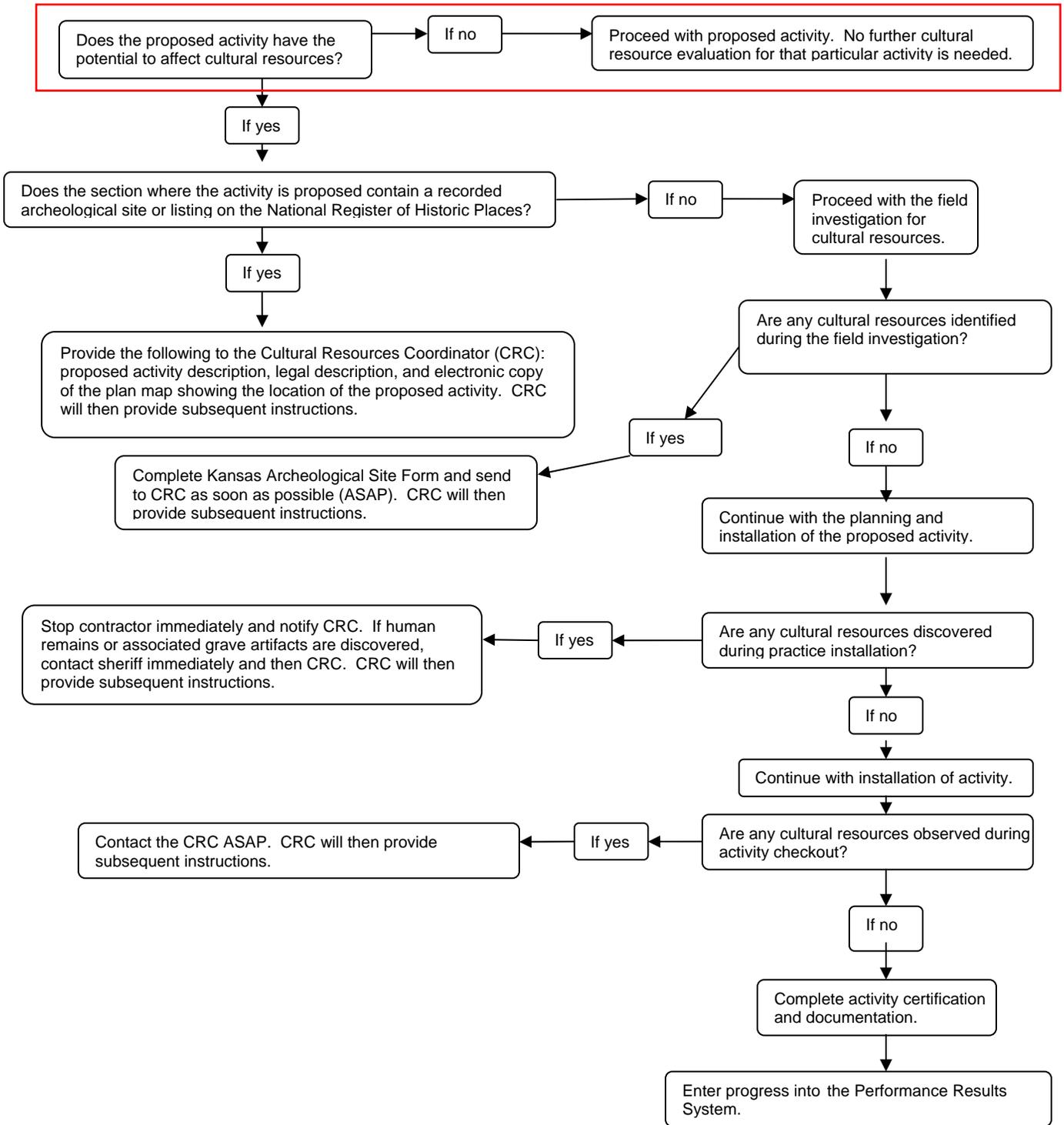


Special Environmental Concerns Evaluation Procedure Guide Sheet

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CULTURAL RESOURCES



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ENVIRONMENTAL JUSTICE

STEP 1. In the area affected by the Natural Resources Conservation Service (NRCS) action, are there low-income populations, minority populations, or Indian tribes?

NO

YES

- a. If your answer is "No," additional evaluation is not needed concerning environmental justice. Document the finding on Form KS-CPA-52, and proceed with planning.
- b. If yes, then go to Step 2.

STEP 2. Is the proposed action the type that might have a disproportionately adverse environmental or human health effect on any population?

NO

YES

- a. If your answer is "No," additional evaluation is not needed concerning environmental justice. Document the finding on Form KS-CPA-52 and proceed with planning.
- b. If yes, then go to Step 3.

STEP 3. Initiate community outreach to affected and interested parties that are categorized as low-income, minority, or as Indian tribes. The purpose of this is to encourage participation and input on the proposed program or activity and any alternatives or mitigating options. Participation of these populations may require adaptive or innovative approaches to overcome linguistic, institutional, cultural, economic, historic, or other potential barriers to effective participation. Go to Step 4.

STEP 4. Considering the results of the outreach initiative together with other information gathered for the decision making process, will the proposed activity have a disproportionately high and adverse effect on the human health or the environment of minority, low-income, or Indian populations?

NO

YES

- a. If "No," then go to Step 6.
- b. If "Yes," then go to Step 5.

STEP 5. Consider the feasibility and appropriateness of alternatives or mitigating options and their effects.

STEP 6. Notify interested and affected parties of agency decision.

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FISH AND WILDLIFE COORDINATION

STEP 1. Does the action or activity propose or authorize any stream or other body of water to be impounded, diverted, the channel deepened, controlled, or otherwise modified for any purpose?

NO

YES

- a. If your answer is "No," additional evaluation is not needed concerning Fish and Wildlife Coordination. Document the finding on Form KS-CPA-52 and proceed with planning.
- b. If your answer is "Yes," go to Step 2.

STEP 2. Is the proposed action to impound water with a surface area less than 10 acres?

NO

YES

- a. If your answer is "No," go to Step 3.
- b. If your answer is "Yes," document the finding on Form KS-CPA-52 and proceed with planning.

STEP 3. Will a federal agency other than NRCS provide funding or otherwise control implementation of the action?

NO

YES

- a. If your answer is "No," the Natural Resources Conservation Service (NRCS) district conservationist or NRCS state office SO employee must initiate consultation with the U.S. Fish and Wildlife Service (USFWS) and the state agency that administers wildlife resources. NRCS shall give full consideration to the recommendations and those recommendations shall be referenced in or attached to the Form KS-CPA-52 and made an integral part of the plan.
- b. If your answer is "Yes," indicate on the Form KS-CPA-52 that consultation with the USFWS and the state agency that administers wildlife resources may be required before the action is implemented. Proceed with planning.

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Not applicable - no impact to floodplain and floodplain management not requested

FLOODPLAIN MANAGEMENT

This determination criterion is intended for non-project technical and financial assistance only. For project assistance criteria, consult General Manual (GM) Title 190, Part 410.25(c) 2.

STEP 1. Is a base (100-year) floodplain present in or near the planning area?

NO **YES** **UNKNOWN**

- a. If your answer is "No," additional evaluation is not needed concerning floodplain areas. Document the finding on Form KS-CPA-52 and proceed with planning.
- b. If your answer is "Yes," go to Step 2.
- c. If your answer is "Unknown," review the Federal Emergency Management Agency (FEMA) flood insurance rate maps or make an onsite determination and repeat Step 1.

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

NO **YES**

- a. If your answer is "No," the land user is not eligible for technical and/or financial assistance from the Natural Resources Conservation Service (NRCS) for the area of the floodplain.
- b. If your answer is "Yes," document the crop history and go to Step 3.

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

NO **YES**

- a. If your answer is "No," the land user is not eligible for technical and/or financial assistance from the NRCS for the area of the floodplain.
- b. If your answer is "Yes," document the finding, including the reasons. The land user is eligible to receive technical and/or financial assistance. Go to Step 4.

STEP 4. Will the proposed action or alternative likely result in an adverse effect, incompatible development, or an increased flood hazard?

NO **YES**

- a. If your answer is "No," additional evaluation is not needed concerning floodplain areas. Document the finding, including the reasons, on Form KS-CPA-52 and proceed with planning.
- b. If your answer is "Yes," the district conservationist (DC) shall determine and inform the land user of alternative methods of achieving the objective, as well as alternative locations outside of the base floodplain. If the action involves building a structure, inform the participant of the hazards of locating actions in the floodplain. Document the effects of all alternatives on Form KS-CPA-52 and go to Step 5.

STEP 5. Is one or more of the alternative methods or locations practical?

NO **YES**

- a. If your answer is "No," the DC will determine whether to continue to providing assistance. Go to Step 6.
- b. If your answer is "Yes" and the land user agrees to implement the alternative, no additional evaluation is needed concerning floodplain areas. Document the finding, including the reasons, on Form KS-CPA-52 and proceed with planning. If otherwise, go to Step 6.

STEP 6. Will assistance continue to be provided?

NO **YES**

- a. If your answer is "No," written notification of the decision to terminate assistance shall be provided to the land user and the local conservation district. Document the finding, including the reasons, on Form KS-CPA-52.
- b. If your answer is "Yes," the proposed action should be designed or modified to minimize the adverse effects to the extent possible. A written public notice shall be locally circulated explaining why the action is proposed to be located in the base flood plain. Document the finding, including the reasons, on Form KS-CPA-52 and proceed with planning.

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INVASIVE SPECIES

STEP 1. Is the proposed action or activity likely to cause or promote the introduction or spread of invasive and or noxious listed species?

NO

YES

UNKNOWN

- a. If your answer is "No," additional evaluation is not needed concerning invasive species. Document the finding on Form KS-CPA-52 and proceed with the planning process.
- b. If your answer is "Yes," go to Step 2.
- c. If your answer is "Unknown," consult Section II of the electronic Field Office Technical Guide (eFOTG) for a listing of invasive and noxious plant species.

STEP 2. Have all appropriate tools, techniques, management strategies, and risks for invasive and or noxious species prevention, control, and management been considered in the planning process?

NO

YES

- a. If your answer is "No," you must consider all items listed in Step 2. Document the findings on Form KS-CPA-52 and go to Step 3.
- b. If your answer is "Yes," document the finding on Form KS-CPA-52 and go to Step 3.

STEP 3. Is the proposed action or alternative consistent with General Manual (GM) Title 190 Part 414 Subpart D?

NO

YES

- a. If your answer is "No," modify the proposed action to comply with GM 190, document the finding on Form KS-CPA-52 and proceed with the planning process.
- b. If your answer is "Yes," document the finding on Form KS-CPA-52 and proceed with the planning process.

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MIGRATORY BIRDS

STEP 1. Will the proposed action or activity result in a migratory bird or any part, nest, or egg of the bird, intentionally being pursued, hunted, taken, captured, or killed, or will it result in an intentionally attempt to take, capture kill, or possessed a migratory bird or any part, nest, or egg?

NO **YES**

- a. If your answer is "No," additional evaluation is not needed concerning migratory birds. Document the finding, including the reasons, on Form KS-CPA-52 and proceed with planning.
- b. If your answer is "Yes," go to Step 2.

STEP 2. Can the proposed action be modified to avoid the effects?

NO **YES**

a. If your answer is "No," document the effects, including the reasons, on Form KS-CPA-52. After discussing the situation with the client, indicate on the Form KS-CPA-52 which of the following options will be pursued:

- The client will obtain a permit from U.S. Fish and Wildlife Service (USFWS) before the action is implemented; or
- An alternative conservation system will be implemented that avoids the effect; or
- Natural Resources Conservation Service (NRCS) will terminate assistance. If assistance is terminated, indicate the circumstances on the Form KS-CPA-52 or contact the NRCS state office for assistance.

b. If your answer is "Yes," modify the alternative and repeat Step 1.

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NATURAL AREAS

STEP 1. Are natural areas present in or near the planning area? Natural areas are land and or water units where natural conditions are maintained with a minimum of human intervention, such as preserves. Manipulation of natural areas may be necessary to maintain or restore natural features where degradation of those features has occurred. Natural areas may be designated by federal, state, or local governments, or may be privately controlled through such entities as the Nature Conservancy.

NO **YES** **UNKNOWN**

- a. If your answer is "No," additional evaluation is not needed concerning natural areas. Document the finding on Form KS-CPA-52 and proceed with the planning process.
- b. If your answer is "Yes," go to Step 2.
- c. If your answer is "Unknown," consult through channels the state biologist.

STEP 2. Will the proposed or any alternative action affect the natural features of the area?

NO **YES**

- a. If your answer is "No," document the finding on Form KS-CPA-52 and proceed with the planning process.
- b. If your answer is "Yes," proceed to Step 3.

STEP 3. Is the proposed or any alternative action consistent with General Manual (GM) Title 190 Part 410.23?

NO **YES**

- a. If your answer is "No," modify the proposed action to comply with GM Title 190 Part 410.23, document the finding on Form KS-CPA-52 and proceed with the planning process.
- b. If your answer is "Yes," document the finding on Form KS-CPA-52 and proceed with the planning process.

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PRIME AND UNIQUE FARMLANDS

STEP 1. Are prime or unique farmlands or farmlands of statewide or local importance present in or near the area that will be affected by the proposed action or activity?

NO **YES** **UNKNOWN**

If your answer is "No," additional evaluation is not needed concerning prime and unique farmlands. Document the finding on Form KS-CPA-52 and proceed with the planning process.

a. If your answer is "Yes," go to Step 2.

b. If your answer is "Unknown," consult Section II of the electronic Field Office Technical Guide (eFOTG), Soils Data Mart, Prime and Other Important Farmlands Report.

STEP 2. Does the proposed action involve the conversion of prime or unique farmlands to a nonagricultural use?

Note: Conversion does not include construction of on-farm structures necessary for farm operations.

NO **YES**

a. If your answer is "No," additional evaluation is not needed concerning prime and unique farmlands. Document the finding on Form KS-CPA-52 and proceed with the planning process.

b. If your answer is "Yes", go to Step 3.

STEP 3. Can the proposed action be modified to avoid impacts to the prime or unique farmlands?

NO **YES**

a. If your answer is "No," consult your state environmental compliance coordinator.

b. If your answer is "Yes," document the findings on Form KS-CPA-52 and process with the planning process.

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RIPARIAN AREA

STEP 1. Is a riparian area present in or near the planning area?

NO

YES

- a. If your answer is "No," additional evaluation is not needed concerning riparian areas. Document the finding on Form KS-CPA-52 and proceed with planning process.
- b. If your answer is "Yes," go to Step 2.

STEP 2. Do the land user's objectives conflict with the resource needs of the riparian area?

NO

YES

- a. If your answer is "No," go to Step 3.
- b. If your answer is "Yes," alternatives must be developed which resolve the conflict(s). Following resolution, go to Step 3.

STEP 3. Is the proposed action or alternative consistent with General Manual (GM) Title 190, Part 411.03?

NO

YES

- a. If your answer is "No," modify proposed action to comply with GM Title 190, document the findings on Form KS-CPA-52 and proceed with the planning process.
- b. If your answer is "Yes," document the findings on Form KS-CPA-52 and proceed with the planning process.

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THREATENED AND ENDANGERED SPECIES

Consult Section II of the electronic Field Office Technical Guide (eFOTG) for a listing of species and their habitats and implementation guidance that will assist you in answering the following questions. If you are still uncertain about the status of endangered or threatened species or their habitats in the planning area and/or impact zone, consult with a Kansas Natural Resources Conservation Service (NRCS) biologist.

STEP 1. Do endangered or threatened species, designated critical habitat, or species that have been proposed for listing as endangered or threatened exist, or could they exist, in the area of the proposed action or activity or the area of potential effects?

NO

YES

UNKNOWN

- a. If your answer is "No," additional evaluation is not needed concerning endangered and threatened species. Document the finding, including the basis for the determination, on Form KS-CPA-52 and proceed with planning.
- b. If your answer is "Yes," go to Step 2.
- c. If your answer is "Unknown," consult Section II of the eFOTG for a listing of endangered and threatened species and repeat Step 1. If you are still uncertain about the status of endangered or threatened species in the planning area, consult your state biologist.

STEP 2. What are the short and long-term impacts of the proposed action or activity on the endangered or threatened species, designated critical habitat or species or habitat, proposed for listing? More than one may apply.

NO EFFECT

MAY AFFECT BUT NOT LIKELY TO ADVERSELY AFFECT

MAY ADVERSELY AFFECT

EFFECTS ARE UNKNOWN

- a. If your answer is "No effect," additional evaluation is not needed concerning endangered and threatened species. Document the finding, including the reasons for your determination on Form KS-CPA-52 and proceed with planning.
- b. If your only answer is "May affect but not likely to adversely affect," document the finding, including the reasons, on Form KS-CPA-52. Go to Step 3.
- c. If your answer includes "May adversely affect," modify the action if possible to avoid adverse effects. If the action can be modified, repeat Step 2. If the action can not be modified, go to step 3.
- d. If your answer is "Effects are unknown," contact the NRCS state biologist for assistance and repeat Step 2.

STEP 3. Will a federal agency other than NRCS provide funding or otherwise control implementation of the action?

NO **YES**

a. If your answer is “No,” go to Step 4.

b. If your answer is “Yes,” ensure that potential adverse effects are avoided to the extent feasible, document and describe the effects on the Form KS-CPA-52. Include both short-term and long-term effects. Document on the Form KS-CPA-52 the need for the lead federal agency to consult (if listed species or habitat may be affected beneficially or adversely) or conference (if proposed species or habitat are likely to be adversely affected) with the U.S. Fish and Wildlife Service (USFWS) or National Oceanic and Atmospheric Administration (NOAA) Fisheries, as appropriate. Inform the client and continue planning.

STEP 4. Is NRCS providing financial assistance or otherwise controlling the action?

NO **YES**

a. If your answer is “No,” and your answer in Step 2 was “May affect but not likely to adversely affect” and there is no possibility of any short-term or long-term adverse effects to threatened or endangered species, designated critical habitat or species or habitat proposed for listing, continue with planning but ensure the client is aware of the effects.

b. If your answer is “No,” and your answer in Step 2 was “May adversely affect,” inform the client of NRCS policy concerning endangered and threatened species and the need to use alternative conservation treatments to avoid adverse effects on species or their habitat. Further NRCS assistance will be provided only if one of the alternative treatments is selected that avoids adverse effects or the landowner obtains a “take” permit from the USFWS/NOAA Fisheries, as appropriate.

c. If your answer is “Yes,” and your answer in Step 2 was “May affect but not likely to adversely affect” and the effects are to species or habitat that has been proposed for listing, continue with planning. Neither consultation nor conferencing is required.

d. If your answer is “Yes,” and your answer in Step 2 was either “May affect but not likely to adversely affect” or “May adversely affect,” inform the client that the NRCS district conservationist or the NRCS state biologist must consult or conference with the USFWS/NOAA Fisheries, as appropriate. The action will only be implemented according to the terms of the consultation. When consultation is completed, reference or attach the consultation documents to the Form KS-CPA-52.

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WATERS OF THE U.S./CLEAN WATER ACT

STEP 1. Will the planned action or activity involve or likely result in, the discharge of dredged or fill material or other pollutant into "Waters of the U.S.," or is the project in proximately of water that has been listed by the state as "impaired" under Section 303(d)?

NO

YES

UNKNOWN

- a. If your answer is "No," document this on Form KS-CPA-52 and proceed with planning.
- b. If your answer is "Yes," go to Step 2.
- c. If your answer is "Unknown," meaning that you do not know if the action will involve the discharge of dredged or fill material or other pollutant into Waters of the U.S., or if the project is in proximately to a Section 303(d) water, the client should contact the appropriate U.S. Army Corps of Engineers (COE) or state water quality office for a determination. Repeat Step 1.

STEP 2. Has the client obtained a Section 404 and/or a Non-Point Discharge Elimination System (Section 402) Permit or a determination of an exemption?

NO

YES

UNKNOWN To be included in construction process

- a. If your answer is "Yes," document this on Form KS-CPA-52 and proceed with planning. The final plan should not be contrary to the provisions of the permit authorization or exemption. Changes made during the planning process that may impact the applicability of the permit, such as amount or location of fills or discharges of pollutants should be coordinated with the COE.
- b. If your answer is "no," determine if the client has applied for a permit. If a permit has been applied for, document this and continue the planning process in consultation with the client and the regulatory agencies. If a permit has not been applied for, the client should apply. Continue the planning process in consultation with the client and the regulatory agencies. The permit authorization should reflect the final plan and documentation.
- c. If your answer is "Unknown," meaning that you do not know if authorization has been obtained or applied for, consult the client and repeat Step 2.

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WETLANDS

STEP 1. Are wetlands present in or near the planning area?

NO

YES

a. If your answer is “No,” document this on the Natural Resources Conservation Service (NRCS) Form KS-CPA-52. (If the area could qualify as “Waters of the U.S.” such as lakes, streams, channels, or other impoundment or conveyances, a Clean Water Act (CWA) Section 404 permit may be required from the U.S. Army Corps of Engineers (COE). Refer to the Waters of the U.S./Clean Water Act Help Sheet).

b. If your answer is “Yes,” document and go to Step 2.

STEP 2. Will the proposed activity impact any wetland areas?

NO

YES

Impacts are proposed to be less than 0.5 acres.

a. If your answer is “No,” document this on the Form KS-CPA-52 and proceed with planning.

b. If your answer is “Yes,” describe on the Form KS-CPA -52 the effects of the proposed activity on the wetland area. Proceed to Step 3.

STEP 3. Do practicable alternatives exist which either enhance wetland functions and values, or avoid or minimize harm to wetlands?

NO

YES

a. If your answer is “No,” meaning that the findings of the environmental evaluation show that no practicable alternatives exist, NRCS may provide technical assistance which allows for the conversion of the wetland and develop a mitigation plan for compensation of the functions and values that were lost through the conversion activity. Prior to or concurrent with NRCS assistance, the client should obtain all necessary permits or approvals related to work in wetlands.

b. If your answer is “Yes” meaning that a practicable alternative exists, inform the client, and advise them of the available options and the benefits of those options. Proceed to Step 4.

STEP 4. Does the client wish to pursue an identified practicable alternative that enhances wetland functions and values, or avoids or minimizes harm to wetlands?

NO **YES**

a. If the answer is “No” meaning the client chooses to pursue an activity other than an identified practicable alternative, advise the client regarding eligibility criteria under the Food Security Act (FSA) as amended, and that the NRCS may assist with the development of an acceptable associated mitigation plan, but can not offer further financial or technical assistance for the wetland conversion activity itself. Prior to or concurrent with NRCS assistance, the client should obtain all necessary permits or approvals related to work in wetlands.

b. If the answer is “yes,” meaning the client selects one of the alternative options, continue with planning and technical assistance for the conversion activity, as well as the development of an associated mitigation plan and document effects on Form KS-CPA-52. Prior to or concurrent with NRCS assistance, the client should obtain all necessary permits or approvals related to work in wetlands.