

Planning for Cultural Resources Special Environmental Concern and Making the NEPA Finding

Presented by:

Sarah Bridges
Federal Preservation Officer

Don Riley
Ecologist
East National Technology Support Center

Karen Fullen
Ecologist
West National Technology Support Center

Session Moderator: Matthew Judy

12/10/2014

Topics addressed:

- Definition
- Purpose
- Authority
- Policy/Procedures
- Information/Data Sources & Tools
- Mitigation Measures
- Evaluation and Documentation
- Examples

Primary topics include: legal foundations, information/data sources, tools, mitigation measures, and documentation requirements including examples.

Part 1: Cultural Resources

PURPOSE

- To explain how NRCS documents its compliance with Section 106 of the National Historic Preservation Act (NHPA) and the National Environmental Policy Act (NEPA)
- To explain how NRCS coordinates the National Environmental Policy Act (NEPA) compliance with Section 106 of the NHPA compliance
- To explain how NRCS completes the Environmental Evaluation Worksheet (CPA-52) for Historic Properties/Cultural Resources

AUTHORITIES GUIDING NRCS HISTORIC PRESERVATION (CULTURAL RESOURCES) REVIEW

SELECTED LAWS

- National Historic Preservation Act of 1966, as amended (PL 89-655)**
- National Environmental Policy Act of 1969, as amended **
- American Indian Religious Freedom Act of 1978, as amended (PL 95-431)
- Native American Graves Protection and Repatriation Act of 1990 (PL 101-601)
- Archaeological Resources Protection Act of 1979, as amended (PL 96-95)

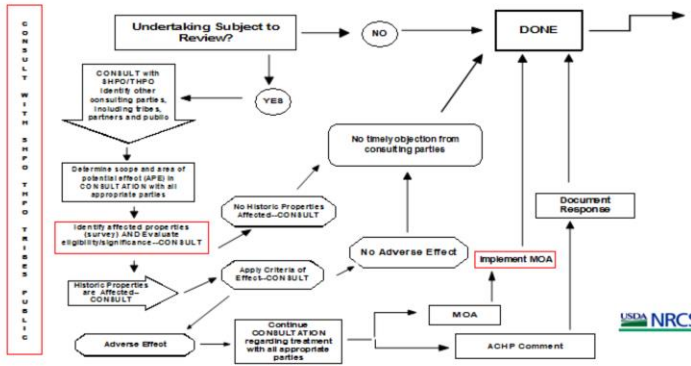
SELECTED REGULATIONS

- 36 CFR Part 800 Protection of Historic Properties (Section 106 of the NHPA)
- 40 CFR Parts 1500-1508 CEQ Regulations for Implementing the Procedural Provisions of NEPA
- 43 CFR Part 10 NAGPRA Regulations
- 36 CFR Part 63 National Register of Historic Places Regulations (NHPA)
- USDA Regulation 1350-002 Tribal Consultation, Coordination, and Collaboration 1/18/2013

SELECTED EXECUTIVE ORDERS

- Consultation and Coordination with Indian Tribal Governments E.O. 13175 2000 (see USDA regulation)
- Protection and Enhancement of the Cultural Environment E.O. 11593 1971 (see NHPA 110)
- Indian Sacred Sites 1996 E.O. 13007 1995 (see also NHPA Section 106)

NRCS CULTURAL RESOURCES PROCEDURES



NRCS CULTURAL RESOURCES PROCEDURES STEP BY STEP

SEE: <http://www.achp.gov/106summary.html>

- **Initiate Process**

- Establish undertaking and assess potential to affect historic properties
- Identify SHPO/THPO and consult
- Plan to involve the public
- Identify other consulting parties
- TYPE OF UNDERTAKING HAS NO POTENTIAL—proceed with undertaking
- IF THE UNDERTAKING HAS A POTENTIAL TO AFFECT:

- **Identify Historic Properties**

- Determine scope of efforts
- Identify historic properties
- Evaluate historic significance (eligibility for listing in the NRHP)
- IF NO ELIGIBLE HISTORIC PROPERTIES PRESENT/AFFECTED—proceed with undertaking
- IF HISTORIC PROPERTIES ARE AFFECTED, ASSESS EFFECTS
- IF EFFECTS ARE ADVERSE

- **Resolve Adverse Effects**

- Develop MOA with concerned consulting parties
- IF FAIL TO AGREE ON HOW TO RESOLVE ADVERSE EFFECTS—Go to ACHP for comment and proceed with resolution AND then complete project or undertaking

Documenting the CPA-52

Planning for Cultural Resources and Making the NEPA Finding

U.S. Department of Agriculture Natural Resources Conservation Service		NRC5-CPA-02 4/2012		A. Client Name: Joe Rancher	
ENVIRONMENTAL EVALUATION WORKSHEET				B. Conservation Plan ID # (as applicable): EQIP	
D. Client's Objective(s) (purpose): Increase grazing distribution and efficiency to increase calving percentage				C. Identification # (farm, tract, field #, etc. as required): Rock Creek Ranch- Lower Summer Pastures	
E. Need for Action:		H. Alternatives			
Establish reliable water source/ Improve water quality		No Action <input type="checkbox"/> if RMS	Alternative 1 <input type="checkbox"/> if RMS	Alternative 2 <input type="checkbox"/> if RMS	
		Continue watering from Rock Creek	Install 2000' pipeline (516), watering facility (614), Rx grazing(528)		
Special Environmental Concerns: Environmental Laws, Executive Orders, policies, etc.					
In Section "G" complete and attach Environmental Procedures Guide Sheets for documentation as applicable. Items with a "*" may require a federal permit or consultation/coordination between the lead agency and another government agency. In these cases, effects may need to be determined in consultation with another agency. Planning and practice implementation may proceed for practices not involved in consultation.					
G. Special Environmental Concerns (Document existing/ benchmark conditions)		J. Impacts to Special Environmental Concerns			
		No Action	Alternative 1	Alternative 2	
		Document all impacts (Attach Guide Sheets as applicable)	Document all impacts (Attach Guide Sheets as applicable)	Document all impacts (Attach Guide Sheets as applicable)	
		<input type="checkbox"/> if needs further action	<input type="checkbox"/> if needs further action	<input type="checkbox"/> if needs further action	
173	Corral Roots Guide Sheet Fact Sheet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
174					
176	Cultural Resources / Historic Properties Guide Sheet Fact Sheet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
177					
179					
180					
181					
182	Endangered and Threatened Species Guide Sheet Fact Sheet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
183					
184					

[Go to Form Instructions](#)

[Resource Considerations Guide Sheet "Optional"](#)

[Go to Form Instructions](#)



CULTURAL RESOURCES / HISTORIC PROPERTIES	NECH 610.25 Evaluation Procedure Guide Sheet	Client/Plan Information
<p><small>Check all that apply to this:</small> <input type="checkbox"/> Alternative 1 <small>Guide Sheet review:</small> <input type="checkbox"/> Alternative 2 <input type="checkbox"/> Other</p> <p>NOTE: This guidesheet provides general guidance to field planners and managers. States may need to tailor this Evaluation Procedure Guide Sheet to reflect State Level Agreements (SLAs) with SHPOs or Tribal consultation protocols or operating procedures pertinent to your State or other State-specific protocols that reflect the terms of the current National Programmatic Agreement among NRCS, the Advisory Council on Historic Preservation, and the National Conference of SHPOs. For additional information regarding compliance with Section 106 of the NEPA and NRCS cultural resource policy refer to Title 420, General Manual (GM), Part 401, Cultural Resources; for current operating procedures see Title 190, National Cultural Resource Procedures Handbook (NCRPH), Part 601.</p> <p>NOTE regarding consultations: When dealing with undertakings with the potential to affect cultural resources or historic properties, it is important to follow NRCS policy and the regulations that implement Section 106 and complete consultation with mandatory (SHPOs, THPOs, Federally recognized Tribes, and native Hawaiians) and identified consulting parties during the course of planning. This consultation is not documented on this guide sheet but would occur with Steps 2, 3, 4, and 6 and these must be conducted in accordance with NRCS State Office operating procedures to ensure appropriate oversight by Cultural Resources Specialists who meet the Secretary of Interior's Qualification Standards.</p> <p>STEP 1. Is the action(s) funded in whole or part or under the control of NRCS? To make this determination, answer the following:</p> <p>Is technical assistance carried out by or on behalf of NRCS? <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Unknown</p> <p>Is it carried out with NRCS financial assistance? <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Unknown</p> <p>Does it require Federal approval (e.g., permit, license, approval, etc.) from a federal agency (permit, license, approval, etc.)? <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Unknown</p> <p>Is it a joint project with another Federal, State, Tribal entity with NRCS functioning as lead federal agency? <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Unknown</p> <p>• If all of your responses are "No," document on the NRCS CPA-52, or notes section below, the finding, rationale, and information sources used and proceed with planning.</p> <p>• If any responses are "Yes," go to Step 2.</p> <p>• If "Unknown," consult with your State Cultural Resources Coordinator or Specialist (CRC or CRS) to determine if this is an action/undertaking that requires review and then complete Step 1.</p> <p>STEP 2. Is the action(s) identified as an "undertaking" (as defined in the 190-NCRPH and 420-GM) with the potential to cause effects to cultural resources/historic properties?</p> <p><input type="checkbox"/> No If "No," document on the NRCS CPA-52, or notes section below, the finding, rationale, and information sources used and proceed with planning.</p> <p><input type="checkbox"/> Yes If "Yes," go to Step 3.</p> <p>STEP 3. Has the undertaking's Area of Potential Effect (APE) been determined? NOTE: Include all areas to be altered or affected, directly or indirectly: access and haul roads, equipment lots, borrow areas, surface grading areas, locations for disposition of sediment, streambank stabilization areas, building removal and relocation sites, disposition of removed concrete, as well as the area of the actual conservation practice. Consultation is essential during determination of the APE so that all historic properties (buildings, structures, sites, landscapes, objects, and properties of cultural or religious importance to American Indian tribal governments and native Hawaiians) are included.</p> <p><input type="checkbox"/> No If "No," or "Unknown," consult with your state specific protocols or the CRC or CRS to determine the APE.</p> <p><input type="checkbox"/> Unknown</p>		
<p>• <input type="checkbox"/> Very Low / Intermittent / CleanAir / CleanAir (FS1) / CleanAir (FS2) / CleanWater / CleanWater PF</p>		

STEP 2.

Alternative 2 Other

Is the action(s) identified as an "undertaking" (as defined in the 190-NCRPH and 420-GM) with the potential to cause effects to cultural resources/historic properties?

No

If "No," document on the NRCS-CPA-52, or notes section below, the finding, rationale, and information sources used and proceed with planning.

Yes

If "Yes," go to Step 3.

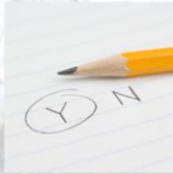


STEP 3.

Alternative 2 Other

Has the undertaking's Area of Potential Effect (APE) been determined? **NOTE:** Include all areas to be altered or affected, directly or indirectly: access and haul roads, equipment lots, borrow areas, surface grading areas, locations for disposition of sediment, streambank stabilization areas, building removal and relocation sites, disposition of removed concrete, as well as the area of the actual conservation practice. Consultation is essential during determination of the APE so that all historic properties (buildings, structures, sites, landscapes, objects, and properties of cultural or religious importance to American Indian tribal governments and native Hawaiians) are included.

- No If "No," or "Unknown," consult with your state specific protocols or the CRC or CRS to
- Unknown determine the APE.
- Yes If "Yes," go to Step 4.



STEP 4.

Alternative 2 Other

Have the appropriate records (National, State and local registers and lists) been checked or interviews conducted to determine whether any known cultural or historic resources are within or in close proximity to the proposed APE or project area? **Note:** This record checking does not substitute for mandatory consultation with SHPO, THPO, Tribes, and other identified consulting parties.

- | | | | |
|--|-----------------------------|---|----------------------------------|
| National Register of Historic Places? | <input type="checkbox"/> No | <input type="checkbox"/> Yes | <input type="checkbox"/> Unknown |
| State Register of Historic Places? | <input type="checkbox"/> No | <input type="checkbox"/> Yes | <input type="checkbox"/> Unknown |
| The SHPO's statewide inventory or data base? | <input type="checkbox"/> No | <input type="checkbox"/> Yes | <input type="checkbox"/> Unknown |
| Local/county historical society or commission lists? | <input type="checkbox"/> No | <input type="checkbox"/> Yes | <input type="checkbox"/> Unknown |
| Client knowledge of existing artifacts, historic structures, or cultural features? | <input type="checkbox"/> No | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Unknown |

- If any responses are "No" or "Unknown," work with your CRC or CRS to be sure these files are checked (sometimes the SHPO will let only the CRS or CRC review the files). Follow all other operating procedures as required by NRCS policy and procedures, SLA, and Tribal consultation protocols or operating procedures, as appropriate.
- If all responses are "Yes," and NRCS providing technical assistance only, then use any known information, notify the landowner of any potential affects, and provide recommendations for consideration. Document on the NRCS-CPA-52, or notes section below, the finding, rationale, and information sources used and proceed with planning. If NRCS is providing more than technical assistance go to Step 5.



STEP 5.

Alternative 2 Other

Did Step 4 reveal the existence of any known or potential cultural resources in the APE, or were any cultural resource indicators observed during the field inspection of the APE? **NOTE:** Field inspections or cultural resource survey will need to be conducted by qualified personnel in your state. Check with your State Cultural Resources Specialist to determine qualification criteria.

No

If "No," document on the NRCS-CPA-52, or notes section below, the finding, rationale, and information sources used and proceed with planning.

Yes

If "Yes," contact the CRC or CRS. Do **NOT** proceed with finalizing project design or project implementation until the final CRS response is received. **Go to Step 6.**



STEP 6. Alternative 2 Other

Can the proposed actions or alternatives be modified to avoid effects on the known cultural resources?

No **If "No," go to Step 7.**

Yes **If "Yes," modify the planned actions or activities and proceed according to CRS guidance and document this on the NRCS-CPA-52, or notes section below and continue with planning.**



STEP 7.

Alternative 2 Other

Has consultation with appropriate and interested parties been completed and documented? **NOTE:** The field planner completing the NRCS-CPA-52 generally does not do the consultation unless it is the CRS or CRC. Refer to the appropriate specialist for the documentation information.

- No If "No" refer to State CRC or CRS for further consultation and recommendations to the State Conservationist.
- Yes If "Yes," and all necessary historic preservation activities of identification, evaluation, and treatment have been completed, **document any consultation and proceed with planning.**

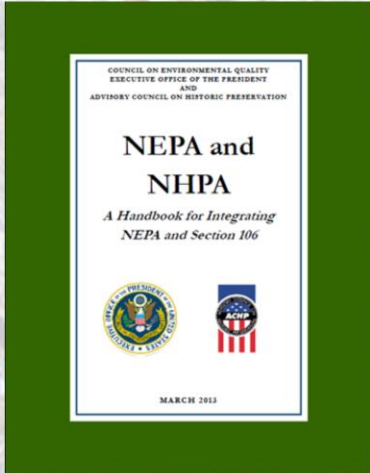


Documenting the CPA-52

Planning for Cultural Resources and Making the NEPA Finding

U.S. Department of Agriculture Natural Resources Conservation Service		NRC5-CPA-02 4/2012																								
A. Client Name: Joe Rancher																										
B. Conservation Plan ID # (as applicable): EQIP		Go to Form Instructions																								
C. Identification # (farm, tract, field #, etc. as required): Rock Creek Ranch- Lower Summer and Bob Cat Pastures		Resource Considerations Guide Sheet "Optional"																								
D. Client's Objective(s) (purpose): Increase grazing distribution and efficiency to increase calving percentage																										
E. Need for Action:																										
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;">H. Alternatives</th> <th style="width: 33%;">Alternative 1</th> <th style="width: 33%;">Alternative 2</th> </tr> <tr> <th style="text-align: center;">No Action</th> <th style="text-align: center;">Alternative 1</th> <th style="text-align: center;">Alternative 2</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Continue watering from Rock Creek</td> <td style="text-align: center;">Install 2000' pipeline (516), watering facility (614), Rx grazing(528)</td> <td style="text-align: center;">Alt 1 + 550' additional pipeline(516), ½ Mi. fence(382)</td> </tr> </tbody> </table>			H. Alternatives	Alternative 1	Alternative 2	No Action	Alternative 1	Alternative 2	Continue watering from Rock Creek	Install 2000' pipeline (516), watering facility (614), Rx grazing(528)	Alt 1 + 550' additional pipeline(516), ½ Mi. fence(382)															
H. Alternatives	Alternative 1	Alternative 2																								
No Action	Alternative 1	Alternative 2																								
Continue watering from Rock Creek	Install 2000' pipeline (516), watering facility (614), Rx grazing(528)	Alt 1 + 550' additional pipeline(516), ½ Mi. fence(382)																								
Special Environmental Concerns: Environmental Laws, Executive Orders, policies, etc.																										
In Section "G" complete and attach Environmental Procedures Guide Sheets for documentation as applicable. Items with a "4" may require a federal permit or consultation/coordination between the lead agency and another government agency. In these cases, effects may need to be determined in consultation with another agency. Planning and practice implementation may proceed for practices not involved in consultation.																										
G. Special Environmental Concerns																										
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2" style="width: 30%;">J. Impacts to Special Environmental Concerns</th> <th colspan="2">Alternative 1</th> <th colspan="2">Alternative 2</th> </tr> <tr> <th>Document all impacts (Attach Guide Sheets as applicable)</th> <th>if needs further action</th> <th>Document all impacts (Attach Guide Sheets as applicable)</th> <th>if needs further action</th> </tr> </thead> <tbody> <tr> <td>Coral Reefs <i>Guide Sheet Fact Sheet</i></td> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Cultural Resources / Historic Properties <i>Guide Sheet Fact Sheet</i></td> <td style="text-align: center;">No Effect. No undertaking implemented</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;">Pipeline will cross burial site</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td>5 ac. Native American burial site in BC Pasture (field observation)</td> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;">No Effect- all undertakings located to avoid impact to burial site</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>			J. Impacts to Special Environmental Concerns	Alternative 1		Alternative 2		Document all impacts (Attach Guide Sheets as applicable)	if needs further action	Document all impacts (Attach Guide Sheets as applicable)	if needs further action	Coral Reefs <i>Guide Sheet Fact Sheet</i>		<input type="checkbox"/>		<input type="checkbox"/>	Cultural Resources / Historic Properties <i>Guide Sheet Fact Sheet</i>	No Effect. No undertaking implemented	<input type="checkbox"/>	Pipeline will cross burial site	<input checked="" type="checkbox"/>	5 ac. Native American burial site in BC Pasture (field observation)		<input type="checkbox"/>	No Effect- all undertakings located to avoid impact to burial site	<input type="checkbox"/>
J. Impacts to Special Environmental Concerns	Alternative 1			Alternative 2																						
	Document all impacts (Attach Guide Sheets as applicable)	if needs further action	Document all impacts (Attach Guide Sheets as applicable)	if needs further action																						
Coral Reefs <i>Guide Sheet Fact Sheet</i>		<input type="checkbox"/>		<input type="checkbox"/>																						
Cultural Resources / Historic Properties <i>Guide Sheet Fact Sheet</i>	No Effect. No undertaking implemented	<input type="checkbox"/>	Pipeline will cross burial site	<input checked="" type="checkbox"/>																						
5 ac. Native American burial site in BC Pasture (field observation)		<input type="checkbox"/>	No Effect- all undertakings located to avoid impact to burial site	<input type="checkbox"/>																						
Endangered and Threatened Species <i>Guide Sheet Fact Sheet</i>																										

That concludes the documentation requirements for sections A-J, Now were going to take a look at guidance for COORDINATION OF NEPA AND Section 106 OF THE NHPA Let's look at the procedural guidance developed by the Council on Environmental Quality (CEQ) and the Advisory Council on Historic Preservation (ACHP)



NEPA and NHPA: A Handbook for Integrating NEPA and Section 106

COUNCIL ON ENVIRONMENTAL QUALITY
EXECUTIVE OFFICE OF THE PRESIDENT
AND
ADVISORY COUNCIL ON HISTORIC PRESERVATION



12/10/2014

NRCS Environmental Evaluation Series

Goals of the Handbook

- Introduce coordination and substitution of NEPA and NHPA to agencies
- Identify opportunities for more inclusive coordination and consultation with interested parties
- Address the benefits and challenges of coordination and substitution
- Improve the federal permitting and review process
- Provide practical, useful tips for practitioners to implement NEPA and Section 106 in tandem

Intended Users

- NEPA and Section 106 practitioners who prepare documents for agency decision-makers
- Agency decision-makers who are responsible for ensuring that NEPA and Section 106 review are done efficiently
- Federal and non-federal proponents of projects that require NEPA and Section 106 compliance
- Contractors working on behalf of agencies or applicants who undertake research, collect data, and prepare documentation

Impacts to Agency NEPA Procedures

- Handbook is advisory
- Agencies should consider how to integrate these provisions into their agency's NEPA and Section 106 implementing procedures

Handbook Overview

- Detailed review of the similarities and differences between these two independent requirements
- Roadmaps for Coordination and Substitution
- Emergency Procedures
- Timing and Documentation
- Illustrations, Definitions and Case Studies
- NEPA Substitution Check list

Key Messages

- The earlier integration begins the better it works.
- Develop comprehensive schedules with clearly defined roles and project milestones.
- Develop comprehensive communications plans that educate stakeholders on how NEPA and NHPA can work together.
- Use NEPA and Section 106 processes and information to inform one another.
- Use integrated approaches to completing studies.

Key Distinctions in Terminology

- Consultation (NHPA) and public involvement (NEPA).
- Area of potential effects (NHPA) and affected environment (NEPA).
- Historic property (NHPA) and cultural resources (NEPA).
- Adverse effect (NHPA) and significant effect (NEPA).

Coordination Using Categorical Exclusions

- The majority of federal actions are processed under a Categorical Exclusion.
- Section 106 is relevant to consideration of “extraordinary circumstances.”
- How to conclude the Section 106 process when using a Categorical Exclusion.

Coordination Using Environmental Assessments

- Consider the role of stakeholders; tribal consultation; information standards; timing; and documentation.
- Coordination principles for Environmental Assessments(EA) and Findings of No Significant Impacts (FONSI).
- How to complete the Section 106 process when concluding the NEPA process with a FONSI.

Coordination Using Environmental Impact Statements

- Consider: role of stakeholders; public involvement; tribal consultation; information standards; timing; and documentation.
- Coordinate principles for Environmental Impact Statements (EIS) and Record of Decisions (RODS):
 - Scoping;
 - Development of alternatives;
 - Preparing the EIS; and
 - Public comment.

The NEPA Substitution Process

- Determine whether a project is a good candidate:
 - Agency plans for active involvement?
 - Delegations and resources to support the process?
 - Substitution will enhance public engagement?
 - Substitution will facilitate resolution of effects?
- Step-by-step information is provided (pages 30-33).
- Checklist for EISs or EAs being used for substitution purposes under 36 CFR 800.8(c)(1).

Education and Outreach

- CEQ and ACHP posted the handbook on their Web sites.
- Webinars and e-learning are being developed.
- CEQ and the ACHP are participation in meetings, seminars, and environmental conferences.

Sources of Information

http://www.whitehouse.gov/sites/default/files/nepa_and_nhpa_handbook.pdf

Letter:

http://www.whitehouse.gov/sites/default/files/sutley-donaldson_nepa-nhpa_handbook_letter.pdf

Points of Contact

Horst Greczmiel
Council on Environmental Quality
Executive Office of the President
horst_greczmiel@ceq.eop.gov

202-395-5750

and

Charlene Dwin Vaughn
Advisory Council on Historic Preservation
cvaughn@achp.gov

202-517-0207

NRCS' new nationwide streamlining agreement for State and Area Offices

- On November 20, 2014, the chairman of the ACHP designated a new NRCS Programmatic Agreement Prototype
- It is in incipient stages of implementation

Each State and Area Office is charged with developing state prototypes with their SHPO, and/or appropriate Tribes, THPOs, and NHOs.

Part 2: Making the NEPA Finding

Planning for Cultural Resources and Making the NEPA Finding

Are you Ready to Make a Decision?

Let's finish up the documentation.....

- “Final Considerations”
 - Other Agencies & Broad Public Concerns – Sec. K
 - Mitigation – Sec. L
 - Preferred Alternative – Sec. M
 - Context – Sec. N
 - Significance or Extraordinary Circumstances – Sec. O
- Signatures – Sections P & S
- NEPA Finding & Rationale – Section Q & R

12/10/2014 NRCS Environmental Evaluation Series 35

The Environmental Evaluation Series, Webinars 1 through 9 and the first part of this webinar (10) have primarily focused on the first three pages of form CPA-52. The presentations have demonstrated that the Planning Process and the Environmental Evaluation process move forward simultaneously. To this point, the first 6 steps of the planning process have been emphasized. For the remainder of this webinar we will be focusing on completing Step 6, Evaluating Alternatives and then transitioning into Step 7 of the planning process which is Making a Decision. Specific to the Environmental Evaluation or EE process, for the remainder of this webinar we will be transitioning from evaluating the potential impacts of an action into making a finding. With the time remaining, Karen Fullen and I will be walking you through Parts K through S of the CPA-52.

How do I document?

Planning for Cultural Resources and Making the NEPA Finding

12/10/2014
NRCS Environmental Evaluation Series
36

As discussed in earlier webinars within this series, the primary purpose of NEPA, as defined in 40 CFR Part 1500.1, is to provide a process which leads to better decisions. As stated in the NEPA regulations, “the NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore and enhance the environment.” Note that the NEPA process also enables us, the public officials, to prepare ourselves to better inform our clients. By walking through both the Planning Process and the Environmental Evaluation process simultaneously, planners are able to develop alternatives that both address identified resource concerns and benefit the environment. Those alternatives can be considered by a well informed client who now has the ability to make decisions that ensure compliance with federal, state and local laws as well as address resource concerns and ultimately meet the goals and objectives of the operation.

Page 4 of the CPA-52 shown here provides a method for planners to document information needed to demonstrate “an understanding of environmental consequences” as well as to further document how NRCS actions are intended to “protect, restore and enhance the environment”. It should be noted here that NRCS NEPA regulations state in 7CFR 650.3(b)(4) that “plans satisfy identified needs and at the same time minimize adverse effects of planned actions on the human environment through interdisciplinary planning before providing technical and financial assistance”. In other words, NRCS has the responsibility through its planning process to not only address the needs identified on the land, but to ensure adverse impacts created or

caused by our actions are minimized in the process. This requirement applies not only to financial assistance but technical assistance as well.

I will be walking you through parts K through P on page 4 of the CPA-52. The arrows above identify several key components of the form that will be discussed along with examples of how you, the planner, can effectively document the decision making process. For the next several slides I will be providing brief examples along with specific portions of the CPA-52 clipped out and posted for easy viewing.

Back to page 4 of the “52”

Planning for Cultural Resources and Making the NEPA Finding

K. Other Agencies and Broad Public Concerns	No Action	Alternative 1	Alternative 2
Easements, Permissions, Public Review, or Permits Required and Agencies Consulted.	Not Applicable	Prescribed burning must be completed in accordance with state laws. Smoke management guidelines must be followed. County Green Space Initiative coordinator must approve any action within the easement boundary.	Prescribed burning must be completed in accordance with state laws. Smoke management guidelines must be followed. County Green Space Initiative coordinator must approve any action within the easement boundary. Notify Energy-R-Us that removal of non-native trees will be removed along right of way and right of way will be used for access.
Cumulative Effects Narrative (Describe the cumulative impacts considered, including past, present and known future actions regardless of who performed the actions)	Continued buildup of forest fuels. Planning area is adjacent to several large forest areas that also have heavy fuel loads. Significant fire risk to local community. Non-native seed source for areas along the utility right of way remains present..	Fuel load reduced and habitat value improved on site. Risk of wildfire to local community reduced by decreasing overall size of high fuel forests and by creating a natural break in forest land with high fuel loads. Non-native seed source for areas along the utility right of way remains present	Fuel load reduced and habitat value improved on site. Risk of wildfire to local community reduced by decreasing overall size of high fuel forests and by creating a natural break in forest land with high fuel loads. Non-native trees eliminated reducing risk of spread along the utility right of way.

- Consider to applicable laws, permit requirements, etc.
- What are the cumulative effects?

12/10/2014

NRCS Environmental Evaluation Series

37

The first consideration under Part K is focused on applicable laws, permitting requirements, easement restrictions, etc. An example: you have been working with a non-industrial private forest landowner. During the process it was determined that her trees were overstocked; fuel loads were excessive causing a wildfire risk and reduced habitat suitability for target species; and you noted a patch of non-native tree species that have colonized an area along a utility right of way on the southwestern boundary. Alternative one includes application of Forest Stand Improvement (666), Prescribed Burning (338) and Firebreak (394). Alternative 2 includes these practices as well as Brush Management (314) to control the non-native trees and Tree/Shrub Establishment (612) to re-establish native trees after treatment.

During the site visit you notice boundary markers indicating that a conservation easement exists along a stream on the eastern boundary. Discussions with the landowner help you understand that she had entered into a perpetual easement with the county for a 200 foot buffer along the stream as part of a local Green Space Initiative.

Section K of the CPA-52 provides the opportunity to inform the client of their responsibilities as well as ours. It also provides the opportunity to consider the Cumulative Effects of the action beyond what might occur on the actual planning unit.

Planning for Cultural Resources and Making the NEPA Finding

Continuing on...

L. Mitigation (Record actions to avoid, minimize, and compensate)	N/A	Pipeline will be re-routed to the north in order to avoid impacts. This will increase the amount of pipeline required by 550 feet.	Pipeline will be re-routed to the north in order to avoid impacts. This will increase the amount of pipeline required by 550 feet. Fencing will be moved east increasing paddock size by 1acre. No additional fence will be required.
---	-----	--	---

Mitigation is....

- Avoiding
- Rectifying
- Compensating
- Minimizing
- Reducing

(CEQ Regulations - 40 CFR 1508.20)

12/10/2014 NRCS Environmental Evaluation Series 38

Part L of our example CPA-52 has been clipped and pasted in this slide. Mitigation means to avoid, minimize, rectify, reduce, or compensate for the impact of an action or alternative on a quality or condition. In short, the purpose of mitigation is to lessen the undesired impacts of the NRCS action. Mitigation can include one or more of the options listed here on the slide. As mentioned on a previous slide, NRCS NEPA regulations state that “plans satisfy identified needs and at the same time minimize adverse effects of planned actions on the human environment through interdisciplinary planning before providing technical and financial assistance”.

NEPA requires that measures that would mitigate adverse environmental impacts be discussed. All relevant, reasonable mitigation measures that could alleviate the environmental effects of a proposed action must be identified.

Note that there may be mitigation measures or alternatives that would be desirable to consider and adopt even though the effects or impacts of the proposed action will not be significant. Providing these measures is a critical part of the decision making process.

A scenario to consider: you have been assisting a livestock producer by providing a clean, reliable source of water and assisting with the development of a grazing plan. Alternative 1 includes practices such as Livestock Pipeline (516) and Watering Facility (614). Alternative 2 also includes Fencing (382) and Prescribed Grazing (528). During

your evaluation you identify a significant Native American site. The pipeline and fence would pass directly through the center of the site. As a result, the client is required to mitigate the impact. You present the "Avoidance" option and design the system in a manner that would not cause any ground disturbance, avoiding the identified undertaking.

Please note that mitigation requirements must be met prior to moving forward with the Federal Action.

Who is the Decision Maker?

M. Preferred Alternative	preferred alternative	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Supporting reason		Landowner's primary objectives are achieved by alternative one. He has stated that financial constraints are hindering him from completing additional actions found in alternative two.	

What is the Preferred Alternative....

The point to make here is that the client is the decision maker when choosing the preferred alternative. They will identify the alternative that best fits the goals and objectives of their operation. In Part M, the planner should identify the decision maker's preferred alternative by using the check box, then provide the supporting reasons for choosing this alternative. Remember that up to this point, NRCS should be assisting with the development and evaluation of at least two alternatives; one of which must be the No Action alternative.

Once the Preferred Alternative has been selected by the client, the Responsible Federal Official (RFO) is able to continue forward within the EE process. The RFO will use the information gathered to this point to make a decision whether or not the preferred alternative is a federal action and if so, a finding concerning the significance of the action.

Planning for Cultural Resources and Making the NEPA Finding

What is a Federal Action?

Actions that trigger NEPA....

- CEQ has defined for Federal agencies what types of actions would trigger NEPA:
- They include Projects & Programs that are:
 - Financed/Funded
 - Assisted
 - Conducted
 - Regulated
 - Approved

12/10/2014 NRCS Environmental Evaluation Series 40


Now that the client has selected the preferred alternative, you the RFO should be asking yourself “is this a Federal Action?” CEQ has defined for Federal Agencies the types of actions that would trigger NEPA. In other words; Federal Actions. If NRCS has control of the action, it is a federal action triggering NEPA. Possibly the easiest example to understand is an activity funded by NRCS such as those practices funded under an EQIP contract. NRCS is providing financial assistance to implement the activity and is requiring that the action be installed to NRCS standards and specifications. An easily identifiable federal action.

If however, the preferred alternative does not include a federal action, you the RFO should note that your NEPA and planning requirements have been met. An example could include a situation where you have developed an HEL plan for someone, and now it is up to them to decide whether or how to implement the plan. In this case, NRCS does not control whether or not all or parts of the plan are implemented and is not in control of the method of implementation. At this point you could skip forward to signature block P, sign, then move forward to page 5 where your finding will be “this is NOT a federal action”. Karen will touch on this more in a few minutes, but note that although the CPA-52 is linear and we are providing training in a linear fashion; often times you will be moving around in the form as you work your way through the EE and planning process.

Planning for Cultural Resources and Making the NEPA Finding

Significance

- CEQ Definition of Significantly (40 CFR Part 1508.27)
 1. Context : action **must** be analyzed in several contexts (e.g. society as a whole, the affected region, the affected interests, and the locality)
 2. Intensity: severity of the impact
 - Ten criteria provided by CEQ



12/10/2014 NRCS Environmental Evaluation Series 41

The RFO, you, have determined that in fact the preferred alternative is a federal action. Let's say that the client is applying for EQIP funding to install practices identified in the Conservation Plan. Now you must evaluate the significance of the federal action.

When determining Significance, NEPA requires that the context and intensity of an action be considered. Significance may vary with the setting. As a result each action must be analyzed in several contexts. For example, an action may be evaluated at the field level; the county level; the watershed level, and so on. Note that an action may be considered significant in one context and not another.

An example could be an action that produces a significant amount of sedimentation during installation. The client has decided to install a system on a field that is very steep and susceptible to erosion. He is not interested in reducing tillage, so your plan calls for Terraces (600), Grassed Waterways (412) and Filter Strips (393) to address erosion. The overall impact to the field may be beneficial. The overall impact in the adjacent stream and broader watershed may be beneficial. However, during installation, a considerable amount of sediment may be produced impacting a federally listed species of mussel that inhabits the stream adjacent to the field in question only a half mile away. By considering the action in multiple contexts, the RFO is able to identify and minimize impacts.

Intensity refers to the severity of the impact that would result from the proposed

action. NEPA provides 10 criteria for evaluating intensity. A few examples include UNIQUE CHARACTERISTICS of the geographic area, CUMULATIVELY SIGNIFICANT impacts, and whether the action THREATENS THE VIOLATION of Federal, State or Local laws. NRCS evaluates the 10 criteria by answering the 8 yes or no questions under section O of the CPA-52.

Context / Extraordinary Circumstances

N. Context (Record context of alternatives analysis)		Field	County	Watershed
The significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality.				
O. Determination of Significance or Extraordinary Circumstances				
Intensity: Refers to the severity of impact. Impacts may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.				
If you answer ANY of the below questions "yes" then contact the State Environmental Liaison as there may be extraordinary circumstances and significance issues to consider and a site specific NEPA analysis may be required.				
Yes	No			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Is the preferred alternative expected to cause significant effects on public health or safety?		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Is the preferred alternative expected to significantly affect unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas?		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Are the effects of the preferred alternative on the quality of the human environment likely to be highly controversial?		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Does the preferred alternative have highly uncertain effects or involve unique or unknown risks on the human environment?		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Does the preferred alternative establish a precedent for future actions with significant impacts or represent a decision in principle about a future consideration?		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Is the preferred alternative known or reasonably expected to have potentially significant environment impacts to the quality of the human environment either individually or cumulatively over time?		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Will the preferred alternative likely have a significant adverse effect on ANY of the special environmental concerns? Use the Evaluation Procedure Guide Sheets to assist in this determination. This includes, but is not limited to, concerns such as cultural or historic resources, endangered and threatened species, environmental justice, wetlands, floodplains, coastal zones, coral reefs, essential fish habitat, wild and scenic rivers, clean air, riparian areas, natural areas, and invasive species.		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Will the preferred alternative threaten a violation of Federal, State, or local law or requirements for the protection of the environment?		

12/10/2014

NRCS Environmental Evaluation Series

42

This slide shows sections N and O from the CPA-52. Note that the drop down menu for Context includes "local", "regional", "national" and "other". This example demonstrates that a planner is able to insert a specific context OR use the menu options.

Looking at the example CPA-52, you can see that the planner has identified potential extraordinary circumstances. This triggers the RFO to consider more diligently the applicability of **Categorical Exclusions and the analysis in existing NEPA documents.** Categorical Exclusions and tiering to existing NEPA documents will be discussed further by Karen a little later.

Information Quality Certification

Signature block - "Section P"

- Certification that information is correct
- Person responsible for completing the first 4 pages of the CPA-52 must sign
- Can be signed by a TSP or other non-NRCS person
- Second signature block for NRCS Certification

There are two signature blocks under Section P of the CPA-52. The person responsible for completing the SWAPA, economics/social considerations and special environmental concerns sections of the CPA-52 MUST sign, date, and indicate their title in the first signature block. This certification is intended to indicate that the information recorded is correct and based on the best available information. This may, or may not be an NRCS employee, however if a NON-NRCS employee completes the CPA-52 and signs in section P, an NRCS person must verify the adequacy of the documentation provided. (WHY? Next Slide)

Information Quality Certification

- The RFO uses information in the CPA-52 to make the NEPA Finding
- Incorrect information can jeopardize the agency, and in some cases the landowner

12/10/2014 NRCS Environmental Evaluation Series 44

Planning for Cultural Resources and Making the NEPA Finding

The responsible agency, and specifically the RFO, must be able to rely on the information provided in the CPA-52 in order to make the NEPA Finding. Incorrect information could jeopardize the agency, and in some cases the landowner. For example, if the person completing the CPA-52 indicates an action will have no effect on any federally listed endangered species, and later it was discovered that there was an endangered bird harmed, both the landowner and the NRCS employee could be subject to the penalties, fines or potentially jail time set forth under the Endangered Species Act.

Planning for Cultural Resources and Making the NEPA Finding

Finishing Page 4!

P. To the best of my knowledge, the data shown on this form is accurate and complete:
 In the case where a non-NRCS person (e.g. a TSP) assists with planning they are to sign the first signature block and then NRCS is to sign the second block to verify the information's accuracy.

Signature (TSP if applicable)	Title	Date
<i>J. M. Responsible</i>	Designated Conservationist	12/1/2014
Signature (NRCS)	Title	Date

If preferred alternative is not a federal action where NRCS has control or responsibility and this NRCS-CPA-52 is shared with someone other than the client then indicate to whom this is being provided.

12/10/2014 NRCS Environmental Evaluation Series 45

In this example CPA-52, note that the Designated Conservationist is also the planner. Therefore only one signature block is required. Had a TSP, District Employee, or other adequately trained non-NRCS professional completed sections A through O of the CPA-52 and signed on the first line in Section P, an NRCS employee would be required to review the document and if acceptable, sign and date in Section P as well.

At this point, the RFO has the information needed to complete Sections Q through S of the CPA-52. Karen will now be walking you through these sections, found on page 5 for the remainder of the time we have left in this webinar.

What is a Finding?

A decision on a question of fact reached as the result of examination or investigation.

Determinations or conclusions reached by making a reasonable inference from the evidence or information available.



During Steps 1 - 6 of the Conservation Planning Process, the planner has examined and investigated problems, opportunities, and resources in the planning area and the effects alternative courses of action that meet the client's objectives will have on these resources. The CPA-52 documents the examination and investigation that has been done. The client has chosen the alternative to implement and the RFO uses the evidence and information on the CPA-52 to make the Finding on the preferred alternative.

Who Can Make the Finding?


- GM 190, Part 410.4 K.
- Responsible Federal Official (RFO)
 - NRCS Chief for proposed legislation, programs, legislative reports, regulations, and programmatic EIS's.
 - NRCS State Conservationists (STC) or their designee in other NRCS-assisted actions.

NRCS Policy in the General Manual provides guidance on who can be a Responsible Federal Official. States should supplement this part of the GM to designate RFO authority below the State Conservationist level.

Planning for Cultural Resources and Making the NEPA Finding

Why Make a Finding?

To determine the appropriate level of documentation to show NRCS has complied with the requirements of NEPA and other environmental laws.



12/10/2014 NRCS Environmental Evaluation Series 48

NEPA requires Federal agencies to prepare an EIS for major Federal actions significantly affecting the quality of the human environment. A Federal action is one in which a federal agency has control over the proposed action, including providing funding or authorizing or permitting the activity. At the NRCS Field Office level, the Federal actions usually being considered are whether or not to provide funding for a Farm Bill program application or to authorize an otherwise prohibited action, such as a compatible use on a Wetland Reserve easement.

In almost all cases, the CPA-52 streamlines NRCS' compliance with NEPA and other environmental laws by providing a way to document our action is not a major Federal action significantly affecting the quality of the human environment and that an EIS is not needed.

So when you get overwhelmed by the work involved completing the CPA-52, just think of all the work it is saving you by not having to prepare an EIS!

When is the Finding Made?

- Purpose of NEPA
 - Inform the RFO and the public of the consequences of federal actions before they are taken
- Practices may not be implemented which would:
 - Result in an irreversible or irretrievable commitment of resources
 - Limit the range of reasonable alternatives

12/10/2014

NRCS Environmental Evaluation Series

49

Ideally, all documentation on the CPA-52 should be complete and the Finding made before NRCS makes a decision to fund a contract. However, NRCS' obligation does not constitute an irreversible or irretrievable commitment of resources because the contract can always be modified or cancelled. Paragraph 9B of the EQIP Contract Appendix states "CCC may unilaterally modify this Contract when the installed practice would cause adverse impacts to significant cultural and/or environmental resources without mitigation action." It is very important that contract participants understand they may **not** start implementing practices until effects on cultural resources and other resources such as T&E species are known and that modifications to practice implementation requirements may be necessary to avoid, minimize, or compensate for any adverse impacts.

Where is the Finding Documented?

The following sections are to be completed by the Responsible Federal Official (RFO)		
NRCS is the RFO if the action is subject to NRCS control and responsibility (e.g., actions financed, funded, assisted, conducted, regulated, or approved by NRCS). These actions do not include situations in which NRCS is only providing technical assistance because NRCS cannot control what the client ultimately does with that assistance and situations where NRCS is making a technical determination (such as Farm Bill HEL or wetland determinations) not associated with the planning process.		
Q. NEPA Compliance Finding (check one)		
The preferred alternative:		Action required
<input type="checkbox"/>	1) is not a federal action where the agency has control or responsibility.	Document in "R.1" below. No additional analysis is required
<input type="checkbox"/>	2) is a federal action ALL of which is categorically excluded from further environmental analysis AND there are no extraordinary circumstances as identified in Section "O".	Document in "R.2" below. No additional analysis is required
<input type="checkbox"/>	3) is a federal action that has been sufficiently analyzed in an existing Agency state, regional, or national NEPA document and there are no predicted significant adverse environmental effects or extraordinary circumstances.	Document in "R.1" below. No additional analysis is required
<input type="checkbox"/>	4) is a federal action that has been sufficiently analyzed in another Federal agency's NEPA document (EA or BS) that addresses the proposed NRCS action and its effects and has been formally adopted by NRCS. NRCS is required to prepare and publish its own Finding of No Significant Impact for an EA or Record of Decision for an BS when adopting another agency's EA or BS document. (Note: This box is not applicable to FSA)	Contact the State Environmental Liaison for list of NEPA documents formally adopted and available for tiering. Document in "R.1" below. No additional analysis is required
<input type="checkbox"/>	5) is a federal action that has NOT been sufficiently analyzed or may involve predicted significant adverse environmental effects or extraordinary circumstances and may require an EA or BS.	Contact the State Environmental Liaison. Further NEPA analysis required.

The RFO completes Sections Q – S of the CPA-52. Don already discussed the first possible Finding, that the preferred alternative is not a federal action. Most of the time, our client has applied for Farm Bill program funding to implement the preferred alternative, so 1) does not apply. We will look at the other possible Findings in more detail on the next slides.

Planning for Cultural Resources and Making the NEPA Finding

Categorical Exclusions

- Category of actions that do not individually or cumulatively have a significant effect on the human environment.
- Exempt from the requirement to prepare an EA or EIS
- 1979 Cat Exes – 5
- 2009 Cat Exes – 21
- USDA Cat Exes - 7

12/10/2014 NRCS Environmental Evaluation Series 51

Categorical exclusions apply to Federal actions that experience has shown do not usually have significant effects and are therefore exempt from the NEPA requirement to prepare an EA or EIS.

We are going to spend quite a bit of time talking about Categorical Exclusions, called Cat Exes for short, because you are encouraged to use them as much as possible. In the event NRCS were to be challenged on our NEPA compliance for a project, the appropriate use of a Cat Ex would be more legally defensible than what we largely have done in the past, which was tiering to a national programmatic EA.

There are 3 groups of Cat Exes available for NRCS to use and all are listed in a drop-down box in Section R. of the CPA-52.

To use a Categorical Exclusion:

- All of the activities to be implemented under the preferred alternative are described by one or more of the Cat Exes published in NRCS's or USDA's NEPA implementing regulations.
- There are no extraordinary circumstances (significant adverse impacts) that cannot be mitigated.

NRCS' Cat Exes can be found in 7 CFR Section 650.6 and USDA's Cat Exes are in 7 CFR Section 1(B)(3).

NRCS cannot use another Agency's Cat Exes.

Planning for Cultural Resources and Making the NEPA Finding

Cannot Use Cat Ex if:

- Actions without a Cat Ex are included in the preferred alternative
- Actions will have significant adverse impacts that cannot be mitigated (Extraordinary Circumstances)

12/10/2014 NRCS Environmental Evaluation Series

If a proposed plan involves actions listed as categorical exclusions and other actions that are not on this list, then NRCS may not categorically exclude the entire action from review under NEPA.

Nor can NRCS look at the actions individually if they are interdependent parts of a plan. This would be construed as “segmenting” an action into smaller component parts to avoid the requisite and appropriate level of environmental review under NEPA.

“Side Boards”

- (1) Soil erosion, sedimentation, and downstream flooding is mitigated;
- (2) Disturbed areas are re-vegetated with adapted species;
- (3) Work in streams is based on the principles of natural stream dynamics and processes

12/10/2014 NRCS Environmental Evaluation Series

There are other requirements that must be met in using and applying categorical exclusions.

The rationale section of the CPA-52 should explain which of the “over arching” side boards apply as well as how the preferred alternative meets the specific side boards for each Cat Ex.

You can disregard side boards that do not apply to the preferred alternative in question. For example, if the action does not involve stream work then do not address whether the action has been based on natural stream dynamics and processes.

“Side Boards” continued

- (4) NRCS conservation practice standards are followed;
- (5) Substantial dredging, excavation, or fill is not required;
- (6) There's no significant risk of exposure to toxic or hazardous substances.

Planning for Cultural Resources and Making the NEPA Finding

Specific “Side Boards”

- Cat Exes may include specific side boards-
- (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...and establishment of appropriate plant communities...**

12/10/2014 NRCS Environmental Evaluation Series

Cat Exes may have a defined set of criteria that limit the use of the Cat Ex for a particular action.

For example, the Cat Ex for stabilizing streambanks to reduce erosion is restricted by stating it only applies if the stabilization is done **“through bioengineering techniques following a natural disaster to restore pre-disaster conditions to the extent practicable and establishment of appropriate plant communities”**

So you would not be able to use this Cat Ex for a bank stabilization project that involved only riprap and did not incorporate bioengineering and establish appropriate plant communities.

Existing Agency EA or EIS

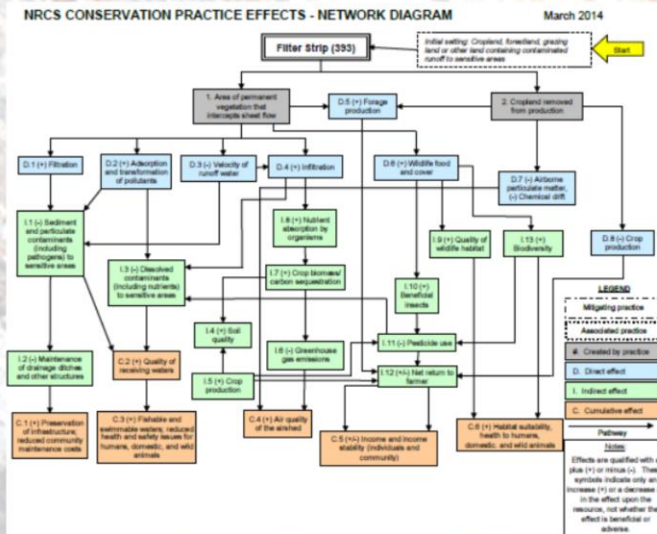
- Programmatic EAs analyze only general effects of conservation practices, not site-specific effects



If the RFO determines no Categorical Exclusions apply, the next possible finding is that the preferred alternative has been sufficiently analyzed in an existing agency NEPA document, such as the National Programmatic EA for EQIP. We refer to this as “tiering to” the programmatic EA.

The EE, documented on the CPA-52, provides the site-specific analysis of effects that programmatic NEPA documents cannot.

Network Effects Diagrams



The programmatic EAs rely on Network Effects Diagrams to identify the direct, indirect, and cumulative environmental impacts that typically result from the application of conservation practices. The Network Effects Diagrams are incorporated by reference into the existing programmatic EAs and will be included as an appendix in the new programmatic EAs which are working their way through the final stages of internal and OMB review.

An example of a Network Effects Diagram is shown here for Filter Strip (393). Each of the network diagrams first identifies an initial setting, which is based on the typical land use and conditions under which the practice is applied and resource concerns addressed.

The gray boxes show what is done on the ground to implement the practice. From there, the diagrams depict the occurrence of the direct (blue), indirect (green), and cumulative (orange) effects of the practice. Effects are qualified with a "+" or a "-", which denotes an increase ("+") or decrease ("-") in the effect. Pluses and minuses do not equate to good and bad or positive and negative. Only the general effects that are considered the most important ones from a national perspective are illustrated.

So when the RFO determines that a preferred alternative has been adequately analyzed in one of the programmatic documents, they are saying that the Network Effects Diagrams for practices to be installed have captured the site-specific effects

documented on the CPA-52.

Network Effects Diagrams are available on the National Conservation Practice Standards web page. Planners can use these diagrams to help complete the CPA-52.

One more thing about Tiering

- All NRCS Programmatic EAs have resulted in Findings of No Significant Impact (FONSI)
- Programmatic EAs can only be used when there are no predicted significant adverse environmental effects or extraordinary circumstances that cannot be mitigated.

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/technical/nra/ec/>

NRCS NEPA documents, including the programmatic EAs and FONSI, are available from a link on the National Environmental Compliance web page. RFOs should understand the contents of these documents before making a Finding that they are sufficient to cover the NRCS action being considered.

Tiering Finding Example

Q. NEPA Compliance Finding (check one) The preferred alternative:		Action required
<input type="checkbox"/>	1) Is not a Federal action where the agency has control or responsibility.	Document in "R1" below. No additional analysis is required.
<input type="checkbox"/>	2) Is a Federal action ALL of which is categorically excluded from further environmental analysis AND there are no extraordinary circumstances as identified in Section 10".	Document in "R2" below. No additional analysis is required.
<input checked="" type="checkbox"/>	3) Is a Federal action that has been sufficiently analyzed in an existing Agency state, regional, or national NEPA document and there are no precise significant adverse environmental effects or extraordinary circumstances.	Document in "R1" below. No additional analysis is required.
<input type="checkbox"/>	4) Is a Federal action that has been sufficiently analyzed in another Federal agency's NEPA document (EA or EIS) that also covers the proposed NRCS action and its effects and has been formally adopted by NRCS. NRCS is required to prepare and publish its own Finding of No Significant Impact for an EA or Record of Decision for an EIS when adopting another agency's EA or EIS document. (Note: This box is not applicable to F&A.)	Contact the State Environmental Liaison for all of NEPA documents formally adopted and evidence for tiering. Document in "R1" below. No additional analysis is required.
<input type="checkbox"/>	5) Is a Federal action that has NOT been sufficiently analyzed or may involve precise significant adverse environmental effects or extraordinary circumstances and may require an EA or EIS.	Contact the State Environmental Liaison. Further NEPA analysis required.

R. Rationale Supporting the Finding	
R1	Environmental Action/Program/Project/Action/Service, Environmental Assessment, Activity, etc.
R2	Provide Documentation
R3	Applicable Categorical Exclusions How many there are may vary.
R4	Cite the NEPA Compliance with NEPA, subject to the Compliance Schedule, when preparing or reviewing the environmental action.
R5	Designate a responsible NEPA compliance program or individual. The program acronym must be included in the Finding of No Significant Impact.

I have considered the effects of the alternatives on the Resource Concerns, Economic and Social Considerations, Social/Environmental Concerns and Extraordinary Circumstances as defined by Agency regulations and policy and based on that made the Finding indicated above.

S. Signature of Responsible Federal Official:

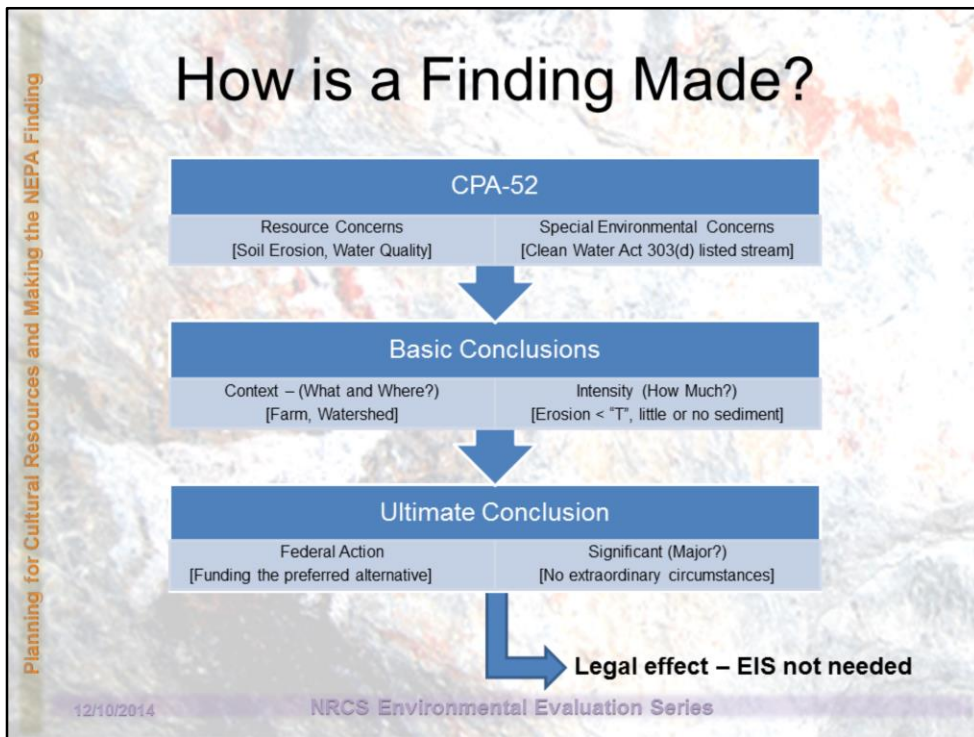
<i>R. M. Rappasalla</i>	Designated Compliance Officer	12/1/2014
Signature	Title	Date

12/10/2014

NRCS Environmental Evaluation Series

61

If the Finding is that the preferred alternative has been adequately analyzed in an existing Agency NEPA document, box 3) is checked in Section Q, the document is cited in Section R, and the RFO signs and dates in Section S.



This slide summarizes how a Finding is made for a typical Farm Bill program application funded by NRCS.

Supporting evidence on the CPA-52 is used to reach basic conclusions regarding the intensity of the effects of the preferred alternative in the appropriate context.

For example, a planner documents the resource concerns *Sheet and Rill Erosion* and *Excessive Sediment in Surface Water* occur in the planning unit. She also documents the stream adjacent to the planning unit is listed as impaired under Section 303(d) of the Clean Water Act and has a TMDL for sediment. The preferred alternative includes reduced tillage and buffer practices that will reduce erosion on the adjacent farm fields below “T” and intercept sediment before it reaches the stream. The practices will have positive effects both on the farm and downstream, so those are the contexts under which the effects should be analyzed. The intensity of the effects are that erosion is reduced below “T” and sediment from the farm does not contribute to the TMDL.

That leads the RFO to reach the ultimate conclusion of whether or not NRCS’ action of funding the preferred alternative is a major federal action significantly affecting the quality of the human environment. This determination is documented on the CPA-52 by checking the “Yes” or “No” boxes in Section O. – Determination of Significance or Extraordinary Circumstances that Don discussed earlier. In this example, all the boxes would be checked “No.” The legal effect is a decision by the RFO that no EIS will be

prepared.

Planning for Cultural Resources and Making the NEPA Finding

Adoption or EA/EIS

- NRCS may adopt a draft or final EA or EIS prepared by another agency
- NRCS can prepare an EA/EIS
- Contact your State Environmental Liaison for assistance

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/technical/nra/ec/>

12/10/2014 NRCS Environmental Evaluation Series 63

Two options remain in the Findings section if the RFO decides the NRCS action cannot be categorically excluded and has not been adequately analyzed in an existing NRCS NEPA document.

Adoption is often done when NRCS is working on a project in partnership with another agency.

Questions?

For additional information... contact:

Sarah Bridges- sarah.bridges@wdc.usda.gov

Don Riley- don.riley@gnb.usda.gov

Karen Fullen- karen.fullen@por.usda.gov

Matthew Judy- matthew.judy@ftw.usda.gov