

Instructions for Completing Form ND-CPA-52 Environmental Effects for Conservation Plans

PURPOSE: Form ND-CPA-52 is used to inventory resource concerns during the conservation planning process on individual farm/ranch units and group plans. The form is also used to summarize the conservation practices and systems that are applied, planned or recommended to address the identified resource concerns. It provides summary documentation for an environmental evaluation (EE) of the planned actions. The EE is “a concurrent part of the planning process in which the potential long-term and short-term impacts of an action on people, their physical surroundings, and nature are evaluated and alternative actions explored” (NPPH-Amendment 3, January 2000). The EE applies to all assistance provided by NRCS (GM190, Part 410.5).

COMPLETING THE FORM

Attach assistance notes and/or additional pertinent information used to complete ND-CPA-52.

- A. In this section, record the client's name.
- B. Enter the conservation plan identification number, if applicable.
- C. Enter the conservation treatment unit to which this evaluation applies. This may be done by legal description, field, tract, land use (i.e., cropland, rangeland, woodland etc.), resource area (i.e., riparian corridor or wetland area), or any other suitable geographic division (i.e. watershed).
- D. Briefly summarize the client's objective(s) and the proposed action(s).
- E. During the planning process, record the fields where the resource concerns are identified by either the decision-maker or planner.
- F. In the first column of this section, list the planned conservation practices that will affect the resource concern. List the expected short-term and long-term effects in the next two columns. Short-term refers to the installation period and long-term refers to the lifespan of the practice or system. Effect codes are: [+] improve, [-] degrade, [0] no effect. **Caution: After entering the plus sign or minus sign, hit the Enter key to move to the cell below or Tab key to move to the cell to the right; hitting an arrow key after entering the plus sign or minus sign creates a nonsense formula.** In the fourth column of Section F, indicate in the blank boxes whether or not the planned system will meet an RMS (Resource Management System). “No M” means the resource concern is not measurable and RMS criteria has not been established.

Utilize the ND Field Office Technical Guide (FOTG), Section III, Resource Quality Criteria, and Section V-CPPE for help in identifying resource concerns, determining planned practice effects and determining if quality criteria is met. In the Primary Resource Concerns table (see tab so-named in this workbook), the shaded boxes indicate the land uses where a determination must be made (yes or no) if the planned condition will meet quality criteria for a RMS. Non-shaded resource concerns also need to be evaluated for treatment needed to maintain or improve resources, even though RMS criteria may not be measurable. Measurable effects should be quantified and documented in the Field Assistance Notes or with appropriate tools.

If the decision-maker is not able and willing to apply the practices or practice criteria needed to achieve an RMS, an RMS alternative shall be offered. If the decision-maker does not agree to meet RMS criteria, list the practice(s) recommended that would meet RMS criteria for the resource concern in the last column of Section E. In some cases, additional practices are not needed but the planned practices need to be applied according to additional or different criteria to meet an RMS. Explain such situations in the last column of Section E.

- G., H. See the Human Considerations (economic and social) and Special Environmental Concerns Effects Determination Help Sheets for information on specific concerns. Attach applicable Effects Determination Help Sheets, notes, and associated documentation to the ND-CPA-52e.
- I. List any necessary easements, permissions, or permits (i.e., Clean Water Act, Section 404; Endangered Species Act, Section 10; State or county zoning permits).
- J. Briefly describe mitigation actions or Best Management Practices (BMP) that need to be applied to offset adverse impacts. Attach appropriate documentation to the ND-CPA-52e.
- K. Document contact and communications with USFWS, COE, EPA, NRCS specialists, State environmental agencies, etc., and others consulted; include public participation activities and note the degree of public interest or controversy.

- L. The individual responsible for completing ND-CPA-52e must sign and date. NRCS will sign and date here when making a determination for another agency (i.e. FSA). Technical Service Providers (TSP) will sign and date here for all of their determinations.
- M. Check the applicable finding. This finding will determine the appropriate NEPA action requirements.
- N. Provide rationale for making the finding identified in section M. Cite any references, analysis, data, or documents which support the finding. To find that an action has been sufficiently analyzed in an existing NEPA document, the document must cover the area in which the action is being implemented.
- O. NRCS Responsible Federal Official (RFO) must sign and date for NRCS actions. The RFO may be the District Conservationist or a certified conservation planner Level II or Level III.
- P. Document field observations in the assistance notes and attach.

**ND-CPA-52
HELP SHEETS
FOR
ECONOMIC AND SOCIAL CONSIDERATIONS
AND
SPECIAL ENVIRONMENTAL (NEPA) CONSIDERATIONS**

[ECONOMIC CONSIDERATIONS](#)

**ND-CPA-52
HELP SHEET**

The policy of NRCS is that economics is an essential consideration in all agency decision making. Economic principles must be applied in the planning, implementation, and evaluation of agency policies and program activities to provide the most cost-effective assistance to customers, cooperators, and partners for the sustained use of natural resources.

Economic principles and techniques, including cost effectiveness, economic feasibility, and benefit-cost analysis will be applied to all program formulation, management, and evaluation activities of the agency.

Economic effects of alternative actions should be provided to NRCS customers in order for them to make informed resource conservation decisions. NRCS policy permits cost effectiveness analysis, partial budgeting, profitability analysis, and other appropriate analyses when requested by the client. NRCS policy prohibits field offices from obtaining financial information beyond that volunteered by the client.

For nationwide consistency in the application of economics in all NRCS activities, the National Resource Economics Handbooks/Economics Reference manual and other directives will be used as guidance for the integration of economics into conservation planning, program implementation, and program evaluation at the field, State, Regional and National offices of the agency.

[A reference to cost effectiveness may be found at FDD Cost Effectiveness Analysis.pdf.](#)

Economic principles and techniques shall be used at all levels of the agency in order to satisfy the goal of maximizing benefits per dollar expended as legislated for selected U.S. Department of Agriculture conservation programs.

When complex economic considerations or cost data is required, contact the State economist.

[SOCIAL CONSIDERATIONS](#)

**ND-CPA-52
HELP SHEET**

NRCS provides assistance to protect, maintain, and improve, soil, water, air, plant, and animal plus human resources. Social and cultural considerations are a part of this assistance. Social evaluations are conducted by the NRCS to meet the requirements of law, executive orders, administrative decisions, and directives.

Social evaluation attempts to identify the effects, both positive and negative, of specific practices and programs on quality of life and social well being. Social evaluation provides a basis for minimizing adverse effects and for maximizing beneficial effects during the planning of a project or program.

Even when not required by law, social evaluation is a valuable planning tool because it identifies areas of potential conflict and options for decision making that might not otherwise be apparent. Most importantly, social evaluation demonstrates a commitment by NRCS to consider social needs as well as resource conservation needs.

[For further information refer to the Social Sciences Institute at \[www.ssi.nrcs.usda.gov/ssi\]\(http://www.ssi.nrcs.usda.gov/ssi\). The People, Partnerships, and Communities \(PPC\) series can be found by clicking on Fact Sheets. The PPC series offers guidance documents on working with people and communities. Questions about addressing complex social science issues should be directed to the State economist.](#)

ENVIRONMENTAL JUSTICE

ND-CPA-52

HELP SHEET

On February 11, 1994, President Clinton issued the Environmental Justice Executive Order. It provides direction to all Federal agencies to incorporate environmental justice concerns into our existing programs.

Environmental justice is a mandate to change or make the difference in the lives of those who could be or have been adversely impacted by environmental effects resulting from government actions. An environmental injustice occurs whenever a person carries an environmental burden for the alleged "good" of society – a burden the rest of society does not bear to a comparable degree. Research shows that minority groups and low-income people most often suffer environmental injustices.

Environmental justice means that all populations, including minority and low income, are provided the opportunity to comment before decisions are made on government programs and activities affecting human health or the environment. It means they share in the benefits of these activities and programs without being subjected to disproportionate and adverse effects either by inclusion or exclusion.

According to the National Environmental Policy Act (NEPA) agencies must:

- Analyze the environmental effects of proposed Federal actions, including human health, economic, and social effects on minority and low-income populations.
- Provide opportunities for community input in the NEPA process, including identifying potential effects and mitigation measures in consultation with affected communities and improving the accessibility of meetings, crucial documents, and notices.

USDA's goals in implementing this Executive Order are as follows:

- To incorporate environmental justice considerations into USDA programs and activities and to address environmental justice across mission areas.
- To identify, prevent, and/or mitigate, to the greatest extent practicable, disproportionately high and adverse human health or environmental effects of USDA programs and activities on minority and low-income populations.
- To provide, to the greatest extent practicable, the opportunity for minority and low-income populations to participate in planning, analyzing, and making decisions that affect their health or environment, including the identification of program needs and designs.
- NRCS has traditionally worked with those landowners who require conservation plans and technical assistance to participate in USDA programs. NRCS realizes the importance of equitably serving **all** customers in rural areas and communities.

For environmental justice issues or concerns that you are not able to address, contact the assistant State conservationist for operations.

FARMLAND PROTECTION POLICY ACT
ND-CPA-52
HELP SHEET

Prime farmland, as described under the Farmland Protection Policy Act, 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, and 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.

North Dakota **does not have** unique farmland.

NRCS policy on prime 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 lands that are needed to produce the Nation's food, fiber, feed, forage and oilseed crops. Refer to the General Manual (GM310, Part 403) for further information.

NRCS responsibilities include:

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

When completing the ND-CPA-52, determine if activities will have an effect on prime farmlands. If none, no additional documentation is needed – proceed with planning.

If there are positive effects, and the effects are consistent with maintaining, protecting, and preserving prime farmland characteristics, document the positive effects and proceed with planning. If there are positive effects for purposes other than environmental and those effects appear not to be consistent with the goals and objectives of maintaining, protecting, and preserving prime farmland areas, consider your answer as negative/adverse.

If there are negative effects, document the effects on the ND-CPA-52. If the land user still desires technical assistance for the proposed action or activity, contact the State soil liaison.

THREATENED AND ENDANGERED SPECIES

ND-CPA-52

HELP SHEET

Threatened and Endangered (T&E) 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 U.S. Fish and Wildlife Service (FWS) publishes comprehensive notices containing the names of species, which are considered to be candidates for listing as T&E under the Endangered Species Act of 1973.

T&E species are those U.S. plant and animal species that are reduced in numbers, making extinction a high probability. Principal hazard to T&E species is the destruction of their habitats by human activities associated with industrialization, urbanization, agriculture, lumbering, recreation, and transportation. The disappearance of T&E species would be a biological, cultural, and in some cases, an economic loss to the Nation. The continued existence of T&E species contributes to scientific knowledge and understanding, adds to recreational and commercial pursuits, and provides interest, purpose, and variety to human existence.

By definition:

- Endangered species are any species in danger of extinction throughout all, or a significant portion of their range.
- Threatened species are species likely to become an endangered species within the foreseeable future throughout all, or a significant portion of their range.
- Proposed species are any species of fish, wildlife or plant that are proposed in the Federal Register to be listed as T&E under the Endangered Species Act.
- Candidate species are plant and animal taxa being considered for proposed status and for possible addition to the list of T&E Species. These are taxa for which the FWS has on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposal to list, but issuance of a proposed rule is currently precluded by higher priority listing actions.

The process by which species get listed is first by petition to FWS from any public source, whether individual, group, organization or agency. FWS considers available information on the species and then determines if listing as a proposed species is warranted. If adequate information on the species is lacking, research and further evaluation may be undertaken. If warranted, FWS will propose to list the species. The next step will be making a decision whether to list the species as threatened or endangered. Candidate species are not part of the petition process. They are species that FWS is concerned about. Through research and evaluation, the FWS will determine if they think proposing to list the species is warranted. If so, the next step is determining whether to list them as threatened or endangered.

Proposed species are protected under the Endangered Species Act, as are T&E species. Candidate species are not protected under the Endangered Species Act. However, since Candidate species have become rare enough to warrant concern, we should not pursue activities that may further reduce their numbers or habitat.

The Endangered Species Act provides that, in addition to the Department of the Interior, all other Federal departments and agencies in consultation with and with assistance of the Secretary of the Interior shall utilize the departments' and agencies' authorities to advance the purposes of the act. They are to do so by executing programs for the conservation of listed T&E species.

Section 7 of the act requires that all Federal agencies, in consultation with and with the assistance of the Secretary of the Interior, shall ensure that its agency actions and activities do not jeopardize the continued existence of T&E species. In addition, Federal agencies must make sure their actions and activities do not result in the destruction or adverse modification of T&E species' critical habitat. In addition to FWS Federally listed T&E species, NRCS must ensure its activities do not result in the destruction or adverse modification of proposed and candidate species habitats as well.

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

NRCS will assist in the conservation of T&E 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, and endangered. At this time, the State of North Dakota does not have a list of designated rare, threatened, and endangered species.

Further:

The State Conservationist will determine for NRCS non-project-type activities, if the installation of one or more conservation practices will have a probable effect on any listed species or their habitat. A ND-CPA-52 will be used to indicate whether an action may affect a listed species, or result in the destruction or adverse modification of the habitat of a listed species. NRCS will advise the land user of the requirements of the Endangered Species Act and recommend alternative conservation treatment that avoids any adverse effects.

Should the Environmental Evaluation (EE) determine a probable effect on listed species, further assistance will be required to provide an alternative conservation measure, which will avoid adverse effects. The NRCS, at the request of the landowner, may initiate formal consultation with the FWS.

If the EE indicates that actions will not affect listed species or result in the destruction or adverse modification of suitable habitat, formal consultation generally will not apply and shall not be initiated. No additional documentation is needed – proceed with planning.

In North Dakota, the extent of a particular T&E species critical habitat is determined by the FWS. The FWS can be consulted concerning the critical habitat and habitat needs of species as well as species status in terms of endangered, threatened, proposed, and candidate. Whether a species is rare, or State and/or Federally listed as T&E, makes no difference from an NRCS standpoint. NRCS considers State recognized rare species, along with State and Federally listed (T&E, proposed, candidate) species the same when providing assistance. Refer to Section I of the Field Office Technical Guide for specific information on species and their habitat requirements.

Does the ND-CPA-52 indicate a direct or indirect effect to listed species and/or their habitats?

- If none, no further documentation is needed – proceed with planning.
 - If there is, and the effect is positive and consistent with the goals and aims of maintaining, protecting, and preserving T&E species and/or their habitats, document the positive effect on the ND-CPA-52 and proceed with planning.
 - If there are positive effects for purposes other than environmental and those effects appear not to be consistent with the goals and objectives of maintaining, protecting, and preserving T&E species and/or their habitats, consider your answer as negative or adverse.
 - If there are negative/adverse effects, document the effects on the ND-CPA-52. You must inform the land user of NRCS's policy [GM 190, Part 410.22 (b)] concerning T&E species and suggest alternative conservation measures to avoid adverse effects. If the land user selects measures to avoid adverse effects, document them on the ND-CPA-52 or attached sheet and proceed with planning.
 - If the land user does not or can not select alternatives to avoid adverse effects, no further NRCS assistance can be provided for that portion of the property owned by the land user.
 - If the land user requested that NRCS initiate formal consultation with the FWS and has reached an agreement on how assistance can be provided, then document the planning decision on the ND-CPA-52 and proceed with planning.
 - If consultation with the FWS does not take place, or agreement cannot be reached on how assistance can continue without adverse effects, no further NRCS assistance can be provided for that portion of the land user's property.
 - Contact the State biologist for assistance with FWS consultation and further environmental documentation, consultation with Partners, and/or the need for an EE or biological assessment.
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LANDSCAPE RESOURCES

ND-CPA-52

HELP SHEET

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 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, structure, and sky. Four visual elements (landform, water, vegetation and structure) 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 drainage-way 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 re](#)

Water - is a natural draw to human and wildlife resources. The ability to recreate, view wildlife and plant communities associated with the water element is an important human resource issue. Moving water, such as rivers, streams, and waterfalls are unique landscape resources in which people are attracted. 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. Its characteristics are gurgling, rushing, spurting, and falling, calm, or placid. Water shapes, whether water courses or water-bodies, increase value to the landscape.

When all 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 or 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. When evaluating landscape resources (scenic beauty), consider if there are unique or high-quality landscape resources that could be affected by the proposed action or activity.

When completing the ND-CPA-52, determine if activities will have an effect on landscape resources and the scenic beauty of the area. If none, no additional documentation is needed – proceed with planning.

If there are positive effects, and the effects are consistent with the goals and aims of maintaining, protecting, and preserving landscape resource values, document the positive effects on the ND-CPA-52 and proceed with planning. If there are positive effects for purposes other than environmental and those effects appear not to be consistent with the goals and objectives of maintaining, protecting, and preserving landscape resource values, consider your answer as negative/adverse.

NRCS policy on landscape resource is found in GM 190, Part 410.24. If there are negative effects, document the effects on the ND-CPA-52 and/or an attached sheet and contact the assistant State conservation engineer or State biologist for assistance.

NATURAL AREA
ND-CPA-52
HELP SHEET

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 taken place (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 that are specifically created to acquire and maintain natural areas. Designation may be informal, as is the case with private lands when owners 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.

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

Presently in North Dakota, the only officially designated natural areas are on U.S. Forest Service land in the Theodore Roosevelt National Park and on the U.S. Fish and Wildlife Lost Wood Refuge in Mountrail County.

For NRCS activities, there are places in North Dakota to consider as natural areas. Places like:

U.S. Forest Service Lands	ND State Forests
National Parks	U.S. Fish and Wildlife Refuges
ND State Parks	ND Game and Fish Wildlife Management Areas
Some County Parks	Memorial and City Parks

Other lands of non-profit conservation groups are:

The Nature Conservancy	National Audubon Society
Natural Resources Trust	Ducks Unlimited

These groups have many acres across the State they manage as preserves and natural areas. In addition, they are constantly working to restore new areas so the list will continue to grow.

Don't overlook natural areas on private lands. Many landowners have preserved areas with conservation easements, or restored or enhanced areas through various programs with NRCS and/or our partners. Many of these areas are managed as wildlife land or wetland, but still should be considered as possible natural areas. A list of natural areas of North Dakota may be found in Field Office Technical Guide Section I Reference File, subject biology.

We need to make sure our activities on lands adjacent to natural areas don't conflict with the intent, purpose, and management of those areas. If you determine a potential negative/adverse impact to a natural area when completing the ND-CPA-52 during the planning process, contact the State biologist for assistance before you proceed with further NRCS assistance.

WILD AND SCENIC RIVERS

ND-CPA-52 HELP SHEET

In North Dakota there are no federally designated wild or scenic rivers. However, the State of North Dakota, through the 1975 legislative session, designated the Little Missouri River as the "Little Missouri Scenic River." This river segment is found in the counties of "Bowman, Slope, Golden Valley, Billings, McKenzie, and Dunn. The river segment runs from the South Dakota State line to Lake Sakakawea.

Description

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 protection from adverse development and provides a mechanism for management of the rivers 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.

Management standards or requirements have been developed for three classes of rivers. Eligible river segments are classified according to the extent and evidence of man's activity as one of the following:

- Wild rivers – those rivers or sections of rivers that are free of impoundment and generally inaccessible except by trail, with watersheds or shorelines essentially primitive, and waters unpolluted. These represent vestiges of primitive America.
- Scenic rivers – those rivers or sections of rivers that are free of impoundment, with shorelines or watersheds still largely primitive, and shorelines largely undeveloped, but accessible in places by roads.
- Recreational rivers – those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and may have undergone some impoundment or diversion in the past.

Any action that could change the river segment's ability to meet the above eligibility and classification criteria should be considered an adverse impact. Actions that diminish the free-flowing characteristics or outstanding remarkable values of a river segment could prevent the segment from qualifying for inclusion in the National system. Actions that increase the degree of evidence of human activity, i.e., level of development, could change the classification of the river segment.

The effect of all proposed developments within the river corridor should be assessed in terms of severity of effects and extent of area affected. Developments outside the corridor that would cause visual, noise, or air quality impacts on the river corridor should also be examined.

Only proposed new construction or proposed expansion of existing developments needs to be considered in assessing impacts. Repair or rehabilitation of existing structures would not have a negative impact except if the action would result in significant expansion of the facility or if the construction process itself would cause an irreversible impact on the environment. Following are examples of the types of developments NRCS might be involved with that would generally require consultation with the national Park Service and/or the North Dakota Parks and Recreation Department. This is because of the potential for adverse effects on the values of a potential wild, scenic, or recreational river. This list is not exhaustive.

- Irrigation canal
- Levee or dike
- Rip-rap, bank stabilization, or erosion control structure
- Small reservoir
- Diversion structure
- Building (any type)
- Pipeline, transmission line
- Gas, oil, or water well
- Clear-cut timber harvest
- Windmill

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, 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 in a manner that protects the river's values.

In addition to wild, scenic, and recreational river designations, there is also a Nationwide Inventory of segments, or rivers that are being considered for possible inclusion as a wild, scenic, or recreational river. As per Presidential directive: "each Federal agency shall, as part of its normal planning and environmental review process, take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Inventory prepared by the Heritage Conservation and Recreation Service (HCRS) in the Department of the Interior. Agencies shall, as part of their normal environmental review process, consult with the HCRS prior to taking actions that could effectively foreclose wild, scenic, or recreational river status on rivers in the Inventory."

However, the HCRS in the Department of the Interior no longer exists. The National Park Service (NPS) is now the agency responsible for wild and scenic rivers. In North Dakota any questions about river designations should be directed towards the NPS and the North Dakota Parks and Recreation Department.

North Dakota Application

For NRCS planning purposes we should treat the "Little Missouri Scenic River" in the same respect as wild, scenic, and recreational rivers.

For consultation purposes on wild, scenic, recreational, and inventory rivers, as well as the State designated rivers, please contact the North Dakota Parks and Recreation Department at:

1835 Bismarck Expressway
Bismarck, ND 58504

When completing the ND-CAP-52, determine if activities will have an effect on the "Little Missouri Scenic River." If none, no additional documentation is needed – proceed with planning.

If there are positive effects, and the effects are consistent with maintaining, protecting the "Little Missouri Scenic River," document the positive effects and proceed with planning.

If there are positive effects for purposes other than environmental and those effects appear not to be consistent with the goals and objectives of maintaining, protecting, and preserving the "Little Missouri Scenic River," consider your answer as negative/adverse.

If there are negative effects, document the effects on the ND-CPA-52 and/or an attached sheet to the ND-CPA-52. If the land user still desires technical assistance for the proposed action or activity, contact the State biologist or the State environmental liaison for consultation assistance and performing an EE - if needed.

WETLAND
ND-CPA-52
HELP SHEET

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 are typically called potholes, swamps, marshes, coulees, bogs, wet meadows, and the like.

It is the policy of NRCS to protect and promote wetland functions and values in all planning and application assistance. This policy applies to all NRCS technical and financial assistance provided to land users. NRCS recognizes the beneficial and varied functional attributes of the different wetland types, and as such, strives to reconcile the need for wetland protection with that of promoting viable agricultural enterprises. NRCS supports the restoration, enhancement, creation, and preservation of wetlands as important and realistic components of comprehensive conservation plans, not only on a farm-by-farm basis, but also on a watershed or landscape basis. When providing technical assistance, NRCS will conduct an environmental evaluation considering the objectives of the client in the context of environmental, economic, and other pertinent factors.

Policy, rules, regulations and laws pertaining to activities in wetlands and other waters of the U.S. can be reviewed under several Federal authorities, including:

- [Executive Order 11990](http://www.epa.gov/OWOW/wetlands/regs/eo11990.html) <http://www.epa.gov/OWOW/wetlands/regs/eo11990.html>
- Food Security Act of 1985 (FSA), and subsequent Acts (FACTA), (FAIRA)
- The Clean Water Act as amended (Sect. 401, 404)

[NRCS Wetland Assistance Policy can be found in the General Manual \(Ecological Sciences section\) GM 190, Part 410.26. http://policy.nrcs.usda.gov/scripts/lpsis.dll/GM/GM_190_410_b.htm](http://policy.nrcs.usda.gov/scripts/lpsis.dll/GM/GM_190_410_b.htm)

When NRCS provides technical or financial assistance to a landowner/user, this policy must be followed.

There is an exception to this policy. This will be encountered when making only a programmatic decision (CWNA determination). This determination is not considered technical assistance. However, if we are providing specific planning or mitigation assistance, then the wetland section on page 3 of the ND-CPA-52 must be completed. See National Food Security Act Manual (NFSAM), Sections 514.32 and 527.2 to determine when the wetland consideration on page 3 of the ND-CPA-52 needs to be completed.

Activities in wetlands that occur in base (100 yr. or 500 yr.) floodplains are also subject to review under Executive Order 11988, and NRCS Floodplain Management Policy as found in GM 190, Part 410.25.

For a complete analysis of wetlands, their use, definition, delineation procedures, and jurisdiction, consult the NFSAM, and the Corps of Engineers' Wetland Delineation Manual (Technical Report Y-87-1, Corps of Engineers, Washington DC), also known as the COE '87 Manual, and Regulatory Guidance Letters (RGL).

When completing the ND-CPA-52, determine if activities will have a direct or indirect effect on wetlands. If none, no additional documentation is needed – proceed with planning.

If activities will have a direct or indirect impact, an approved functional assessment is required. There are three models approved for use in North Dakota, they are prairie pothole, slope, and sand plain. These models will be used to determine if the proposed activity will have an effect on the wetland.

If there are positive effects, and the effects are consistent with the goals and objectives of improving, or maintaining, protecting, and preserving wetland functions and values, document the positive effects and proceed with planning.

If there are positive effects for purposes other than environmental and those effects appear not to be consistent with the goals and objectives of improving, or maintaining, protecting, and preserving wetland functions and values, consider your answer as negative/adverse.

If there are negative effects, document the effects on the ND-CPA-52 and/or an attached sheet to the ND-CPA-52. If the land user still desires technical assistance for the proposed action or activity, are there practicable alternatives that will achieve the objectives of the land user, while adequately maintaining or improving the functions and values, or avoiding or minimizing the harm to the wetland(s)? Do these alternatives follow the wetland provisions of the Food Security Act and do they follow NRCS General Manual Policy on this subject (GM 190, Part 410.26)? Do alternatives avoid, minimize, compensate, or mitigate adverse effects to the wetland's functions and values?

- **If yes** and you determined the alternative has no effect, a positive effect, or a minimal effect on the functions and values of the wetland, document according to NRCS policy and proceed with development of the conservation plan. Document the selected alternative(s) on the ND-CPA-52. You can proceed with planning that is consistent with improving, maintaining, protecting, and preserving, or avoiding, mitigating or minimizing (minimal effect determination) wetland functions and values once all necessary Federal (i.e. Corps of Engineers), State, and local permits or approvals related to the activity are applied for. Before installing any practice, make sure all permits and approvals have been granted.
- **If no**, inform the land user that NRCS can no longer give technical assistance where this wetland area is involved. Inform the landowner that they should contact the Army Corps of Engineers before proceeding (on their own) to impact the wetland.

Contact the State biologist, State soil scientist liaison, or assistant State conservation engineer for assistance concerning wetland impacts and the development of the EE.

RIPARIAN AREA
ND-CPA-52
HELP SHEET

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, stream-banks, 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 ecosystem in which they occur and are extremely important for flood control and hydrologic function (water quantity, quality, and timing). It is important to recognize not all riparian areas have the same potential or react to management in the same ways, 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, hay land, pastureland, range land, and forestland.

Conservation planning in riparian areas requires special consideration. 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 upland areas of the watershed, and the producer's objectives.

Federal law does not specifically regulate riparian areas. However, portions of riparian areas, such as wetland, may be subject to Federal regulation under provisions of the Food Security Act, Clean Water Act, National Environmental Policy Act, and State and local legislation.

Activities in riparian areas that occur in base (100 yr. or 500 yr.) floodplains are also subject to review under Executive Order 11988 and NRCS Floodplain Management Policy as found in the GM 190, Part 410.25.

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

When completing the ND-CPA-52, determine if activities will have an effect on riparian areas. If none, no additional documentation is needed – proceed with planning.

If there are positive effects, and the effects are consistent with maintaining, protecting, and preserving riparian areas, document the positive effects and proceed with planning.

If there are positive effects for purposes other than environmental and those effects appear not to be consistent with the goals and objectives of maintaining, protecting, and preserving riparian areas, consider your answer as negative/adverse.

If there are adverse effects, document the effects on the form and/or an attached sheet. If the land user still desires technical assistance for the proposed action or activity, contact the State forester or State water quality coordinator before you provide further assistance.

SPECIAL AQUATIC SITES

ND-CPA-52

HELP SHEET

Special aquatic sites are those associated with the water environment. They warrant special attention as specific sites listed under the Clean Water Act, Section 404(b) (1) 230.3 and 230.10 dredge and fill guidelines.

Special aquatic sites are large or small areas possessing special ecological characteristics pertaining to productivity, habitat, wildlife protection, or have 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 eco-region.

Special aquatic sites in North Dakota include fish and wildlife sanctuaries and refuges, vegetated shallows, sandbars, wetlands, mud flats, and riffle 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 places like rivers or lakes containing organic matter and particles smaller in size than sand. Flats are not vegetated 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, and decomposition.

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

Riffle and pool complexes exist in steep gradient streams. Riffles are places where water flows rapidly over the shallow gravel to 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 (1.6 to 2.0 times deeper than average stream depth) located in the streambed, with slow stream velocity and a smooth water surface. Riffles and pools are significantly important habitat for fish and wildlife species along streams. 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, and maintaining in-stream aeration and stream characteristics that allow the stream to "treat" organic matter that enters the stream.

When completing the ND-CPA-52, determine if activities will have an effect on special aquatic sites. If none, no additional documentation is needed – proceed with planning.

If there are positive effects, and the effects are consistent with maintaining, protecting, and preserving special aquatic sites, document the positive effects and proceed with planning. If there are positive effects for purposes other than environmental and those effects appear not to be consistent with the goals and objectives of maintaining, protecting, and preserving special aquatic sites consider your answer as negative/adverse.

If there are negative effects, document the effects on the ND-CPA-52 and/or an attached sheet. If the land user still desires technical assistance for the proposed action or activity, contact the State biologist for assistance in determining the need for performing an EE or biological assessment.

FLOODPLAIN MANAGEMENT

ND-CPA-52 HELP SHEET

Floodplains are defined as lowlands or relatively flat areas adjoining inland or coastal waters, including at a minimum, areas subject to a 1 percent or greater chance of flooding in any given year.

The “base” floodplain is set equal to the “100 year” floodplain, the so-called “1 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), North Dakota State Water Commission and in 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 the President in 1977. The Executive Order 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 Executive Order 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, forestry, fish and wildlife, temporary floodwater storage, parks and recreation, and aesthetic values.

NRCS 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 programs it administers.

NRCS technical and financial assistance concerning floodplains is provided to land users primarily on nonfederal lands through local soil and water conservation districts, and also by State and local resource agencies. Through all programs, NRCS encourages sound floodplain management decisions for all users of floodplains.

Complex issues should be referred to State conservation engineer or State environmental liaison.

When completing the ND-CPA-52, determine if activities will be in a floodplain. If yes, determine whether planned actions will cause potential harm within a floodplain? If you will not be working in a floodplain, proceed with assistance.

If you are working within a floodplain, what is the effect of the proposed action or activity on the floodplain? If your answer is none (no effects either positive or negative), no additional documentation is needed and proceed with planning.

If there are positive effects and the effects are consistent with the goals and objectives of maintaining, protecting, and preserving the floodplain characteristics, then document the positive effects and proceed with planning.

If there are positive effects for purposes other than environmental ones, and those effects appear not to be consistent with the goals and objectives of maintaining, protecting, and preserving floodplains, consider your answer as negative/adverse.

If there are negative effects, document the effects on the ND-CPA-52 and/or an attached sheet.

If the land user or sponsoring local organization still desires technical assistance for the proposed action or activity, is the land user willing to implement alternatives that are located outside of the floodplain?

If you cannot implement alternatives outside of the floodplain or mitigate the adverse effects on the floodplain, you cannot continue providing technical and/or financial assistance for the floodplain area.

Should you get to this point, contact the State conservation engineer or State environmental liaison for assistance.

STREAM CHANNEL MODIFICATION

ND-CPA-52

HELP SHEET

The NRCS and U.S. Fish and Wildlife Service (FWS) developed stream channel guidelines to aid agency personnel in identifying when and where channel modification may be used as a technique for implementing water and related land resource projects. These guidelines will be used in the planning of all NRCS practices and project measures, where NRCS is providing technical and financial assistance. The guidelines are outlined in GM 190, Part 410.27 and can be accessed at the following web site: http://policy.nrcs.usda.gov/scripts/lpsis.dll/GM/GM_190_410_b.htm.

Stream channel modification is an alternative that may be utilized in solving specific water management problems. It may be needed to restore a watercourse 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 planned 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 rivers and streams in watersheds of the United States. These occurrences may result in loss of life, property damage, degradation of water resources and the quality of the environment.

However, channel modification can cause significant damage to fish, wildlife, and plant resources. In addition to direct environmental impacts, the practice can directly or indirectly involve the drainage of wetlands, clearing of bottomland forests, and result in increased 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, wildlife, and plant resources depend. An interdisciplinary planning process will be used which will permit a balancing of the need to maintain a viable, naturally functioning ecosystem, while addressing projected food 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:

- Is consistent with the Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (WRCEEPG).
- Makes a significant contribution to project objectives.
- Results in less damage to fish and wildlife habitat.

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

- Soil and water conservation practices.
- Nonstructural measures including, but not limited to, land use regulation, land acquisition, the maintenance of aquatic areas, floodplain zoning, flood-proofing existing buildings, flood forecasting, flood warning, flood hazard information, flood insurance, tax adjustments, emergency assistance, and relocation of properties and people.
- Structural alternatives including, but not limited to, dams, floodways, dikes, levees, flood walls, pumping plants, diversions, wetland development, maintenance, and restoration.

Formulation of alternatives will include input from all interested agencies, organizations, or individuals. Compliance with NEPA and WRCEEPG will be met with assistance from the FWS to develop, evaluate, and recommend alternatives to channel modification.

Channel modification, if determined to be necessary, will be done only to the minimum degree required, whether planned as a single practice or in combination with other practices. 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 re-vegetation 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.
- It does not result in restricted access to use of stream segments developed specifically for recreation or fish and wildlife use by the public:
- 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:

- 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.
- 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.
- 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 190, Parts 410.27 and 410.28 will be used in the planning of water resource projects.

When completing the ND-CPA-52, determine if activities will involve channel modification of a stream/river, wetland, or riparian area. If no, no additional documentation is needed – proceed with planning.

If yes, what effect(s) will the proposed channel modification action or activity have on fish and wildlife and plant resources?

USFWS assistance will need to be requested to assist with the effect determination.

If there are positive effects for purposes other than environmental and those effects are not consistent with the goals and objectives of maintaining, protecting, and preserving fish and wildlife and plant resource characteristics, consider your answer as negative/adverse.

If there are negative effects, document the effects on the ND-CPA-52. The USFWS along with other interested agencies, groups, and individuals should be consulted. Detailed coordination procedures are shown in GM 190, Part 410.28. Proceed with planning if an acceptable alternative consistent with NRCS policy can be reached with the land user, conservation partner, or sponsoring local organization(s). If agreement can't be reached, and/or proposed activities are not consistent with NRCS policy, and the land user or sponsoring local organization still desires technical assistance, contact the assistant State conservation engineer.

CULTURAL RESOURCES
ND-CPA-52
HELP SHEET

Cultural resources are traces of all past activities and accomplishments of people. They include tangible traces such as historic districts, sites, buildings, and structures, and less tangible traces such as dance forms, cultural or spiritual practices, and landscapes.

NRCS provides assistance to protect, maintain, and improve soil, water, air, plant, and animal resources, as well as human resources. Cultural and social considerations are a part of this human resource. NRCS recognizes that cultural resources are an integral part of our national heritage. NRCS will ensure that cultural resources are considered in **all** NRCS actions and programs.

NRCS policy recognizes the responsibilities of NRCS for historic preservation, particularly as they are described in the following documents (insert link to Cultural Resources folder on FTP site):

- National Historic Preservation Act (NHPA) of 1966, as amended.
- NHPA regulations - 36CFR800
- National NRCS cultural resources policy - General Manual 420, Part 401
- National Cultural Resources Procedures Handbook - General Manual Handbook 190-601
- North Dakota cultural resources policy and guidance - ND NRCS Bulletin 420-8-1

ND NRCS Policy notes that:

- NRCS will identify cultural resources **early** in the planning and environmental evaluation process for **all** assistance activities classified as an undertaking. Undertakings include any project, activity or program under the direct or indirect jurisdiction of a Federal agency. Undertakings may result in changes in the character or use of historic properties.
- **All** practices and systems are considered undertakings based on ND Cultural Resources Policy. In ND Policy, practices are separated into two categories: practices with No to Low Potential to Effect Cultural Resources and practices with Moderate to High Potential to Effect Cultural Resources. For a listing of which practices are Moderate to High and for procedures associated with these categories, refer to ND Cultural Resources Policy Attachment 2 and Table 1 or to the documentation sheet known as the Cultural Resources Compliance Spreadsheet or CRCS file.
- **NRCS will protect cultural resources in their original location to the fullest extent practicable by avoiding adverse effects.** If avoidance of a cultural resource is not feasible, NRCS may evaluate whether the cultural resource is eligible for the National Register of Historic Places in consultation with appropriate parties, such as the producer, State Historic Preservation Office (SHPO), Tribal Historic Preservation Office (THPO), the Advisory Council on Historic Preservation (ACHP), tribes and/or others. A determination of the effect of the action on historic properties will also be made in consultation with noted parties. If the effect of an undertaking is determined to be adverse, NRCS will continue to consult. Mitigation or treatment will occur if the State Conservationist determines that the undertaking is sufficiently valuable for the public good and/or that the costs of mitigation are warranted. Mitigation or treatment measures will be developed prior to completing the assistance or beginning the construction phase of implementation. At any stage of the process, if conflicts cannot be resolved to the satisfaction of NRCS, the producer, the ACHP and/or the tribes, as appropriate, NRCS may determine if further assistance is warranted.

Keep in mind that the CPA-52 is not only a planning document, but it is also a National Environmental Policy Act (NEPA) compliance document, and cultural resources are a concern addressed in NEPA.

When completing the ND-CPA-52 for cultural resources, under Section H, determine if the proposed action or activity is an undertaking, i.e. is it either a practice or system? If the activity is either a practice or a system, **assign a tracking number and place the tracking number in the Remarks cell of the CPA-52.** Then refer to the practice list in the ND CR policy (Attachment 2 Table 1) to see whether the practice or system is listed as No to Low Potential for Effect or of Moderate to High Potential to Effect cultural resources. If the activity is of No to Low Potential, the cultural resources compliance process is complete.

If the activity is of Moderate to High Potential, follow the more detailed procedures outlined in the ND Cultural Resources Policy and the Quick Reference Flowchart, also located in the ND CR policy. Procedures will include checking the county site leads map for recorded historic or prehistoric cultural resources sites, review of the CRCS file by the appropriate Cultural Resources Specialist (CRS) and possibly screening or professional survey with further review by a CRS. Screening is conducted by NRCS employees and entails walking over the area in and around the planned activity location to look for visible signs of cultural resources, whereas professional survey is an intense screening conducted by a CRS or an archeological contractor with a valid ND permit.

Once the CRS has marked "Complete" in the status cell and placed an electronic signature at the bottom of the CRCS file, the final recommendations have been provided. At this stage, the compliance process is complete, unless construction discoveries occur. In which case, contact a CRS immediately.

After this process is completed, **on the CPA-52 under Section H, enter whether cultural resources were present and whether the action had a negative, positive or no effect on the cultural resources. Under Section K, enter whether consultation with consulting parties such as the THPO/SHPO occurred.** Refer to the CRCS file and a written report, if provided, or contact a CRS for additional guidance in completing the CPA-52. When working with CRP, note that the process is modified and completion of the CPA-52 occurs at an earlier stage in the compliance process. The CRP flowchart shows this process visually and is located in ND CR Policy. Complete as much of the cultural resources information on the CPA-52 as possible, prior to providing the CPA-52 to FSA.

INVASIVE SPECIES
ND-CPA-52
HELP SHEET

On February 3, 1999, President Clinton signed an Executive Order (EO) which directs federal agencies to expand and coordinate efforts to combat the introduction and spread of non-native plant and animal species. Three definitions contained within the EO are important from the standpoint of understanding the potential implications to NRCS.

- **“Alien species”** means, with respect to a particular ecosystem, any species that is not native to that ecosystem. Native species to the United States could be regarded as aliens if introduced into ecosystems in which they are not native. Non-native species will be viewed as potential invasive species until it is proven that they are not.
- **“Invasive species”** is an alien species whose presence does or is likely to cause economic or environmental harm or harm to human health.
- **“Native species”** means, with respect to a particular ecosystem, a species that, other than as a result of an introduction, historically occurred or currently occurs in that ecosystem.

Each Federal agency whose actions may affect the status of invasive species shall, to the extent practicable and permitted by law, subject to the availability of appropriations, and within Administration budgetary limits, use relevant programs and authorities to:

- Prevent the introduction of invasive species.
- Detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner.
- Monitor invasive species populations accurately and reliably.
- Provide for restoration of native species and habitat conditions in ecosystems that have been invaded.
- Conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species.
- Promote public education on invasive species and the means to address them.
- Not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere. Unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species, and given all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.

An Executive Branch Invasive Species Council has been formed to oversee implementation of the EO. The Council has been assigned the task of developing an Invasive Species Management Plan and associated guidelines. More detail will be forthcoming as the Invasive Species Management Plan is developed. Meanwhile, understand that changes in some of our NRCS seeding and planting recommendations may be forthcoming. We need to use sound technical judgment recommending introduced (non-native) species, and be more conscious about establishing natives in ecosystems where they didn't exist.

When policy and procedure is issued, we will address this environmental issue by providing technical assistance training accordingly. Should you have questions, contact the State plant materials specialist for assistance.

THE CLEAN WATER ACT SECTION 404
ND-CPA-52
HELP SHEET

Section 404 of the Clean Water Act establishes a program that regulates the discharge of dredge and fill materials into waters of the United States, including wetlands. Activities in waters that are typically regulated under Section 404 include fill for development, water resource projects (e.g., dams and levees), infrastructure developments (e.g., highways and airports), and conversion of wetlands.

Section 404 is administered by the U.S. Army Corps of Engineers (COE) with oversight provided by the U.S. Environmental Protection Agency.

Discharge of dredge or fill materials into waters of the U.S. is prohibited unless the action is exempted or is covered by a permit issued by the COE. Since the Supreme Court Ruling of January 9, 2001, Solid Waste Agency of Northern Cook County, the COE can no longer regulate dredge and fill material in isolated wetlands. This ruling has a major impact in North Dakota. COE jurisdiction covers wetlands that have a surface connection to navigable waters and their tributaries.

[Many normal agricultural activities, such as cropping, haying, burning, etc. are exempt from Section 404. Any dredge or fill activities are not exempt but may be allowed through use of a General Permit issued by the COE on a nationwide or regional basis. Permits can be found by going to the COE web site at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/2002nwps.pdf> beginning on page 2076.](http://www.usace.army.mil/inet/functions/cw/cecwo/reg/2002nwps.pdf)

These activities usually only have minimal adverse environmental effects both individually and cumulatively. For projects involving potentially significant impacts, authorization must be sought through the issuance of an Individual Permit.

Contact the COE in Bismarck, North Dakota (701) 255-0015 for specific information on exempt activities, activities allowed through General, Regional and Nationwide Permits, specifics on Individual Permits and to determine if the COE does have jurisdiction on a particular planned activity.

When completing the ND-CPA-52, determine if activities will occur that involve the discharge of dredge or fill materials into waters of the United States, including jurisdictional wetlands.

- **If no**, then no additional documentation is needed – proceed with planning.

- **If yes**, refer the land user to the COE for information on exempt activities, activities allowed through General, Regional and Nationwide Permits, and specifics on Individual Permits. Have the landowner proceed as directed by the COE. When all necessary permits have been obtained, and NRCS policy and procedure for wild and scenic rivers, riparian areas, stream channel modification, floodplain management, special aquatic sites, wetland, or other appropriate special environmental concerns, has been met, then no additional documentation is needed – proceed with planning.

NRCS policy may be found in GM 190, 410.26, FSA Manual, Corps of Engineers Technical Report Y-87-1, and Executive Order 11990. Should you have any questions, concerns, or need help, contact the State biologist, for assistance.

2. Quality									
<u>Groundwater Contaminants</u>									
a. Harmful Levels of Pesticides									
b. Excessive Nutrients & Organics									
c. Excessive Salinity									
d. Harmful Levels of Heavy Metals									
e. Harmful Levels of Pathogens									
f. Harmful Levels of Petroleum									
<u>Surface Water Contaminants</u>									
g. Harmful Levels of Pesticides									
h. Excessive Nutrients & Organics									
i. Excessive Suspended Sediment & Turbidity									
j. Excessive Salinity									
k. Harmful Levels of Heavy Metals									
l. Harmful Temperature									
m. Harmful Levels of Pathogens									
n. Harmful Levels of Petroleum									
Air									
1. Quality									
a. Particulate Matter < 10 Micrometers (PM10)									
b. Particulate Matter < 2.5 Micrometers (PM 2.5)									
c. Excessive Ozone									
Carbon Dioxide									
Nitrous Oxide									
Methane									
g. Ammonia									
h. Chemical Drift									
i. Objectionable Odors									
j. Reduced Visibility									
k. Undesirable Air Movement									
l. Adverse Air Temperature									
Plants									
1. Suitability									
a. Not Adapted or Suited									
2. Condition									
a. Productivity, Health, and Vigor									
b. Declining species, species of concern									
c. Noxious and Invasive Plants									
d. Forage Quality and Palatability									
e. Wildfire Hazard									
Animals									
1. Fish and Wildlife									
a. Inadequate Food									
b. Inadequate Cover and Shelter									
c. Inadequate Water									
d. Inadequate Space									
e. Habitat Fragmentation									
f. Imbalance Among & Within Populations									
g. Declining species, species of concern									
2. Domestic Animals									
a. Inadequate Quantities and Quality of Feed and Forage									
b. Inadequate Shelter									
c. Inadequate Stock Water									
d. Stress and Mortality									