

PART 1970 - ENVIRONMENTAL

Subpart B - NEPA Categorical Exclusions

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PART 1970 - ENVIRONMENTAL

Subpart B - NEPA Categorical Exclusions

§ 1970.51 Applying CEs.

(a) The actions listed in §§ 1970.53 through 1970.55 are classes of actions that the Agency has determined do not individually or cumulatively have a significant effect on the human environment (referred to as "categorical exclusions" or CEs).

(1) Actions listed in § 1970.53 do not normally require applicants to submit environmental documentation with their applications. However, these applicants may be required to provide environmental information at the Agency's request.

(2) Actions listed in § 1970.54 normally require the submission of an environmental report (ER) by an applicant to allow the Agency to determine whether extraordinary circumstances (as defined in § 1970.52(a)) exist. When the Agency determines that extraordinary circumstances exist, an EA or EIS, as appropriate, will be required and, in such instances, applicants may be required to provide additional environmental information later at the Agency's request.

(3) Actions listed in § 1970.55 relate to financial assistance whereby the applicant is a primary recipient of a multi-tier program providing financial assistance to secondary or ultimate recipients without specifying the use of such funds for eligible actions at the time of initial application and approval. The decision to approve or fund such initial proposals has no discernible environmental effects and is therefore categorically excluded provided the primary recipient enters into an agreement with the Agency for future reviews. The primary recipient is limited to making the Agency's financial assistance available to secondary recipients for the types of projects specified in the primary recipient's application. Second-tier funding of proposals to secondary or ultimate recipients will be screened for extraordinary circumstances by the primary recipient and monitored by the Agency. If the primary recipient determines that extraordinary circumstances exist on any second-tier proposal, it must be referred to the Agency for the appropriate level of review under this part in accordance with subparts C and D.

(b) To find that a proposal is categorically excluded, the Agency must determine the following:

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RD Instruction 1970-B  
§ 1970.51(b) (Con.)

- (1) The proposal fits within a class of actions that is listed in §§ 1970.53 through 1970.55;
  - (2) There are no extraordinary circumstances related to the proposal (see § 1970.52); and
  - (3) The proposal is not "connected" to other actions with potentially significant impacts (see 40 CFR 1508.25(a)(1)) or is not considered a "cumulative action" (see 40 CFR 1508.25(a)(2)), and is not precluded by 40 CFR 1506.1.
- (c) A proposal that consists of more than one action may be categorically excluded only if all components of the proposed action are eligible for a CE.
- (d) If, at any time during the environmental review process, the Agency determines that the proposal does not meet the criteria listed in §§ 1970.53 through 1970.55, an EA or EIS, as appropriate, will be required.
- (e) Failure to achieve compliance with this part will postpone further consideration of an applicant's proposal until such compliance is achieved or the applicant withdraws the proposal. If compliance is not achieved, the Agency will deny the request for financial assistance.

§ 1970.52 Extraordinary circumstances.

- (a) Extraordinary circumstances are unique situations presented by specific proposals, such as characteristics of the geographic area affected by the proposal, scientific controversy about the environmental effects of the proposal, uncertain effects or effects involving unique or unknown risks, and unresolved conflicts concerning alternate uses of available resources within the meaning of section 102(2)(E) of NEPA. In the event of extraordinary circumstances, a normally excluded action will be the subject of an additional environmental review by the Agency to determine the potential of the Agency action to cause any significant adverse environmental effect, and could, at the Agency's sole discretion, require an EA or an EIS, prepared in accordance with subparts C or D of this part, respectively.
- (b) Significant adverse environmental effects that the Agency considers to be extraordinary circumstances include, but are not limited to:

§ 1970.52(b) (Con.)

- (1) Any violation of applicable Federal, state, or local statutory, regulatory, or permit requirements for environment, safety, and health.
- (2) Siting, construction, or major expansion of Resource Conservation and Recovery Act permitted waste storage, disposal, recovery, or treatment facilities (including incinerators), even if the proposal includes categorically excluded waste storage, disposal, recovery, or treatment actions.
- (3) Any proposal that is likely to cause uncontrolled or unpermitted releases of hazardous substances, pollutants, contaminants, or petroleum and natural gas products.
- (4) An adverse effect on the following environmental resources:
  - (i) Historic properties;
  - (ii) Federally listed threatened or endangered species, critical habitat, Federally proposed or candidate species;
  - (iii) Wetlands (Those actions that propose to convert or propose new construction in wetlands will require consideration of alternatives to avoid adverse effects and unwarranted conversions of wetlands. For actions involving linear utility infrastructure where utilities are proposed to be installed in existing, previously disturbed rights-of-way or that are authorized under applicable Clean Water Act, Section 404 nationwide permits will not require the consideration of alternatives. Those actions that require Section 404 individual permits would create an extraordinary circumstance);
  - (iv) Floodplains (those actions that introduce fill or structures into a floodplain or propose substantial improvements to structures within a floodplain will require consideration of alternatives to avoid adverse effects and incompatible development in floodplains. Actions that do not adversely affect the hydrologic character of a floodplain, such as buried utility lines or subsurface pump stations, would not create an extraordinary circumstance);

or purchase of existing structures within the floodplain will not create an extraordinary circumstance but may require consideration of alternatives to avoid adverse effects and incompatible development in floodplains when determined appropriate by the Agency);

(v) Areas having formal Federal or state designations such as wilderness areas, parks, or wildlife refuges; wild and scenic rivers; or marine sanctuaries;

(vi) Special sources of water (such as sole source aquifers, wellhead protection areas, and other water sources that are vital in a region);

(vii) Coastal barrier resources or, unless exempt, coastal zone management areas; and

(viii) Coral reefs.

(5) The existence of controversy based on effects to the human environment brought to the Agency's attention by a Federal, tribal, state, or local government agency.

§ 1970.53 CEs involving no or minimal disturbance without an environmental report.

The CEs in this section are for proposals for financial assistance that involve no or minimal alterations in the physical environment and typically occur on previously disturbed land. These actions normally do not require an applicant to submit environmental documentation with the application. However, based on the review of the project description, the Agency may request additional environmental documentation from the applicant at any time, specifically if the Agency determines that extraordinary circumstances may exist. In accordance with Section 106 of the National Historic Preservation Act (54 U.S.C. 300101 et seq.) and its implementing regulations under 36 CFR 800.3(a), the Agency has determined that the actions in this section are undertakings, and in accordance with 36 CFR 800.3(a)(1) has identified those undertakings for which no further review under 36 CFR part 800 is required because they have no potential to cause effects to historic properties. In accordance with section 7 of the Endangered Species Act (16 U.S.C. 1531 et seq.) and its implementing regulations at 50 CFR part 402, the Agency has determined that the actions in this section are actions for purposes of the Endangered Species Act, and in accordance with 50 CFR 402.06 has identified those actions for which no further review under 50 CFR part 402 is required because they will have no effect to listed threatened and endangered species.

§ 1970.53 (Con.)

(a) Routine financial actions. The following are routine financial actions and, as such, are classified as categorical exclusions identified in paragraphs (a)(1) through (7) of this section.

(1) Financial assistance for the purchase, transfer, lease, or other acquisition of real property when no or minimal change in use is reasonably foreseeable.

(i) Real property includes land and any existing permanent or affixed structures.

(ii) "No or minimal change in use is reasonably foreseeable" means no or only a small change in use, capacity, purpose, operation, or design is expected where the foreseeable type and magnitude of impacts would remain essentially the same.

(2) Financial assistance for the purchase, transfer, or lease of personal property or fixtures where no or minimal change in operations is reasonably foreseeable. These include:

(i) Approval of minimal expenditures not affecting the environment such as contracts for long lead-time equipment and purchase options by applicants under the terms of 40 CFR 1506.1(d) and 7 CFR 1970.12;

(ii) Acquisition of end-user equipment and programming for telecommunication distance learning;

(iii) Purchase, replacement, or installation of equipment necessary for the operation of an existing facility (such as Supervisory Control and Data Acquisition Systems (SCADA), energy management or efficiency improvement systems (including heat rate efficiency), replacement or conversion to enable use of renewable fuels, standby internal combustion electric generators, battery energy storage systems, and associated facilities for the primary purpose of providing emergency power);

(iv) Purchase of vehicles (such as those used in business, utility, community, or emergency services operations);

(v) Purchase of existing water rights where no associated construction is involved;

(vi) Purchase of livestock and essential farm equipment, including crop storing and drying equipment; and

(vii) Purchase of stock in an existing enterprise to obtain an ownership interest in that enterprise.

(3) Financial assistance for operating (working) capital for an existing operation to support day-to-day expenses.

(4) Sale or lease of Agency-owned real property, if the sale or lease of Agency-owned real property will have no or minimal construction or change in current operations in the foreseeable future.

(5) The provision of additional financial assistance for cost overruns where the purpose, operation, location, and design of the proposal as originally approved has not been substantially changed.

(6) Rural Business Investment Program (7 U.S.C. 1989 and 2009cc et seq.) actions as follows:

(i) Non-leveraged program actions that include licensing by USDA of Rural Business Investment Companies (RBIC); or

(ii) Leveraged program actions that include licensing by USDA of RBIC and Federal financial assistance in the form of technical grants or guarantees of debentures of an RBIC, unless such Federal assistance is used to finance construction or development of land.

(7) A guarantee provided to a guaranteed lender for the sole purpose of refinancing outstanding bonds or notes or a guarantee provided to the Federal Financing Bank pursuant to Section 313A(a) of the Rural Electrification Act of 1936 for the purpose of:

(i) Refinancing existing debt instruments of a lender organized on a not-for-profit basis; or

(ii) Prepaying outstanding notes or bonds made to or guaranteed by the Agency.

(b) Information gathering and technical assistance. The following are CEs for financial assistance, identified in paragraphs (b)(1) through (3) of this section.

§ 1970.53(b) (Con.)

(1) Information gathering, data analysis, document preparation, real estate appraisals, environmental site assessments, and information dissemination. Examples of these actions are:

(i) Information gathering such as research, literature surveys, inventories, and audits;

(ii) Data analysis such as computer modeling;

(iii) Document preparation such as strategic plans; conceptual designs; management, economic, planning, or feasibility studies; energy audits or assessments; environmental analyses; and survey and analyses of accounts and business practices; and

(iv) Information dissemination such as document mailings, publication, and distribution; and classroom training and informational programs.

(2) Technical advice, training, planning assistance, and capacity building. Examples of these actions are:

(i) Technical advice, training, planning assistance such as guidance for cooperatives and self-help housing group planning; and

(ii) Capacity building such as leadership training, strategic planning, and community development training.

(3) Site characterization, environmental testing, and monitoring where no significant alteration of existing ambient conditions would occur. This includes, but is not limited to, air, surface water, groundwater, wind, soil, or rock core sampling; installation of monitoring wells; and installation of small-scale air, water, or weather monitoring equipment.

(c) Minor construction proposals. The following are CEs that apply to financial assistance for minor construction proposals:

(1) Minor amendments or revisions to previously approved projects provided such activities do not alter the purpose, operation, geographic scope, or design of the project as originally approved;

- (2) Repair, upgrade, or replacement of equipment in existing structures for such purposes as improving habitability, energy efficiency (including heat rate efficiency), replacement or conversion to enable use of renewable fuels, pollution prevention, or pollution control;
  - (3) Any internal modification or minimal external modification, restoration, renovation, maintenance, and replacement in-kind to an existing facility or structure;
  - (4) Construction of or substantial improvement to a single-family dwelling, or a Rural Housing Site Loan project or multi-family housing project serving up to four families and affecting less than 10 acres of land;
  - (5) Siting, construction, and operation of new or additional water supply wells for residential, farm, or livestock use;
  - (6) Replacement of existing water and sewer lines within the existing right-of-way and as long as the size of pipe is either no larger than the inner diameter of the existing pipe or is an increased diameter as required by Federal or state requirements. If a larger pipe size is required, applicants must provide a copy of written administrative requirements mandating a minimum pipe diameter from the regulatory agency with jurisdiction;
  - (7) Modifications of an existing water supply well to restore production in existing commercial well fields, if there would be no drawdown other than in the immediate vicinity of the pumping well, no resulting long-term decline of the water table, and no degradation of the aquifer from the replacement well;
  - (8) New utility service connections to individual users or construction of utility lines or associated components where the applicant has no control over the placement of the utility facilities; and
  - (9) Conversion of land in agricultural production to pastureland or forests, or conversion of pastureland to forest.
- (d) Energy or telecommunication proposals. The following are CEs that apply to financial assistance for energy or telecommunication proposals:

§ 1970.53(d) (Con.)

- (1) Upgrading or rebuilding existing telecommunication facilities (both wired and wireless) or addition of aerial cables for communication purposes to electric power lines that would not affect the environment beyond the previously-developed, existing rights-of-way;
- (2) Burying new facilities for communication purposes in previously developed, existing rights-of-way and in areas already in or committed to urbanized development or rural settlements whether incorporated or unincorporated that are characterized by high human densities and within contiguous, highly disturbed environments with human-built features. Covered actions include associated vaults and pulling and tensioning sites outside rights-of-way in nearby previously disturbed or developed land;
- (3) Changes to electric transmission lines that involve pole replacement or structural components only where either the same or substantially equivalent support structures at the approximate existing support structure locations are used;
- (4) Phase or voltage conversions, reconductoring, upgrading, or rebuilding of existing electric distribution lines that would not affect the environment beyond the previously developed, existing rights-of-way. Includes pole replacements but does not include overhead-to-underground conversions;
- (5) Collocation of telecommunications equipment on existing infrastructure and deployment of distributed antenna systems and small cell networks provided the latter technologies are not attached to and will not cause adverse effects to historic properties;
- (6) Siting, construction, and operation of small, ground source heat pump systems that would be located on previously developed land;
- (7) Siting, construction, and operation of small solar electric projects or solar thermal projects to be installed on or adjacent to an existing structure and that would not affect the environment beyond the previously developed facility area and are not attached to and will not cause adverse effects to historic properties;

(8) Siting, construction, and operation of small biomass projects, such as animal waste anaerobic digesters or gasifiers, that would use feedstock produced on site (such as a farm where the site has been previously disturbed) and supply gas or electricity for the site's own energy needs with no or only incidental export of energy;

(9) Construction of small standby electric generating facilities with a rating of one average megawatt (MW) or less, and associated facilities, for the purpose of providing emergency power for or startup of an existing facility;

(10) Additions or modifications to electric transmission facilities that would not affect the environment beyond the previously developed facility area including, but not limited to, switchyard rock, grounding upgrades, secondary containment projects, paving projects, seismic upgrading, tower modifications, changing insulators, and replacement of poles, circuit breakers, conductors, transformers, and crossarms; and

(11) Safety, environmental, or energy efficiency (including heat rate efficiency) improvements within an existing electric generation facility, including addition, replacement, or upgrade of facility components (such as precipitator, baghouse, or scrubber installations), that do not result in a change to the design capacity or function of the facility and do not result in an increase in pollutant emissions, effluent discharges, or waste products.

(e) Emergency situations. Repairs made because of an emergency situation to return to service damaged facilities of an applicant's utility system or other actions necessary to preserve life and control the immediate impacts of the emergency.

(f) Promulgation of rules or formal notices. The promulgation of rules or formal notices for policies or programs that are administrative or financial procedures for implementing Agency assistance activities.

(g) Agency proposals for legislation. Agency proposals for legislation that have no potential for significant environmental impacts because they would allow for no or minimal construction or change in operations.

## § 1970.53 (Con.)

(h) Administrative actions. Agency procurement activities for goods and services; routine facility operations; personnel actions, including but not limited to, reduction in force or employee transfers resulting from workload adjustments, and reduced personnel or funding levels; and other such management actions related to the operation of the Agency.

§ 1970.54 CEs involving small-scale development with an environmental report.

The CEs in this section are for proposals for financial assistance that require an applicant to submit an ER with their application to facilitate Agency determination of extraordinary circumstances. At a minimum, the ER will include a complete description of all components of the applicant's proposal and any connected actions, including its specific location on detailed site plans as well as location maps equivalent to a U.S. Geological Survey (USGS) quadrangle map; and information from authoritative sources acceptable to the Agency confirming the presence or absence of sensitive environmental resources in the area that could be affected by the applicant's proposal. The ER submitted must be accurate, complete, and capable of verification. The Agency may request additional information as needed to make an environmental determination. Failure to submit the required environmental report will postpone further consideration of the applicant's proposal until the ER is submitted, or the Agency may deny the request for financial assistance. The Agency will review the ER and determine if extraordinary circumstances exist. The Agency's review may determine that classification as an EA or an EIS is more appropriate than a CE classification.

(a) Small-scale site-specific development. The following CEs apply to proposals where site development activities (including construction, expansion, repair, rehabilitation, or other improvements) for rural development purposes would impact not more than 10 acres of real property and would not cause a substantial increase in traffic. These CEs are identified in paragraphs (a)(1) through (a)(9) of this section. This paragraph does not apply to new industrial proposals (such as ethanol and biodiesel production facilities) or those classes of action listed in §§ 1970.53, 1970.101, or 1970.151.

- (1) Multi-family housing and Rural Housing Site Loans.
- (2) Business development.

(3) Community facilities such as municipal buildings, libraries, security services, fire protection, schools, and health and recreation facilities.

(4) Infrastructure to support utility systems such as water or wastewater facilities; headquarters, maintenance, equipment storage, or microwave facilities; and energy management systems. This does not include proposals that either create a new or relocate an existing discharge to or a withdrawal from surface or ground waters, or cause substantial increase in a withdrawal or discharge at an existing site.

(5) Installation of new, commercial-scale water supply wells and associated pipelines or water storage facilities that are required by a regulatory authority or standard engineering practice as a backup to existing production well(s) or as reserve for fire protection.

(6) Construction of telecommunications towers and associated facilities, if the towers and associated facilities are 450 feet or less in height and would not be in or visible from an area of documented scenic value.

(7) Repair, rehabilitation, or restoration of water control, flood control, or water impoundment facilities, such as dams, dikes, levees, detention reservoirs, and drainage ditches, with minimal change in use, size, capacity, purpose, operation, location, or design from the original facility.

(8) Installation or enlargement of irrigation facilities on an applicant's land, including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers designed to irrigate less than 80 acres.

(9) Replacement or restoration of irrigation facilities, including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers, with no or minimal change in use, size, capacity, or location from the original facility(s).

(10) Vegetative biomass harvesting operations of no more than 15 acres, provided any amount of land involved in harvesting is to be conducted managed on a sustainable basis and according to a Federal, state, or other governmental unit approved management plan.

§ 1970.54 (Con.)

(b) Small-scale corridor development. The following CEs apply to financial assistance for:

- (1) Construction or repair of roads, streets, and sidewalks, including related structures such as curbs, gutters, storm drains, and bridges, in an existing right-of-way with minimal change in use, size, capacity, purpose, or location from the original infrastructure;
- (2) Improvement and expansion of existing water, waste water, and gas utility systems:
  - (i) Within one mile of currently served areas irrespective of the percent of increase in new capacity, or
  - (ii) Increasing capacity not more than 30 percent of the existing user population;
- (3) Replacement of utility lines where road reconstruction undertaken by non-Agency applicants requires the relocation of lines either within or immediately adjacent to the new road easement or right-of-way; and
- (4) Installation of new linear telecommunications facilities and related equipment and infrastructure.

(c) Small-scale energy proposals. The following CEs apply to financial assistance for:

- (1) Construction of electric power substations (including switching stations and support facilities) or modification of existing substations, switchyards, and support facilities;
- (2) Construction of electric power lines and associated facilities designed for or capable of operation at a nominal voltage of either:
  - (i) Less than 69 kilovolts (kV);
  - (ii) Less than 230 kV if no more than 25 miles of line are involved; or
  - (iii) 230 kV or greater involving no more than three miles of line, but not for the integration of major new generation resources into a bulk transmission system;

(3) Reconstruction (upgrading or rebuilding) or minor relocation of existing electric transmission lines (230 kV or less) 25 miles in length or less to enhance environmental and land use values or to improve reliability or access. Such actions include relocations to avoid right-of-way encroachments, resolve conflict with property development, accommodate road/highway construction, allow for the construction of facilities such as canals and pipelines, or reduce existing impacts to environmentally sensitive areas;

(4) Repowering or uprating modifications or expansion of an existing unit(s) up to a rating of 50 average MW at electric generating facilities in order to maintain or improve the efficiency, capacity, or energy output of the facility. Any air emissions from such activities must be within the limits of an existing air permit;

(5) Installation of new generating units or replacement of existing generating units at an existing hydroelectric facility or dam which results in no change in the normal maximum surface area or normal maximum surface elevation of the existing impoundment. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(6) Installation of a heat recovery steam generator and steam turbine with a rating of 200 average MW or less on an existing electric generation site for the purpose of combined cycle operations. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(7) Construction of small electric generating facilities (except geothermal and solar electric projects), including those fueled with wind or biomass, with a rating of 10 average MW or less. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(8) Siting, construction, and operation of small biomass projects (except small electric generating facilities projects fueled with biomass) producing not more than 3 million gallons of liquid fuel or 300,000 million british thermal units annually, developed on up to 10 acres of land;

## § 1970.54(c) (Con.)

(9) Geothermal electric power projects or geothermal heating or cooling projects developed on up to 10 acres of land and including installation of one geothermal well for the production of geothermal fluids for direct use application (such as space or water heating/cooling) or for power generation. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(10) Solar electric projects or solar thermal projects developed on up to 10 acres of land including all supporting facilities and new related electric transmission lines 10 miles in length or less;

(11) Distributed resources of any capacity located at or adjacent to an existing landfill site or wastewater treatment facility that is powered by refuse-derived fuel. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(12) Small conduit hydroelectric facilities having a total installed capacity of not more than 5 average MW using an existing conduit such as an irrigation ditch or a pipe into which a turbine would be placed for the purpose of electric generation. All supporting facilities and new related electric transmission lines 10 miles in length or less are included; and

(13) Modifications or enhancements to existing facilities or structures that would not substantially change the footprint or function of the facility or structure and that are undertaken for the purpose of improving energy efficiency (including heat rate efficiency), promoting pollution prevention or control, safety, reliability, or security. This includes, but is not limited to, retrofitting existing facilities to produce biofuels and replacing fossil fuels used to produce heat or power in biorefineries with renewable biomass. This also includes installation of fuel blender pumps and associated changes within an existing fuel facility.

§ 1970.55 CEs for multi-tier actions.

The CEs in this section apply solely to providing financial assistance to primary recipients in multi-tier action programs.

(a) The Agency's approval of financial assistance to a primary recipient in a multi-tier action program is categorically excluded under this section only if the primary recipient agrees in writing to:

RD Instruction 1970-B  
§ 1970.55(a) (Con.)

(1) Conduct a screening of all proposed uses of funds to determine whether each proposal that would be funded or financed falls within § 1970.53 or § 1970.54 as a categorical exclusion;

(2) Obtain sufficient information to make an evaluation of those proposals listed in § 1970.53 and prepare an ER for proposals under § 1970.54 to determine if extraordinary circumstances (as described in § 1970.52) are present;

(3) Document and maintain its conclusions regarding the applicability of a CE in its official records for Agency verification; and

(4) Refer all proposals that do not meet listed CEs in § 1970.53 or § 1970.54, and proposals that may have extraordinary circumstances (as described in § 1970.52) to the Agency for further review in accordance with this part.

(b) The primary recipient's compliance with this section will be monitored and verified in Agency compliance reviews and other required audits. Failure by a primary recipient to meet the requirements of this section will result in penalties that may include written warnings, withdrawal of Agency financial assistance, suspension from participation in Agency programs, or other appropriate action.

(c) Nothing in this section is intended to delegate the Agency's responsibility for compliance with this part. The Agency will continue to maintain ultimate responsibility for and control over the environmental review process in accordance with this part.

§§ 1970.56 - 1970.100 [Reserved]

Exhibits - A, B, C and D

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Flowchart for Processing Categorical Exclusion Actions

The Agency's categorical exclusions (CE) are listed in § 1970.53 (Categorical Exclusions Involving No or Minimal Disturbance) and § 1970.54 (Categorical Exclusions Involving Small-Scale Development). For CE actions listed in either section, Agency staff must verify that there are no extraordinary circumstances (as defined in § 1970.52). Because the CE actions listed in § 1970.54 can involve alteration of the physical environment, applicants for financial assistance for those actions must provide some documentation (an Environmental Report) to enable Agency staff to determine there are no extraordinary circumstances that would warrant a higher level of NEPA review (Exhibit C, Guidance for Preparing the Environmental Report, provides the format for applicants to follow in order to provide RD with documentation). This flowchart describes how Agency staff will process CE actions (see also § 1970.51). The following definitions apply to the flowchart:

Processing official: For Water and Waste, CF and Housing Programs, this would typically be the State Office loan specialist. For Electric and Telecoms Programs, this would be an individual in the NES or Program Office of Loan Origination and Approval.

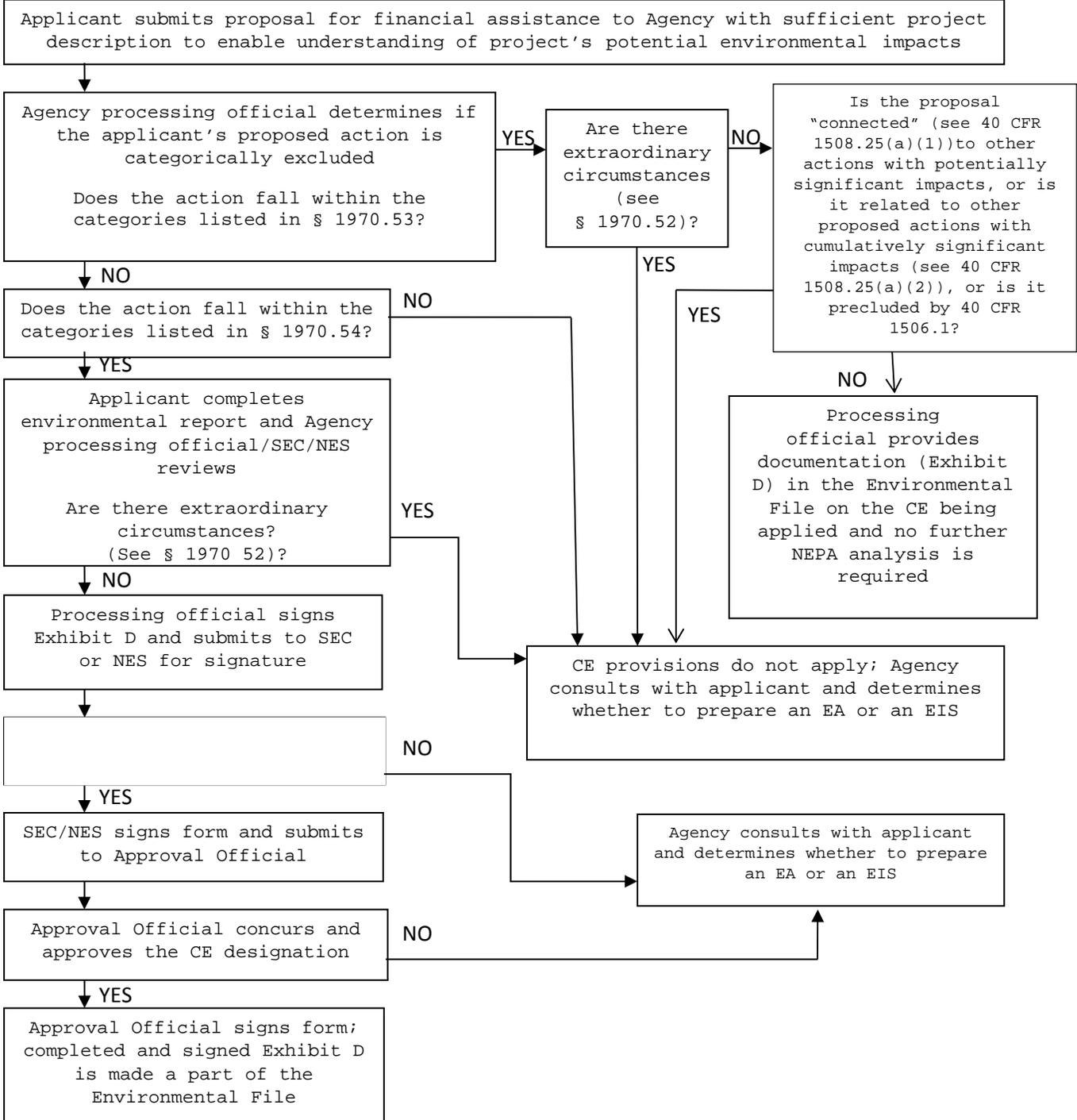
Approval official: For Water and Waste, CF and Housing Programs, this would be the community programs director. For Electric and Telecoms Programs, this would be an individual in the Program Office of Loan Origination and Approval.

SEC: State Environmental Coordinator

NES: National Office Environmental Staff

GFR: Electric or Telecommunications Program General Field Representative

[GFR/Processing official advises applicant prior to/along with submittal of application]



Template Letter for Acceptance of Environmental Reports  
From Environmental Staff to Processing/Approval Official

*(place on Agency letterhead)*

SUBJECT: **[Project Name]**  
Environmental Report for Categorical Exclusion

TO: Processing/Approving Official

FROM: **[insert name]**  
State/National Environmental Staff

DATE: **[insert date]**

I have reviewed the Environmental Report for the **[Project Name]** project and have made the following determinations:

CONCURRENCE WITH CLASSIFICATION OF PROPOSAL

Categorical Exclusion with Environmental Report (7 CFR 1970.54)

Extraordinary circumstances exist (7 CFR 1970.52).  
State/National Environmental Staff will consult with applicant and/or determine need for EA or EIS.

ACCEPTANCE OF ENVIRONMENTAL REPORT

Acceptable

Unacceptable. In order to bring the report into compliance with regulatory and Agency requirements, please address the following items:

*(List deficiencies and provide guidance for correction)*

If there are questions, please call me at: **[Phone Number]**

Guide to Applicants for Preparing Environmental Reports for Categorical  
Exclusions  
Under § 1970.54

**Overview**

USDA Rural Development (Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), and Rural Utilities Service (RUS) each referred to individually as the "Agency") is required to assess and consider the impacts of proposed federal actions, such as the provision of financial assistance through each of the Agency's programs, to the human environment in accordance with the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA), Section 7 of the Endangered Species Act (ESA), and other applicable federal, state, and local environmental laws. If applicant's proposed actions are classified under § 1970.54, "Categorical Exclusions Involving Small-scale Development," they must provide an Environmental Report (ER) with their application. The ER provides project-specific information including an evaluation of the proposal's potential to impact specific environmental resources and historic properties so that the Agency can either complete the required environmental review process or determine if additional impact analysis may be needed. The ER also assists the Agency in verifying that the proposal is consistent with § 1970.54, and that there are no extraordinary circumstances, listed in § 1970.52, that would preclude the proposal from being categorically excluded. An extraordinary circumstance may warrant a higher level of review (environmental assessment or environmental impact statement). The Agency will notify applicants if additional information or analyses are necessary beyond what was submitted in the ER.

The following sections provide specific guidance to applicants and their environmental consultants in preparing ERs. ERs must be submitted to the Agency along with applications for financial assistance and the Agency must complete the environmental review process prior to approving those applications. In addition to agency or resource-specific references, a useful screening tool is EPA's "NEPAssist" ([nepassisttool.epa.gov/nepassist/entry](http://nepassisttool.epa.gov/nepassist/entry))

**No construction activities may begin until the Agency completes its environmental review process.** In accordance with § 1970.12, applicants are prohibited from taking actions "that may potentially have an environmental impact or would otherwise limit or affect the Agency's decision until the Agency's environmental review process is concluded." If the proposed project involves construction activities, the applicant is generally prohibited from acquiring, rehabilitating, converting, leasing, repairing or constructing property or facilities, or committing or expending federal or non-federal funds that are subject to reimbursement by the Agency until after the Agency completes its environmental review process.

If the applicant moves forward with any such activities prior to the Agency's completion of the environmental review, and those activities affect the Agencies ability to conclude the NEPA analysis, the Agency may deny the request for financial assistance.

An applicant may use an environmental document that has been prepared in connection with obtaining permits, approvals, or other financing for the proposed project from state, local or other federal agencies. Such material, to the extent determined to be relevant, may be incorporated by reference into the Agency's environmental review. However the Agency retains the right to request additional information or analyses as necessary.

Applicants shall not reference items provided in other parts of the application package in the ER; all materials relevant to the ER must be integrated herein to facilitate timely review.

#### **Information to be included in the Environmental Report**

(a) **Project Description and Location:** Provide a complete project description including a description of all project-related activities such as land purchase, easements/rights-of-way procurement, acreage/area, and proposed clearing, grading, excavation, paving, new construction, utility installations, fencing, etc. that will be involved with the project. Complete descriptions, locations, and maps must be provided for each site affected by project-related activities. Maps must be equivalent to a Geological Survey 7.5-minute quadrangle map at a map scale of 1:24,000; larger scale maps may be provided for site-specific proposals. USGS maps may be obtained and purchased at <http://www.usgs.gov/pubprod/maps.html>. All project elements, if known at the time of the application, must be clearly shown on any map provided. If appropriate, photographs or aerial photographs of site-specific conditions may also be provided.

(b) **Land Ownership and Land Use:** The ER must describe the amount of property to be affected or disturbed by each project site(s) including the site's current land use and, if applicable, zoning.

(1) The ER must document the land ownership (federal, state, or private) of each project site or rights-of-way (ROWs), including any formally classified lands such as parks, wilderness areas, state or national forests, etc. Land ownership will dictate with whom the Agency must consult with to determine whether there will be an adverse effect to such land areas or resources, or if any permits are needed. Further detail is found in 1970 Subpart L - "Land Use and Formally Classified Lands." For information related to federal lands see <http://www.geocommunicator.gov/GeoComm/>.

This website provides cadastral survey and land management information and data from the National Integrated Land System specifically the distribution of the Public Land Survey System (PLSS), other survey-based data, and federal land boundaries. Please note that all roads and associated ROWs traversing federal lands are controlled by the appropriate federal agency.

(2) For all proposals except single family housing, the applicant must consider low income or minority populations that may be located within the vicinity of the proposal so that the Agency can document if they would be adversely affected by the proposal in accordance with 1970 Subpart E - Environmental Justice.

(3) For all proposals except for single family housing, non-construction proposals, and for those programs for which Intergovernmental Review is not required, the applicant is authorized to initiate consultation with State and local governments to afford them the opportunity to review program activities located in areas subject to their legal jurisdiction in accordance with Subpart I - Intergovernmental Review.

(4) The ER must indicate whether a Phase I Environmental Site Assessment (ESA) or a Transaction Screen Questionnaire (TSQ) (or other environmental due diligence procedures) has been completed on the proposal site within the past 6 months. Any ESA or TSQ should be part of the ER.

(c) **Historic Preservation:** The ER must describe all steps taken to identify historic properties as required under Section 106 of the National Historic Preservation Act (NHPA) and related legislation. Implementation guidelines are located at 1970 Subpart H - "Historic Preservation." Any correspondence with State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs) or Tribes should be part of the Environmental Report. In accordance with S.106 of the NHPA, federal agencies are required to take into account the effect of their undertakings on historic properties and provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on those effects. Pursuant to 36 CFR §800.16(y), an "undertaking" is defined as a "project, activity or program funded in whole or part under the direct or indirect jurisdiction of a federal agency". The Agency has determined that the provision of Federal financial assistance to program applicants is an undertaking subject to S. 106 and its implementing regulations, "Protection of Historic Properties" (36 CFR part 800).

In accordance with 36 CFR § 800.2(d)(4), and by letters dated July 16, 2009 and August 14, 2012, RUS issued a blanket delegation authorizing all of its applicants to "initiate consultation." This blanket delegation allows RUS applicants to proceed through S.106 review as long as the applicant and consulting parties agree on the recommended finding of effect and any determinations of eligibility. RUS, which retains responsibility to document findings and determinations as required by 54 U.S.C. part 306114 [formerly Section 110(1) of NHPA], is likely to conclude S.106 review on the basis of the agreed upon recommendations. Federally recognized Indian tribes are legally considered sovereign nations entitled to a special government-to-government relationship with the federal government. Accordingly, RUS may not delegate to an applicant the authority "to consult" with Indian tribes. However, an applicant may "work with", "engage" or "involve" a federally recognized Indian tribe in S.106 review under delegated authority as long as the tribe is willing to participate. An applicant must involve RUS in S.106 review whenever a federally recognized Indian tribe requests the participation of the federal agency. RUS encourages federally recognized Indian tribes to work with its applicants under delegated authority in order to become involved as early as possible in S.106 review. Applicants authorized under this blanket delegation are required to involve RUS whenever there is an adverse effect, a disagreement between the applicant and consulting parties, an objection from a consulting party or the public, or a failure to adhere to regulatory requirements. The direct participation of RUS is required because all decision making authority in S.106 review rests with the federal agency. Accordingly, only RUS can successfully resolve these issues in the public interest.

(d) **Threatened and Endangered Species/Biological Resources:** The applicant is to assist the Agency in making determinations of effect under S. 7 of the Endangered Species Act, and thus the ER must document whether any project sites and activities will directly or indirectly affect any threatened, endangered, proposed or candidate species, or would adversely affect designated critical habitat. Applicants must obtain and provide species lists and appropriate species accounts (i.e. requisite habitat) from the Fish and Wildlife Service's website, <http://ecos.fws.gov/ipac/>, and, if applicable, National Marine Fisheries Service's website, <http://www.nmfs.noaa.gov/pr/species/index.htm>, for each county affected by construction. Information about potential critical habitat areas is found on the Fish and Wildlife Service's website, <http://ecos.fws.gov/ecp/report/table/critical-habitat.html>. It is the responsibility of the applicant to comply with any requirements of the Migratory Bird Treaty Act and/or the Bald and Golden Eagle Protection Act. Refer to the Agency's guidance for further information at 1970 Subpart N - "Biological Resources". The applicant is to notify the Agency immediately should it appear that formal consultation with the Services will be required.

(e) **Wetlands:** The ER must document whether wetlands are present on or near project sites. Without having a hired wetlands professional visit the site, mapped hydric soils are the best indicator of the presence of wetlands on a site. A map of hydric soils may be obtained from the Natural Resources Conservation Service website. Wetland maps are also available from the Fish and Wildlife Service's National Wetland Inventory (<http://www.fws.gov/wetlands/>) and state data (<http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>). Agency implementation guidelines for wetland protection are located at 1970 Subpart G - "Wetland Protection." If the presence of wetlands is suspected and they are potentially impacted, applicants may be asked to provide a wetland delineation to establish locations, proximity, and diagnostic environmental characteristics (U.S. Army Corps of Engineers (December 1987), Wetland Delineation Manual.) with respect to proposed project sites and obtain Section 404 of the Clean Water Act authorization through the issuance of a permits from the U.S. Army Corps of Engineers.

(1) **Nationwide General Permits (NWP):** NWPs are issued for minor temporary wetland impacts including buried and/or aerial utility lines/cables, outfalls, discharges, and maintenance activities etc. Typically no additional wetland information is necessary other than the NWP and verification that such actions are within the general conditions of the NWP. A wetland delineation and a search for alternatives to wetland impacts is not required for NWPs as long as the general conditions of the NWP are followed.

(2) **Regional General Permits:** Wetland impacts authorized through a Regional General Permit (excluding NWPs) are not considered extraordinary circumstances, however proposals with general permits typically require a wetland delineation, and require consideration and documentation of alternatives completed either by ACE or by RD if desired to avoid adverse effects.

(3) **Individual Permits:** Wetland impacts authorized through an individual permit are considered an extraordinary circumstance under 1970.52 and an Environmental Assessment must be completed rather than an ER. Public noticing will also be required.

(4) **ConAct Programs:** Agency programs authorized under Section 363 of the Consolidated Farm and Rural Development Act may not utilize Agency funds to fill, alter or manipulate a wetland. Check with the Agency to ensure that the program you are applying for does not need to separate funds for wetland impacts, if proposed.

(f) **Floodplains:** The ER must document whether any project activities or facilities are located within a floodplain. This does not apply to buried and/or aerial utilities lines. If any project-related construction activities are within floodplains, a copy of a Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM) that shows the location of construction activities must be included. Information related to floodplains and National Flood Insurance Maps may be obtained from the Federal Emergency Management Agency's (FEMA) website, <http://msc.fema.gov/portal>. Applicants or guaranteed lenders must complete and submit with their applications a copy of FEMA Form 086-0-32, <https://www.fema.gov/media-library/assets/documents/225>. Actions that do not adversely affect the hydrologic character of a floodplain, such as installation of buried utility lines, telecommunication cables, subsurface pump stations, electric transmission lines, or purchase of existing structures within the floodplain, would not create an extraordinary circumstance, and would not require an EA, but may still require consideration of alternatives when determined appropriate by the Agency. If the proposal will convert, occupy, place fill, or modify the 100-yr floodplain, or 500-yr floodplain for critical actions, or substantially improve structures within them, as defined in 1970 Subpart F - Floodplain Management, an extraordinary circumstance exists and the proposal is not eligible for a categorical exclusion. Critical actions include any activity for which even a slight chance of flooding would be too great. Examples include: An action a structure or facility producing and/or storing highly volatile, toxic, radioactive, or water-reactive materials; structures such as hospitals, nursing homes, prisons, and schools, where occupants may not be sufficiently mobile and have available transport capability to avoid loss of life and injury given the flood warning lead times available; essential or irreplaceable resources, utilities, or other functions that could be damaged beyond repair, destroyed, or otherwise made unavailable.

(g) **Coastal Areas:** The ER must document whether any project sites are within the boundaries of a coastal zone management area (CZMA) and/or Coastal Barrier Resource Area (CBRA). For information related to CZMA, see National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management's website, <https://coast.noaa.gov/czm/>. Development on Coastal Barrier Resources is prohibited except for a few narrow exceptions. More detailed instructions related to coastal areas can be found in 1970 Subpart O - Coastal Zones and Coastal Barriers.

(h) **Important Farmland:** The ER must document whether any project sites (except utility line construction) will convert agriculture lands defined as important farmland by the USDA Natural Resources Conservation Service (NRCS) to non-agricultural uses. For specific information related to effects to farmland see NRCS's website, <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/landuse/fppa/>. NRCS uses a land evaluation and site assessment (LESA) system to establish a "farmland conversion impact rating" score on proposed project sites. This score is used as an indicator for applicants and

the Agency to consider alternative sites if the potential adverse impacts on farmland exceed the recommended allowable level (if total points are equal or exceed 160, alternative sites must be considered). The assessment is completed on a NRCS form, [AD-1006](#), Farmland Conversion Impact Rating. The portions on the form that are indicated to be completed by a federal agency can be inputted by applicants in coordination with the Agency. The Agency, however, will coordinate the submittal of Form AD-1006 to the NRCS for processing. Implementation guidelines are located at 1970 Subpart L - "Land Use and Formally Classified Lands."

(i) **Environmental Risk Management:** The ER must document the affect hazardous materials, substances or wastes that may be released at, generated by, or required for the operation of a proposed facility may have in the context of a real estate transaction. In addition, the environmental condition of a property and any proposal's management and operation activities that use or create these materials or wastes need to be evaluated to determine and manage risks to the environment and people. These risks include the presence of lead-based paints, asbestos, or mold. In order to determine the environmental condition of a parcel of real estate, the applicant may be responsible for completing the ASTM E1528-14, Standard Practice for Limited Environmental Due Diligence: Transaction Screen Process; ASTM E1527-13, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process; or ASTM E2247-08, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessments for Forestland or Rural Property. If the proposal includes an existing facility, the applicant may be responsible for completing the ASTM E2107, Standard Practice for Environmental Regulatory Compliance Audits. Implementation of these processes, as well as those described in 1970 Subpart J, "Environmental Due Diligence", is defined by each RD program, so consult the Agency environmental staff for further guidance.

(j) **Other Resources:** The ER must document whether any project sites are located within key water resource areas such as sole source aquifers or wellhead protection areas. The ER must also identify, as appropriate, if the proposal will affect coral reef ecosystems of American Samoa, Florida, Guam, Hawaii, Northern Marianna Islands, Puerto Rico, and the U.S. Virgin Islands. Implementation guidelines are located at 1970 Subpart O - "Other Protected Resources."

Categorical Exclusion Form with Instructions



**U.S. DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT  
 ENVIRONMENTAL CHECKLIST FOR CATEGORICAL EXCLUSIONS**

1. APPLICANT NAME:				
2. NAME OF PROPOSAL (provide brief description):				
3. ADDRESS OR GENERAL LOCATION OF PROPOSAL:				
4. FEDERAL ACTION:	Loan <input type="checkbox"/>	Grant <input type="checkbox"/>	Guarantee <input type="checkbox"/>	Construction Work Plan or Loan/System Design <input type="checkbox"/>
5. APPLICABLE RD PROGRAM:				
6. THIS PROPOSAL QUALIFIES AS A CATEGORICAL EXCLUSION IN ACCORDANCE WITH § 1970.53 _____ OR § 1970.54 _____				
7. * ENVIRONMENTAL REPORT PREPARED FOR RD:      YES <input type="checkbox"/> NO <input type="checkbox"/>				
*This form can be used to document the consideration and incorporation by reference of environmental information from any source				
8. S. 106 Findings:      No Potential to Affect <input type="checkbox"/>				
No Historic Properties Affected <input type="checkbox"/> No Adverse Effect to Historic Properties <input type="checkbox"/>				
9. Endangered Species Act, Section 7 Findings: Species/Habitat - Not Present <input type="checkbox"/> Species/Habitat Present - No Effect <input type="checkbox"/>				
Species/Habitat Present - May Affect, Not Likely To Adversely Affect <input type="checkbox"/>				
10. IF PREPARED, ATTACH ENVIRONMENTAL REPORT (SEE EXHIBIT C)				
For the items listed below, indicate either a "Yes" or "No" in the appropriate columns. If the answer is "Yes" in the "Adversely Affected" column for any listed resources, then an extraordinary circumstance exists and the proposed action is not eligible for a Categorical Exclusion.				

Table (Con.)

Resources	Resources Present		Effects to Resources		
	Yes	No	No Effect	Affected	Adversely Affected
a. Historic Properties/Cultural Resources (Historic Properties listed or eligible for listing in the National Register of Historic Places, sites of cultural or religious significance to tribes)	<input type="checkbox"/>				
b. Threatened or Endangered Species, Critical Habitat, State Listed Species	<input type="checkbox"/>				
c. Wetlands	<input type="checkbox"/>				
d. Floodplains (100 or 500 year floodplains)	<input type="checkbox"/>				
e. Formally Classified Lands (State/Federal Parks, Monuments, Natural Landmarks, Wilderness Areas, Wild and Scenic Rivers, National Forest System Lands, other Federal or State Lands, etc.)	<input type="checkbox"/>				
f. Water Resources (Sole Source Aquifers, Well-head protection areas, Watershed Protection Areas, etc.)	<input type="checkbox"/>				
g. Coastal Resources (Coastal Barrier Resources System or Coastal Zone Management Areas)	<input type="checkbox"/>				
h. Coral Reefs or Protected aquatic habitats (Only applies to American Samoa, Florida, Guam, Hawaii, Northern Marianna Islands, Puerto Rico, U.S. Virgin Islands)	<input type="checkbox"/>				
Questions	Yes	No			
i. Is the proposal located on Important Farmland (Prime Farmland, Unique Farmland, Farmland of Statewide Importance, Farmland of Local Importance) and if so, has Form AD-1006 been completed?	<input type="checkbox"/>	<input type="checkbox"/>			
j. Does the project threaten a violation of local, state, or federal statutory, regulatory, or permitting requirements and have all necessary permits been identified?	<input type="checkbox"/>	<input type="checkbox"/>			
k. Is the proposal located within EPA-designated Non-Attainment or Maintenance Areas for Air Quality Criteria Pollutants?	<input type="checkbox"/>	<input type="checkbox"/>			
l. Does the proposal result in the production of unpermitted hazardous materials or waste, or consist of construction of a new RCRA hazardous materials handling facility?	<input type="checkbox"/>	<input type="checkbox"/>			

Table (Con.)

m. Does the proposal have any Environmental Justice concerns or disproportionately high and adverse human health or environmental effects on minority populations or low-income populations?	<input type="checkbox"/>	<input type="checkbox"/>	
n. Is the proposal controversial for environmental reasons? If so, attach a summary of the controversy(ies) and any actions taken and resolutions necessary to respond to the concerns.	<input type="checkbox"/>	<input type="checkbox"/>	
o. Is the proposal controversial for other than environmental reasons? If so, attach a summary of the controversy(ies) and any actions taken and resolutions necessary to respond to the concerns.	<input type="checkbox"/>	<input type="checkbox"/>	

**11. FINDING:**

I find that the proposal meets the criteria established in 7 CFR §§1970.53, "Categorical Exclusions Involving No or Minimal Disturbance," or 1970.54 (c), "Categorical Exclusions Involving Small-scale Development." Upon review of the proposal's description or the Environmental Report I find that the proposal is consistent with 40 CFR §1508.4, "Categorical Exclusion" and does not have any extraordinary circumstances or that the proposal individually or cumulatively does not have a significant effect on the human environment and, therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required.

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**12. SIGNATURES:**

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**12a. SIGNATURE OF PREPARER**

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**DATE**

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**NAME OF PREPARER**

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**TITLE**

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**12b. SIGNATURE OF STATE ENVIRONMENTAL  
COORDINATOR OR NATIONAL ENVIRONMENTAL STAFF**

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**DATE**

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**NAME OF STATE ENVIRONMENTAL COORDINATOR OR  
NATIONAL ENVIRONMENTAL STAFF**

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**TITLE**

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**12c. SIGNATURE OF APPROVING OFFICIAL**

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**DATE**

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**NAME OF APPROVING OFFICIAL**

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**TITLE**

Notes:

This form can be used to document the consideration and incorporation by reference of environmental information from any source.

Affected column: For resources that are affected, ensure the Environmental Report provides a narrative explaining the effect and document any actions taken or mitigation measures necessary to avoid adverse impacts.

Row M: Attach Form RD 2006-38, *Environmental Justice or Civil Rights Impact analysis Certification*, to document the environmental justice analyses and conclusions.

Name of State Environmental Coordinator or National Environmental Staff: For Categorical Exclusions without an Environmental Report as defined in 1970.53, the preparer may sign for the State Environmental Coordinator.

12c Signature: Approving Official for this form is the approving official for the financial assistance.

**Categorical Exclusion Form Instructions:**

Under 7 CFR 1970, "Environmental Policies and Procedures," Rural Development (RD) has classified all of its actions under one of three levels of review - categorical exclusions, environmental assessments, or environmental impact statements.

Categorical Exclusion Form is a decision document that establishes an administrative record that RD has concluded the environmental review process for actions classified as categorical exclusions. The purpose of this checklist is to verify that the proposal being considered is consistent with the categories of actions defined in §§ 1970.53 or 1970.54, and the definition in 40 CFR 1508.4, and that there are no extraordinary circumstances listed in § 1970.52 that would preclude the proposal from being categorically excluded. If an extraordinary circumstance exists an environmental assessment or an environmental impact statement must be prepared.

If you have any questions on the form or instructions, consult with your environmental staff as appropriate. Findings or determinations requested in this form have specific regulatory meanings and contexts and the agency

environmental staff can assist in making sure the findings are consistent with the applicable statute and regulation.

The following table provides instruction for completing Categorical Exclusion Form section by section:

Section Number	Instruction
1.	Input name of applicant or borrower.
2.	Input name of proposal and tracking number, if applicable, or other identification numbers if a Construction Work Plan (CWP – Electric Program) or Loan Design (LD – Telecommunication Program). Provide a brief description of the proposal.
3.	Input the proposal's address (including city, state, and zip code), or in the case of proposals that cover larger areas provide a general description or location, i.e., township or county, and/or map coordinates (Lat/Long) and acreage of the proposal.
4.	Check the appropriate box(es) that indicates the type of financial assistance requested or if appropriate indicate whether this action is for a CWP or LD.
5.	Indicate the RD program being used for the proposal.
6.	Input the specific citation from §§ 1970.53 or 1970.54 that is appropriate for the proposal.
7.	Check the appropriate box to indicate whether an Environmental Report (ER) has been prepared and submitted for the proposal. Normally categorical exclusions listed in § 1970.53 do not require the preparation of an ER.
8.	In addition to documenting our NEPA findings and in accordance with the National Historic Preservation Act, Section 106 process, RD is responsible for taking into account the effects of our undertakings (actions) on historic properties. Check the appropriate box for the applicable finding. If RD determines that a proposal has the potential for an adverse effect to a historic property that effect is considered an extraordinary circumstances and the proposal is no longer eligible for a categorical exclusion.
9.	In addition to documenting our NEPA findings and in accordance with the Endangered Species Act, Section 7, <i>Interagency Cooperation</i> , process, RD is responsible for making a determination of effect on whether the proposal is likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. If RD determines that the proposal is likely to adversely affect a listed species or result in the destruction or adverse modification of critical habitat, the effect is considered an extraordinary circumstances and the proposal is no longer eligible for a categorical exclusion.

Table (Con.)

10.	This section documents a proposal's impact determinations and conclusions to support the Agency decision. The section includes eight line items listing the environmental resources identified as extraordinary circumstances outlined in § 1970.52. In addition there are questions on air quality, important farmland, hazardous waste generation, environmental justice, compliance with local, state and federal laws, and whether the proposal is controversial for environmental or other than environmental reasons. Each resource line item in this section requires inputs as to whether the resource is present and what the potential effects are to each resource that could be expected should the proposal be approved. This information must be documented in the applicable ER.
10 a.	See Section 8. An assessment of adverse effects to historic properties is outlined in 36 CFR 800.5. If RD determines that the proposal will cause an adverse effect to a historic property, an extraordinary circumstance exists and the proposal is not eligible for a categorical exclusion. Implementation guidelines are located at 1970 Subpart H, Historic Properties. Any correspondence with SHPOs, THPOs or Tribes should be part of the ER.
10 b.	See Section 9. If RD determines that the proposal is likely to adversely affect a listed species or critical habitat, i.e., is likely to jeopardize the continued existence of a listed species or destroy or adversely modify critical habitat, under Section 7 of the Endangered Species Act RD is required to enter "formal consultation" with the U.S. Fish and Wildlife Service. If this is the case, an extraordinary circumstance exists and the proposal is not eligible for a categorical exclusion. Implementation guidelines are located at 1970 Subpart N, Biological Resources. Any correspondence from the USFWS or NMFS should be included in the ER.
10 c.	An adverse effect to a wetland is defined as when a proposal requires a USACE Individual Permit. If the proposal requires an Individual Permit, an extraordinary circumstance exists and the proposal is not eligible for a categorical exclusion. Where actions are authorized under a USACE General Permit (e.g., Nationwide or Regional Permits) there is not considered to be an extraordinary circumstance. Implementation guidelines are located at 1970 Subpart G, Wetland Protection. Note that projects from programs authorized under Section 363 of the Consolidated Farm and Rural Development Act may not fund any activities that result in fill, alteration or manipulation of a wetland.
10 d.	An adverse effect to a floodplain occurs when a proposed action introduces fill or structures or proposes substantial improvements to structures within a floodplain and will require consideration of alternatives as described in 1970 Subpart F, Floodplain Management. Actions that do not adversely affect the hydrologic character of a floodplain, such as installation of buried utility lines, telecommunication cables, subsurface pump stations, electric transmission lines, or purchase of existing structures within the floodplain, would not create an extraordinary circumstance. If the proposal will convert, occupy, or modify a 100 or 500-year floodplain, an extraordinary circumstance exists and the proposal is not eligible for a categorical exclusion.

Table (Con.)

10 e.	It is important that the ER documents whether the proposal is located on or crosses formally classified local, state, federal, or tribal lands as listed in 10e. Land ownership will dictate with whom RD must coordinate with to determine whether there will be an adverse effect to such land areas or resources. If it is determined that the proposal will adversely affect these land resources, an extraordinary circumstance exists and the proposal is not eligible for a categorical exclusion. Implementation guidelines are located at 1970 Subpart L, Land Use and Formally Classified Lands.
10 f.	Effects to water resources, e.g., sole source aquifers or wellhead protection areas, is determined through consultations with the appropriate local, state, federal or tribal environmental regulatory staff. If it determined that the proposal will adversely affect these water resources, an extraordinary circumstance exists and the proposal is not eligible for a categorical exclusion. Implementation guidelines are located at 1970 Subpart O, Other Protected Resources.
10 g.	<p>In accordance with Section 5 of the Coastal Barrier Resources Act, federal agencies are prohibited from providing financial assistance for specific actions within land areas included in the Coastal Barrier Resources System. There are exceptions listed in Section 6 of the Act. If any proposal seeks to utilize any of these exceptions, an extraordinary circumstance exists and the proposal is not eligible for a categorical exclusion.</p> <p>In accordance with Section 307, <i>Coordination and cooperation</i>, of the Coastal Zone Management Act of 1972, federal agencies and their applicants shall consult with applicable agencies to ensure that federal agency decision-making is consistent with enforceable policies of a participating state's federally-approved coastal management program (The Electric and Telecommunications Programs are exempt from this statute) . This process is termed a "consistency determination." RD with assistance from applicants must prepare and submit a "consistency determination" for applicable programs to the appropriate local or state agency responsible for managing that state's coastal zone management program. If it is determined that the proposal will cause an adverse effect on resources identified in a federally-approved coastal management plan, an extraordinary circumstance exists and the proposal is not eligible for a categorical exclusion. Implementation guidelines are located at 1970 Subpart O, Other Protected Resources.</p>
10 h.	In accordance to Executive Order 13089, federal agencies must identify and determine whether their actions affect U.S. coral reef ecosystems. This consideration only applies to American Samoa, Florida, Guam, Hawaii, Northern Marianna Islands, Puerto Rico, and the U.S. Virgin Islands. If it is determined that the proposal will cause an adverse effect on any identified and protected coral reef ecosystem, an extraordinary circumstance exists and the proposal is not eligible for a categorical exclusion. Implementation guidelines are located at 1970 Subpart O, Other Protected Resources.

Table (Con.)

10 i.	If Important Farmland is present use NRCS Form AD-1006 (03-02), Farmland Conversation Impact Rating, to assess and document avoidance or impacts. If it is determined that the proposal will cause an adverse effect to important farmland, this would not automatically constitute an extraordinary circumstance and the proposal is eligible for a categorical exclusion, however, alternatives to the proposed impact should be evaluated as described in 1970 Subpart L, Land Use and Formally Classified Lands.
10 j.	As stated in § 1970.52(b)(1) any violation of applicable Federal, state, or local statutory, regulatory, or permit requirements for environment, safety, and health constitutes an extraordinary circumstance for which the Agency may require an EA.
10 k.	Any project in an EPA-designated air quality nonattainment or maintenance area should be recognized as such and shown to conform to the State Implementation Plan (SIP) for Air Quality. If the proposal has no new construction, document that there will be "no increase in air emissions expected". If the proposal will have new construction document either "air emissions in conformance with SIP" or "air emissions subject to permit." If a significant increase in air emissions is expected as determined by the Agency, an EA may be required. Implementation guidelines are located at 1970 Subpart O, Other Protected Resources.
10 l.	As stated in § 1970.52 (2) & (3) siting, construction, or major expansion of Resource Conservation and Recovery Act permitted waste storage, disposal, recovery, or treatment facilities (including incinerators), even if the proposal includes categorically excluded waste storage, disposal, recovery, or treatment actions; and any proposal that is likely to cause uncontrolled or unpermitted releases of hazardous substances, pollutants, contaminants, or petroleum and natural gas products constitute an extraordinary circumstance for which the Agency may require an EA.
10 m.	In accordance with 1970 Subpart E - Environmental Justice, and RD Instruction 2006-P, Civil Rights Impact Analysis, Form RD 2006-38, Environmental Justice and Civil Rights Impact Analysis Certification, must be completed and executed by the appropriate RD staff and included with the other application materials.
10 n.	Check the appropriate box. A controversy for environmental reasons may or may not be considered as an extraordinary circumstance. Check with the Agency environmental staff for verification and direction.
10 o.	Check the appropriate box. A controversy for other than environmental reasons may or may not be considered as an extraordinary circumstance. Check with the Agency environmental staff for verification and direction.

Table (Con.)

12.	As noted above, Categorical Exclusion Form is used as a decision document that establishes an administrative record that RD has concluded the environmental review process for actions classified as categorical exclusions. Regardless who prepares the form, the State Environmental Coordinator or National Office environmental staff must concur (concurrence not required for CEs w/o a report) with the findings and determination made for the proposal and ensure the environmental report provided by the applicant contains all appropriate information or data including the applicable analyses and determinations made that are appropriate for the given resource. Once the State Environmental Coordinator or National Office environmental staff has concurred and executed the form, the appropriate RD approval official must execute the form thereby concluding the environmental review process.
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