

NE-CPA-52 Rational Supporting the Finding

Tiering Documentation and Use of NEPA Categorical Exclusions

This provides guidance for completing the “R. Rational Supporting the Finding” where the planner provides supporting documentation for the answer in “Q. NEPA Compliance Finding”. The right-hand column in section “Q” indicates what action is required.

On February 10, 2010, NRCS published a final rule that amended 7 CFR 650.6 to identify an additional 21 actions that can, in the absence of extraordinary circumstances, be categorically excluded (CE) from further review in an NEPA Environmental Assessment(EA) or an Environmental Impact Statement(EIS). NRCS determined that the new categorical exclusions routinely do not individually or cumulatively have a significant effect on the human environment. Basically that means, in the realm of NEPA environmental compliance, NRCS has better documentation and support for a planned action by use of a CE than the simple tiering method used in the past that just references a national program document. Thus, when possible, NRCS planners should use a CE in the “R.2” citation as the first choice for NEPA compliance before simply tiering to a national program document in the “R.1” citation.

Completing R.1

The below citations are also found in the drop-down menu. They relate specifically to programs. To use the citations ALL practices/components of the alternative must be related to the program. If for some reason multiple programs are being implemented as part of the planning action then manually type in the needed information.

<i>NEPA Document Citations</i>
Agricultural Management Assistance Program , Natural Resources Conservation Service, Environmental Assessment, November 2002
Conservation Security/Stewardship Program , Natural Resources Conservation Service, Environmental Assessment, June 2009
Emergency Watershed Protection Program , Natural Resources Conservation Service, Programmatic Environmental Impact Statement, August 2009
Environmental Quality Incentives Program , Natural Resources Conservation Service, Environmental Assessment, January 2009. (AWEP is included under EQIP)
Farm and Ranch Land Protection Program , Natural Resources Conservation Service, Environmental Assessment, January 2009
Grassland Reserve Program , Natural Resources Conservation Service, Environmental Assessment, August 2009
Healthy Forest Reserve Program , Natural Resources Conservation Service, Environmental Assessment, April 2006
Wetlands Reserve Program , Natural Resources Conservation Service, Environmental Assessment, January 2009
Wildlife Habitat Incentives Program , Natural Resources Conservation Service, Environmental Assessment, January 2009

Completing R.2

NRCS evaluates each action using its list of special environmental concerns, along with the significance factors listed by the CEQ at 40 CFR 1508.27, to determine whether an action has extraordinary circumstances. NRCS has included the list of extraordinary circumstances in the NE-CPA-52 under “O. Determination of significance or Extraordinary Circumstances”. In the absence of any extraordinary circumstances as determined through NRCS’ EE review process, the activities will be able to proceed

without preparation of an EA or EIS. Where extraordinary circumstances are determined to exist, the categorical exclusion will not apply, and the appropriate documentation for compliance with NEPA will be prepared.

All categorical exclusions are intended to maintain or restore ecological functions and do not include conversion of native vegetation. The exception might be small areas requiring stabilization, but conversion in these cases would not be extensive. NRCS' General Manual Title 190 part 414 subpart D does not allow the agency to utilize invasive or noxious species in conservation actions. While NRCS promotes the use of native species, it is not always feasible or practicable to utilize native species in some NRCS activities. Note that there are specific required conditions that must be met prior to using the CE (see *Required Conditions for Use of ANY Categorical Exclusion* below).

Required Conditions for Use of ANY Categorical Exclusion

Prior to determining that a proposed action is categorically excluded the proposed action must:

- (i) Be designed to mitigate soil erosion, sedimentation, and downstream flooding;
- (ii) Require disturbed areas to be vegetated with adapted species that are neither invasive nor noxious;
- (iii) Be based on current Federal principals of natural stream dynamics and processes, such as those presented in the Federal Interagency Stream Corridor Restoration Working Group document, "Stream Corridor Restoration, Principles, Processes, and Practices;"
- (iv) Incorporate the applicable NRCS conservation practice standards as found in the Field Office Technical Guide;
- (v) Not require substantial dredging, excavation, or placement of fill; and
- (vi) Not involve a significant risk of exposure to toxic or hazardous substances.

Activities Eligible for Categorical Exclusion

The NRCS restoration and conservation actions and activities identified in the below list are eligible for categorical exclusion. The NRCS planner documents its' use on the NE-CPA-52 in "P. NEPA Compliance Finding" by selecting the second check-box that a categorical exclusion applies and then stating a citation/rational of the finding in "Q. Rational Supporting the Finding". There may be cases where more than one CE must be cited to cover all the applicable actions being taken. Carefully review the CEs and all the components of your planning action and if needed identify multiple CEs for the plan and indicate which portions/practices they apply to. The use of the following categorical exclusions for a proposed action does not waive NRCS compliance with any applicable legal requirement including, but not limited to, the National Historical Preservation Act or the Endangered Species Act. The following categorical exclusions are available for application to proposed actions provided the above required general conditions are met. Note that each CE has very specific conditions and circumstances that limit the scope of application.

ORIGINAL NRCS CATEGORICAL EXCLUSIONS:

Soil Survey
Snow Survey and Water Supply Forecasts (does NOT include structural activities)
Plant Materials for Conservation
Inventory and Monitoring
River Basin Studies under Section 6 under Public law (PL) 83-566 as amended

NEW NRCS CATEGORICAL EXCLUSIONS:

- (1) Planting appropriate herbaceous and woody vegetation, which does not include noxious weeds or invasive plants, on disturbed sites to restore and maintain the sites ecological functions and services; Requires that the established vegetative community maintain the sites ecological functions and services, which could not be accomplished by converting native forests or grasslands.
- (2) Removing dikes and associated appurtenances (such as culverts, pipes, valves, gates, and fencing) to allow waters to access floodplains to the extent that existed prior to the installation of such dikes and associated appurtenances;
- (3) Plugging and filling excavated drainage ditches to allow hydrologic conditions to return to pre-drainage conditions to the extent practicable;
- (4) Replacing and repairing existing culverts, grade stabilization, and water control structures and other small structures that were damaged by natural disasters where there is no new depth required and only minimal dredging, excavation, or placement of fill is required;
- (5) Restoring the natural topographic features of agricultural fields that were altered by farming and ranching activities for the purpose of restoring ecological processes;
- (6) Removing or relocating residential, commercial, and other public and private buildings and associated structures constructed in the 100-year floodplain or within the breach inundation area of an existing dam or other flood control structure in order to restore natural hydrologic conditions of inundation or saturation, vegetation, or reduce hazards posed to public safety;
- (7) Removing storm debris and sediment following a natural disaster where there is a continuing and eminent threat to public health or safety, property, and natural and cultural resources and removal is necessary to restore lands to pre-disaster conditions to the extent practicable. Excavation will not exceed the pre-disaster condition;
- (8) Stabilizing stream banks and associated structures to reduce erosion through bioengineering techniques following a natural disaster to restore pre-disaster conditions to the extent practicable, e.g., utilization of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, riprap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods);
- (9) Repairing or maintenance of existing small structures or improvements (including structures and improvements utilized to restore disturbed or altered wetland, riparian, in stream, or native habitat conditions). Examples of such activities include the repair or stabilization of existing stream crossings for livestock or human passage, levees, culverts, berms, dikes, and associated appurtenances;
- (10) Constructing small structures or improvements for the restoration of wetland, riparian, in stream, or native habitats. Examples of activities include installation of fences and construction of small berms, dikes, and associated water control structures;
- (11) Restoring an ecosystem, fish and wildlife habitat, biotic community, or population of living resources to a determinable pre-impact condition;
- (12) Repairing or maintenance of existing constructed fish passageways, such as fish ladders or spawning areas impacted by natural disasters or human alteration;
- (13) Repairing, maintaining, or installing fish screens to existing structures;
- (14) Repairing or maintaining principal spillways and appurtenances associated with existing serviceable dams, originally constructed to NRCS standards, in order to meet current safety standards. Work will be confined to the existing footprint of the dam, and no major change in reservoir or downstream operations will result;

- (15) Repairing or improving (deepening/widening/armoring) existing auxiliary/emergency spillways associated with dams, originally constructed to NRCS standards, in order to meet current safety standards. Work will be confined to the dam or abutment areas, and no major change in reservoir or downstream operation will result;
- (16) Repairing embankment slope failures on structures, originally built to NRCS standards, where the work is confined to the embankment or abutment areas;
- (17) Increasing the freeboard (which is the height from the auxiliary (emergency) spillway crest to the top of embankment) of an existing dam or dike, originally built to NRCS standards, by raising the top elevation in order to meet current safety and performance standards. The purpose of the safety standard and associated work is to ensure that during extreme rainfall events, flows are confined to the auxiliary/emergency spillway so that the existing structure is not overtopped which may result in a catastrophic failure. Elevating the top of the dam will not result in an increase to lake or stream levels. Work will be confined to the existing dam and abutment areas, and no major change in reservoir operations will result. Examples of work may include the addition of fill material such as earth or gravel or placement of parapet walls;
- (18) Modifying existing residential, commercial, and other public and private buildings to prevent flood damages, such as elevating structures or sealing basements to comply with current State safety standards and Federal performance standards;
- (19) Undertaking minor agricultural practices to maintain and restore ecological conditions in floodplains after a natural disaster or on lands impacted by human alteration. Examples of these practices include: mowing, haying, grazing, fencing, offstream watering facilities, and invasive species control which are undertaken when fish and wildlife are not breeding, nesting, rearing young, or during other sensitive timeframes;
- (20) Implementing soil control measures on existing agricultural lands, such as grade stabilization structures (pipe drops), sediment basins, terraces, grassed waterways, filter strips, riparian forest buffer, and critical area planting; and
- (21) Implementing water conservation activities on existing agricultural lands, such as minor irrigation land leveling, irrigation water conveyance (pipelines), irrigation water control structures, and various management practices.