



Environmental Compliance for Advancing Markets for Producers (AMP)

Environmental Compliance and NEPA



Environmental Compliance

Listing of the Federal Agency authorities that require Environmental Compliance (typically achieved by environmental evaluation by NRCS):

Bald and Golden Eagle Protection Act, 16 U.S.C. § 668a, 668d

Clean Air Act, 42 U.S.C. §7403 (b) (2) and 42 U.S.C. § 7609

Clean Water Act, 33 U.S.C. § 1344 and Section 303(d)

Coastal Zone Management Act, 16 U.S.C § 1451

Endangered Species Act, 16 U.S.C. §§ 1531 et seq.

Farmland Protection Policy Act, 7 U.S.C. § 73

Fish and Wildlife Coordination Act, 16 U.S.C. § 661

Flood Control Act, 16 U.S.C. § 460d

Food Security Act of 1985, as amended, 16 U.S.C. §§ 3801-386

Freedom of Information regulations (5 U.S.C. 552)

Magnuson-Stevens Fishery Conservation and Management Ad

Marine Protection, Research, and Sanctuaries Act of 1972, 33

Migratory Bird Treaty Act 16 U.S.C. § 703 712

National Wild and Scenic Rivers Act, 16 U.S.C. § 1271

NEPA, 42 U.S.C. § 4321 et seq.

Rivers and Harbors Act, 33 U.S.C. §§ 401 et seg.

The American Antiquities Act of 1906 (16 U.S.C. Part 4431-443

Public Law (PL) 86-523, the Reservoir Salvage Act of 1960

PL 89-665, NHPA 54 U.S.C. §§ 300101 et seq., NHPA, 16 U.S.C. §§ 470 et seq.

PL 92-203, the Alaska Native Claim Settlement Act, as amended

PL 93-638, the Indian Self-Determination and Education Assistance Act as amended

PL 95-341, the American Indian Religious Freedom Act of 19

PL 101-601, the Native American Graves Protection and Rep

PL 103-344, the American Indian Religious Freedom Act Ame Executive Order 13287, Preserve America

7 CFR Part 650, NRCS NEPA implementing regulations

26 CFR Part 900, Indian Self-Determination and Education A

36 CFR Part 60, National Register of Historic Places

36 CFR Part 63, Determinations of Eligibility for Inclusion in the

36 CFR Part 65, National Historic Landmarks

36 CFR Part 800, Protection of Historic Properties 43 CFR Par Governments

Executive Order 11990 (Wetland protection)

Executive Order 13112 (Invasive Species)

Executive Order 12866 (Regulatory Planning and Review)

PL 96-95, the Archaeological Resources Protection Act of 15 Executive Order 13007, Indian Sacred Sites

Executive Order 13175, Consultation and Coordination with Tribal Governments

Executive Order 13186 Responsibilities of Federal Agencies To Protect Migratory Birds

Secretarial Order (SO) 3206, American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the

SO 3403, Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship

OSTP/CEQ Joint Memorandum, Indigenous Traditional Ecological Knowledge and Federal Decision

36 CFR Part 61, Procedures for State, Tribal, and Local Gover OSTP/CEQ Joint Memorandum, Guidance for Federal Departments and Agencies on Indigenous

OSTP/CEQ Joint Memorandum, Implementation of Guidance for Federal Departments and Agencies on Indigenous Knowledge

Presidential Memo (PM), Government-to-Government Relations with Native American Tribal

PM, Uniform Standards for Tribal Consultation 230-GM, Part 402, Civil Rights Policies

Departmental Regulation (DR) 1350-001, Tribal Consultation (2008)

DR 1340-007, Policies on American Indians and Alaska Natives

DR 4370-001, Collection of Race, Ethnicity, and Gender Data for Civil Rights Compliance and Other

The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act (63 FR 20496-20508) published April 24,

Archeology and Historic Preservation: The Secretary of the Interior's Standards and Guidelines (48 FR 44716) published September 29, 1983, as amended and annotated June 18, 2001







Environmental Laws, Executive Orders, Policies, etc.

NEPA and Environmental Compliance

- USDA Departmental NEPA Regulations
 - 7 CFR Subtitle A Part 1b (7 CFR 1b)
- Programmatic Environmental Assessment (EA)
 - Analysis focused on NRCS conservation practice standards
 - Finding of No Significant Impact (FONSI) signed 26 AUG 2022
- Project-specific Environmental Evaluations required
 - Review for special environmental concerns
 - Review for extraordinary circumstances
 - Identify consultation requirements
 - Avoid, reduce, or otherwise mitigation adverse impacts

Environmental Evaluation Process

- NRCS Environmental Evaluation Worksheet (CPA-52)
 - Web-based <u>link</u>
 - AMP Partners are required to complete the CPA-52 through Section O
 - NRCS Responsible Federal Official (RFO) signature required
- NRCS Environmental Evaluation (EE) process:
 - Required for all technical and financial assistance
 - Ensures compliance with required laws, Executive Orders and policy
- CPA-52 also used to document the applicability of a Programmatic EA



Environmental Evaluation Framework

- Special Environmental Concerns
 - Concerns (including human considerations) that are protected by law, Executive order, or agency policy and will need to be analyzed according to the laws, regulations, or Executive orders established to protect them.
- Extraordinary Circumstances Review
 - Confirms no adverse impacts
 - Documents the Programmatic EA applies
- Available Tools
 - Field Office Technical Guides, including <u>State CPA-52 templates</u>
 - NEPAssist, <u>EPA tool</u>

Environmental Evaluation & CPA-52

Special Environmental Concerns

- Bald and Golden Eagle Protection Act
- Clean Air Act
- Clean Water Act
- Coastal Zone Management Act
- Endangered Species Act
- Farmland Protection Policy Act
- Magnuson-Stevenson Act
- Migratory Bird Treaty Act
- National Historic Preservation Act
- National Environmental Policy Act
- Wild and Scenic Rivers Act

5. Special Elithoninicital	J. Impacts to Special Environmental Concerns								
Concerns	No Action		Alternative 1	Alternative 2					
(Document existing/ benchmark conditions)	Document all impacts (Attach Guide Sheets as applicable)	√if needs further action	Document all impacts (Attach Guide Sheets as applicable)	√if needs further action	Document all impacts (Attach Guide Sheets as applicable)	√ if need: furthe actio			
•Clean Air Act <i>Guide Sheet</i>									
Clean Water Act / Waters of he U.S. <i>Guide Sheet</i>									
Coastal Zone Management Guide Sheet									
Coral Reefs Guide Sheet									
Cultural Resources / Historic Properties <i>Guide Sheet</i>									
Endangered and Threatened Species Guide Sheet									
Environment al Justice Guide Sheet	D	5	ne 3						
Essential Fish Habitat <i>Guide Sheet</i>		4							

Endangered Species Act -Endangered and Threatened Species



Endangered and Threatened Species

NRCS is committed to supporting its clients and partners by providing technical assistance and NRCS actions to conserve and improve natural resources on private lands. Within this framework, and consistent with legal requirements, implementation of conservation programs through planning and application of conservation practices and measures must provide for the conservation of:

- Federally listed species (endangered and threatened) + Critical Habitat
- Species proposed for Federal listing + Proposed Critical Habitat
- Federal candidate species
- State and Tribal species of concern and their habitats

General Manual 190; Part 410 Compliance with NEPA; Subpart B Related Environmental Concerns; 410-22 Endangered and Threatened Species and Species of Concern







Environmental Evaluation Worksheet CPA-52 Section G

Special En	vironmental Concerns: E	Enviro	onmental Laws, Executiv	ve Or	ders, Policies, etc.			
consultation/coordination betwee	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.							
-	J. Impacts to Special Enviro							
Concerns	No Action	√ If	Alternative 1	√#	Alternative 2	N/IF		
(Document existing/ benchmark conditions)	Document all impacts (Attach Guide Sheets as applicable)	needs further action	Document all impacts (Attach Guide Sheets as applicable)	needs further action	Document all impacts (Attach Guide Sheets as applicable)	needs further action		
Clean Air Act Guide Sheet								
◆Clean Water Act / Waters of the U.S. Guide Sheet								
Coastal Zone Management Gulde Sheet								
Coral Reefs Guide Sheet								
Cultural Resources / Historic Properties Guide Sheet								
•Endangered and Threatened Species Guide Sheet								
●Essential Fish Habitat Guide Sheet								
Floodplain Management Guide Sheet								

ENDANGERED AND THREATENED SPECIES	Client/Plan Information:
NECH 610.26	
Evaluation Procedure Guide Sheet	
Check all that apply to this Alternative 1	
Guide Sheet review: Alternative 2 Other	

STEP 1.

☐ Yes

Are protected species and their habitat or designated Critical Habitat present in the area of potential effect?

Note: protected species include federally listed, proposed, and candidate species, as well as State and Tribal species protected by law or regulation. In addition, if a species' listing or status changes before implementation, you must complete this review again.

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

If "Yes," document the species or area of designated Critical Habitat, and relevant benchmark data on NRCS-CPA-52, then proceed to the applicable section(s) listed below:

- . Section 1- Federally listed endangered or threatened species/habitats
- Section 2- Federally proposed species/habitats
- Section 3- Federal candidate species/habitats
- Section 4- State/Tribal species/habitats

SECTION 1: Federally listed endangered or threatened species/habitats

STEP 1.

What is the effect (i.e. beneficial/adverse, short-term/long-term, etc.) of the action(s) on endangered or threatened species or their habitat?

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

☐ May affect If "May affect," meaning that the action might affect endangered and threatened species or their habitat in some way, or may have an adverse effect to designated Critical Habitat,

go to Step 2.

NRCS is to conduct an environmental evaluation for all assistance to determine the effects of proposed actions and alternatives on federally listed species, species proposed for listing, and candidate species; federally designated and proposed critical habitat; and relevant state and tribal species of concern and their habitats.

Documentation is to include the nature and extent of the effects and conclude whether the proposed action and alternatives will have "no effect" or "may affect" species and their habitats. In determining the effects, NRCS must use the best scientific and commercial data available.

General Manual 190; Part 410 Compliance with NEPA; Subpart B Related Environmental Concerns; 410-22 Endangered and Threatened Species and Species of Concern

Compile List of Protected Species with the Potential to Occur Onsite

- 2. Determine If the Project Will Affect Any Protected Species or Their Habitat
- Compile Information Necessary to Initiate Endangered Species Act Conferencing or Consultation

Recommended Sources to Determine Protected Species with the Potential to Occur

State species protected by law or regulation

- Contact NRCS State Office POC as some State Offices maintain a list
- State Wildlife Action Plan (<u>https://www.fishwildlife.org/afwa-informs/state-wildlife-action-plans</u>)

Tribal species protected by law or regulation

- Contact NRCS State Office POC as some State Offices maintain a list or have a Tribal Liaison

Federally listed (threatened or endangered), proposed and candidate species:

- Contact NRCS State Office POC as some State Offices maintain a list
- Request a species list from the local USFWS Office (they may direct you to their Information for Planning and Consultation project planning tool – see below)
- Use Information from Planning and Consultation (IPaC) planning tool to generate a species list (<u>https://ipac.ecosphere.fws.gov/</u>)







Onsite Conditions:

- Land Use
- Vegetation Communities Present
- Other Habitat Features Present







 Compile List of Protected Species with the Potential to Occur Onsite

2. Determine If the Project Will Affect Any Protected Species or Their Habitat

 Compile Information Necessary to Initiate Endangered Species Act Conferencing or Consultation

Effects Determinations

For <u>each conservation practice</u> to be implemented, determine (and document) if practice implementation may affect a protected species (with the potential to occur onsite) or its habitat.



Effects need to be detailed relative to each species and / or its associated habitat.



Resources:

- Contact NRCS State Office POC
- USFWS Environmental Conservation Online System (ECOS) (https://ecos.fws.gov/ecp/)



Category of Protected Species Affected	Policy Requirement (190 General Manual 410 Subpart B)	Legal Requirement (Endangered Species Act)
Federally Listed	NRCS must consult with the appropriate Service	Section 7(a)(2) - Each Federal agency shall, in consultation with and with the assistance of the Secretary, ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species.
Proposed	NRCS must conference with the appropriate Service to determine whether the action is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of the proposed critical habitat	Section 7(a)(4) - Each Federal agency shall <u>confer</u> with the Secretary on any agency action which is likely to jeopardize the continued existence of any species <u>proposed</u> to be listed or result in the destruction or adverse modification of critical habitat <u>proposed</u> to be designated for such species.
Candidate	NRCS will recommend only alternative conservation treatments that will avoid or minimize adverse effects and, to the extent practicable, provide long-term benefit to the species	None
State / Tribal	NRCS must coordinate with the appropriate state or tribal government and receive concurrence on recommended alternatives when required by state law or regulation.	None

- Compile List of Protected Species with the Potential to Occur Onsite
- 2. Determine If the Project Will Affect Any Protected Species or Their Habitat
- 3. Compile Information Necessary to Coordinate, Conference or Consult

Federally Listed and Proposed Species

- State-level Programmatic Agreement
- Biological and Conference Opinions

Candidate Species

- Avoidance and Minimization Measures
- Conference Reports

State / Tribal Protected Species

- Avoidance and Minimization Measures
- MOUs







Supporting Information - ESA

If NRCS is required to consult with another agency related to the Endangered Species Act additional information provided by the AMP partner can greatly reduce the processing time.

At a minimum, the following information should be submitted to the NRCS State Office POC for the NRCS State Biologist to assess for further action:

- Description of proposed action (to include a description of the practice(s), the purpose for which they will be implemented, how they will be installed, an implementation timeline, associated activities on and around the project site during, ongoing operational and maintenance requirements post implementation)
- Map to include footprints of all proposed conservation practices, delineation and labelling of vegetation communities and habitat features onsite, delineation of the areas where listed and proposed species may be affected (and, if relevant, avoidance and minimization measures that will be applied)
- Delineation of area of potential effect (which may go beyond the project footprint)
- Description of current site conditions (to include activities occurring onsite)
- Description how the action may affect listed or proposed species and their habitats
- Description of avoidance or minimization measures that will be incorporated into project implementation
- A signed permission to consult form from the producer (depending on State Office PII procedures)







National Historic
Preservation Act Cultural Resources and
Historic Properties



Cultural Resources and Historic Properties

Important definitions:

- Undertaking (36 CFR Part 800.16(y)) means a project, activity, or program funded in whole or in part of the direct jurisdiction of a Federal agency, including those carried out by Federal financial assistance; and those requiring a Federal permit, license, or approval.
- Historic property (36 CFR Part 800.16(I)(1)) means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places...
 - The NRCS National Cultural Resources Procedures Handbook equates these with "Cultural Resources", which is found nowhere else in the law.

General Manual 190; Part 601 Cultural Resources Procedures Handbook; Title 420 General Manual, Part 401 Cultural Resources; National Prototype Programmatic Agreement



Prototype Programmatic Agreements (PPA)

- Effectively streamlined the process required to achieve a Programmatic Agreement with a State and/or Tribal Historic Preservation Officer
- As of May 1, 2025, NRCS has agreements with all but six states
- Some states have also obtained agreements with Tribes that reside in or have ancestral interest
- Why a PPA?
 - Establishes and streamlines the Cultural Resources process within a state, while providing a small degree of uniform Section 106 compliance efforts nationally
 - Creates a list of practices and implementation scenarios and determines their potential effects on historic properties through consultation
 - Matrices shown in next slide are based on these decisions

Cultural Resources and Historic Properties

Practice IA	IL	IN I	KS	MI		MN	N	NA IN		OH	PA	ΝI	
329 No Consult	No Consult	No PPA- Consult	No Consult w/ Cond	litions No Co	nsult w/ Conditions	No Consult		No 0	onsult	No Consul	t No Consult	No PPA- Consult	
340 No Consult	No Consult	No PPA- Consult	No Consult w/ Cond	litions No Co	nsult w/ Conditions	No Consult		No 0	onsult	No Consul	t No Consult	No PPA- Consult	
345 No Consult	No Consult	No PPA- Consult	No Consult	No Co	nsult w/ Conditions	No Consult		No 0	onsult	No Consul		No PPA- Consult	
380 No Consult w/ Conditions	Not Listed- Consult		No Consult w/ Cond	litions No Co	nsult w/ Conditions	No Consult w/ Co	onditions	No C	onsult w/ Conditions	s No Consul		No PPA- Consult	
590 No Consult	No Consult	No PPA- Consult	No Consult	No Co		No Consult		No 0	onsult	No Consul	t No Consult	No PPA- Consult	
				Noted Condit	ions by State and Prac	tice							
					lowa								
380 No consutlation needed if gro	ound disturbance is less t	than the existing plow	zone.										
Substitution Subs													
380 No consultation required, if p	ractice does not exceed	depth, extent, or kind	of disturbance caus	sea by previous cu		t result in new groun	id disturbance						
220 No consultation required if pr	ractions within ovieting/n	roviously tilled cropler	nd & overwation is le	see than 12 inches									
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380 No consultation required, if p	practice does not exceed	depth, extent, or kind	of 345	No Consult	No Consult (se	e below)	No Consul	t w/ C	onditions N	No Consult	No Consult	No Consult	
			449	No Consult	No Consult		No Consul	t	١	No Consult	No Consult	No Consult	
			590	No Consult	No Consult w/	Conditions	No Consul	t	١	No Consult	No Consult	No Consult	
				Noted Conditions by State & Practice									
			California										
			345 Covered by Appendix A, Category II, Condition No. 3										
			-										
			590	No consultation necessary, as long as the treatment is typical, commercial products and stays within the footprint of									
				the active fie	ld.								
				Louisiana									
			345 No consultation if practices within present tillage regime.										
			1		•	•			ı		1	ı	

Prototype Programmatic Agreements (PPA)

Most states have laws established for Historic Preservation, cemeteries, burials, archaeological sites, and architectural resources, for which these agreements must account.

This limits how uniform our efforts may be; e.g., one state may have already determined through consultation that Grade Stabilization Structures installed into existing ditches without excavation do not require Cultural Resources review, while another may require us to review all of them.

If one of the states an AMP project includes doesn't have a PPA, how does compliance work?

 For states without a PPA, you follow the process outlined by the Section 106 regulations. None of the streamlining or efficiencies within the PA are available.

Supporting Information - Cultural Resources

If NRCS is required to consult with another agency related to Cultural Resources – National Historic Preservation Act Compliance (Section 106) additional information provided by the AMP awardee can greatly reduce the processing time.

Why would we have to consult?

- Known resources within the tract or nearby.
- High potential for encountering historic properties.
- Practice is not covered by the PPA; or the state does not have a PPA.
- Concerns raised by consulting parties that require additional consideration.

Supporting Information – Cultural Resources

- If the project-specific rubric indicates consultation is or may be needed (No Consult w/ Conditions, Consult w/ Conditions, and Consult), at a minimum the following information would be submitted to the NRCS State AMP POC for the NRCS State CRS to assess for further actions:
 - A map detailing the geographic location of the proposed practice(s) within the farm. Parameters:
 - 1:24,000 scale map depicted on a 7.5' USGS topographic quadrangle.
 - The footprints of all proposed conservation practice(s) detailed on the map.
 - A center-point coordinate in Lat/Long or UTM for the project.
 - A narrative description of the practice(s) and how they will be installed, including maximum expected depth of disturbance.
 - Any time constraints on practice implementation; e.g., trees need to be planted by a certain date; seeding needs to occur within a specific window.
 - Any information from the producer about the previous land-use of the area; e.g., deep tilled in the past?; is it previous mineland?
 - Two to three example photographs of the proposed areas, if possible.
 - A signed permission to consult form from the producer, might be state dependent.

Environmental Evaluation Worksheet CPA-52 Section G

Cultural resources appears as a single question under Special Environmental Concerns.

It has two responses:

- No effect the undertaking will have no impact on Historic Properties.
- May effect the undertaking may have an impact on Historic Properties.

How do we answer this question?

Special En	vironmental Concerns: E	Enviro	onmental Laws, Executi	ve Or	ders, Policies, etc.	
consultation/coordination between	attach Environmental Procedures Gu een the lead agency and another gove	emment a	agency. In these cases, effects may	need to	be determined in consultation with an	
	agency. Planning and practice impier			ived in o	onsultation.	
-	J. Impacts to Special Enviro	nment			411 5 0	
Concerns	No Action	I √lf	Alternative 1	1.48	Alternative 2	VIE
(Document existing/ benchmark conditions)	Document all impacts (Attach Guide Sheets as applicable)	needs further action	Document all impacts (Attach Guide Sheets as applicable)	needs further action	Document all impacts (Attach Guide Sheets as applicable)	needs further action
◆Clean Air Act Guide Sheet						
Clean Water Act / Waters of the U.S. Guide Sheet						
 Coastal Zone Management Guide Sheet 						
Coral Reefs Guide Sheet						
Cultural Resources / Historic Properties Guide Sheet						
•Endangered and Threatened Species Guide Sheet						
•Essential Fish Habitat Guide Sheet						
Floodplain Management Guide Sheet						

No Effect to Historic Properties

Answer can be selected when:

- All practices associated with the Undertaking do not require consultation, as determined by the state's PPA.
- Once a State Cultural Resources Specialist (CRS) completes their review of the Undertaking and determines through consultation that no effect will occur.



May Effect Historic Properties

NRCS' general policy is to avoid effects to potential historic properties.

- We do this by redesigning the practices to avoid the identified location.
- The State Point of Contact and CRS will work closely together to work out this situation.





Next Steps

CPA-52 Training Materials

Available Resources and Tools

AMP Partner Webinar – August 28

Office Hours

Transmittal Procedures and Demo



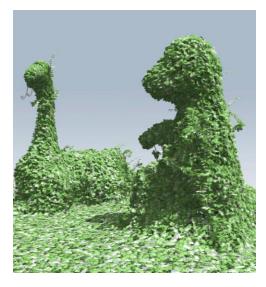


Advancing Markets for Producers (AMP) Initiative: Environmental Evaluation (EE) Procedures



Current Status for EE Processing

- No longer have a contractor-managed portal to process CPA-52s
- Developed new system using Box for submissions
- Conducted an internal pilot
- Box portal is available; expect refinement & improvements over time





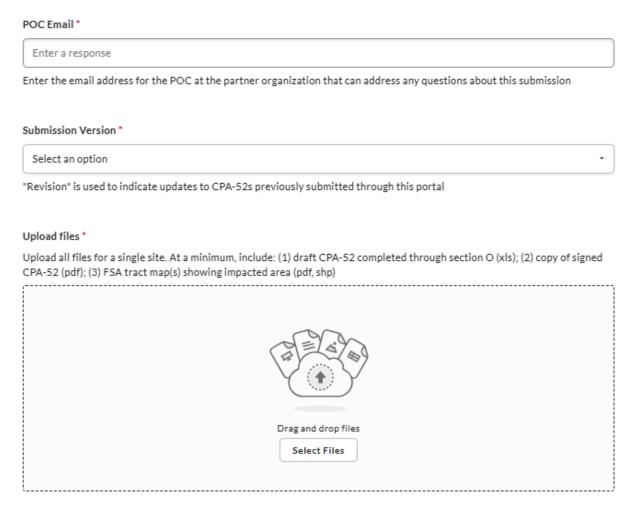
Partner Submission Portal



Advancing Markets for Producers: CPA-52 Submission Portal

AMP Partners use this site to submit site-specific environmental evaluations for review and approval.

Lead Partner*	
Select an option	-
Select the lead partner organization of the grant agreement	
State *	
Select an option	-
Select from the list. Use PIA (Pacific Islands Area) or Caribbean area for sites in the applicable states and territories	
County *	
County	_
Enter a response	
Use the FSA administrative county/parrish associated with the farm ID	
Producer or Business Name *	
Enter a response	
Use the same name as the AD-2047/ FSA Business Partner customer record	
POC Name and Phone Number *	
Enter a response	
Enter the name and phone # for the POC at the partner organization that can address questions about this submission	_



Note - Files uploaded from partner submission will be temporarily housed in Box.

Submi

AMP EE Process Takeaways

- Partner notification
- NRCS will continue to improve procedures
- Additional Informational Sessions on EE management can be offered (if needed)
- Written resources/instructions are coming soon
- Status reports frequency TBD
- Next steps for partners (active projects): designate EE POCs for Box access





Questions and Discussion

