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Frequently Asked Questions—Watershed Operations

Authorized Watershed Projects – For purposes of the following questions, this is defined as Watershed Plans previously approved by the Chief or Congress where planning is complete and the works are in the implementation phase, and where the authorized plan has uninstalled works that are to be funded for implementation. This is covered under Part 504 of the National Watershed Program Manual (NWPM) for implementation and Part 503 for plan modifications.

Question 1: Is there a blanket contract in place that NRCS can use for watershed planning?

Answer: No, but one will be available soon. The national IDIQ for non-planning functions has been extended to January 2018. New regional IDIQs will be available to use for all aspects of watershed planning, design, and construction no later than in January 2018.

Question 2: Is replacement of aging structures associated with water treatment plants and electric distribution facilities eligible for watershed operations funding? (For example: Is replacement of an aging culinary pipeline coming from a spring eligible for watershed operations funding?)

Answer: No. As per NWPM Section 500.3, “The planning, design and installation of municipal and industrial water wells, water treatment plants, distribution systems, and electric distribution facilities fall outside the scope of the Watershed Program.”

Question 3: What is the policy for cost sharing on land rights for mitigation on PL 83-566 projects?

Answer: Public Law 83-566, Section 4, “*Conditions for Federal Assistance*” states:

“The Secretary shall require as a condition to providing Federal assistance for the installation of works of improvement that local organizations shall (1) acquire, or with

respect to interests in land to be acquired by condemnation provide assurances satisfactory to the Secretary that they will acquire, without cost to the Federal Government from funds appropriated for the purposes of this chapter, such land, easements, or rights-of-way as will be needed in connection with works of improvement installed with Federal assistance.....

....Provided further, that the Secretary must be authorized to bear an amount not to exceed one-half of the costs of the land, easements, or rights-of-way acquired or to be acquired by the local organization for mitigation of fish and wildlife habitat losses, and that such acquisition is not limited to the confines of the watershed project boundaries.”

From the law, it is apparent:

- Sponsors shall acquire land, easements, or rights-of-way needed in connection with the works of improvement.
- For mitigation of fish and wildlife habitat losses, the Secretary must be authorized to bear up to ½ of the cost of acquiring the land, easements, or rights-of-way.
- Those acquisitions are not limited to the confines of the watershed project boundaries.

These requirements are reflected in policy in the National Watershed Program Manual (NWPM) at section 500.42 and further guidance is provided in the National Watershed Program Handbook in Section 600.42 B (1).

Question 4: For projects with an authorized PL 83-566 plan-EA/EIS, what updates to the plan are required prior to requesting funding for design or construction?

Answer: Prior to requesting funds, a review of the Plan-EA or EIS must be completed to determine the continued applicability of the environmental document and feasibility of the works to be funded with respect to economic, environmental, and social defensibility and the SLO's commitment to continue the project. If it is determined that the plan no longer accurately represents the planned action, environmental conditions, or impacts and/or, the project is no longer feasible to install, the plan must be supplemented to update the environmental document and/or delete the infeasible elements (Reaffirm Feasibility (NWPM 504.1D)).

- a. Environmental Defensibility – Following NEPA guidance, agencies should review the EA or EIS to determine if there are substantial changes made to the proposed action that were not originally evaluated or if there is significant new information relevant to environmental concerns and that have a bearing on the proposed action or its impacts.

It is recommended that the responsible federal official (RFO) contact the USWFS and USACE to determine if they have any concerns regarding T&E species or Section 404 permitting. The review can begin with a completion of a CPA-52. The CPA-52 will step through all the resource concerns that need to be covered and document current conditions and compare to what was stated in the original plan. Based on the results of the review, either

prepare a concise document indicating the rationale for not needing a supplement, or begin preparing the supplement. If it is determined that a supplement may be needed, then follow guidance on revisions and supplements in Questions 5&6 10 below.

- b. Economic Defensibility – This check requires using the economic procedures that were required when the plan was last supplemented. A plan will not have to use the new Principles, Requirements, and Guidelines and current discount rate unless the plan requires reformulation or modification increasing PL 83-566 financial assistance by 20% or adding a new cost-shareable purpose. All other plans will use the discount rate of the plan’s last supplement and update benefits and costs to current dollars. One method is to update benefits and costs following National Economic Handbook (NEH) Part 611 on indexing to current dollars (NEH 611.01d4 and 611.0702(b)). Another alternative is to use more current information for updating benefits and costs. This will take a little more time, but provide a more refined estimate, especially when requesting implementation funds such as technical assistance for design.
- c. Social Defensibility – Plans should be reviewed to determine if the works planned will negatively impact disadvantaged communities. Plans authorized prior to 1994 were prepared before the issuance of Executive Order 12898 on Environmental Justice (EJ). It is recommended to use the EPA EJScreen tool to determine if the watershed has EJ groups that will be negatively impacted by the preferred alternative. If EJ groups are negatively impacted, then the plan will need either a revision or supplement that involves reformulation of works. If it is determined that a supplement may be needed, see guidance on revisions and supplements in Questions 5&6 below.

Review NWPM Part 503 Subpart A to determine if the plan needs a modification, supplement, or can be supplemented with an exchange of correspondence.

Question 5: When does a plan need to be modified using Principles, Requirements and Guidelines (PR&G)?

Answer: There are two types of plan modifications. Existing plans can be either revised or supplemented. A supplemental plan is prepared when there are changes in purposes, scope, major features or SLO responsibilities, but the changes are not significant enough to warrant a preparation of a revised watershed project plan (NWPM 503.2). A supplemental plan that modifies the PL 83-566 project cost more than 20% or adds a cost sharing purpose will be evaluated using current procedures (NWPM 503.2E). Thus, PR&G would be required on those works that result in the 20% or greater in federal financial assistance, after adjusting for inflation, or that add a new purpose. The remaining installed or planned works are to use the previous procedure and discount rate (NWPM 503.2 E(1&2)).

A plan must be revised if new problems that require Federal assistance are identified or there are numerous complex changes in the planned measures (NWPM 503.1). A revised plan is a new plan.

The revised plan must be formulated and evaluated using current procedures (PR&G) and the current discount rate for Federal water resources planning. The revised plan must include all information needed to install a watershed project without reference to the original plan or previous supplemental plans. The revision also includes all environmental, economic, and social data and effects of the original or supplemental plan along with all information supporting existing works cumulative impacts and any agreements associated with those works. The document should disclose works already installed along with the newly proposed works.

Question 6: What changes require a supplemental plan?

Answer: This question and answer is related to, and expounds on, the previous two questions and answers above. A supplemental plan is prepared when there are changes in purposes, scope, major features or SLO responsibilities, but the changes are not significant enough to warrant a preparation of a revised watershed project plan (NWPM 503.2 and Question 5). The level of detail of documentation depends on the nature and extent of the modification and their effect on the overall project. Therefore, the original plan or latest supplement could be referenced and the supplement focus on the proposed changes to those plans. A supplement may require some analysis with new procedures and the current federal water resource discount rate (Question 5). As per NWPM 503.0D, preparation, review, and approval of revised and supplemental Public Law 78-534 project plans are the same as those for administratively approved Public Law 83-566 project plans.

Question 7: What are the considerations for dams in series?

Answer: During reaffirming feasibility (NWPM 504.1D) for a project that includes the construction of dams, check for the special considerations required for dams in series (TR-60, page 2-4). For example, if upon routing a hydrograph through an upper dam (NRCS-assisted dam or otherwise), the dam is overtopped, or its safety is questionable, it is considered breached and the lower dam's design must include an inflow hydrograph for the uncontrolled area plus a breach hydrograph from the upper dam.

Question 8: How should a change in hazard class from the originally planned hazard class be documented?

Answer: The older the plan the higher probability that land use change has occurred and that residential or other structures have been constructed in the breach inundation area downstream of

the planned site. A breach inundation routing will be needed to determine if there will be a change in hazard classification of the planned structure. A change in hazard classification will result in changed dam design criteria and a need to check economic, environmental, and social defensibility. It is recommended to follow the guidance in Question 4 above on defensibility and Question 9 about land use controls.

Question 9: When low and significant hazard dams were originally planned without obtaining downstream land rights within the breach inundation area, what is the process to certify that currently required land-use controls are put into place?

Answer: Prior to construction the STC will ensure that the SLO has provided an ADS-78 or other instruments for real property or other land use controls on future development below low and significant hazard dams (NWPM 504.1C). The controls will limit development within the breach inundation area of the structure. Further, controls are to be in place to prevent induced flooding (NWPM 504.3(c)(3)). NWPM 504.1C “*Controls on Future Development*” states “*Prior to construction of significant or low hazard dams, the STC will verify that the SLO has certified that adequate controls on future development within the breach inundation area (as defined in Title 210, National Engineering Manual (NEM), Part 520, Subpart C, Section 520.28) are in force. The controls must limit improvements within the breach inundation area such that the hazard class does not increase during the evaluated project life.*”

Question 10: What is the guidance for watershed planning under PL 83-566 and is there any training prepared for planning under this authority?

Answer: See Questions 1 and 2 in New Watershed Plans section that follows.

New Watershed Plans – For purposes of the following questions, this is defined as new planning starts and not supplements of previously authorized watershed plans. These projects would be funded for the planning phase to determine the works of improvement that would meet the public purpose and need in a watershed. The information for these plans are covered in Parts 500 and 501 of NWPM.

Question 1: Where is the guidance for watershed planning and plan preparation?

Answer: The watershed planning process following the NRCS nine steps of planning described in the National Planning Procedures Handbook. Additional guidance is required to be in compliance with the funding authority of PL 83-566 or PL 78-534 and other guidance such Principles, Requirements, and Guidelines. The links to these documents are:

- a) National Watershed Planning Manual - <https://directives.sc.egov.usda.gov/>
Go to Manuals (left-hand-side), Title 390, and Parts 500-506
- b) National Watershed Planning Handbook - <https://directives.sc.egov.usda.gov/>
Go to Handbook (left-hand-side), Title 390, and Parts 600-606
- c) Principles and Requirements and Guidelines (PR&G) – Select hyperlink
 - a. Principles and Requirements - [PR](#) (March 2013)
 - b. Interagency Guidelines - [G](#) (December 2015)
 - c. USDA Department Manual for PR&G - [DM 9500-013](#) (January 2017)
- d) Economic Handbook for Water Resources - [NEH Part 611](#) (1998)

Contact the National Water Management Center for assistance watershed project issues on a discipline basis.

<https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/contact/centers/nwmc/>

Question 2: Is there any training materials for watershed planning available?

Answer: The watershed rehabilitation program has a series of webinars that cover program management, watershed planning, watershed plan preparation, and implementation (attached). It is recommended that planners and program managers review applicable portions of the rehab webinar series then contact the National Water Management Center for further assistance.

Question 3: What is the cost-share for mitigation works?

Answer: See Question 3 in “Authorized Watershed Projects.”

Question 4: What are the required land-use controls for floodwater retarding structures?

Answer: See Question 9 in “Authorized Watershed Projects” and NWPM 504.3C(1). Additional discussion on real property rights and induced flooding can be found under NWPM 504.3C(3).