

HUD-Funded Programs Environmental Review Process



**CoP Compliance
Workshop**

Environmental Review
Process - 2016

1



**NATIONAL ENVIRONMENTAL POLICY
ACT (NEPA)**

- Clean Air Act
- Coastal Zone Management Act
- Ocean Dumping Act
- Marine Mammal Protection Act
- Federal Insecticide, Fungicide,
Rodenticide Act
- Toxic Substances Control Act
- Endangered Species Act
- Safe Drinking Water Act
- Clean Water Act

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2 

Cuyahoga River Today



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3 



Basics of a Part 58 Review

Office of Environment and Energy
Department of Housing and Urban Development



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4 

...to assure to the public undiminished protection of the environment...

TITLE 24—HOUSING AND URBAN DEVELOPMENT PART 58. ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES—Table of Contents Subpart A, Purpose, Legal Authority, Federal Laws and Authorities Sec. 58.1 Purpose and applicability.

(b) Applicability. This part applies to activities and projects where specific statutory authority exists for recipients or other responsible entities to assume environmental responsibilities. Programs and activities subject to this part include:

(1) Community Development Block Grant programs authorized by Title IV of the Housing and Community Development Act of 1974, in accordance with section 10404(c)(1) (42 U.S.C. 5304(c)).

(3)(i) Grants to states and units of general local government under the Emergency Shelter Grant Program, Supportive Housing Program (and its predecessors, the Supportive Housing Demonstration Program (both Transitional Housing and Permanent Housing for Homeless Persons with Disabilities) and Supplemental Assistance for Facilities to Assist the Homeless), Shelter Plus Care Program, Safe Homes for Homeless Individuals Demonstration Program, and Rural Homeless Housing Assistance, authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);

(ii) Grants beginning with Fiscal Year 2001 to private non-profit organizations and housing agencies under the Supportive Housing Program and Shelter Plus Care Program authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);

(4) The HOME Investment Partnerships Program authorized by Title IV of the Housing and Community Development Act of 1992, in accordance with section 1011 (42 U.S.C. 14701);

(5) Grants to States and units of general local government under the National Affordable Housing Act (NAHA), in accordance with section 288 (42 U.S.C. 14701);

(6) Grants to States and units of general local government under Title II of the Departments of Veterans Affairs and Housing and Urban Development, Independent Agencies Appropriations Act, 1992, and grants for homeless persons under the Housing and Community Development Act of 1992, in accordance with section 1011 (42 U.S.C. 14701);

(6)(i) Public Housing Programs under Title VI of the United States Housing Act of 1937, in accordance with section 1011 (42 U.S.C. 14701);

(6)(ii) HOPE VI grants authorized under section 24 of the Act for Fiscal Year 2000 and later, in accordance with section 1011 (42 U.S.C. 1437a).

TITLE 24—HOUSING AND URBAN DEVELOPMENT PART 58. ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES—Table of Contents Subpart D - Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification Sec. 58.32 Project aggregation. (a) A responsible entity 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. (b) In deciding the most appropriate basis for aggregation when evaluating activities under more than one program, the responsible entity may choose: functional aggregation when a specific type of activity (e.g., water improvements) is to take place in several separate locales or jurisdictions; geographic aggregation when a mix of dissimilar but related activities is to be located in a fairly specific project area (e.g., a combination of water and street improvements and economic development activities); or a combination of aggregation approaches, which, for various project locations, consider the relationship arising from each functional activity and its interrelationship with other activities. (c) The purpose of project aggregation is to group together related activities so that the responsible entity can: (1) Assess adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and/or related, or that are dependent upon other activities and actions. (2) Consider reasonable alternative courses of action. (3) Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects. (4) Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.

TITLE 24—HOUSING AND URBAN DEVELOPMENT PART 58. ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES—Table of Contents Subpart A, Purpose, Legal Authority, Federal Laws and Authorities Sec. 58.2 Terms, abbreviations and definitions.

(a) * * *

(4) Project means an activity or a group of integrally related activities designed by the recipient to accomplish, in whole or in part, a specific objective. The date on which a project becomes subject to the limitations on project actions under this part is: the date of receipt by HUD or a responsible entity of a recipient's proposal or application for federal assistance for identified property proposed for acquisition, disposition, rehabilitation, conversion, leasing, repair or construction, or any combination; or in the absence of such an application, the initial indication of the recipient's approval of a specific site for assistance under the program. For HUD congressional special purpose grants, it is the date the President signs into law the appropriation bill containing the grant. If there is any question, consult the Assistant Secretary for Community Planning and Development. Limitations on project actions during the NEPA or environmental clearance process are required by CEQ regulations (40 CFR 1506.1 and 1502.2(f)) and 24 CFR 58.22.

TITLE 24—HOUSING AND URBAN DEVELOPMENT PART 58. ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES—Table of Contents Subpart C, General Policy: Environmental Review Procedures Sec. 58.22 Limitations on activities pending clearance.

(a) Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in Sec. 58.1(b) on an activity or project until HUD or the state has approved the recipient's RROF and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project on a program listed in Sec. 58.1(b) if the activity or project would have an environmental impact or limit the choice of reasonable alternative.



Part 58: Responsible Entities

Responsible Entity (RE) assumes federal responsibilities

- RE = a unit of general local government, tribe or State

Responsible Entity Certifying Officer

- Evaluates the environmental review
- Is responsible for scope and content
- Makes environmental finding
- Goes to court in a lawsuit



The Big Cheese at HUD Sent the City Manager an eMail. . .

(really, they did)

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7 

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|--|--|----|--------------------------------------|----|--|-----|--|---------|---|
|  "The Big Cheese" <thebigcheese@hud.gov> 10/04/2010 02:50 PM | <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50px;">To</td> <td>Phoenix City Manager/Mgr/PHX@PHX.ENT</td> </tr> <tr> <td>cc</td> <td></td> </tr> <tr> <td>bcc</td> <td></td> </tr> <tr> <td>Subject</td> <td>RE: City of Phoenix Environmental Reviews</td> </tr> </table> | To | Phoenix City Manager/Mgr/PHX@PHX.ENT | cc | | bcc | | Subject | RE: City of Phoenix Environmental Reviews |
| To | Phoenix City Manager/Mgr/PHX@PHX.ENT | | | | | | | | |
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| Subject | RE: City of Phoenix Environmental Reviews | | | | | | | | |

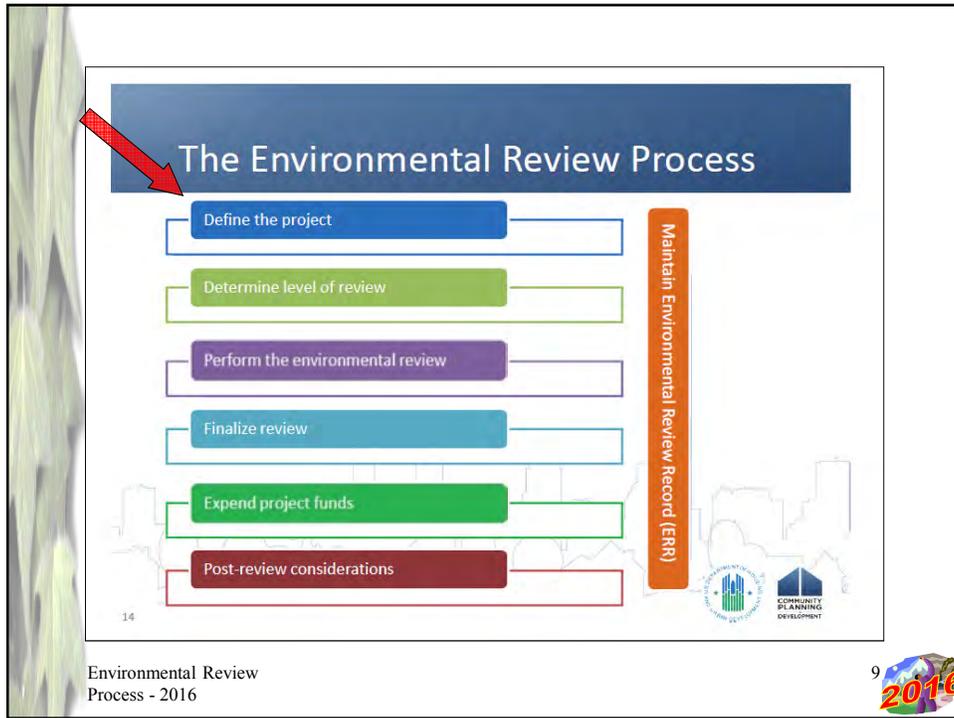
Phoenix City Manager et al,
 The President of the United States gives HUD millions of dollars to spend every year. We are very happy when this happens.
 We offer this money to you every year and tell you that you can have it if you abide by some rules we have. You agreed.
 This email is your annual friendly reminder of your previous agreements.

- 1) We told you to do part of our job for us and do this thing the Prez requires called an *environmental review*. You agreed.
- 2) We told you we aren't Burger King, and you can't "*have it your way.*" We told you we have LOTS of rules on how to do these environmental reviews. OUR rules. You agreed.
- 3) We told you that we can and we will audit your environmental review files whenever we feel the need to do so. You agreed.
- 4) We told you we can and we will take our money back if you don't follow our rules about environmental reviews. You agreed.
- 5) We told you that you need on staff an environmental review officer to advise you on all our environmental review requirements. You agreed.
- 6) We told you that if you are sued: you're on your own. Sorry about this. But you agreed.

Have a nice day. Stay compliant. We're watching you. (Joke)... (no, seriously - we are)

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8 



https://www.hudexchange.info/programs/environmental-review/ Environmental Review - HU... x

HUD Exchange

Home | Manage a Program | News | Training & Events | Get Assistance | About Grantees

Home | Manage a Program | Environmental Review

“The environmental review process is required for all HUD-assisted projects...”

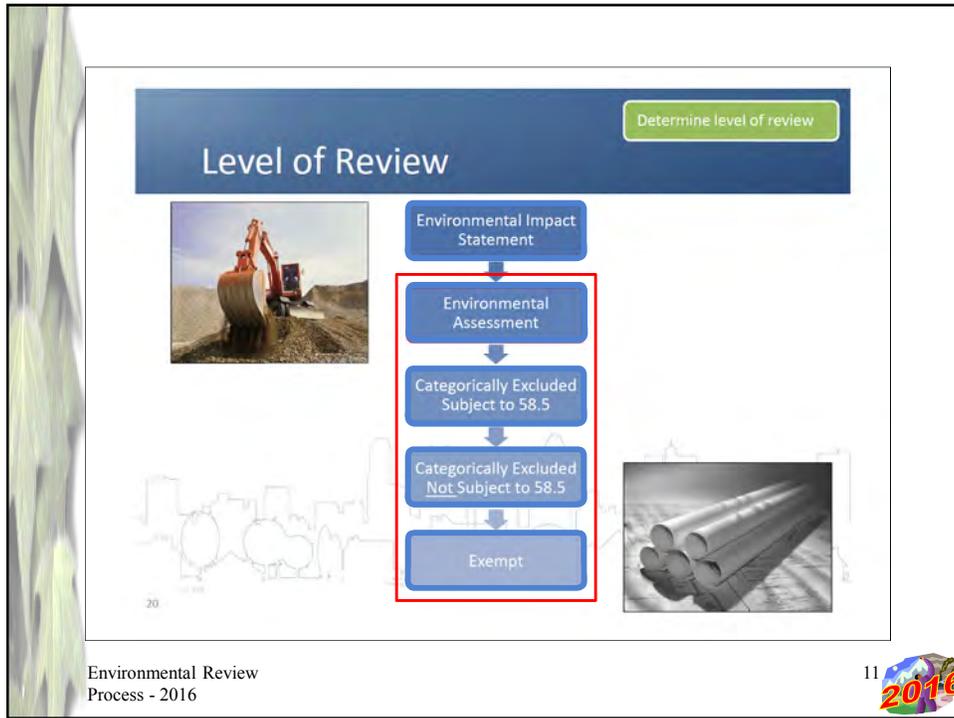
Environmental Review

Welcome to the official website for the Department of Housing and Urban Development’s (HUD’s) Office of Environment and Energy. The Office of Environment and Energy (OEE) manages the environmental review process for HUD.

“Not every project is subject to a full environmental review, but every project must be in compliance with the National Environmental Policy Act (NEPA), and other related Federal and state environmental laws.”

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10



- ### Exempt/CENST - Environmental Review Criterion
- Andre's Salary / admin./mgmt. expenses**
- flood insurance •
 - airport runway clear zones •
 - coastal barrier resources •
- 12
- 2016

CEST - Environmental Review Criterion

Residential Rehabilitation

- floodplain impact •
- coastal barrier resources •
- airport runway clear zones •
- historic preservation •
- flood insurance •
- nearby explosive and flammable hazards •
- hazardous/toxic/radioactive contamination, chemical or gases hazards •

13



CEST - Environmental Review Criterion

'Individual Action' / Commercial Rehabilitation

- historic preservation •
- floodplain management •
- wetland protection •
- coastal barrier resources •
- sole source aquifers •
- endangered species •
- air quality •
- hazardous/toxic/radioactive contamination, chemical or gases hazards •
- flood insurance •
- airport runway clear zones •
- farmland protection •
- wild and scenic rivers •
- environmental justice •
- noise abatement •
- nearby explosive and flammable hazards •

14



EA - Environmental Review Criterion

Concentrated Development

- historic preservation •
- floodplain management •
- wetland protection •
- coastal barrier resources •
- sole source aquifers •
- endangered species •
- air quality •
- contribution to community noise •
- airport runway clear zones •
- farmland protection •
- wild and scenic rivers •
- environmental justice •
- hazardous/toxic/radioactive contamination, chemical or gases hazards •
- employment and income patterns •
- commercial facilities •
- educational facilities •
- health care •
- water resources •
- social services •
- public safety - police •
- recreation •
- waste water •
- public safety - fire •
- emergency medical •
- open space •
- surface water •
- erosion •
- vapor intrusion •
- displacement •
- unique natural features •
- vegetation/wildlife •

15

Define the project

Project Description

- Capture the maximum anticipated scope of the proposal
- Include all contemplated actions that are a composite part of the project




- Project aggregation (58.32)
- Sensitive information

17


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16

Common HUD NEPA Environmental Review Issues

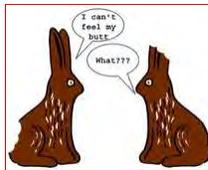
- Per CEQ regs, under a single environmental review, we are required to use a process called "aggregation" and group together and evaluate as a single project all *individual* activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions
- $E=mc^2$
- $A \Rightarrow B \Rightarrow C : ABC = \text{project}$
- OUR interpretation - grey area



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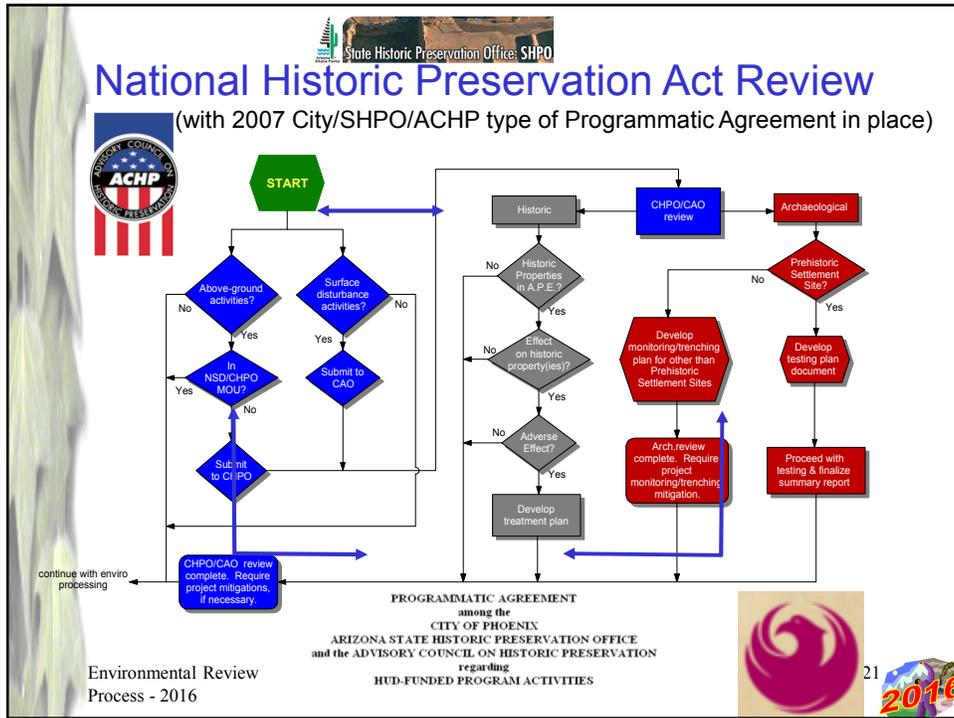
17 

Common HUD NEPA Environmental Project Issues



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18 



The Objective

To document that our HUD funded projects are not harming the environment and that the environment is not impacting our projects

To provide decent, safe, and sanitary housing

(Don't commit funds before you do it.)




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22 2016

ECHO, What's ECHO?



- nearby explosive and flammable hazards •



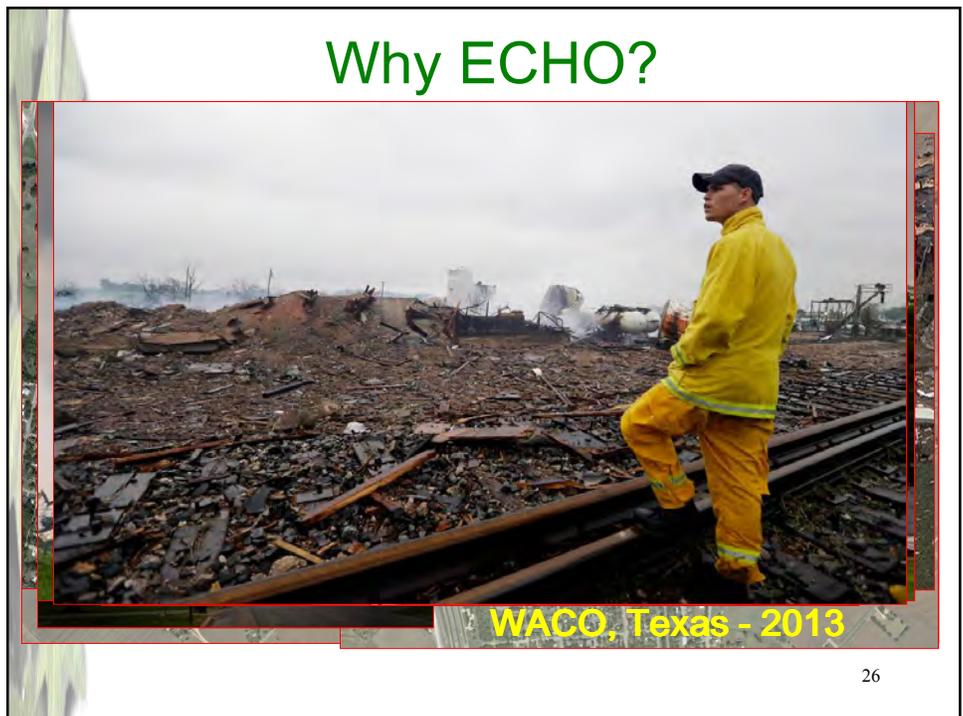
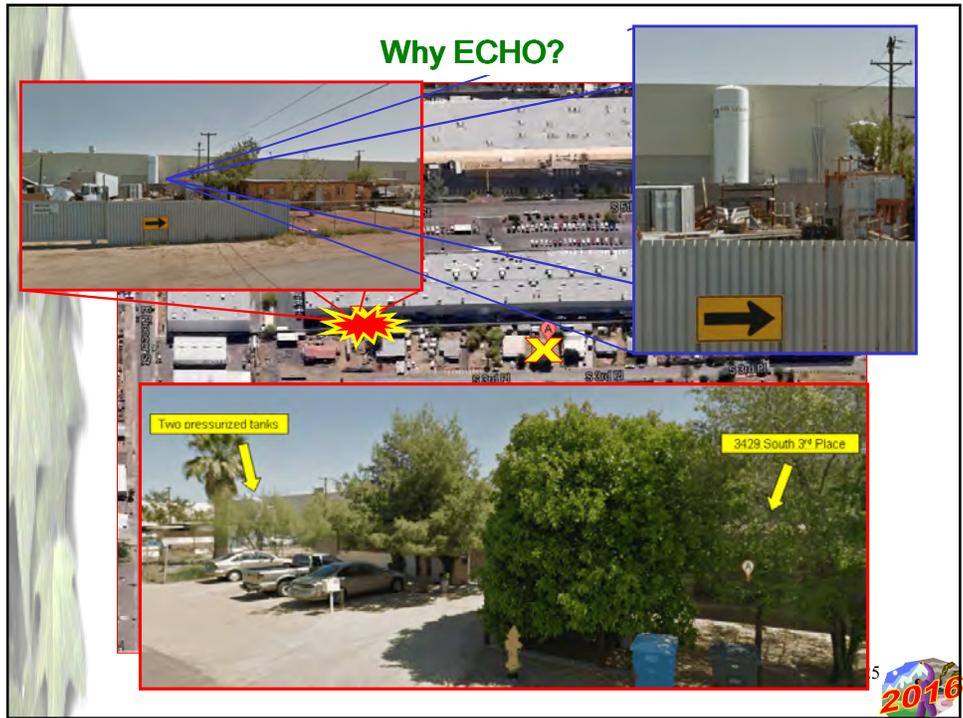
- hazardous/toxic/radioactive contamination, chemical or gases hazards •

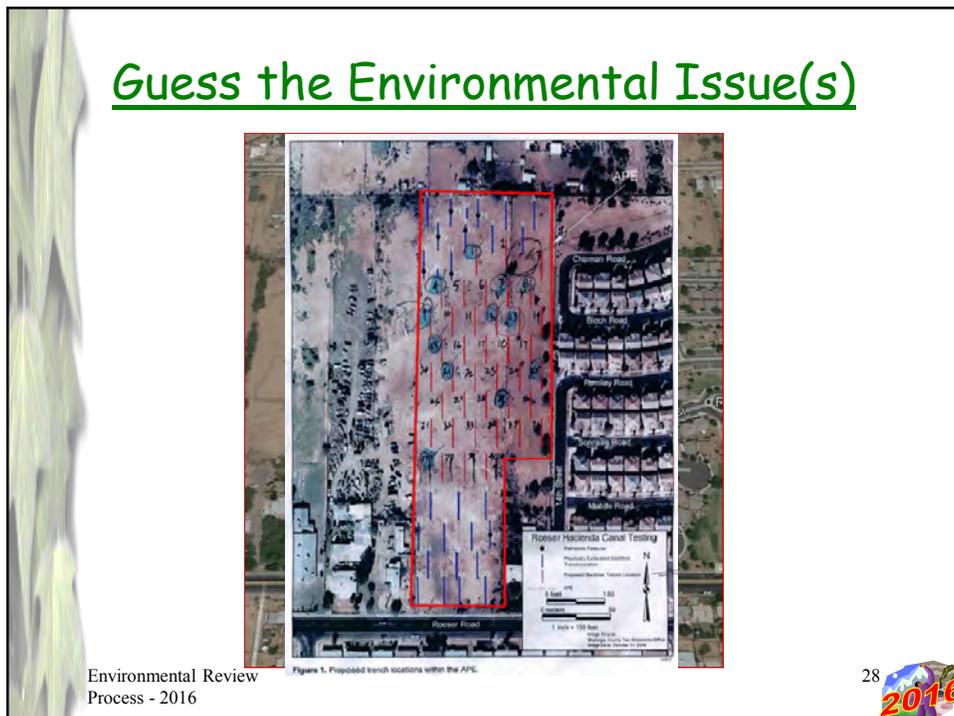
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Why ECHO?







Guess the Environmental Issue(s)

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29 

Guess the Environmental Issue(s)

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30 

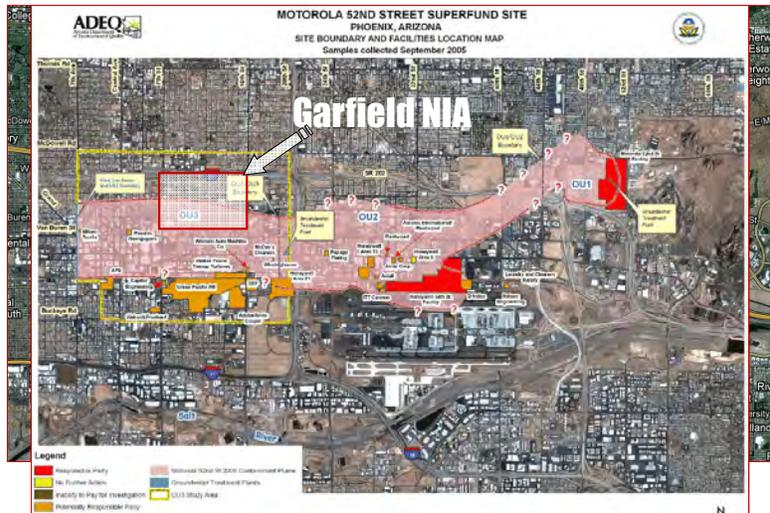
Guess the Environmental Issue(s)



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31 

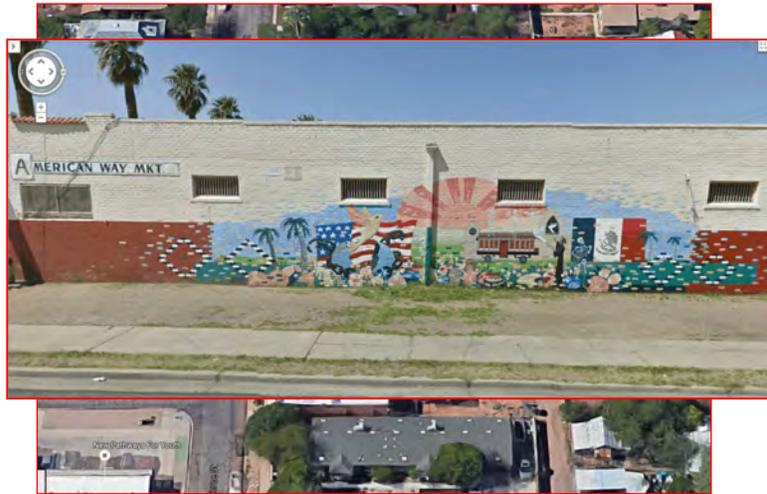
Guess the Environmental Issue(s)



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32 

Guess the Environmental Issue(s)



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33 

Guess the Environmental Issue(s)



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34 

Guess the Environmental Issue(s)

The human cost (estimates)

- ▶ Up to 10,000 deaths in first three days
- ▶ Additional 25,000 people died of related injuries by 1994

December 3, 1984
A cloud of toxic gas leaks from the Union Carbide pesticide plant

Bhopal

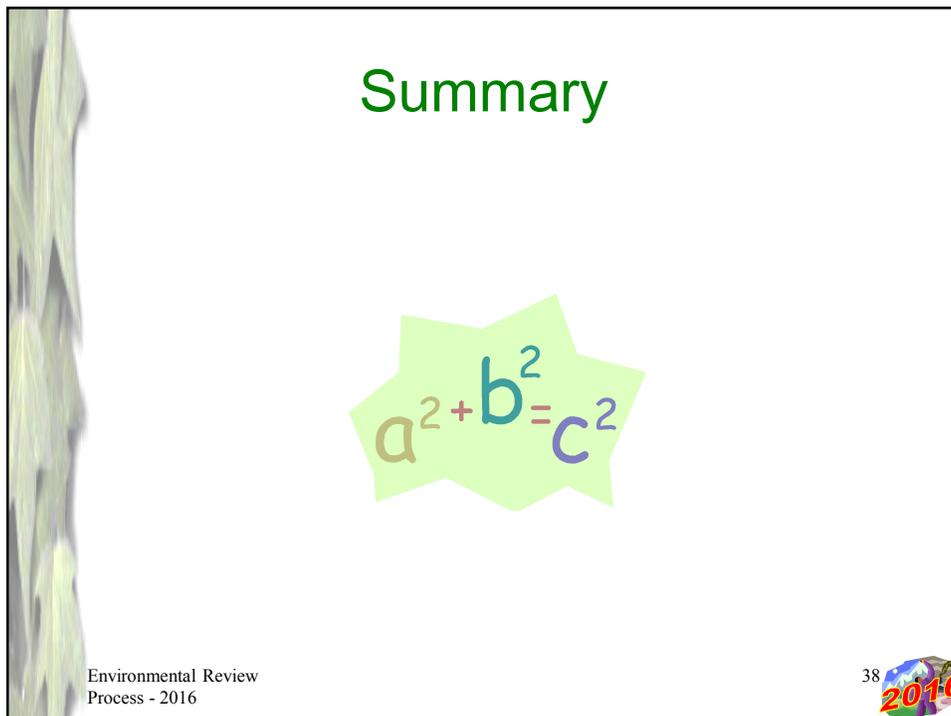
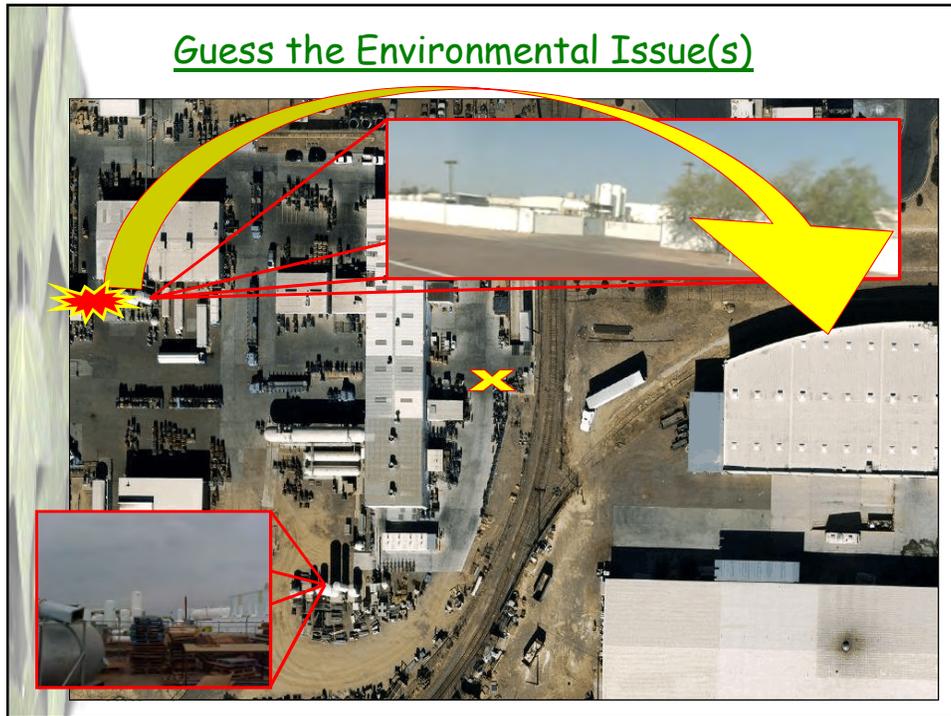
Area affected by gas leak

Source: AFP/PAU/CMR 301109 AFP

35 

Guess the Environmental Issue(s)

U.S. Geological Survey, © SPA Firm Service Agency, ITSP data ©2009 Tele Atlas - IS



Summary - Environmental Review

Common Deficiencies

53

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Summary - Environmental Review

Take-Away Messages

- An Environmental Review (ER) is an analysis of the impacts of both the project on the environment and the environment on the project.
- Under Part 58 the Responsible Entity Certifying Officer becomes the “responsible Federal Official” for NEPA responsibilities.
- Funds cannot be committed, obligated, or expended prior to the completion of the environmental review.
- The RE must create an environmental review record with verifiable resources and documented findings for each project.
- The goal of the process is to improve projects or ensure that projects do not adversely affect human health and safety or the environment.

52

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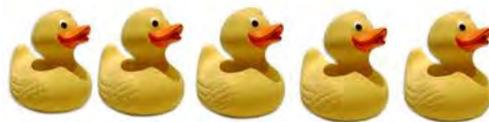
Summary – Environmental Review



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41 

Remember...



“Keep your ducks in a row and you can’t go wrong.”

- *Finis* -

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42 