

## **Part 500 – Watershed Program Management**

### **Subpart A – Program Criteria**

#### **500.0 Authority, Purpose, and Scope**

##### **C. Scope**

4. Water resource projects with financial assistance developed under the Watershed Program 213 and other NRCS programs within the thresholds for Principles and Requirements for Federal 214 Investments in Water Resources (March 2013) and the supporting Interagency Guidelines 215 (PR&G) must be formulated in accordance with the requirements therein.

#### **500.32 Federal Laws, Regulations, Executive Orders, Other Authorities**

##### **5) USDA Regulations**

- (i) Departmental Regulation (DR) 5600-002, Environmental Justice (1997)
- (ii) DR 1350-001, Tribal Consultation (2008)
- (iii) DR 340-007, Policies on American Indians and Alaska Natives” (2008)
- (iv) DR 9500-013, Guidance for Conducting Analyses under the Principles, Requirements, and Guidelines for Water and Land Related Resources Implementation Studies and 810 Federal Water Resource Investments” (2017)

#### **500.4 Project Scope**

##### **A. Section 2 of Public Law 83-566 defines the maximum watershed and structure size for works of improvement.**

##### **3. Benefit and Cost Analysis**

- (i) Water resource plans will include allocations of installation costs to the various project purposes and will show the basis of such allocations and whether benefits exceed costs (PL 83-566 Section 3(3)). These benefits should include both monetized and non-monetized benefits.
- (ii) (2) The federal objective of the PR&G (March 2013) specifies that Federal water resources investments shall reflect national priorities, encourage economic development, and protect the environment by:
  - (i) seeking to maximize sustainable economic development.
  - (ii) seeking to avoid the unwise use of floodplains and flood-prone areas and minimizing adverse impacts and vulnerabilities in any case in which a floodplain or flood-prone area must be used; and
  - (iii) protecting and restoring the functions of natural systems and mitigating any unavoidable damage to natural systems
- (iii) (3) Public benefits encompass environmental, economic, and social goals, include monetary and non-monetary effects and allow for the consideration of both quantified and unquantified measures. (PR&G, Chapter 1, Section 2). Monetary economic benefits are to be national in scope (DM 9500-013 6(b)(3)(a)(2)).

## **Attachment A – National Watershed Program Manual, Principles Requirements and Guidelines Updated Policy**

- (iv) (4) PR&G and USDA agency specific procedures (ASP) establish a complete framework for analyzing water resource development activities, and collectively, they are referred to as the PR&G. DR 9500-013 and DM 9500-013 constitute the USDA ASP as required by the Guidelines. For water resource projects, evaluate the project by the USDA agency specific procedures to comply with the PR&G. Provide sufficient considerations to the economic, environmental and social benefits for the project investment. (PR&G, Chapter 1, Section 2).
- (v) (5) Each project must contain benefits directly related to agriculture, including rural communities. Agriculture and rural communities must account for at least 20 percent of the total benefits of the project (PL 83-566 Section 2 “Definitions”). This requirement does not apply to PL 78-534 subwatershed project plans.

## **Part 501 – Development of Watershed Project Plans**

### **Subpart A – Background**

#### **501.4 Collaboration**

Principles, Requirements, and Guidelines for PR&G require federal agencies to collaborate fully on water resources related activities with other affected Federal agencies and with Tribal, regional, state, local, and non-governmental entities, as well as community groups, academia, and private land owners (stakeholders) to realize more comprehensive problem resolution and better-informed decision making. The intent of collaboration is to ensure that Federal activities reasonably consider the needs, interests, and concerns of stakeholders. Collaboration should provide adequate opportunities for all to participate throughout the decision-making process.

The method and scope of the collaborative effort should be driven by the nature of the activity, problems, and likely solutions. Collaboration may include (but is not limited to): the sharing of science and data, analytical tools, or expertise unless protected from release by law; inclusion on interdisciplinary or inter-agency study teams; participation in independent or peer review of study products; development and implementation of complementary projects and programs by others; and post-project review and development of adaptive management strategies (PR&G, Chapter 2, Section 1C “Collaboration”). Collaboration is used to fully integrate non-federal units of government and non-governmental organizations into the planning process to fully develop alternative solutions. Collaboration complements and enhances the NEPA Scoping process for assisting in alternative formulation and evaluation.

#### **501.6 Basic Planning Efforts**

Upon receipt of an application, the NRCS will make any necessary field studies and develop a report to justify the need for planning effort. Once planning is authorized by the Chief of NRCS, a watershed plan-EIS or a watershed plan-EA will be prepared by NRCS to request funding. This effort must be coordinated with other State and Federal agencies.

### **Subpart B – Project Plan Requirements**

#### **501.10 Planning Standards and Criteria**

Watershed Program planning will be conducted in accordance with the following guidance documents, regulations, and EOs:

1. Title 180, National Planning Procedures Handbook Amendment 8 (NPPH)

## **Attachment A – National Watershed Program Manual, Principles Requirements and Guidelines Updated Policy**

2. Title 190, Part 610., National Environmental Compliance Handbook (NECH)
3. Title 200, Part 611, Water Resources Handbook for Economics
4. Title 210, National Engineering Manual (NEM)
5. Title 390, National Watershed Program Handbook (NWPH)
6. NRCS Field Office Technical Guide (FOTG) and Conservation Practice Physical Effects (CPPE).
7. Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies” (P&G)
8. Principles, Requirements, and Guidelines (PR&G) for Water and Land Related Resources Implementation Studies and the supporting Departmental Regulation (DR 9500-013) and Departmental Manual (DM 9500-013)
9. Office and Management and Budget Circular A-4
10. National Environmental Policy Act (NEPA)
11. 40 CFR Parts 1500 to 1508, “CEQ Regulations Implementing NEPA”
12. 7 CFR Part 650, “NRCS Compliance with NEPA”
13. 7 CFR Part 622, “Watershed Projects”
14. Title 190, General Manual (GM), Part 410, Subpart B, Section 410.27, “Channel Modification Guidelines”
15. EO 12372, Intergovernmental Review of Federal Programs.
16. Section 106 of PL 89-665, as amended by PL 96-515, NHPA
17. Section 7 of PL 93-205, ESA
18. EO 10584 as amended by 10913, December 18, 1954, Prescribing Rules and Regulations Relating to the Administration of the Watershed Protection and Flood Prevention Act
19. EO 11988, Floodplain Management
20. Presidential Memorandum (M-16-01), Incorporating Ecosystem Services into Federal Decision Making
21. Council on Environmental Quality – NEPA’s Forty Most Asked Questions
22. For other applicable laws, regulations, and EOs; see NWPM), Part 500, Subpart D

### **501.11 Water Resource Projects**

- A. All Watershed Program projects are “water resource projects” and must be designed to accomplish one or more of the general purposes described in NWPM, Part 500, Subpart A “Program Criteria.” The watershed planning process must identify the most economically, socially, and environmentally acceptable means of achieving an eligible project purpose or purposes.
- B. For the purposes of this manual, a “water resource project” includes projects with Federal investments that by purpose, either directly or indirectly, affect water quality or water quantity. The Federal Objective, as set forth in PR&G (PL 110-114 Section 2031 “Water Resources Principles and Guidelines”), specifies that Federal water resources investments shall reflect national priorities, encourage economic development, and protect the environment.
- C. Federal investments in water resources as a whole should strive to maximize public benefits with appropriate consideration of costs. Public benefits encompass environmental, economic, and social goals, include monetary and non-monetary effects and allow for the consideration of both quantified and unquantified measures. Water resource project plans within the defined thresholds in PR&G must be formulated in accordance with all requirements of the PR&G and USDA agency specific procedures (DR 9500-013 and DM 9500-013).

## **Part 502 – Reviews and Approvals**

### **Subpart A – Approval for Variances and Waivers**

#### **502.1 General**

- A. Request for variances and waivers must be justified and supported with sufficient documentation that adequately addresses the nature and need for the waiver or variance for the project to be successful and must be submitted at the earliest possible stage in the development of the watershed project plan.
- B. A waiver or variance, if included in the watershed plan, must be approved in writing before a draft watershed project plan is forwarded to NWMC for review.

#### **502.2 Waivers**

- A. A waiver is required for any plan element that does not meet policy; however, waivers must be consistent with applicable statutes and regulations. A waiver to NRCS policy must be submitted by the STC through the Deputy Chief of Programs for review by the Watershed Branch. Following review by the Watershed Branch, the request will be forwarded to the Chief for a decision. The Chief's decision regarding a waiver will be finalized in writing to the STC.

#### **502.3 Watershed Plan Waiver**

- A. The Chief of NRCS may waive the watershed plan for works of improvement (7 CFR Part 622.3) if the Chief determines that -
  - 1. The watershed plan is unnecessary or duplicative; and
  - 2. The works of improvement are otherwise consistent with applicable requirements.
- B. Sponsors can prepare NEPA documents in the form of plan-EA and plan-EIS, biological assessments needed for ESA consultation, and use their own archaeologists to evaluate impacts to cultural resources; however, NRCS remains responsible for the contents of those documents, for preparing associated decision documents (FONSI or ROD) and for carrying out necessary consultations.
- C. For plans that contain financial assistance from NRCS, the Chief's decision to waive the watershed plan will be based on a technical review by NRCS.
  - 1. NRCS determination that the plan complies with NEPA, the NHPA, and the ESA.
  - 2. NRCS must conduct its own consultations with Indian Tribes and Native Hawaiian Organizations as required by the NHPA and EO 13175 "Consultation and Coordination With Indian Tribal Governments"). The ESA alone allows for NRCS to designate in writing a person, agency, or organization as its non-Federal representative to conduct informal consultation, which can only be used when all impacts to all listed species are expected to be insignificant, discountable, or beneficial (i.e. Not Likely to Adversely Affect) and critical habitat will not be destroyed or adversely modified. Formal consultation (when species are likely to be adversely affected or critical habitat destroyed or adversely modified) must be carried out by NRCS. In addition, the ultimate responsibility for ESA Section 7 obligations remains with NRCS. Coordination with the USFWS is not the same as ESA consultation. Some species are under the jurisdiction of the NMFS, so consultation with both Services is required for some watershed projects.
  - 3. Regulations require the plan-EA or plan-EIS be subject to internal technical reviews, sponsor and other local party review, interagency review by other Federal, state, and concerned groups, and a final review as stated in NRCS's National Watersheds Manual.
  - 4. NRCS must coordinate with other Federal agencies with jurisdiction by law over the project, including with the USFWS in order to fully consider recommendations for the conservation and development of wildlife resources to be incorporated into the

## **Attachment A – National Watershed Program Manual, Principles Requirements and Guidelines Updated Policy**

watershed plan.

5. NRCS must determine that sponsor-led public meetings were well publicized and effective at reaching the interested public and any persons potentially impacted by the watershed plan, including minority populations and low-income populations as required by EO 12898 “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”.
6. NRCS must conduct its own internal technical reviews of watershed plans. If after conducting its non-delegable responsibilities and a thorough review of the plan, NRCS determines the plan meets all laws, rules and regulations, NRCS and the sponsors can accept the plan-EIS or plan-EA by signing the watershed agreement

### **502.4 Variances**

- A. Site conditions may justify a request for a variance from a standard. Variances may be approved when there is a documented need to establish additional purposes for an existing standard or less restrictive quality criteria than required in the national practice standard. Variances from the requirements of conservation practice standards (CPS) listed in NHCP, are addressed in accordance with Title 450, GM, Part 401, Subpart B, Conservation Practice Standards, Section 401.16.
- B. The request will include the specifics of the CPS purpose to be added or criteria to be changed and supporting rationale for the change. Only the Directors of the Conservation Engineering Division and/or Ecological Sciences Division can approve variances from the requirements of a national CPS. The Division Director’s decision regarding a variance will be finalized in writing to the STC.

## **Part 506 – Exhibits**

### **Subpart E – Glossary and Acronyms**

#### **506.51 Initials and Acronyms**

PR&G— Principles, Requirements, and Guidelines for Water and Land Related Resources Implementation Studies