



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

June 25, 2009

Dave White, Chief
Natural Resources Conservation Service
P.O. Box 2890
Washington, DC 20013

Re: Natural Resources Conservation Service NEPA Procedures

Dear Chief White:

Thank you for coordinating with the Council on Environmental Quality (CEQ) as the Natural Resources Conservation Service developed the attached Categorical Exclusions for applying National Environmental Policy Act (NEPA) procedures to a particular set of restoration and conservation activities related to natural or human induced damage or alteration of floodplain easements and watershed areas. The CEQ regulations provide that agencies review their NEPA policies and procedures and, in consultation with CEQ, to revise them as necessary to ensure full compliance with the purposes and provisions of NEPA (40 C.F.R. § 1507.3). This letter memorializes the discussions and reviews that resulted in the attached Natural Resources Conservation Service supplementation of the Natural Resources Conservation Service NEPA procedures.

CEQ reviewed the proposed categorical exclusions and met with Department of Agriculture, Natural Resources Conservation Service representatives familiar with the agencies' programs. The Natural Resources Conservation Service considered the potential environmental impacts of the activities covered by these categorical exclusions and, based on the agencies' experience with these types of activities, determined that the decisions to undertake and the implementation of the activities described in the attachment will not individually or cumulatively create a significant impact on the environment and therefore do not require additional NEPA analysis and documentation unless extraordinary circumstances exist (40 C.F.R. § 1508.4).

Based on this review, CEQ concluded that the attached Natural Resources Conservation Service categorical exclusions are being prepared in conformity with NEPA and the CEQ regulations. The Natural Resources Conservation Service will satisfy NEPA when using this categorical exclusion by determining whether a proposed action falls within the description of the activities and by reviewing the proposed action to determine whether extraordinary circumstances exist. In the event extraordinary circumstances exist, an environmental assessment or an environmental impact statement would be prepared before proceeding with the proposed action. The Natural Resources Conservation Service will publish the Categorical Exclusions to be effective immediately and request public review and comment for sixty days. The Natural Resources Conservation Service will consider, in consultation with CEQ, whether the Categorical Exclusions should be revised based on the comments received.

Thank you for your responsiveness to our comments and recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Horst Greczmiel". The signature is fluid and cursive, with a prominent flourish at the end.

Horst Greczmiel
Associate Director for NEPA Oversight

Natural Resources Conservation Service Categorical Exclusions

§ 650.6 Categorical Exclusions

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(b) When any new action is planned under the programs identified in paragraph (a) of this section, the EE performed by the RFO is to identify extraordinary circumstances that might lead to significant individual or cumulative impacts. Actions that have potential for significant impacts on the human environment are not categorically excluded.

(c) The NRCS restoration and conservation actions and activities identified in this paragraph are eligible for categorical exclusion and require the Responsible Official to document a determination that a categorical exclusion applies. Agency personnel will use the EE review process to evaluate proposed activities for significant impacts and extraordinary circumstances using the significance criteria provided in 40 CFR §1508.27. In the absence of any extraordinary circumstances as determined through NRCS' EE review process, the activities will be able to proceed without preparation of an EA or EIS. Where either significant impacts or extraordinary circumstances are determined to exist, the categorical exclusion will not apply and the appropriate documentation for compliance with NEPA will be prepared. The following actions are eligible for categorical exclusion:

- (1) Planting appropriate herbaceous and/or woody vegetation on disturbed sites to restore and/or maintain the site's pre-disturbance vegetative community or similar adaptive naturalized vegetative community that provides analogous ecological functions and services;
- (2) Removing dikes and associated appurtenances (such as culverts, pipes, valves, gates, and fencing) to allow waters to access floodplains to the extent that had existed prior to the installation of such dikes and associated appurtenances;
- (3) Plugging and filling excavated drainage ditches to allow hydrologic conditions to return to pre-drainage conditions to the extent practicable;
- (4) Replacing and repairing existing culverts, grade stabilization, and water control structures and other small structures that were damaged by natural disasters where there is no new depth required and only minimal dredging, excavation, or placement of fill is required;
- (5) Restoring the natural topographic features of agricultural fields that were altered by farming and ranching activities for the purpose of restoring ecological processes;
- (6) Removing or relocating residential, commercial, and other public and private buildings and associated structures constructed in the 100-year floodplain or within the breach inundation area of an existing dam or other flood control structure in order to restore natural hydrologic conditions of inundation or saturation, vegetation, or reduce hazards posed to public safety;
- (7) Removing storm debris and sediment following a natural disaster where there is a continuing and eminent threat to public health or safety, property, and/or natural and cultural resources and removal is necessary to restore lands to pre-disaster conditions to the extent practicable. Excavation shall not exceed the pre-disaster condition;
- (8) Stabilizing stream banks and associated structures to reduce erosion through bioengineering techniques following a natural disaster to restore pre-disaster conditions to the extent practicable,

e.g., utilization of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, rip-rap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment) and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods);

(9) Repairing or maintenance of existing small structures or improvements (including structures and improvements utilized to restore disturbed or altered wetland, riparian, in stream, or native habitat conditions). Examples of such activities include the repair or stabilization of existing stream crossings for livestock or human passage, levees, culverts, berms, dikes, and associated appurtenances;

(10) Constructing small structures or improvements for the restoration of wetland, riparian, in stream, or native habitats. Examples of activities include: (1) installation of fences; and (2) construction of small berms, dikes, and associated water control structures;

(11) Restoring an ecosystem, fish and wildlife habitat, biotic community, or population of living resources to a determinable pre-impact condition;

(12) Repairing or maintenance of existing constructed fish passageways, such as fish ladders or spawning areas impacted by natural disasters or human alteration;

(13) Repairing, maintaining, or installing fish screens to existing structures;

(14) Repairing or maintaining principal spillways and appurtenances associated with existing serviceable dams, originally constructed to NRCS standards, in order to meet current safety standards. Work will be confined to the existing footprint of the dam, and no major change in reservoir or downstream operations will result;

(15) Repairing or improving (deepening/widening/armoring) existing auxiliary/emergency spillways associated with dams, originally constructed to NRCS standards, in order to meet current safety standards. Work will be confined to the dam or abutment areas, and no major change in reservoir or downstream operation will result;

(16) Repairing embankment slope failures on structures originally built to NRCS standards where the work is confined to the embankment or abutment areas;

(17) Increasing the freeboard (which is the height from the auxiliary (emergency) spillway crest to the top of embankment) of an existing dam or dike, originally built to NRCS standards by raising the top elevation in order to meet current safety and performance standards. The purpose of the safety standard and associated work is to ensure that during extreme rainfall events, flows are confined to the auxiliary/emergency spillway so that the existing structure is not overtopped which may result in a catastrophic failure. Elevating the top of the dam will not result in an increase to lake or stream levels. Work will be confined to the existing dam and abutment areas, and no major change in reservoir operations will result. Examples of work may include the addition of fill material, such as earth or gravel, or placement of parapet walls;

(18) Modifying existing residential, commercial, and other public and private buildings to prevent flood damages, such as elevating structures or sealing basements to comply with current State safety standards and Federal performance standards;

(19) Undertaking minor agricultural practices to maintain and/or restore ecological conditions in floodplains after a natural disaster or on lands impacted by human alteration. Examples of these practices include: mowing, haying, grazing, fencing, off-stream watering facilities, and invasive species control which are undertaken when fish and wildlife are not breeding, nesting, rearing young, or during other sensitive timeframes;

(20) Implementing soil control measures on existing agricultural lands, such as grade stabilization structures (pipe drops), sediment basins, terraces, grassed waterways, filter strips, riparian forest buffer, and critical area planting; and

(21) Implementing water conservation activities on existing agricultural lands, such as minor irrigation land leveling, irrigation water conveyance (pipelines), irrigation water control structures, and various management practices.

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