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SUBJECT: Technical Guide Notice 158

DATE: March 28, 2011

TO: All Holders of the PA Technical Guide

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Purpose:

To release a sample template and guidance regarding the proper completion of Environmental Evaluations for Conservation Activity Plans (CAP).

Background/Explanation:

The process to properly complete environmental compliance documentation for Conservation Activity Plans, has been further clarified by discussions with the National office. The following conclusions have been reached:

- USDA has recognized that advisory activities will not have significant individual or cumulative effects on the human environment. Thus, USDA Departmental Policy for NEPA (7 CFR Part 1b) contains a categorical exclusion (#6) from the requirement to prepare EAs or EISs specifically for, “Activities which are advisory and consultative to other agencies and public and private entities, such as legal counseling and representation.”
- Development of a CAP by a technical consultant, such as a TSP, would be advisory services and therefore fits this Categorical Exclusion.
- NEPA applies to actions that may have significant effects to the human environment for which a federal agency has control or responsibility. When the program participant provides the completed CAP to NRCS and requests their EQIP payment, the DC reviews the CAP to determine that required components are completed and only if they are completed then approves disbursement of payment for the CAP. Since TSPs have the proper qualifications for the CAP categories in which they are certified, the technical adequacy of the CAP is reviewed during normal Field Office Quality Assurance activities similar to reviewing the work of NRCS employees and partners.
- The categorical exclusion process applies ONLY to CAPs. NRCS must continue to follow the current procedures for completing a CPA52 when NRCS assistance is provided for conservation planning, Farm Bill conservation programs (other than CAPs), and associated implementation activities.



Instructions

The following guidance is to be followed until further National guidance is issued:

1. NRCS will continue to encourage TSPs to complete a CPA52 for CAPs, which will likely be implemented in the future.
2. If the CPA52 is not completed by the TSP, NRCS will complete a “USDA categorical exclusion #6” type of CPA52 worksheet as described below and will have to develop a new CPA52 if the customer/client seeks additional technical or financial assistance in the future. The “USDA categorical exclusion #6” type of CPA52 worksheet for CAPs will have the following components (see highlighted sections of attached sample template):
 - a. Identifying Information for the Client
 - b. Client Objective
 - c. No Action and Planned Action Identified
 - d. Identification of primary resource concerns being addressed with the CAP. Use of the “Non-Planning only” language.
 - e. Extraordinary Circumstances checked-off and signed by RFO (DC)
 - f. A Finding of “USDA Categorical Exclusion 6” by RFO
 - g. Explanatory Note

This approach ensures NEPA compliance and compliance with NRCS policy while reducing the time to complete the work. It also avoids unnecessary work that would have a high probability of needing corrections in the future.

Access Instructions:

The Pennsylvania eFOTG can be accessed at the following web address and then selecting the appropriate county. The PA Template for CAPs NRCS-CPA-52 worksheet is found in Section IIID.

The Pennsylvania eFOTG can be accessed at the following web address and then selecting the appropriate county: http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=PA

The Pennsylvania eFOTG Section III Table of Contents may be accessed *directly* at this web sites: <http://efotg.sc.egov.usda.gov/toc.aspx?CatID=12477>

Links to eFOTG Environmental Compliance information have been updated on the NRCS-Pennsylvania webpage and can be accessed *directly* at:
http://www.pa.nrcs.usda.gov/technical/Environmental_Compliance/index.html

The official version is contained in Pennsylvania’s eFOTG.

/S/

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State Conservationist

Attachment: Environmental Evaluation Worksheet