

(RP) General

**UNITED STATES
DEPARTMENT OF AGRICULTURE**

NATURAL RESOURCES CONSERVATION SERVICE

SPECIAL ENVIRONMENTAL CONCERNS

HELP SHEET

JUNE 1996

BACKGROUND

These HELP SHEETS were developed to assist NRCS planners in the evaluation and documentation of Special Environmental Concerns identified on the Environmental Effects Worksheet (SCS-CPA-52/1-94), Exhibit 3, of the National Planning Procedures Handbook.

The Environmental Evaluation is a process of assessing the impact of a proposed NRCS activity to determine if there is a potential for adverse impacts to the soil, water, air, plant, or animal environments or the potential that a cumulative adverse impact could result from a combination of relatively small actions acting together to produce an adverse impact.

Environmental Evaluations are required for all NRCS planning activities, and findings must be documented according to state and Federal guidance. Planners can use SCS-CPA-52/1-96 for documentation, or states can develop a format based on local conditions covering the material in SCS-CPA-52/1-96. This evaluation will help determine the level of NEPA documentation required.

ACKNOWLEDGEMENTS

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PRIME AND UNIQUE FARMLANDS

Prime Farmland is land that has the best combination of physical, chemical and biological characteristics for producing food, feed, fiber and oil seed crops. The land is available for these uses as cropland, pastureland, rangeland, forestland or as other land; but not urban “built up” land or water areas.

Prime Farmland areas have the soil quality, moisture supply, and growing season to economically produce sustained high yields of crops when those lands are treated and managed, including water management, according to acceptable farming methods.

Unique Farmland is land other than prime farmland that is used for the production of specific high-value food and fiber crops. The land has the special combination of soil quality, location, growing season and moisture supply needed to economically produce sustained high-quality crops and/or high yields of a specific crop when the lands are treated and managed according to acceptable farming methods.

The Natural Resources Conservation Service (NRCS) policy on prime and unique farmlands is to make and keep an inventory of these farmlands within the United States, its territories and trust areas. This inventory is implemented in cooperation with other interested agencies at the National, State and local levels of Government. The inventory’s objective is to identify the extent and location of important rural lands that are needed to produce the Nation’s food, fiber, feed, forage and oilseed crops. Refer to the General Manual (GM 310 Part 403) for further information.

SCS responsibilities include:

- Providing leadership for inventories
- Identifying qualified soil-mapping units
- Preparing a statewide list of prime and unique farmlands
- Coordinating soil-mapping units with adjacent states
- Training about prime and unique farmlands
- Developing and publishing farmland inventories

STATUS DETERMINATION – PRIME & UNIQUE FARMLANDS

STEP 1. According to NRCS regulations in the General Manual (GM 310 Part 403), are prime and unique farmlands present in or near the area that will be affected by the proposed action or activity?

NO ()

YES ()

UNKNOWN ()

- a. If your answer is “No”, no additional documentation is needed concerning prime and unique farmlands. Proceed with planning.
- b. If your answer is “Yes”, go to step 2.
- c. If your answer is “Unknown” meaning that you do not know if there exists prime or unique farmland in or near the planning area or that you do not know what a prime or unique farmland is, read the HELP SHEET introduction above and repeat step 1. If you are still uncertain about the status of prime and unique farmlands in your planning area, consult your Area Office or the State Office Environmental Coordinator on the matter.

STEP 2. What is the effect of the proposed action or activity on the prime or unique farmlands?

NONE ()

POSITIVE ()

NEGATIVE ()

- a. If your answer is “None” (no effects either positive or negative), no additional documentation is needed concerning prime and unique farmlands. Proceed with planning.
- b. If there are “Positive” effects, and the effects are consistent with the maintaining, protecting and preserving prime and unique farmland characteristics, document (describe) the positive effects and proceed with planning. If there are “Positive” effects for purposes other than environmental and those effects appear to be not consistent with the goals and objectives of maintaining, protecting and preserving prime and unique farmland areas, consider your answer as “negative”, the same as answer “c” below.
- c. If there are “Negative” effects, document (describe) the effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94). If the land user still desires technical assistance for the proposed action or activity, consult with the Area Office or the State Office about performing an Environmental Assessment according to NRCS regulations in the General Manual (GM 190 Part 410). If additional clarification is needed, consult the NRCS State Office Environmental Coordinator.

THREATENED AND ENDANGERED SPECIES

Threatened and Endangered Species are those plants or animals, which after a review of the species' status, the Secretary of the Interior classifies as "threatened" or "endangered", based on the best available scientific and commercial data. The US Fish and Wildlife Service (FWS) publishes comprehensive notices containing the names of species, which are considered to be candidates for listing as "threatened" or "endangered" under the Endangered Species Act of 1973. The National Marine Fisheries Service (NMFS) is charged to protect marine species.

The Endangered Species Act provides that in addition to the Department of the Interior, all other Federal departments and agencies in consultation with an with the assistance of the Secretary of the Interior shall utilize the departments' and agencies' authorities to advance the purposes of the Act by executing programs for the conservation of threatened and endangered species that are listed.

Section 7 of the Act requires that all Federal agencies, in consultation with an with the assistance of the Secretary of the Interior shall, insure that its agency actions and activities do not jeopardize the continued existence of threatened and endangered species or result in the destruction or adverse modification of the species' critical habitat. The extent of a particular species' critical habitat is determined by the US Fish and Wildlife Service or in the case of marine species, the National Marine Fisheries Service. Consult the FWS or NMFS Office concerning the extent of a species' critical habitat.

The principal hazard to threatened and endangered species is the destruction of their habitats by human activities associated with industrialization, urbanization, agriculture, lumbering, recreation and transportation.

Threatened and endangered species are those US plant and animal species which are reduced in numbers, making extinction a high probability. The disappearance of these species would be a biological, cultural and in some cases an economic loss to the Nation. The species' continued existence contributes to scientific knowledge and understanding, adds to recreational and commercial pursuits, and provides interest, purpose and variety to human existence.

The NRCS policy (GM 190 Part 410.22(b)) states:

NRCS will assist in the conservation of threatened and endangered species, and consistent with legal requirements, avoid or prevent activities detrimental to such species. NRCS's concern for these species will not be limited to those listed by the Secretary of the Interior and published in the Federal Register, but will include species designated by state agencies as rare, threatened, endangered, etc.

Further:

The State Conservationist will determine for NRCS nonproject-type activities, if the installation of one or more conservation practices will have a probable effect on any listed species or their habitat. If the Environmental Evaluation (EE) indicates the action may affect a listed species or result in the destruction or adverse modification of the habitat of a listed species, which has been determined to be critical habitat, NRCS will advise the landuser of the requirements of the Endangered Species Act and recommend alternative conservation treatment that avoids the adverse effects.

Further assistance will be provided only if one of the alternative conservation treatments is selected for installation; or at the request of the landowners, NRCS will initiate formal consultation with the FWS or NMFS as outlined in Title 50, Chapter IV, Part 402 of the Code of Federal Regulations (CFR).

If the EE indicates that the action will not affect the listed species or result in the destruction or adverse modification of critical habitat (or habitat that has not been determined to be critical habitat), formal consultation generally will not apply and shall not be initiated.

their habitat, document (describe) the positive effects on the NRCS Environment Effects Worksheet (SCS-CPA-52/1-94) and proceed with planning. If there are “Positive” effects for purposes other than environmental and those effects appear to be not consistent with the goals and objectives of maintaining, protecting and preserving threatened or endangered species or their habitat, consider your answer as “negative”, the same as “c” below.

- c. If there are “Negative” effects, document (describe) the effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94). Go to step 4.

Step 4. You must inform the landuser of NRCS’s policy (GM 190 Part 410.22(b)) concerning threatened and endangered species and the possible use of alternative conservation measures to avoid adverse effects to species or their habitat. Is the landuser in compliance with NRCS’s policy?

YES () NO ()

If your answer is “Yes”, proceed with planning.

- b. If your answer is “No”, go to step 5.

Step 5. Alternative conservation treatment must be offered to the landuser. Has the landuser agreed to install the alternative treatment?

YES () NO ()

- a. If your answer is “Yes”, proceed with planning.
- b. If your answer is “No”, got to step 6.

Step 6. If the landowner requested that NRCS initiate formal consultation with the FWS or NMFS, has that consultation reached an agreement on how assistance can be provided?

YES () NO ()

- a. If your answer is “Yes”, proceed with planning.
- b. If your answer is “No”, no further NRCS assistance can be provided for that portion of the landowner’s property.

LANDSCAPE RESOURCES

Landscape Resources are those perceived physical elements and processes of the landscape that have value for human use. Through proper planning, the landscape can be managed, allowing visual characteristics to be maintained or improved.

Landscape resource management is the process of manipulating the physical elements and functions of the landscape to achieve specific resource objectives. The landscape has a consistently definable appearance that can be described by the measurable visual elements of landform, water, vegetation, structures and sky. Four of the visual elements (landform, water, vegetation & structures) provide a ready basis for describing the changing countryside landscape as altered by human decisions.

Landform – The shape of the land (topography, slope, and aspect) seems to be the most noticeable element, particularly as it relates to the horizon. For example, the horizontal nature of crop landscapes makes them especially sensitive to the presence of vertical elements, such as streamside vegetation, shelterbelt trees, farmstead structures and utility poles. When agricultural activities, such as tree rows and fences are aligned with the topography, they tend to emphasize and enhance the landform. In flat or rolling areas the horizontal line is the most conspicuous landscape element because it is so uniformly horizontal.

Vegetation – Vegetation within the landscape includes agricultural crops, which can vary widely in size, form, color, texture and planting pattern. Shelterbelt and drainageway trees are visually significant in landscapes where low crops or pastures are present. When that pattern is repeated year after year, often the trees provide the only spatial differentiation in an otherwise horizontal landscape. Row crops create visually strong lines to the viewer on the ground or from the air, so any curved (nonlinear) pattern that is located among the straight lines will be prominent.

Structures – From a human emotional standpoint, structures evoke the most obvious and describable of our mental images of “countryside”. Farmhouses, barns, silos, wooden fences, stone walls, windmills and two-lane roads are some of the agriculturally related structures that fulfill our romantic notion of countryside. Today’s countryside is more likely to be populated with highways, transmission lines, steel and concrete bridges, warehouses, subdivisions, theme parks, and airports; few of which evoke any images directly related to agriculture. New technologies, such as metal farm buildings and silos and pre-fabricated houses, are part of today’s countryside landscape.

Water – Water has magnetic appeal. It can add to aesthetic quality, modify temperatures, serve as a buffer between use areas, and direct attention from undesirable views. It’s characteristics are gurgling, rushing, spurting, falling, calm or placid. It’s shape, whether water course or waterbody, also adds value to the landscape.

When all of the above elements are combined, they form patterns or images that collectively we label as the “landscape”. While the identified “landscape” will vary from region to region, the recognition that a particular landscape is characteristic of a certain part of the country is obvious to everyone who lives there or who passes through the region.

Contributions to landscape resources are part of providing planning assistance to landowners and land users. Emphasis should be given to natural resource conservation practices that while contributing to an efficient and productive agriculture, increase the attractiveness of rural landscapes.

STATUS DETERMINATION – LANDSCAPE RESOURCES

STEP 1. In the planning area are there unique or high-quality landscape resources that could be affected by the proposed action or activity?

NO () YES () UNKNOWN ()

- a. If your answer is “No”, proceed with planning.
- b. If your answer is “Yes”, go to step 2.
- c. If your answer is “Unknown”, meaning that you do not know if the proposed action of activity would affect unique or high-quality landscape resources, read the HELP SHEET introduction above and repeat step 1. If you are still uncertain about the status of the action or activity on the landscape in your planning area, consult your State Office Landscape Architect or Environmental Coordinator on the matter.

STEP 2. What effect will the proposed action or activity have on the landscape resources?

NONE () POSITIVE () NEGATIVE ()

- a. If your answer is “None” (no effects positive or negative), go to step 3.
- b. If there are “Positive” effects, and the effects are consistent with the goals and aims of maintaining, protecting and preserving landscape resource values, document (describe) the positive effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94) and go to step 3. If there are “Positive” effects for purposes other than environmental and those effects appear to be not consistent with the goals and objectives of maintaining, protecting and preserving landscape resource values, consider your answer as “negative”, the same as answer “c” below.
- c. If there are “Negative” effects, document (describe) the effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94) and consult with the State Office Landscape Architect or Environmental Coordinator on the matter.

STEP 3. Are native plants, which enhance scenic beauty and create variety, to be used in the proposed action or activity?

YES () NO ()

- a. If your answer is “Yes”, proceed with planning.

- b. If your answer is “No”, consult with your State Biologist or Plant Materials Specialist on the proper procedure to be followed in using non-native or other plant materials.

COASTAL ZONE MANAGEMENT AREA

Coastal Zone Management Areas are areas located within or near the officially designated “coastal zone” of a state. Generally, this includes the Atlantic, Gulf of Mexico and Pacific coastal areas; but also includes the Great Lakes. However, coastal programs are approved by the National Oceanic and Atmospheric Administration’s Office of Coastal Zone Management and not all coastal states have a coastal zone management area.

Coastal zone management areas are: (1) the coastal waters and adjacent shorelines, including the lands or waters inside and under those zones; and (2) areas that strongly influence adjacent coastal zones of the 35 states that have coastal zone management programs.

Specific examples of areas included in the coastal zone are “transitional” and intertidal areas, such as salt marshes, fresh-water wetlands, and beaches. Also included in coastal zone management areas are the connecting waters, harbors, and estuarine areas, such as bays, shallows and marshes as well as those waters adjacent to the shorelines, including but not limited to sounds, bays, lagoons, bayous, ponds and the estuaries themselves.

The coastal zone management area extends seaward to the outer limit of the United States territorial sea, generally 200 miles. Inland, the coastal area extends only to the extent necessary to control land uses, which have a direct and significant impact (effect) on coastal waters.

Section 307 of the Coastal Zone Management Act specifies that actions or activities within the Coastal Zone done by a Federal agency or on behalf of or through a Federal agency must be “consistent” with the State’s Coastal Zone Management Plan. This is, any Federal activity cannot be in opposition to the goals and objectives that exist in an approved Coastal Zone Management Plan. The US Supreme Court has upheld the so-called “consistency provision” of the Act. Therefore, Natural Resources Conservation Service (NRCS) planning must be “consistent” with the State’s Coastal Plan and be in concert with the goals, tenets, and objectives of that plan.

On March 9, 1993, a letter was jointly signed by the Soil Conservation Service, the Agricultural Stabilization and Conservation Service, and the Extension Service setting forth the policies for enforcement and adoption of science and technology based land-management measures that eliminate or control nonpoint sources of pollution. Guidance on nonpoint source pollution matters in the coastal zone is contained in EPA’s “Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters (EPA 840-B-92-002), issued in response to the Coastal Zone Act

Reauthorization Amendments (CZARA) of 1990. The guidance covers among other areas: Agricultural sources, Forestry sources, Urban sources, Marinas & recreational boating sources, and Channel, dam, streambank & shoreline sources.

STATUS DETERMINTION – COASTAL ZONE AREAS

STEP 1. Is the proposed action or activity scheduled to occur in an officially designated “Coastal Zone Management Area”?

NO ()

YES ()

UNKNOWN ()

- a. If your answer is “No” proceed with planning.
- b. If your answer is “Yes”, go to step 2.
- c. If your answer is “Unknown”, meaning that you do not know if there is a coastal area, or you know there is a coastal area, but do not know if it is an officially designated Coastal Zone”, refer to the HELP Sheet and repeat step 1. If you are still uncertain about the status of a coastal zone area, its designation, or the management within the coastal zone, consult your Area Office or the State Office Environmental Coordinator.

STEP 2. What is the effect of the proposed action or activity on the coastal zone management area?

NONE ()

POSITIVE ()

NEGATIVE ()

- a. If your answer is “None” (no effects either positive or negative), no additional documentation is needed concerning the coastal zone area. Proceed with planning.
- b. If there are “Positive” effects, and the effects are consistent with the goals and aims of maintaining, protecting and preserving coastal zone characteristics, lands and waters, document (describe) the positive effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94) and proceed with planning. If there are “Positive” effects for purposes other than environmental and those effects appear to be not consistent with the goals and objectives of maintaining, protecting and preserving coastal zone areas, consider your answer as “negative”, the same as answer “c” below.
- c. If there are “Negative” effects, document (describe) the effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94). If the land user still desires technical assistance, consult with the Area Office about performing an Environmental Assessment according to NRCS regulations in the General Manual (GM 190 Part 410). If additional clarification is needed, consult the NRCS State Office Environmental Coordinator.

STEP 3. Is the proposed action or activity “consistent” with the goals and objectives of the state’s Coastal Zone Management Plan?

NO ()

YES ()

UNKNOWN ()

- a. If your answer is “No”, document (describe) on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94) how and why the proposed action or activity is not “consistent” with the state’s Coastal Zone Management Plan. If the land user still desires technical assistance for the proposed action or activity, consult with the State’s Coastal Zone office to determine how the action could be made compatible with the Coastal Plan. If there appears to be no alternative that could be implemented to make the action or activity consistent” with the Coastal Plan, consult with the Area Office or the State office about performing an Environmental Assessment according to NRCS regulations in the General Manual (GM 190 Part 410). If additional clarification is needed, consult the NRCS State Office Environmental Coordinator.
- b. If your answer is “Yes”, proceed with planning.
- c. If your answer is “Unknown”, meaning that you do not know if the proposed action or activity is “consistent” with the state’s Coastal Zone Management Plan or that you do not understand what “consistency” means, refer to the HELP SHEET and repeat step 3. If you are still uncertain about the consistency provision, consult your Area Office or the NRCS State Office Environmental Coordinator.

NATURAL AREA

Natural areas are defined as land and water units where natural conditions are maintained. Natural conditions result when ordinary physical and biological processes operate with a minimum of human intervention. Manipulations of natural areas may be needed to maintain or restore features where degradation of those natural features has occurred (GM 190 Part 410.23).

Natural areas may be designated areas of the Federal Government, nonfederal government, or privately controlled land. Designation may be formal, as provided under Federal regulations, or by foundations or conservation organizations, which were specifically created to acquire and maintain natural areas. Designation may be informal in the case of private landowners who designate a specific area as a natural area and manage it accordingly.

It is the policy of the NRCS to recognize natural areas, if so dedicated, as a land use, and will support the designation of appropriate natural areas.

Natural Resource Conservation Service (NRCS) employees, who provide technical assistance to land users must inform them about the potentially adverse impact that the land user's decisions may have on adjacent or nearby natural areas. Land users will be encouraged to consult with concerned agencies, societies, and individuals to arrive at mutually satisfactory land use and treatment.

Check Section One of the Field Office Technical Guide (FOTG) for the list and locations of natural areas or obtain the current listings and locations of natural areas from the NRCS State Environmental Coordinator.

STATUS DETERMINATION – NATURAL AREAS

STEP 1. Are natural areas present in or near the planning area that will be affected by the proposed action or activity?

NO ()

YES ()

UNKNOWN ()

- a. If your answer is “No”, no additional documentation is needed concerning natural areas. Proceed with planning.
- b. If your answer is “Yes”, go to step 2.
- c. If your answer is “Unknown”, meaning that you do not know if there is an existing natural area or that you do not know what a natural area is, read the HELP SHEET introduction above and repeat step 1. If you are still uncertain about the status of a natural area in your planning sector, consult with your Area Office or State Office Environmental Coordinator on the matter.

STEP 2. What effect will the land user’s proposed action or activity have on the natural area?

NONE ()

POSITIVE ()

NEGATIVE ()

- a. If your answer is “None” (no effects either positive or negative), no additional documentation is necessary. Proceed with planning.
- b. If there are “Positive” effects and the effects are consistent with the maintaining, protecting and preserving natural area characteristics, document (describe) the positive effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94) and proceed with planning. If there are “Positive” effects for purposes other than environmental and those effects appear to be not consistent with the goals and objectives of maintaining, protecting and preserving natural area characteristics, consider your answer as “negative”, the same as answer “c” below.
- c. If there are “Negative” effects, document (describe) the effects on the Environmental Effects Worksheet (SCS-CPA-52/1-94), refer to the HELP SHEET regarding the NRCS policy on natural area consultations with other groups. You may proceed with planning if the land user’s proposed activities are consistent with NRCS policy. If those proposed activities are not consistent with NRCS policy and the land user still desires technical assistance for the proposed action or alternative, consult with the Area Office about performing an Environmental Assessment according to NRCS regulations in the General Manual (GM 190 Part 410). If additional clarification is needed, consult the NRCS State Office Environmental Coordinator.

WILD AND SCENIC RIVERS

A Wild and Scenic River is a free-flowing river or river-segment that has outstanding scenic, recreational, geologic, fish-and-wildlife, historic, archaeological, or other values. This type of river is designated by act of Congress (P.L. 90-542) or by the Secretary of the Interior as part of the National Wild and Scenic Rivers System.

The designation of a river under the Wild and Scenic Rivers Act provides legal protections from adverse development and provides a mechanism for management of the river's resources. The principal effect of the Act is to preclude or to severely limit the construction of dams and other water resources projects that might affect the free-flowing character of the river and its associated resources.

The designation affects the management of federal lands in the river's corridor. Rights to future development of private lands can be purchased under land acquisition authorities.

Management standards or requirements have been developed for three classes of rivers: (1) Wild Rivers, (2) Scenic Rivers, and (3) Recreational Rivers.

Ongoing regular uses of private lands, particularly those existing at the time of the river's designation, are not directly affected. Most private land use, such as homes and farms are compatible with Wild, Scenic and Recreational River management. The river's management plan identifies the types of land uses and developments that are considered compatible or incompatible with the river's wild and scenic values.

Designation has no effect on existing water rights or irrigation systems or other existing developed facilities. New projects and alterations to existing systems, which require Federal permits, may be allowed when they will not have an adverse effect on the values of the river corridor.

Generally, timber harvests and agricultural operations on privately owned lands are unaffected in Wild, Scenic and Recreational River designations. However, some activities may require permits or may be covered under special provisions of the management plan. The Act requires that the management of Federally owned timber and grazing lands be done in a manner that protects the river's values.

Check Section One of the Natural Resources Conservation Service's (NRCS) Field Office Technical Guide (FOTG) for a list of Wild, Scenic and Recreational Rivers, their classification and locations. To obtain current river listings, locations and other information on Wild, Scenic and Recreational Rivers, contact the NRCS State Environmental Coordinator.

STATUS DETERMINATION – WILD & SCENIC RIVERS

STEP 1. Is there a Wild, Scenic or Recreational River segment present in or near the planning area that will be affected by the proposed action or activity?

NO ()

YES ()

UNKNOWN ()

- a. If your answer is “No”, go to step 8.
- b. If your answer is “Yes”, go to step 2.
- c. If your answer is “Unknown” meaning that you do not know if there is an existing Wild, Scenic or Recreational River in or near the planning area or that you do not know what a Wild, Scenic or Recreational River is, read the HELP SHEET introduction above and repeat step 1. If you still are uncertain about the status of a river in your planning area, consult your Area Office or the State Office Biologist or Environmental Coordinator on the matter.

STEP 2. What effect will the land user’s proposed action or activity have on a Wild, Scenic or Recreational River?

NONE ()

POSITIVE ()

NEGATIVE ()

- a. If your answer is “None” (no effects either positive or negative), go to step 8.
- b. If there are “Positive” effects, and the effects are consistent with the maintaining, protecting and preserving of a Wild, Scenic or Recreational River characteristics, document (describe) the positive effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94) and proceed with planning. If there are “Positive” effects for purposes other than environmental and those effects appear to be not consistent with the goals and objectives of maintaining, protecting and preserving Wild, Scenic or Recreational River areas, consider your answer as “negative”, the same as answer “c” below.
- c. If there are “Negative” effects, document (describe) the effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94), and go to step 3.

STEP 3. Will the proposed action or activity have an adverse effect on the natural, cultural and recreational values of a Wild, Scenic or Recreational River segment?

YES ()

NO ()

- a. If your answer is “No”, got to step 4.

Assessment according to NRCS regulations in the General Manual (190 Part 410). If additional clarification is needed, consult the NRCS State Office Environmental Coordinator.

- b. If your answer is “Yes”, go to step 8.

STEP 8. No additional documentation is needed concerning Wild, Scenic and Recreational Rivers. Proceed with planning.

WETLAND

Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions. Generally, wetlands include swamps, marshes, bogs or similar areas.

For a complete analysis of wetlands, their use, definition and jurisdiction, consult the Natural Resources Conservation Service’s (NRCS) approved Food Security Act (FSA) Manual, and the Corps of Engineers’ Wetlands Delineation Manual (Technical Report Y-87-1, Corps of Engineers, Washington, DC) also known as the COE ’87 Manual.

STATUS DETERMINATION – WETLAND

STEP 1. Is there a wetland present in or near the proposed action or activity that will be affected by the proposed action or activity?

NO ()

YES ()

UNKNOWN ()

- a. If your answer is “No”, no additional documentation is needed concerning wetland areas. Proceed with planning.
- b. If your answer is “Yes”, go to step 2.
- c. If your answer is “Unknown” meaning that you do not know if there is an existing wetland area present or nearby or that you do not know what a wetland is refer to the FSA Manual or the COE ’87 Manual, read the HELP SHEET introduction above and repeat step 1. If you are still uncertain about the status of a wetland in your planning area, consult your Area Office or State Office Biologist on the matter.

STEP 2. What is the effect of the proposed action or activity on the wetland area?

NONE ()

POSITIVE ()

NEGATIVE ()

- a. If your answer is “None” (no effects either positive or negative), no additional documentation is needed concerning the wetland area. Proceed with planning.
- b. If there are “Positive” effects, and the effects are consistent with the goals and aims of maintaining, protecting and preserving wetland area characteristics, document (describe) the positive effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94) and proceed with planning. If there are “Positive” effects for purposes other than environmental and those effects appear to be not consistent with the goals and objectives of maintaining, protecting and preserving wetland areas, consider your answer as “Negative”, the same as answer “c” below.
- c. If there are “Negative” effects, document (describe) the effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94). Go to step 3.

STEP 3. To continue assistance to the land user, you must prepare conservation practice “alternatives” that will not violate the wetland provisions of the Food Security Act (FSA) and which follow NRCS General Manual rule on this subject (GM 190-410.26). The proposed “alternative(s)” must avoid effects to the wetland. The “alternative” conservation practices must be presented to the land user. Did the land user accept the alternative conservation measures and incorporate them into his/her conservation plan?

YES ()

NO ()

- a. If your answer is “Yes”, proceed with the “alternative” conservation planning.
- b. If your answer is “No”, go to Step 4.

STEP 4. Under NRCS regulations when the land user rejects the “alternative” planning practice, you must offer to set up a meeting between the land user and the US Fish & Wildlife Service in an attempt to reach a resolution about the wetland. Did the land user accept your invitation to set up a meeting with the Fish & Wildlife Service?

YES ()

NO ()

- a. If your answer is “Yes”, and if the land user and the Fish & Wildlife Service reached agreement on how the wetland area can be used, you can proceed with planning that is consistent with the aims and goals of that agreement.
- b. If your answer is “No” and the land user has refused to accept an invitation to meet with the Fish & Wildlife Service, you must inform the land user that NRCS can no longer give technical assistance where this wetland area is involved.

RIPARIAN AREA

Riparian areas are ecosystems that occur along watercourses or water bodies. They are distinctively different from the surrounding lands because of unique soil and vegetative characteristics that are strongly influenced by free or unbound water in the soil. Riparian ecosystems occupy the transitional area between the terrestrial and aquatic ecosystems. Typical examples would include floodplains, streambanks, and lakeshores.

Although riparian areas constitute only a fraction of the total land area, they are generally more productive in terms of plant and animal species, diversity and biomass. Riparian areas are vital components of the ecosystems in which they occur and are extremely important for flood control and hydrologic function (water quantity, quality, and timing). It is important to recognize that not all riparian areas have the same potential or react to management in the same way, therefore, they should be managed according to their unique characteristics.

An understanding of the total watershed function is necessary to understand riparian areas and the process occurring within them. The attributes of a watershed system influence, and in some cases directly relate to, the kind of riparian factors present. Soils, geology and landscape features directly influence riparian area functions and values.

Riparian areas are not a land use, but may exist within all land covers and uses, such as cropland, hayland, pastureland, rangeland, and forestland.

Conservation planning in riparian areas require special considerations. A resource problem within the riparian zone may be the manifestation of upland management decisions. Planners working with riparian areas should consider soils, the present plant community, the site potential, geomorphology of both the stream and the watershed, the stage of stream evolution, fish and wildlife needs, the management of the upland areas of the watershed and the producers objectives.

Riparian areas are not specifically regulated by federal law. However, portions of riparian areas, such as wetlands, may be subject to federal regulation under provisions of The Food Security Act, The Clean Water Act, The National Environmental Policy Act and state and local legislation.

NRCS planning policy (190 GM, part 411.03) for riparian areas states that plans involving riparian area management must maintain or improve water quality and quantity benefits. If the landuser's objectives are in conflict with conservation of the riparian area resources, alternatives must be presented that identify ways to resolve conflicts.

If you have any questions regarding the NRCS planning policy, federal, or state legislation on riparian areas, contact your Area office or State Office Environmental Coordinator.

SPECIAL AQUATIC SITES

Special Aquatic Sites are those sites that are associated with the water environment. They warrant special attention as specific sites listed under the Clean Water Act, Section 404 (b)(1) dredge and fill guidelines.

Special Aquatic Sites are large or small areas possessing special ecological characteristics of productivity, habitat, wildlife protection or other important and easily disrupted ecological values. These sites are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region.

Special Aquatic Sites include fish and wildlife sanctuaries and refuges, wetlands, mud flats, vegetated shallows, coral reefs, and riffles and pool complexes. Except for wetlands, which are described in the Help Sheets on "Wetlands", each item is described in the following paragraphs in accordance with guidance for Federal agencies published in the Federal Register (Dec. 24, 1980, Vol. 45, No. 249, p. 85346, -48, -52, -53).

Fish and Wildlife Sanctuaries and Refuges are areas that are designated under State and Federal laws or local ordinances to be principally managed for the preservation and use of fish and wildlife species. Sanctuary and refuge area functions that warrant protection include breeding, spawning, migratory movements or other critical life requirements of the resident or transient fish and wildlife resources.

Mud Flats are broad flat areas along the sea coasts, rivers or lakes, containing organic matter and particles smaller in size than sand. Flats are unvegetated or vegetated only by algal mats. Mud-flat functions and values that warrant protection include water circulation patterns, periodic inundation patterns, considerations relating to optimal growth of aquatic species or chemical/biological processes concerning exchange rates, photosynthesis, respiration, decomposition, etc.

Vegetated Shallows are permanently inundated areas that under normal conditions support communities of rooted aquatic vegetation. Vegetated shallow functions and values that warrant protection include nesting, spawning, nursery cover and forage areas for fish and wildlife.

Coral Reefs consist of the skeletal remains of invertebrate organisms that lived along marine shorelines. As the organisms grew, lived and died, their calcium or silicon structures allowed other coral organisms to grow on top of the old skeletons. In this way coral reefs expanded within very restricted limits of light, salinity, aeration, nutrients, etc. Functions and values that warrant protection are all the above aspects, since very slight changes in any of these conditions can cause drastic changes, if not the demise of the coral reef. Riffle and Pool Complexes exist in steep gradient streams. Riffles are places where water flows rapidly over the shallow, rocky streambed. This creates a rough and turbulent flow that oxygenates the water and quickly distributes nutrients through the

system. Pools are defined by a deep hole in the streambed, slow stream velocity, and a smooth water surface. Riffles and pools are significantly important habitat for fish and wildlife species along the stream. Functions and values that warrant protection include maintaining the hydrologic regime and the riffle-to-pool ratio that is characteristic of that stream, minimizing sediment deposits, maintaining in-stream aeration, and stream characteristics that allow the stream to “treat” organic matter that enters the stream.

STATUS DETERMINATION – SPECIAL AQUATIC SITES

STEP 1. Is the proposed action or activity scheduled to occur in an area where a Special Aquatic Site is known or thought to exist?

NO ()

YES ()

UNKNOWN ()

- a. If your answer is “No”, no additional documentation is needed concerning Special Aquatic Sites. Proceed with planning.
- b. If your answer is “Yes”, go to step 2.
- c. If your answer is “Unknown”, meaning that you do not know if there is a Special Aquatic Site present or that you do not know what a Special Aquatic Site is, read the HELP SHEET introduction above and repeat step 1. If you are still uncertain about the status of a Special Aquatic Site in your planning area, consult your Area or State Office Biologist or Environmental Coordinator on the matter.

STEP 2. Irrespective of whether or not a Section 404 dredged or fill permit may be needed, does the proposed action of activity involve “dredged” or “fill” material in or near a Special Aquatic Site? “Dredged material” is any material, which is excavated or removed from a watercourse or water body (waters of the US). “Fill material” is any material that is placed into a watercourse or water body (waters of the US).

YES ()

NO ()

- a. If your answer is “Yes”, go to step 3.
- b. If your answer is “No”, proceed with planning.

- b. If your answer is “No” that the sponsor is not willing or able to perform the activity at an alternative location, the sponsor must justify to EPA and the US Army Corps of Engineers why there is no acceptable alternative site that will accommodate the activity. Until there is a resolution of the situation NRCS personnel must withdraw from providing technical assistance at or near the Special Aquatic Site.

FLOODPLAIN MANAGEMENT

Floodplains are defined as lowlands or relatively flat areas adjoining inland or coastal waters, including at a minimum areas subject to a one percent or greater chance of flooding in any given year.

The “base” floodplain is set equal to the “100-year” floodplain, the so-called “one percent chance floodplain”. The “critical action” floodplain is defined as the 500-year floodplain (the 0.2 percent chance floodplain) where there is the presence of a facility, such as a school, hospital, nursing home, utility or a facility producing volatile, toxic or water-reactive materials. Floodplains are shown on maps produced by the Federal Emergency Management Agency (FEMA) and on the Natural Resources Conservation Service (NRCS) Watershed Plans and Floodplain Management Studies.

NRCS policy on floodplains is found in the General Manual (GM 190 Part 410.25) and reflects Executive order 11988, which was signed by President Jimmy Carter on May 24, 1977. The E.O. requires that decisions by Federal agencies must recognize that floodplains have unique and significant public values. Federal agencies are instructed to consider the natural and beneficial values of floodplains and the public benefits to be derived from floodplain restoration or preservation.

The objectives of E.O. 11988 are to avoid, to the extent possible, the long- and short-term adverse impacts associated with occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development where there is a practical alternative.

Through proper planning, floodplains can be managed to reduce the threat to human life, health and property in ways that are environmentally sensitive. Most floodplains are areas with valuable assets that sustain and enhance human existence. Some of these assets are agricultural and forest food and fiber, fish and wildlife, temporary floodwater storage, parks and recreation, and environmental values.

The Natural Resources Conservation Service provides leadership and takes actions, where practicable, to conserve, preserve and restore existing natural and beneficial values in base (100 year) floodplains as part of the technical and financial assistance program that it administers.

NRCS technical and financial assistance concerning floodplains is provided to landusers primarily on nonfederal lands not only through local soil and water conservation districts, but also by state and local agencies. Through all of these programs, NRCS encourages sound floodplain management decisions for all the users of floodplains.

STATUS DETERMINATION – FLOODPLAIN MANAGEMENT

STEP 1. Is the proposed action or activity scheduled to occur in an area where a floodplain is known or thought to exist?

NO ()

YES ()

UNKNOWN ()

- a. If your answer is “No”, no additional documentation is needed concerning floodplain areas. Proceed with planning.
- b. If your answer is “Yes”, go to step 2.
- c. If your answer is “Unknown”, meaning that you do not know if there is an existing floodplain present or that you do not know what a floodplain is, read the HELP SHEET introduction above and repeat step 1. If you are still uncertain about the status of a floodplain in your planning area, consult your Area or State Office Hydraulic Engineer on the matter.

STEP 2. Does the floodplain have an agricultural area that has been used to produce food, fiber, feed, forage or oilseed for at least 3 of the last 5 years before the request for assistance?

NO ()

YES ()

- a. If your answer is “No”, the landuser is not eligible for technical and/or financial assistance from the NRCS.
- b. If your answer is “Yes”, got to step 3.

STEP 3. Is the floodplain’s agricultural production in accordance with official state or designated area water quality plans?

NO ()

YES ()

- a. If your answer is “No”, the landuser is not eligible for technical and/or financial assistance from the NRCS.
- b. If your answer is “Yes”, the landuser is eligible to receive technical and/or financial assistance under Executive Order #11988 on floodplains. Go to step 4.

STEP 4. What is the effect of the proposed action or activity on the “base” (100-year) floodplain?

NONE ()

POSITIVE ()

NEGATIVE ()

- a. If your answer is “None” (no effects either positive or negative), no additional documentation is needed concerning the “base” floodplain. Go to step 5.
- b. If there are “Positive” effects, and the effects are consistent with the goals and aims of maintaining, protecting and preserving the “base” floodplain characteristics, document (describe) the positive effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94) and go to step 5. If there are “Positive” effects for purposes other than environmental and those effects appear to be not consistent with the goals and objectives of maintaining, protecting and preserving “base” floodplains, consider your answer as “negative” the same as answer “c” below.
- c. If there are “Negative” effects, document (describe) the effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94). Go to step 6.

STEP 5. What is the effect of the proposed action or activity on the “critical action” (500-year) floodplain?

NONE ()

POSITIVE ()

NEGATIVE ()

- a. If your answer is “None” (no effects either positive or negative), no additional documentation is needed concerning the “critical action” floodplain. Proceed with planning.
- b. If there are “Positive” effects, and the effects are consistent with the goals and aims of maintaining, protecting and preserving the “critical action” floodplain characteristics, document (describe) the positive effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94) and proceed with planning. If there are “Positive” effects for purposes other than environmental and those effects appear to be not consistent with the goals and objectives of maintaining, protecting and preserving “critical action” floodplains, consider your answer as “negative”, the same as answer “c” below.
- c. If there are “Negative” effects, document (describe) the effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94). Go to Step 6.

STEP 6. You must inform the landuser that where there are adverse effects to a “base” or “critical action” floodplain, NRCS can provide technical and/or financial assistance only where the landuser is willing to implement alternatives that are located outside of the “base” or “critical action” floodplains. Is the landuser in compliance with NRCS’s policy?

YES ()

NO ()

- a. If your answer is “Yes”, proceed with planning.
- b. If your answer is “No”, you must terminate technical and/or financial assistance for the floodplain area.

STREAM CHANNEL MODIFICATION

The NRCS and U.S. Fish and Wildlife Service (FWS) developed stream channel guidelines to aid their personnel in identifying when and where channel modification may be used as a technique for implementing water and related land resource projects. They will be used in the planning of all NRCS projects or measures which qualify for either technical, financial, and/or credit assistance under the authorities for flood prevention projects, small watershed projects, and RC&D projects.

Stream channel modification is an alternative that may be utilized in solving specific water management problems. It may be needed to restore a water course impaired or damaged naturally or through improper management of associated uplands. A thorough knowledge of stream dynamics is essential in order to be able to identify existing and potential problems and evaluate the viability of all alternatives.

High flows in rivers and streams and periodic overflows are dynamic natural processes that periodically revitalize riparian habitats by altering the characteristics of floodplains by redistributing substrates in the process of moving water and sediments through a watershed. Erosion, flooding, and sediment deposition are products of this process, and can cause damage to the watersheds of rivers and streams of the United States. These occurrences may result in loss of life, property damage, and degradation of water resources and the quality of the environment.

Channel modification can cause significant damage to fish and wildlife resources. In addition to direct environmental impacts, the practice can directly or indirectly involve the drainage of wetlands, clearing of bottomland forests, and increase flooding and siltation in downstream areas.

It is the policy of NRCS and FWS that care and effort will be made to maintain and restore streams, wetlands, and riparian vegetation as functioning parts of a viable ecosystem upon which fish and wildlife resources depend. An interdisciplinary planning process will be used which will permit a balancing of the need to maintain a viable, naturally functioning ecosystem, projected flood and fiber, economic, and other social needs. The application of these guidelines, resource inventory, interpretation, and planning assistance provided by NRCS and FWS will ensure identification and consideration of alternatives to channel modification.

Channel modification will not be considered if a practical alternative exists. A practical alternative is defined as one that: 1) is consistent with the Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (WRCEEPG), 2) makes a significant contribution to project objectives, and 3) results in less damage to fish and wildlife habitat.

The following categories of alternatives may be considered singly or in combination:

- 1) soil and water conservation practices.
- 2) nonstructural measures may include but are not limited to, land use regulation, land acquisition, the maintenance of aquatic areas, flood plain zoning, floodproofing existing buildings, flood forecasting, flood warning, flood hazard information, flood insurance, tax adjustments, emergency assistance, and relocation of properties and people.
- 3) structural alternatives may include but are not limited to, dams, floodways, dikes, levees, flood walls, pumping plants, diversions, wetland development, maintenance, and restoration.

Formulation of alternatives will include inputs from all interested agencies, organizations, or individuals interacting with sponsoring local organizations. Compliance with NEPA and WRCEEPG will be met with assistance from the FWS to develop, evaluate, and recommend alternatives to channel modification when it is expected to cause measurable losses of fish and wildlife resources.

Channel modification, if used, will be the minimum required, either alone or in combination with other measures. It will be accomplished using the least damaging construction techniques and equipment in order to retain as much of the existing characteristics of the channel and riparian habitat. Construction practices include seasonal construction, minimum clearing, reshaping spoil, limiting bank modification to one or alternating banks (to maintain a riparian corridor), and prompt revegetation of disturbed areas.

Channel modification may be considered as an alternative, providing it does not jeopardize the continued existence of State or Federally listed endangered and threatened species, result in restricted access to use of stream segments developed specifically for recreation or fish and wildlife use by the public, and its intended purpose is not to alter wetlands.

Channel modification will not be considered as an alternative, unless it can be accomplished with little or no direct or indirect adverse effect on: 1) streams proposed or designated as Wild and Scenic Rivers, or officially designated by Federal or State legislative actions for their important natural, esthetic, or recreational values. 2) Streams located in, or flowing through, or contiguous to, established wilderness areas, parks, refuges, or other areas that have been set aside pursuant to Federal or State

legislative actions for fish and wildlife esthetic or recreational values. 3) Important fish and wildlife habitat values in the project area, State or Nation after providing for all appropriate mitigation, compensation, or preservation measures.

Detailed coordination procedures shown in GM 410.28 will be used in the planning of water resource projects.

STATUS DETERMINATION – STREAM CHANNEL MODIFICATION

STEP 1. Is the proposed action or activity scheduled to occur which will involve channel modification of a stream, wetland, or riparian area?

NO ()

YES ()

- a. If your answer is “No”, no additional documentation is needed concerning channel modification. Proceed with planning.
- b. If your answer is “Yes”, go to step 2.

STEP 2. What effect will the proposed channel modification action or activity have on fish and wildlife resources? It is recommended that the FWS be requested to assist with the effects determination.

NONE ()

POSITIVE ()

NEGATIVE ()

- a. If your answer is “None” (no effects either positive or negative), no additional documentation is necessary. Proceed with planning.
- b. If there are “Positive” effects and the effects are consistent with the maintaining, protecting and preserving fish and wildlife resource characteristics, document (describe) the positive effects on the NRCS Environmental Effects Worksheet (SCS-CPA-52/1-94) and proceed with planning. If there are “Positive” effects for purposes other than environmental and those effects appear to be not consistent with the goals and objectives of maintaining, protecting and preserving fish and wildlife resource characteristics, consider your answer as “negative”, the same as answer “c” below.
- c. If there are “Negative” effects, document (describe) the effects on the Environmental Effects Worksheet (SCS-CPA-52/1-94), refer to the HELP SHEET regarding the NRCS policy on natural area consultations with other groups. Detailed coordination procedures are shown in GM 410.28. You may proceed with planning if the land user’s proposed activities are consistent with NRCS policy. If those proposed activities are not consistent with NRCS policy and the land user still desires technical assistance for the proposed action or alternative, consult with the Area Office or the State Office about performing an

Environmental Assessment according to NRCS regulations in the General Manual (GM 190 Part 410). If additional clarification is needed, consult the NRCS State Engineer.

THE CLEAN WATER ACT SECTION 404

Section 404 of the Clean Water Act (CWA) establishes a program to regulate the discharge of dredged and fill material into waters of the United States (U.S.), including wetlands. Activities in waters that are typically regulated under Section 404 include fills for development, water resources projects (e.g., dams and levees), infrastructure development (e.g., highways and airports), and conversion of wetlands to uplands for farming and forestry.

The 404 program is administered by the U.S. Army Corps of Engineers (Corps) with the oversight of the Environmental Protection Agency (EPA).

Discharge of dredged or fill material into waters of the U.S. is prohibited unless the action is exempted or is covered by a permit issued by the Corps.

Agricultural Activities in Waters of the U.S. Exempt from Section 404 of the CWA

Exemptions include normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices. In order to be exempted, the activities must be part of an established farming, silviculture, or ranching operation. An operation ceases to be established when the area has been converted to another use or has lain idle so long that modifications to the hydrologic regime are necessary to resume operations. Any discharge of dredged or fill material into waters of the U.S. incidental to any of the following exemptions whose purpose is to convert any area of the waters of the U.S. into a use to which it was not previously subject and any dredged or fill material that contains toxic pollutants, must have a permit.

Plowing

All forms of primary tillage, including moldboard, chisel, or wide-blade plowing, discing, harrowing and similar means utilized on farm, forest or ranch land for the breaking up, cutting, turning over, or stirring of soil to prepare it for the planting of crops. Plowing does not include the redistribution of surface materials to fill in wet areas.

Seeding

Sowing of seed and placement of seedlings to produce farm, ranch, or forest crops and includes the placement of soil beds for seeds or seedlings.

Cultivating

Physical methods of soil treatment to aid and improve growth and quality of agricultural crops.

Minor drainage

Discharge of dredged or fill material into waters of the U.S. that is 1) incidental to connecting upland drainage facilities to waters of the US to effect the removal of excess soil moisture from upland croplands. 2) for the purpose of installing ditching or other water control facilities incidental to planting, cultivating, protecting, or harvesting wetland crops which are established for wetland crop production, 3) for the purpose of manipulating the water levels of, or regulating the flow or distribution of water within, existing impoundments which have been constructed in accordance with the requirements of the CWA and are established for wetland crop production, 4) incidental to the emergency removal of sandbars, gravelbars, or other similar blockages which are formed during flood flows or other events, where existing drainage ways are constricted and will result in damage or impair farming of existing crops. Such removal does not include changes to the original limits of the affected drainageway as it existed prior to the blockage. Removal must be completed within 12 months of discovery of blockage.

Harvesting

Physical measures employed for the removal of crops, but does not include the construction of roads.

Maintenance

Emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, bridge abutments or approaches, and transportation structures. Reconstruction must occur within a reasonable amount of time and does not include changes of the original fill design.

Construction of Maintenance of Ponds or Ditches

Constructin or maintenance of farm or stock ponds or irrigation ditches, or the maintenance (but not construction) of drainage ditches. Includes discharges associated with siphons, pumps, headgates, wingwalls, weirs, diversion structures, and other such facilities which are appurtenant and functionally related to irrigation ditches.

Construction of Temporary Sediment Basins

On a construction site which does not include placement of fill materials into waters of the U.S.

Construction or Maintenance of Roads

Farm, forest, or temporary roads for moving mining equipment, where such roads are constructed and maintained in accordance with best management practices (BMPs) to assure waters of the U.S. are not impaired and the reach of the waters of the U.S. are not reduced. Complete listing of requirements is available from the Corps.

Prior notification to the Corps for exempted activities is not required.

Activities in Waters of the U.S. Requiring Permits

For projects involving potentially significant impacts, authorization must be sought through the issuance of an “individual permit”. However, for the great majority of discharges, i.e., those activities that will have only minimal adverse environmental effects, authorization is often granted up-front through the use of a “general permit.” General permits may be issued by the Corps on a nationwide or regional basis. Following is a partial listing of nationwide permits which may pertain to NRCS activities:

3) Maintenance

The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure or fill.

5) Scientific Measurement Devices

Installation of staff gages, water recording devices, water quality testing and improvement devices and similar structures. Small weirs and flumes constructed primarily to record water quantity and velocity are also authorized provided the discharge is limited to 25 cubic yards. For discharges of 10 to 25 cubic yards, notification is required.

13) Bank Stabilization

Bank Stabilization activities necessary for erosion prevention.

14) Road Crossings

Fills for roads crossing waters of the U.S. (including wetlands and other special aquatic sites). Fill placed in the waters of the U.S. is limited to a filled area of no more than 1/3 acre.

18) Minor discharges

Minor discharges of dredged or fill material into all waters of the U.S. provided: discharge does not exceed 25 cubic yards, discharge will not cause the loss of no more than 1/10 acre of a special aquatic site, including wetlands. If the discharge exceeds 10 cubic yards or the discharge is in a special aquatic site, including wetlands, notification is required.

19) 25 Cubic Yard Dredging

Dredging of no more than 25 cubic yards below the plane of the ordinary high water mark or the mean high watermark from navigable waters of the U.S. as part of a single and complete project.

24) State Administered Section 404 Program

Any activity permitted by a state administering its own section 404 permit program.

26) Headwaters and Isolated Waters Discharges

Discharges of dredged or fill material into headwaters and isolated waters provided: the discharge does not cause the loss of more than 10 acres of waters of the U.S. If the discharge causes the loss of waters of the U.S. greater than 1 acre, notification is required.

27) Wetland Restoration Activities

Activities in waters of the U.S. associated with the restoration of altered and degraded non-tidal wetlands and the creation of wetlands on private lands. These activities must be in accordance with the terms and conditions of a binding wetland restoration or creation agreement between the landowner and the USFWS or NRCS. Activities associated with the restoration of altered and degraded non-tidal wetlands, riparian areas and creation of wetlands and riparian areas on USFS, BLM, and Federal surplus lands; and RECD and RTC inventory properties may also apply. This permit does not authorize the conversion of natural wetlands to another aquatic use.

33) Temporary Construction Access and Dewatering

Temporary structures and discharges, including, cofferdams, necessary for construction activities or access fills or dewatering of construction sites.

37) Emergency Watershed Protection

Work done or funded by the NRCS qualifying as an “exigency” situation under its Emergency Watershed Protection Program.

40) Farm Buildings

Discharges of dredged or fill material into jurisdictional wetlands (but not including prairie potholes, playa lakes, or vernal pools) that were in agricultural production prior to December 23, 1985 (i.e., farmed wetlands) for foundations and building pads for buildings or agricultural related structures necessary for farming activities. The discharge will be limited to the minimum necessary but will in no case exceed 1 acre.

NRCS personnel should contact the appropriate Regional Corps Office for a complete listing of nationwide and regional general permit requirements as well as the state agency which administers state water resource concerns.

Definitions

Waters of the United States

All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of tide; all interstate waters including interstate wetlands; all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce; all impoundments of waters; tributaries to all previously described waters; and wetlands adjacent to all previously described waters.

Headwaters

Non-tidal rivers, streams, and their lakes and impoundments, including adjacent wetlands, that are part of a surface tributary system to an interstate or navigable water of the U.S. upstream of the point on the river or stream at which the average annual flow is less than 5 cubic feet per second.

Isolated Waters

Non-tidal waters of the U.S. that are not part of a surface tributary system to interstate or navigable waters of the U.S. and are not adjacent to such tributary waterbodies.

Navigable Waters

Waters that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Ordinary High Water Mark

That line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impresses on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

STATUS DETERMINATION – CWA SECTION 404

STEP 1. Is the proposed action or activity scheduled to occur which will involve the discharge of dredged or fill material into a waters of the United States?

NO ()

YES ()

UNKNOWN ()

- a. If your answer is “No”, no additional documentation is needed concerning 404. Proceed with planning.
- b. If your answer is “Yes”, go to step 2.
- c. If your answer is “Unknown”, meaning that you do not know if the action will involve the discharge of dredged or fill material into the waters of the United States, read the HELP SHEET introduction above and repeat step 1. If you are still uncertain about the status of discharges in your planning sector, consult your Area Office or State Office Environmental Coordinator on the matter.

STEP 2. Is the proposed action or activity exempted from 404?

YES ()

NO ()

UNKNOWN ()

- a. If your answer is “Yes” no additional documentation is needed concerning 404. Proceed with planning.
- b. If your answer is “no”, go to step 3.
- c. If your answer is “Unknown”, meaning that you do not know if an exemption applies to the discharge of dredged or fill material into the waters of the United States, read the HELP SHEET introduction above and repeat step 2. If you are still uncertain about the status of discharges in your planning sector, consult your Area Office, State Office Environmental Coordinator, or the Corps on the matter.

STEP 3. Refer the producer to the Corps to determine if a general nationwide, regional; or individual permit applies to the proposed activity. When all necessary permits have been obtained, you may proceed with planning.

CULTURAL RESOURCES

Cultural resources are the traces of all the past activities and accomplishments of people. They include tangible traces such as historic districts, sites, building, structures, traces of less tangible objects such as dance forms, aspects of folklife, cultural or religious practices; historical documents; and some landscapes, vistas, and cemeteries.

Collection of cultural resource material is prohibited without authorization. Laws established to protect cultural resources include: the Antiquities Act of 1906, the Historic Sites Act of 1935, the National Historic Preservation Act of 1996, and the Native American Graves Protection and Repatriation Act of 1990. The National Register of Historic Places provides certain requirements for the protection of historic sites and funding for their maintenance.

The Advisory Council on Historic Preservation (ACHP) advises the President and Congress on historical preservation matters based on established laws. The State Historic Preservation Officer (SHPO) is responsible for a statewide historic preservation plan. Because NRCS provides technical assistance on practices that may effect cultural resources, on August 26, 1994, NRCS entered a National Agreement with the Advisory Council and the SHPO to comply with the laws for preservation of such resources.

POLICY

NRCS recognizes that cultural resources are an integral part of our national heritage and recognizes its responsibilities for historic preservation, particularly as they are listed in the National Historic Preservation Act. NRCS will ensure that cultural resources are considered in all NRCS actions and programs.

- a. NRCS will identify and protect cultural resources early in the planning and environmental evaluation process for all assistance activities classified as an undertaking (i.e., any action that results in physical ground disturbance).
- b. NRCS will protect cultural resources in their original location to the fullest extent practicable by avoiding adverse impacts.

STATUS DETERMINATION – CULTURAL RESOURCES

STEP 1. Is the proposed action or activity an undertaking?

Undertakings have adverse effects on historic properties if they alter the soil at the location of the historic site. A listing of conservation practices considered to be undertakings can be found in General Manual 420. Subpart B, Appendices 401.40.

NO ()

YES ()

A. If your answer is “NO”, no additional documentation is needed concerning cultural resources. Proceed with planning.

B. If your answer is “YES”, go to step 2.

STEP 2. Determine the Area of Potential Effect (APE).

You must include all areas to be altered: access and haul roads, borrow areas, areas where spoil will be placed, as well as the area of the actual conservation practice. All of these areas are the APE. Go to step 3.

STEP 3. Are documented cultural resources located in or near the APE?

Contact the CRS to determine if the APE is near a historic property listed on the National Register of Historic Places. Ask the landowner if a locally known site of importance is in or near the APE. Send the location of the APE to the CRS including: county, quadrangle, township, range, section and a copy of the quad map with the project area clearly marked.

NO ()

YES ()

A. If your answer is “NO”, go to step 4.

B. If your answer is “YES”.

1. Provide the producer with alternatives which avoid impact to the site and conduct a field inspection to insure avoidance. Go to step 5.

2. If the producer chooses to not accept an alternative which avoids impact and proceeds with a practice that will result in an adverse impact, no further NRCS assistance can be provided for that portion of the producer’s property.

STEP 4. Conduct a field inspection to determine if cultural resources are in or near the APE.

Early in project planning, walk over the APE looking for artifactual material or remains of historic structures. Determine the location and extent of any cultural remains.

- A. If the field inspection reveals no findings of cultural resources, complete the Cultural Resources Site Review and Documentation portion of Form CO-ARCH-1 (5/96). Proceed with planning.
- B. If the field inspection reveals the presence of cultural resources, complete the both of the New Site Report and Cultural Site Review and Documentation portions of Form CO-ARCH-1 (5/96). Inform the CRS of the discovery of a new site. If human remains are found, inform the Coroner and the Sheriff. Go to step 5.

STEP 5. Will the proposed action or activity avoid impact to the cultural resource?

NO ()

YES ()

- A. If your answer is “NO”; the producer, with involvement of the CRS, should be presented alternatives which maintain a distance of at least 25 feet away from the perimeter of the site to avoid impact. If the producer chooses not to follow any of the alternatives provided, no further technical assistance can be provided for that portion of the producers property.
- B. If your answer is “YES”, no additional documentation is needed concerning cultural resources. Proceed with planning.