

Design Review

1. Name of waterbody that will be affected by this project
2. What is the nature of the activity? What are you doing?
3. Why are you doing this? (What is the purpose?)
- Make your case
4. What are you putting in the wetland and how much?
5. How big of an area does this project entail?
6. How are you avoiding and minimizing impacts?

Permitting



Who Regulates Wetlands?

- U.S. Army Corps of Engineers under the Clean Water Act
- State Agencies (varies by state)
- Local Regulations possible (towns)
- Projects can trigger lots of other permit requirements . . .

Army Corps of Engineers

- Clean Water Act enacted in 1972
- Regulations implemented in 1974
- Goal of the Clean Water Act-
 - Protect the biological, chemical and physical functions of our nation's waters



Army Corps of Engineers

- General Permit > 3,000 sq ft of impact
- Individual Permit >1 acre of impact
- Under 3,000 ft of direct/indirect impact—
no Army Corps permit needed
- Lots of conditions to determine GP
eligibility



Rescinded

MEMORANDUM OF UNDERSTANDING
Among the U.S. Department of Agriculture,
The U.S. Environmental Protection Agency, and the U.S. Department of the Army

**Concerning Implementation of the 404(f)(1)(A) Exemption for
Certain Agricultural Conservation Practice Standards**

I. Purpose and Scope

The Environmental Protection Agency (EPA) and the Department of the Army (the Army) issued, in March 2014, an interpretive rule clarifying the applicability of the exemption from Clean Water Act (CWA) section 404 permitting provided by CWA section 404(f)(1)(A) for discharges to waters of the United States associated with certain conservation practice standards where they are undertaken as part of an established farming operation. This Memorandum of Understanding (MOU) describes how the three agencies will work together to implement the interpretive rule, to protect and enhance water quality and ensure consistency and predictability for the public. This MOU also identifies the procedures for coordinating to maintain the list of conservation practice standards exempt from section 404 permitting, including revisions to the list. This list is included as Attachment A to this MOU.

II. Authorities

EPA and the Army enter into this MOU pursuant to their responsibilities and authorities under the Clean Water Act, and specifically section 404, 33 U.S.C. § 1251, et seq. NRCS enters into this MOU pursuant to its responsibilities and authorities under the Soil Conservation and Domestic Allotment Act, 16 U.S.C. §590 a-f.

Permitting-what you need

- Data Sheets
- Location map
- Restoration design map showing proposed impacts
- Cross-sections of features
- Permit application form/narrative



Waters of the U.S.



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What needs a significant nexus determination?

- Non-navigable, not relatively permanent tributaries
- Wetlands adjacent to non-navigable, not relatively permanent tributaries
- Wetlands that don't directly abut relatively permanent non-navigable tributaries

Ditches





Approach to Permitting

- Frame the issue (restoration should be supported by regulators if framed well)
- Make your case for what you are doing
- Avoid and minimize unnecessary impacts
- Permitting is often procedural – get through it
- Know the regulations and the regulators
- Beware of jurisdictional creep
- Expect this to take time, plan accordingly

Function and Values

Symbols Key

- Groundwater Recharge/Discharge
- Floodflow Alteration (Storage & Desynchronization)
- Fish and Shellfish Habitat
- Sediment/Toxicant Retention
- Nutrient Removal/Retention/Transformation
- Production Export (Nutrient)
- Sediment/Shoreline Stabilization
- Wildlife Habitat
- Recreation/Consumptive & Non-Consumptive
- Educational/Scientific Value
- Uniqueness/Heritage
- Visual Quality/Aesthetics
- ES Endangered Species

The Highway Methodology Workbook Supplement

US Army Corps of Engineers - New England District
 Wetland Functions and Values
 A Descriptive Approach

Endangered Species Act

The Endangered Species Act (ESA) directs all Federal agencies to work to conserve endangered and threatened species and to use their authorities to further the purposes of the Act. Section 7 of the Act, called "Interagency Cooperation," is the mechanism by which Federal agencies ensure the actions they take, including those they fund or authorize, do not jeopardize the existence of any listed species.

Bog turtle

Indiana Bat

CA Clapper Rail

**Cultural Resources
 Historic Preservation Act**



Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment.

NEPA

- The National Environmental Policy Act (NEPA) was signed into law on January 1, 1970. NEPA requires federal agencies to assess the environmental effects of their proposed actions prior to making decisions.

NEPA COMPLIANCE CHECKLIST

State: _____ Federal Financial Assistance Grant/Agreement/Amendment Number: _____

Grant/Project Name: _____

This proposal is **is not** completely covered by categorical exclusion No(s) _____, 516 DM 6 Appendix 1. (check (✓) one) (Review proposal activities. An appropriate categorical exclusion must be identified by/with completing the remainder of the Checklist. If a categorical exclusion cannot be identified, or the proposal cannot meet the qualifying criteria in the categorical exclusion, an EA must be prepared.)

Exceptions:
 Will This Proposal (check (✓) yes or no for each item below)

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	1. Have significant adverse effects on public health or safety.
<input type="checkbox"/>	<input type="checkbox"/>	2. Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks.
<input type="checkbox"/>	<input type="checkbox"/>	3. Have highly controversial environmental effects.
<input type="checkbox"/>	<input type="checkbox"/>	4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
<input type="checkbox"/>	<input type="checkbox"/>	5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
<input type="checkbox"/>	<input type="checkbox"/>	6. Be directly related to other actions with individually insignificant, but cumulatively significant environmental effects.
<input type="checkbox"/>	<input type="checkbox"/>	7. Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.
<input type="checkbox"/>	<input type="checkbox"/>	8. Have adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.
<input type="checkbox"/>	<input type="checkbox"/>	9. Have material adverse effects on resources requiring compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act.
<input type="checkbox"/>	<input type="checkbox"/>	10. Threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

(If any of the above exceptions receive a "Yes" check (✓), an EA must be prepared.)

Concurrence/Approvals:
 Project Leader: _____ Date: _____
 State Authority Concurrence: _____ Date: _____
(with financial assistance signature authority, if applicable)

Within the spirit and intent of the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and have determined that the grant/agreement amendment:

is a categorical exclusion as provided by 516 DM 6, Appendix 1. No further NEPA documentation will therefore be made.
 is not completely covered by the categorical exclusion as provided by 516 DM 6, Appendix 1. An EA must be prepared, includes other attached information supporting the Checklist.

Service signature approval:
 RO or WO Environmental Coordinator: _____ Date: _____
 Staff Specialist, Division of Federal Aid: _____ Date: _____
(or authorized Service representative with financial assistance signature authority)

FWS Form 3-2185
08/00

NEPA – Categorical Exclusions

- The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected local area. The following are examples of activities that may be included.
 - (a) The installation of fences.
 - (b) The construction of small water control structure
 - (c) The planting of seeds or seedlings and other minor revegetation actions.
 - (d) The construction of small berms or dikes. (e) The development of limited access for routine maintenance and management purposes.

NEPA Categorical Exclusions cont

- The use of prescribed burning for habitat improvement purposes, when conducted in accordance with local and State ordinances and laws.
- Fire management activities, including prevention and restoration measures, when conducted in accordance with Departmental and Service procedures.
- The reintroduction or supplementation (e.g., stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated.



Restoration Work

- Berm removal
- Berm construction
- Excavation of Depressions
- Ditch plugs
- Remove standing trees to access plug
- Herbicide control of invasives
- Tree planting

Area of inundation: 64 acres
 Area of proposed depressions: 2.15 acres total
 Volume of material removed for all depressions: 3,500 cubic yards
 Berm removal: 1,000 linear ft - 1,445 cubic yards
 Proposed berm: 1,300 ft long - 875 cubic yards
 Trees and shrub planting: 35 acres
 Ditch Plug: 360 cubic yards (4,700 sq ft)
 Ditch plug: 5,500 cubic yards
 Culvert removal: metal culvert and 200 cubic yards soil
 Hummocks: 1.62 acres (3,500 cubic yards)
 Storage and 12 cubic yards of woody debris to be placed in depressions

Legend

- Limouxieux WRP
- ditch plug
- ditch fill
- culvert removal
- depression
- hummock
- area of inundation
- inundation 6 to 12 inches
- inundation 12 inches or more
- planting
- berm removal
- proposed berm

0 500 1,000 Feet

Limouxieux WRP
 Wetland Restoration
 Design Map
 Leicester, Vermont
 April 9, 2013

11180
 Pottery Hill Park
 and Wildlife Program
 11 Lewis Street
 St. Albans, VT
 05472

Local Case Study



Questions?

