habitat, or could affect species that may be present
- Initiate informal consultation with USFWS and/or NMFS if *may affect* species or habitat
- Initiate formal consultation with USFWS and/or NMFS if *likely to adversely affect* species or habitat
• Compliance finding as supported by documentation:
  – Habitat for Federally-listed species and species proposed for listing will not be altered, nor will species themselves be affected, or
  – USFWS and/or NMFS agree there will be no effect on species and/or their habitat, or
  – USFWS and/or NMFS issues a biological opinion; their recommendations are factored into the project
Wild & Scenic Rivers Act

- Wild and Scenic Rivers Act
  - Any HUD-assisted activity that might affect rivers included in the Nationwide Inventory must preserve the designation of the river under the Act
    - Entire rivers or segments of rivers may be designated
  - If the proposed project is near a river, consult the National Park Service (NPS) website to determine if the river is in the inventory
Wild & Scenic Rivers Act (cont.)

• If the river is designated, consult with the Federal (and/or state) agency managing the river to determine whether the activity would adversely impact the river’s designation
  – U.S. Forest Service
  – National Park Service
  – Bureau of Land Management
Wild & Scenic Rivers Act (cont.)

• Compliance finding as supported by documentation:
  – There are no designated Wild, Scenic or Recreational rivers in the state, or
  – Project is not within one mile of a designated river, or
  – The Federal (or state) agency responsible for managing the river and its uses agrees the project will not affect continued management of the river or its designation
Clean Air Act

- Clear Air Act
  - Applies to activities that would lead to increased air pollution and are located in areas in non-attainment with National Ambient Air Quality Standards (NAAQS)
  - Determine if the project is in conformance with the State Implementation Plan (SIP)
Clean Air Act (cont.)

- Consult with U.S. EPA or state/local agencies if air quality might be an issue
- Also pertains to asbestos removal above threshold amount from multi-family and non-residential buildings
Clean Air Act (cont.)

• Compliance finding as supported by documentation:
  – The project is not of a type that would contribute to air pollution, or
  – The project is within an area in “attainment” with NAAQS, or
  – The project is in a “non-attainment” area, but is in conformance with the SIP, or
  – Mitigation measures were identified to bring the project into SIP conformance.
Farmland Protection

- Farmland Protection Policy Act
  - Discourages Federally funded activities that would unnecessarily and irreversibly convert farmland to nonagricultural uses
  - Consult inventory maps to determine if the land has been classified as prime or unique by USDA Natural Resource Conservation Service (NRCS)
Farmland Protection (cont.)

• Inventory maps are available on a county level through NRCS
• If designated farmland will be converted, complete & submit form AD-1006 to NRCS for comment
  – Form (with instructions) is available from NRCS web page
Farmland Protection (cont.)

- Compliance finding as supported by documentation:
  - The project site is currently classified or used for non-agricultural purposes, or
  - NRCS has not classified the project site as prime or unique farmland, or
  - The grantee has completed form AD-1006 and consulted with NRCS
Noise Abatement & Control

- HUD Standard for Noise Abatement and Control (24 CFR 51B)
  - Determine if the proposed activity is a noise sensitive land development activity
  - If so, is it exposed to high noise levels because of its proximity to a major roadway, railroad and/or civil or military airfield
Noise Abatement & Control (cont.)

• Determine if noise sensitive land uses are within:
  – 1,000 ft of a major roadway
  – 3,000 ft of a railroad
  – 15 miles of a military or FAA-regulated civil airfield

• Exterior noise levels are *Acceptable* at or below 65 DNL

• Exterior noise levels are *Normally Unacceptable* at 66-75 DNL
  – Requires noise attenuation
FAA-Regulated and/or DOD Airfields

Source: Land Use Compatibility and Airports, A Guide for Effective Land Use Planning, Federal Aviation Administration, USDOT
Noise Abatement & Control (cont.)

• Using HUD assistance to construct noise sensitive uses on sites exposed to unacceptable levels of noise (> 75 DNL) is generally prohibited
  – Certifying Officer has decision making authority [24 CFR 51.104(a)(2) and (b)(2)]
  – Requires an environmental impact statement (EIS)
Noise Abatement & Control (cont.)

• Compliance finding as supported by documentation:
  – The project is not within 1000 feet of a major roadway, 3000 feet of a railroad, or 15 miles of a military or FAA-regulated civil air field, or
  – If within those distances, noise is Acceptable (at/below 65 DNL), or
  – Noise is Normally Unacceptable (66-75 DNL), but an effective barrier or attenuation must be incorporated into the project
Flammable/Explosive Hazards

- HUD Standard for Siting Projects Near Flammable or Explosive Hazards is 24 CFR 51C
  - Focuses on preventing injury to occupants of HUD-assisted projects and damage to property because of industrial accidents
  - Ensure acceptable separation distances from stationary above ground storage tanks that are more than 100 gallons in size, and within line-of-site of the project
Flammable/Explosive Hazards
(cont.)

• Acceptable separation distances are based upon the blast overpressure from explosive material and thermal radiation from flammable material being stored

  – Certifying Officer has decision making authority (24 CFR 51.206)
• Compliance finding as supported by documentation:
  - Proposed action is not a “HUD-assisted project” (§51.201), or
  - No tanks are within 1 mile, or
  - Tanks are within 1 mile, however:
    • There is an effective barrier
    • Project is at an acceptable separation distance
    • Mitigation measures will protect people and buildings
Runway Clear Zones

- HUD Standard for Runway Clear Zones, Clear Zones and Accident Potential Zones is 24 CFR 51D
  - RCZ, CZ and APZ - area designated at the end of runways where about 75% of airplane accidents occur
  - Determine if the project is within 15,000 ft (2.8 miles) of military airfield or 2,500 feet of an FAA-regulated civil airport
Runway Clear Zones (cont.)

• Use of HUD funds for new construction, major or substantial rehabilitation and modernization is prohibited in these zones

• HUD funds may be used in the sale or purchase of existing properties in these zones
  – Disclosure to buyers is required
  – More on this later...
Runway Clear Zones (cont.)

- Compliance finding as supported by documentation:
  - The regulation is not applicable, or
    - Acquisition of existing building, “minor” rehab, or emergency action
  - Project is not within 2500 ft. of an FAA-regulated civil airfield or 15,000 ft. of a military airfield, or
  - Project is within these distances of a civil and/or military airfield but outside the runway clear zone, clear zone and accident protection zone
Toxic, Radioactive Materials

- HUD standard for Toxic Substance and Radioactive Materials is 24 CFR 58.5(i)
  - Ensure the project site is free of contamination and chemical that could affect the health and safety of occupants or conflict with the intended use of the property
Toxic, Radioactive Materials (cont.)

- Determine if project site is contaminated or affected by off-site contamination
- Utilize best available information, and consultation with U.S. EPA or state regulators, as applicable
- Determine if there is a pathway for human exposure (i.e., surface water, ground water, air, soil)
Toxics, Radioactive Materials (cont.)

- Compliance finding as supported by documentation:
  - The site is not affected by on-site or off-site contamination, or
  - The hazard will not affect the healthy and safety of the project occupants, or conflict with the intended use of the site
Environmental Justice
E.O. 12898

• Consider (to the extent practicable) avoidance or mitigation of negative environmental impacts if:

  – Site or surrounding neighborhood suffers from disproportionate adverse environmental effects relative to the community at large---e.g., noise, floodplains, hazardous facilities, etc.
Environmental Justice (cont.)

• Consideration of impacts (cont.):
  – The project activity is in or is close to a predominately low income or minority neighborhood---e.g., construction of a treatment plant or industrial facility
  – The project activity would employ or serve a predominately low income or minority population---e.g., locating near hazards, emissions, less desirable conditions
Environmental Justice (cont.)

- Identify all negative impacts and address whether the activity would create a negative environmental impact or aggravate and existing negative environmental impact.

- Aggravating an existing impact includes:
  - Worsening the source of impact
  - Moving people closer to the impact
  - Exposing more people to the impact
Environmental Justice (cont.)

- If susceptible populations will be impacted, the public participation process must involve them in the decision making process.
Environmental Justice (cont.)

• Compliance finding as supported by documentation:
  – Project is not in a Community of Concern
    • Not low-income
    • Not minority
  – Project is in a Community of Concern
    • No adverse effects
    • Adverse effects but none disproportionately adverse to low-income or minority populations
    • Disproportionate adverse effects mitigated through negotiation with the community
Determine Compliance with “Other Requirements” of §58.6

• Flood Insurance [Flood Disaster Protection Act of 1972; §58.6(a)]
  – The Act requires that buildings acquired, rehabilitated or constructed with Federal assistance & located within a special flood hazard area designated by FEMA be covered by flood insurance
  • This requirement includes the contents of buildings and equipment purchased with HUD funds
Other Requirements of §58.6 (cont.)

• Mandatory period for maintaining FI coverage:
  – Loans - coverage must be maintained for the term of the loan
  – Other assistance (including grants) - coverage must be continued for the life of the property regardless of transfer of the property’s ownership
Other Requirements of §58.6 (cont.)

• Flood insurance coverage is from:
  – The community participating in the National Flood Insurance Program
  – or
  – Property owner obtaining FI as a condition of approval for using Federal assistance

• RE is responsible for assuring FI is obtained and maintained
Other Requirements of §58.6 (cont.)

• Coastal Barrier Resources Prohibition - Sec. 58.6(b)
  – Coastal Barrier Resources Act prohibits Federal assistance that encourages development or modification of coastal barriers
    • Areas along the Atlantic Ocean, Gulf of Mexico and Great Lakes designated by U.S. Congress
  – Minimize loss of human life and damage to natural resources associated with coastal barriers
Other Requirements of §58.6 (cont.)

• Runway Clear Zone or Clear Zone - §58.6(d)
  – Inform buyer in all projects involving purchase or sale of property in a RCZ or CZ
    • Implications of the property location
    • Property may be acquired later on by the airport operator
  – RE must get a signed acknowledgement from the buyer that they’ve received this information
Notifications for Categorical Exclusions Subject to 58.5

• Complete Statutory Worksheet (Exhibit 6.1) and document findings
  – If 58.5 statutes NOT applicable (all “As” are checked), may proceed
  – If any 58.5 statutes are applicable (”Bs” are checked), compliance and mitigation required:
    • Publish NOI/RROF in newspaper or display it in public buildings and within the project area (or disperse according to local public involvement procedures) (Exhibit 6.4)
Notifications for Categorical Exclusions Subject to 58.5 (cont.)

– Determine the period for receiving public comment

  • 7 calendar days when published or
  • 10 calendar days when posted and mailed

    – The first day of the comment period begins at 12:01 AM local time the day after the notice is published or posted/mailed
Notifications for Categorical Exclusions Subject to 58.5 (cont.)

– Also have to disseminate notice to interested persons and agencies

• At a minimum: Individuals & groups known to be interested, local news media, appropriate local, state and Federal agencies, U.S. EPA Regional Office, HUD Field Office
Release of Funds

• Submit certification and RROF to HUD/State
  – RE completes RROF (Part 1 of Form 7015.15)
  – RE executes certification (Part 2 of Form 7015.15) and submits to HUD/State
    • Also submit a copy of an affidavit of publication from the newspaper, or the posted/mailed notice
    • If request is faxed, then original documents must also be mailed to HUD
Release of Funds (cont.)

- HUD/State actions on RROF
  - Approves ROF 15 days after receiving request (providing no objections were received)
  - Doesn’t approve ROF because it has knowledge that:
    - RE or participants are in noncompliance
    - RROF and certification are inaccurate
  - Imposes remedies/sanctions for violations discovered following approval of the ROF
Release of Funds (cont.)

- HUD’s decision whether or not to approve a RROF and Certification are limited to matters of **procedural noncompliance**
- For example:
  - Invalid compliance certification
  - Wrong level of environmental review completed
  - Public notification process was not executed correctly
  - Recipient or other participants committed funds, incurred costs or initiated activities prior to receiving HUD approval
Release of Funds (cont.)

- HUD/State approves request ("Authority to Use Grant Funds", Form 7015.16)---15 day review period
- Proceed with project only after HUD/State approval is received
Circumstances That May Occur After Project Approval

• Supplemental assistance [§ 58.35(b)(7)] – more later...

• Re-evaluation of environmental findings (§ 58.47) – more later...
Exercise 3 – Part 1
Public Notification and Release of Funds Quiz
Module 7: Environmental Assessments
• Activities covered by EAs are those that are not exempt or categorically excluded and do not require an EIS
  – New construction and major rehabilitation activities (i.e., rehab exceeds the limits for categorical exclusion)
  – Land acquisition for housing development
  – Conversion of one type of land use to another – e.g., non-residential to residential
• Identifies and evaluates the effects (beneficial and adverse) on environmental concerns of:
  – National importance (i.e., the Federal laws and authorities at § 58.5), and
  – Local and regional importance – social, economic, and natural resources (in accordance with NEPA)
    • waste disposal, water, sewer, public services, land use compatibility, unique natural features, etc.
• Considers alternatives to the preferred course of action
• Make a finding:
  – Finding of No Significant Impact (FONSI)
  or
  – Finding of Significant Impact (FSI)
    • If finding of significant impact, an Environmental Impact Statement (EIS) required
      – Rare for HOME projects
      – More later…
Preparing the EA

• Provide information about the project and who is preparing this EA (i.e., *the public record*)
  – Contact information for the RE and name of *certifying officer*
  – Contact information for the recipient
  – Project location and total estimated cost
• Describe *the project*
  
  — AGGREGATE
  
  • Ensure the proposed action description covers related and connected actions, regardless of the funding source
Preparring the EA (cont.)

- Describe the *existing environment* (cont.)
  - Gather information & make a comprehensive description of the area where the project is located
    - Review records & maps
    - Visit/investigate site – e.g., physical properties of project site & surroundings, natural resources at & around the site, proximity of community facilities & services
    - Interview owners, occupants and local, state and Federal agency officials
Preparing the EA (cont.)

- **Describe the existing environment**
  - Summarize the environmental conditions that already exist and land use trends in the area.
  - Identify conditions that will change if the project is executed – i.e., the effect of the project on those conditions - both positive and negative
  - Identify pre-existing trends that will continue without the project – both positive and negative
Preparing the EA (cont.)

- Describe the *purpose*
  - Discuss the reasons why the PJ has determined this project is needed
• Address Compliance with Related Laws and Authorities
  – Complete the **Statutory Checklist**
    • May require some investigation and consultation with relevant oversight agencies
      – For example- historic preservation, floodplains, coastal zones, sole source aquifers, endangered species, etc.
    • Follow the guidance provided in Chapter 7
Preparing the EA (cont.)

• Address Compliance with NEPA *(Environmental Assessment Checklist)*
  – Refer to Appendix P
  – Documentation must be credible, traceable & supportive of the environmental findings – use acceptable sources (Exhibit 3.3)
  – Note conditions, attenuation, mitigation measures required for compliance
  – Determine environmental impacts
    • No anticipated impact, potentially adverse, potentially beneficial, requires mitigation, requires project modification
Preparing the EA (cont.)

• Summarize findings and conclusions
  – Discuss the results of identifying and evaluating project effects – positive and negative – on the human environment (EA checklist) & in the context of the related Federal laws & authorities (Statutory Worksheet)
Preparing the EA (cont.)

• Briefly discuss alternatives considered. They should include:
  – No action
  – Variations of the project type for the site – e.g., individual units versus townhomes
  – Variations on the size or location of the project

• EA analyzes the “preferred alternative” in detail
Preventing the EA (cont.)

• Examine and recommend mitigating measures

• Mitigation measures include:
  – Avoiding the impact by not taking certain actions
  – Minimizing the impact by modifying the extent of an action or mitigating for the environmental factor
  – Rectifying the impact by repairing or restoring the affected environment
Preparing the EA (cont.)

• Document sources used to complete the EA and make compliance determinations
  – Written information – e.g. databases, plans, reports, correspondence, telephone records, special studies, etc.
  – Agencies and persons consulted
Preparing the EA (cont.)

- RE makes a finding
  - *Finding of No Significant Impact* (FONSI)
    - Project will not significantly impact the quality of the human environment, or
    - Result in noncompliance with the related Federal laws and authorities
  - *Finding of Significant Impact* (FOSI)
    - Project will or has potential for significant impact
    - Seek HUD/State advice about whether or not to continue with the project
Preparing the EA (cont.)

• Record of decision on a FONSI
  – Briefly state the reasons for deciding the action will not have significant environmental effects
  – Identify conditions for approving the project – mitigation, monitoring, enforcement actions, etc.
  • RE is responsible for ensuring the conditions are implemented
Notifications for the Environmental Assessment

- Public comment on combined FONSI and NOI/RROF (§58.43 & 58.45)
  - Publish FONSI in newspaper, display it in public buildings and within the project area or disperse according to local public involvement procedures
Notifications for the Environmental Assessment (cont.)

- Make inclusions required for a combined notice. Indicate that:
  - Notice is intended to satisfy two separate procedural requirements
  - Public comments should specify which part of the notice they are referring to
  - Use the sample *combined* notice in Chapter 7
Notifications for the Environmental Assessment (cont.)

– Determine the period for receiving public comment
  • 15 calendar days when published
  OR
  • 18 calendar days when posted and mailed

– The first day of the comment period begins at 12:01 AM local time the day after the notice is published or posted/mailed
– Also have to disseminate notice to interested persons and agencies
  • Individuals & groups known to be interested, local news media, appropriate local, state and Federal agencies (EPA, HUD)
Release of Funds

• Submit certification and RROF
  — RE completes RROF (Part 1 of Form 7015.15)
  — RE executes certification (Part 2 of Form 7015.15)
  & submits to HUD/State
    • Also submit a copy of an affidavit of publication from the newspaper or the posted/mailed notice
    • If request is faxed to HUD, then original documents must also be mailed
• HUD/State approves ROF **15 days after receiving request** (*providing no objections were received*)
• HUD/State decision whether or not to approve a RROF and Certification is limited to matters of procedural noncompliance, e.g.:
  – Invalid compliance certification
  – Wrong level of environmental review completed
  – Public notification process was not executed correctly
  – Recipient or other participants committed funds, incurred costs or initiated activities prior to receiving HUD approval
• Proceed with project only after HUD/State approval is received!
Ensure the ERR is Complete

- Ensure EA document is complete
  - Use the HUD-recommended format, or an equivalent format (See Exhibit 7.1 in Manual)
  - Complete all elements of the EA form & attach succinct documentation supporting the assessment findings
  - Keep comments & discussion brief & to the point
Be Certain the ERR is Complete (cont.)

- Ensure there is documentation of whether or not §58.6 compliance was required
  - Flood insurance, when required
  - Coastal Barrier Resources
  - Runway Clear Zones
Be Certain the ERR is Complete (cont.)

- Record findings
  - Document all determinations and findings
- Retain copies of the notices, ROF, and HUD/State approval
  - FONSI/NOI notice
  - Request for Release of Funds and Certification, Form 7015.15
  - Authority to Use Grant Funds, Form 7015.16
• Document supplemental assistance
  [§58.35(b)(7)]
Be Certain the ERR is Complete (cont.)

- Re-evaluate the environmental findings (§58.47) if circumstances change (cont.):
  - Substantial changes occur in the nature, magnitude or extent of the project
    - new activities have been added that are outside the scope of the project and/or were not previously considered
  - Changes are made to the project boundary
Be Certain the ERR is Complete (cont.)

- Re-evaluation of EAs environmental findings (§58.47), if circumstances change:
  - New circumstances and environmental conditions may affect the project or have a bearing on its impacts
    - e.g., flood zones were remapped, a species is now listed as endangered, an underground storage tank is discovered during construction
  - An alternative course of action is selected instead

- Determine if original findings are still valid
  - If not, undertake the ROF process again.
Exercise 3 – Part 2

Public Notification and Release of Funds Quiz
Exercise 4

Environmental Assessment
Exercise 5

Appropriate Level of Review
Module 9: Other Environmental Guidance
Projects in Process

• It is permissible to provide HOME funds to projects already in progress in very limited circumstances
  – For projects started with Federal funds: An approved HOME-funded project may receive supplemental assistance after the original RROF & Certification (Form 7015.15) has been approved by HUD/state
Projects in Progress (cont.)

• For projects started with non-Federal funds, HOME funds may be used to reimburse expenditures provided:
  – The parties involved* started the project without the intention of using Federal assistance; and

* Parties involved = PJs, State recipients, subrecipients, contractors, owners, developers (e.g., CHDOs)
Projects In Progress (cont.)

• **For projects started with non-Federal funds (cont.)**
  – Once an application for HOME funds is made, the PJ informs the parties that all work on the project must cease (or the PJ itself ceases all work on the project), and
    • No work or other choice limiting actions may occur after that date (of application)
  – Environmental compliance is achieved, as documented in the RE’s environmental review
    • Work may recommence only upon receipt of approval from HUD/state
Emergency Projects: Exempt

- Exempt (§58.34(a)(10)) IF
  - Improvements which do not alter environmental conditions
  - Limited to protection, repair or restoration activities only to control or arrest effects from disasters or imminent threats to public safety
Emergency Projects: Exempt (cont.)

- Document ERR with determination of exemption (Exhibit 4.1)
  - Cite reference 24 CFR 58.34(a)(10)
  - Identify the repair/improvement activities
  - Identify the amount of funds involved in the exempt activities

- Document compliance with §58.6
Emergency Projects: Declared Emergencies

• Presidential declared disaster, or
• Local emergency declared by the chief elected official of the RE – i.e., immediate need for public action to protect public safety
Emergency Projects: CE Level - Sec. 58.35(a)

- If Categorically Excluded, complete Statutory Checklist (Exhibit 6.1)
  - Document compliance according to standard procedures and
  - Emergency provisions according to authorities in §58.5, if applicable
- May publish/disseminate combined NOI/RROF at same time as submission of RROF [§58.33(b)]
- Document compliance with §58.6 requirements
Emergency Projects: EA Level - Sec. 58.33(b)

• Complete EA including the Statutory Checklist (Exhibit 7.1)
• May publish/disseminate combined FONSI/NOI/RROF at same time as submission of RROF
• Document compliance with §58.6 requirements
Tiering

- Tiering is appropriately used when:
  - Evaluation of a proposal is required in the early stages of development
  - Decisions can be made on broad issues ripe for decision; site specific analysis or mitigation that is not currently feasible will be made at a later date
  - Meeting the environmental review requirements in areas designated for special focus in local Consolidated Plans
Basic Components of a Tiered ERR

• Identify all activities (i.e., aggregation) and funding sources
• Identify the targeted geographic area.
• Prepare a written compliance strategy for site specific reviews
• Publish and disseminate notice for the entire project
• Submit a RROF for the entire project
Tiered Reviews - Caution!

- HUD advises that tiered reviews are valid for up to 5 years, unless conditions or circumstances change.
- There must be written documentation of compliance before funds are committed to specific sites.
Projects Funded from Multiple HUD Sources

• HOME funds used with other HUD Programs:
  – The RE completes environmental review concerning all project activities
  – Public notice(s) should identify all sources of HUD program funds to be used
  – The Request for Release of Funds (RROF) submitted to HUD/State must identify all sources of HUD program funds
  – Approval must be received from HUD/State on all sources of its program funds before project commitments and expenditures can be made
Projects Funded from Multiple Federal Sources (HUD & non-HUD)

• You may:
  – Use another entity’s environmental review for documentation (must be current and relevant) or
  – “Adopt” the review document after independently evaluating the information and taking responsibility for its scope and content or
  – Establish lead/cooperating agency partnership

• However, you must still issue a public notice (FONSI/NOIRROF) and receive HUD approval
Module 10: Program Administration & Monitoring
Program Administration

• Develop procedures to facilitate the environmental review process
  – Utilize “Request for Proposals” to solicit site information from applicants – e.g. floodplains, hazardous substances, photos of the site and surrounding properties, proximity to major roads, railroads and airports, etc.
• Develop procedures to facilitate the environmental review process (cont.)
  – Utilize agreement documents to advise local partners about:
    • actions prohibited by Part 58 prior to approval
    • applicability of Part 58 to program income generated by individually funded projects
    • requesting local partners to assist with gathering information
• Develop procedures to ensure environmental compliance
  – Establish a standard record keeping system
  – Develop a compliance checklist to ensure applicable requirements were completed prior to commitment of funds
  – Develop a chart identifying staff responsibilities throughout process – planning, compliance, implementation, staying connected with local partners
Monitoring Responsibilities

- HUD/State oversight responsibilities
  - Approving PJs or state recipients request for release of funds, unless a violation of Part 58 procedures has occurred
  - PJ or state recipient must either demonstrate procedures were completed or provide evidence that procedures have since been completed
  - Periodically monitor PJs or state recipients project ERRs and inspect project sites (post-review monitoring)
• HUD/State oversight responsibilities (cont.)
  – Impose remedies or sanctions for violations discovered following approval of the ROF
Monitoring Responsibilities (cont.)

• RE’s oversight responsibilities
  – Ensure any special conditions, procedures, and/or requirements related to projects are implemented
  – Maintain contact with local partners to ensure changes haven’t occurred in the scope of work or environmental conditions
  – Ensure local partners do not undertake actions prior to completion of Part 58 requirements
  • RE advises them when to proceed
PJ Self-Monitoring of Performance

- Monitoring goals
  - Ensure applicable requirements were completed prior to commitment of funds
  - Ensure conditions for approval are implemented
• Monitoring strategies
  – ID areas where staff should pay special attention – e.g., TA needs, administrative capability, etc.
  – Determine monitoring frequency and the level of investigation (e.g., in-depth review of ERR content, or limited to procedural compliance)
  – Develop approach for selecting applicants and projects that will be monitored (based on risk for noncompliance)
PJ Self-Monitoring of Performance (cont.)

- CPD Grantee Monitoring Handbook available at

- Develop file checklists and double check files periodically

- Make sure your staff is trained

- Keep up with statutory/regulatory/policy changes and new tools
Wrap-Up...

Key Stumbling Points & Some Best Practices
Key Stumbling Points

- Project funds are obligated or expended prior to RROF being submitted or approved
  - Violation of NEPA – funds will be disallowed
- Public notices do not contain all required information or contain incorrect information
  - Examples: wrong certifying officer, missing project description or location
  - If incorrect, RE must begin the public notification process again
  - Sample notices are available in the manual – Use them!
Key Stumbling Points

• EA or statutory worksheets do not contain all required documentation or contain incorrect information

• Examples:
  – Inadequate project description (e.g., “housing rehab”)
  – Missing source documentation for each factor
  – No discussion of alternatives to the proposed project
Key Stumbling Points

- Failure to aggregate activities properly
  - Example: Separating a 20-unit development project into groups of 4 units (nice try, but not compliant!)
Key Stumbling Points

• Timing of public notices and/or RROF is incorrect

• Relying solely on a consultant – stay involved and ask questions

• Notices or other documentation are not sent to Federal agencies and other interested parties
  – Other interested parties: those who have identified themselves as interested
Best Practices

• Staff stability – gather & retain environmental knowledge & skills
• Designated environmental office and/or staff person
• If using a consultant, thorough review of consultant background prior to hiring
  — Write a good RFP
  — Check references with others
Best Practices

• Involvement in the entire environmental review process, from start to finish

• Develop “environmental database” – can re-use for subsequent reviews
  – Include: sole source aquifers, prime and unique farmland, coastal barriers, etc.
  – Only have to worry about site-specific information in subsequent reviews
Best Practices

- Use of digital camera to document site conditions
- Working with other agencies:
  - Start talking with them early
  - Maintain contact list and communicate often
  - Ensure that you will meet each agency’s requirements in a single review – ask them what they need to complete the review in a timely fashion
Wrap-Up: Key Concepts

• Don’t expend or obligate funds prior to review
• Documentation, documentation, documentation.....
• Don’t be afraid to ask for help!
Thanks for Coming!