

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 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.

[44 FR 50579, Aug. 29, 1979, as amended at 74 FR 33322, July 13, 2009; 75 FR 6556, Feb. 10, 2010]

§ 650.7 When to prepare an EIS.

The following are categories of NRCS action used to determine whether or not an EIS is to be prepared.

(a) *An EIS is required for:*

(1) Projects that include stream channel realignment or work to modify channel capacity by deepening or widening where significant aquatic or wildlife habitat exists. The EE will determine if the channel supports significant aquatic or wildlife habitat;

(2) Projects requiring Congressional action;

(3) Broad Federal assistance programs administered by NRCS when the environmental evaluation indicates there may be significant cumulative impacts on the human environment (§650.7(e)); and

(4) Other major Federal actions that are determined after environmental evaluation to affect significantly the quality of the human environment (§650.7(b)). If it is difficult to determine whether there is a significant impact on the human environment, it may be necessary to complete the EE and prepare an EA in order to decide if an EIS is required.

(b) The RFO is to determine the need for an EIS for each action, program, or regulation. An environmental evaluation, using a systematic interdisciplinary analysis and evaluation of data and information responding to the five provisions of Section 102(2)(C) of NEPA, will assist the RFO in deciding if the action requires the preparation of an EIS. In analyzing and evaluating environmental concerns, the RFO will answer the following questions:

(1) *Environmental impact.* Will the proposed action significantly affect the quality of the human environment (40 CFR 1508.14)? For example, will it significantly alter or destroy valuable

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wetlands, important farmlands, cultural resources, or threatened and endangered species? Will it affect social values, water quality, fish and wildlife habitats, or wilderness and scenic areas?

(2) *Adverse environmental effects that cannot be avoided.* What are the important environmental amenities that would be lost if the proposed action were implemented?

(3) *Alternatives.* Are there alternatives that would achieve the planning objectives but avoid adverse environmental effects?

(4) *Short-term uses versus long-term productivity.* Will the proposed actions, in combination with other actions, sacrifice the enhancement of significant long-term productivity as a tradeoff for short-term uses?

(5) *Commitment of resources.* Will the proposed action irreversibly and irretrievably commit the use of resources such as important farmlands, wetlands, and fish and wildlife habitat?

(c) Criteria for determining the need for a program EIS:

(1) A program EIS is required if the environmental evaluation reveals that actions carried out under the program have individually insignificant but cumulatively significant environmental impacts.

(2) A project EIS, in lieu of a program EIS, is required if the environmental evaluation reveals that actions carried out under the program will have both individually and cumulatively significant environmental impacts. (7 CFR Parts 620 through 623 and 640 through 643).

(d) The RFO, through the process of tiering, is to determine if a site-specific EA or EIS is required for an individually significant action that is included in a program EIS.

§ 650.8 When to prepare an environmental assessment (EA).

An environmental assessment (EA) is to be prepared for:

(a) Land and water resource projects that are not included in § 650.7(a) (1) through (4) for which State and local units of government receive Federal technical and financial assistance from NRCS (7 CFR parts 620 through 623; and 640 through 643); and

(b) Other actions that the EE reveals may be a major Federal action significantly affecting the quality of the human environment.

(c) Criteria for determining the need for a program EA:

(1) A program EA is to be prepared when NRCS has determined, based on the environmental evaluation, that a program EIS is not required and the program and actions to implement the program are not categorically excluded; and

(2) A program EA may also be prepared to aid in NRCS decision-making and to aid in compliance with NEPA.

(d) The RFO, through the process of tiering, is to determine if a site-specific EA or EIS is required for an action that is included in a program EA or EIS.

[44 FR 50579, Aug. 29, 1979, as amended at 73 FR 35886, June 25, 2008]

§ 650.9 NEPA and interagency planning.

(a) *Lead agency.* (1) NRCS is to be the lead agency for actions under programs it administers. If the actions affect more than one State, the NRCS Administrator is to designate one NRCS state conservationist as the RFO.

(2) NRCS normally takes the role of lead agency in actions that share program responsibilities among USDA agencies if NRCS provides the majority of funds for the actions. If the lead agency role is in question, the role of NRCS and other USDA agencies is to be determined by the USDA Environmental Coordinator, Office of Environmental Quality Activities.

(3) If NRCS and Federal agencies outside USDA cannot agree on which will be the lead agency and which will be the cooperating agencies, the procedures in 40 CFR 1501.5(e) are to be followed.

(4) NRCS, as lead agency, is to coordinate the participation of all concerned agencies in developing the EIS according to the provisions of 40 CFR 1501.6(a).

(b) *Cooperating agencies.* (1) NRCS is to request, as appropriate, the assistance of cooperating agencies in preparing the environmental evaluation. This assistance will broaden the expertise in the planning and help to avoid