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SUBJECT: ARS Procedures for Applying NEPA
Regulations to Construction Projects

TO: Area Directors

FROM: R. D. Plowman
Administrator /s/ R. D. Plowman

As discussed at several recent Administrator's Council (AC) meetings, it is the Agricultural Research Service's (ARS) policy to apply National Environmental Policy Act (NEPA) regulations to all ARS construction projects.

The process to be adopted in ARS, effective immediately, is outlined in the enclosure.

Area Directors (AD's) are responsible for assuring that the ARS process is followed; also you are the signatory authority for NEPA decision-making. Appropriate Area and Headquarters staff are to provide necessary support to AD's.

In brief, AD's are to make one of the following decisions for all ARS construction projects, including repair and maintenance activities:

- (1) Categorical exclusion; Environmental Assessment not required.
- (2) Environmental Assessment required; Finding Of No Significant Impact.
- (3) Environmental Impact Statement required.

It is anticipated that the vast majority of ARS construction projects (more than 95%) will fall in categories (1) or (2). However, all projects, regardless of size, value, and complexity, must be reviewed in accordance with the attached process, and the findings documented.

To implement the NEPA process, immediate action is required by AD's as follows:

- (1) Within the scope of the attached generic NEPA process, establish specific procedures and delegations of responsibilities appropriate for your Area staff and structure (AD's must retain the signatory authority).
- (2) Apply the process and adopted procedures to FY-89 construction projects in your Area. This includes decisions on Area projects being handled by the Headquarters' Facilities Construction Management Division (FCMD) as outlined in John Espenschade's March 15, 1989, memorandum to you.

Enclosures

cc: W/encl.
T. Clark
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J. Espenschade
Area Administrative Officers

 Agricultural
Research
Service

GUIDANCE FOR ARS PERSONNEL ON NEPA IMPLEMENTATION FOR CONSTRUCTION PROJECTS

Summary: The National Environmental Policy Act (NEPA) requires the Agricultural Research Service (ARS) to consider potential impacts of construction projects on the environment. The Area Director (AD) will need to consider a number of factors in determining if the project is categorically excluded or requires the preparation of an Environmental Assessment (EA). In general, repair and maintenance projects can be excluded, while new construction projects that are handled at either the Area or Headquarters should have an EA prepared while in the design stage of the project. The AD is responsible for making and documenting NEPA decisions. One of the following types of decisions must be made for each ARS construction project:

1. Categorical exclusion; Environmental Assessment not required.
2. Environmental Assessment required; Finding Of No Significant Impact.
3. Environmental Impact Statement required.

Background: NEPA requires Federal agencies to consider the potential impacts of their projects on the environment. ARS already has established regulations for the consideration of the environmental effects of its programs (see 7 CFR 520). In this process ARS research programs are evaluated for NEPA compliance during the preparation of CRIS projects; this procedure is described in the ARS CRIS Documentation Manual. A new companion process for applying NEPA to ARS construction projects is outlined below.

Policy: It is ARS policy to comply with the NEPA law and applicable regulations. Environmental effects of proposed construction projects should be considered during the early stages of planning so that alternatives may be considered and documented. As described in the ARS NEPA Regulations, it is the responsibility of the AD to assure that the NEPA process for evaluation of environmental impacts have been considered in the planned activity.

Definitions and Criteria:

1. **Categorical Exclusion (CATEX)** - project does not require preparation of an EA by virtue of being non-controversial and meeting one of the following criteria:
 - o Repair and Maintenance (R&M) of an existing facility or project, including alteration and renovations.
 - o Planning, inventory, survey, data collection, and permit activities.
 - o Emergency actions to protect life, property, environment; to preserve human health and safety; and to comply with legal requirements.
2. **Non-CATEX** - project is not categorically excluded. Applies to all new construction or to a construction project of any type known or anticipated to be controversial. Requires preparation of an EA.

3. Environmental Assessment (EA)
 - o A short, written document (generally less than 15 pages) prepared during the planning and design phases of a construction project.
 - o Describes the construction project and its scope (the research program to be subsequently conducted in the completed project does not need to be included in a construction project EA since the research will be examined separately during CRIS review and approval).
 - o Examines the potential impacts of the physical construction activities on the following factors (see Appendix I for a more complete list):
 - Impacts on the environment such as wetland, flood plain, air quality, critical habitats, endangered species, or a sole source aquifer.
 - Effects on archeological site, cultural resource, or historical building/site.
 - Action is unprecedented in the local area.
 - Action is or could be controversial.
4. Finding Of No Significant Impact (FONSI) - one of 2 types of decisions that can be made on an EA, the other being a finding of significant impact which in turn requires preparation of an EIS.
5. Environmental Impact Statement (EIS)
 - o A more detailed and comprehensive written report required when an EA suggests or indicates a significant impact of a construction project on the environment.
 - o Outlines and discusses in detail the environmental impacts of optional construction approaches and alternative courses of actions, including assessment of relative degrees of risk.
 - o Allows for extensive public participation in the identification, discussions, and decision-making actions on environmental impact issues.
 - o Identifies and adopts mitigating approaches to construction to minimize environmental impacts.
 - o Documents all substantive issues and alternative viewpoints considered and decisions made.
6. Documentation requirements. A CATEX decision, an EA, and/or a FONSI decision must be documented and maintained in the project file for an indefinite period. CATEX or FONSI documentations can simply be a memorandum to the file, signed by the Area Director.
7. Public Disclosure/Public Comment requirements. CATEX decisions, EA documents, FONSI decisions do not need to be published for public notice or comment, but they must be made available to the public upon request. However, an EIS must be published or otherwise made available for public notice and comment prior to and as part of the decision-making process.

NEPA Procedures: A summary of the NEPA process for ARS construction projects is outlined below in the form of a decision tree. Start with step 1 and proceed in accordance with the choices selected and decisions made.

1. Resources committed to proposed/planned construction project (AD-700 submitted). Based on recommendations from delegated staff, AD is to decide category of project, a or b.
 - a. CATEX - document decision (AD signature). Proceed with project.
 - b. Non-CATEX - go to step 2.
2. Non-CATEX Project - decide a or b.
 - a. Planning/contracting handled within Area authority (up to \$100K in FY-89 and \$300K in FY-90) - go to step 3.
 - b. Planning/contracting handled within Headquarters authority (more than \$100K in FY-89 and \$300K in FY-90) - go to step 4.
3. Area Project (Do a and b)
 - a. AD requests EA to be prepared (most can be and are expected to be prepared by inhouse staff but the option exists to have EA prepared via contract by outside party).
 - b. Prepared EA submitted to AD along with recommendations from delegated Area staff. AD go to step 5 for decision-making choices on EA.
4. Headquarters Project (Do a and b).
 - a. Facility Construction Management Division (FCMD) orders EA as part of A&E design contract.
 - b. FCMD submits EA to AD along with recommendations. AD go to step 5 for decision-making choices.
5. AD decision on EA (Decide a or b).
 - a. FONSI - Document decision (AD signature). Proceed with project.
 - b. Finding of Significant Environmental Impact - go to step 6 (Prepare EIS).
6. Prepare EIS (Do a, b, and c)
 - a. AD and staff consult the Office of Cooperative Interactions for guidance on procedures.
 - b. Choose inhouse or contract approach to preparation of EIS.
 - c. Follow the Council on Environmental Quality implementing NEPA regulations for preparation of EIS (40 CFR 1500-1508).

Discussion: Most ARS activities may be categorically excluded with many of the remainder being addressed through an EA; the more detailed EIS will be required only in rare instances. It is required that each project, regardless of category, include statements that NEPA criteria have been applied and that indicate the Agency decision.

Since each research project conducted at the facility after construction will undergo a separate NEPA consideration during the CRIS review process, the construction activity need only address the physical impacts of actual construction on the environment and need not address program issues to be covered later during the research review process except if the facility will house a new and potentially controversial activity in the area.

The AD is responsible for establishing a specific process consistent with the management structure of the Area to insure that documents are prepared and the analyses are made by appropriate staff having information relevant to the final determination.

Requests for advice and guidance about the NEPA process may be directed to the Area Administrative Officer for procedural aspects or the Office of Cooperative Interactions for policy considerations.

APPENDIX I

LIST OF ISSUES FOR POTENTIAL CONSIDERATION WHEN
DEVELOPING AN ENVIRONMENTAL ASSESSMENT

Will proposed construction action:

- a. Cause or contribute to soil erosion by wind or water?
- b. Affect soil surface stability?
- c. Degrade water quality in a Sole Source Aquifer?
- d. Decrease aquifer yield or affect water rights?
- e. Affect aquatic life?
- f. Cause or contribute to flow variation in a stream or spring?
- g. Degrade the aesthetic properties and/or potential uses of either ground or surface waters?
- h. Affect chemical quality of ground or surface waters (pH, dissolved oxygen, nutrients, dissolved solids, pesticides, etc.)?
- i. Affect physical quality of ground or surface waters (suspended solids, turbidity, color, oil, temperature, etc.)?
- j. Cause odors or release odoriferous substances to air or water?
- k. Release toxic substances to the air in quantities that could affect human health or safety, or environmental quality?
- l. Release particulate matter to the air?
- m. Change local meteorological conditions or air movement patterns?
- n. Release substances for which there is a National Ambient Air Quality Standard (i.e., sulfur oxides, nitrogen oxides, carbon monoxide, lead, particulate matter, etc.)?
- o. Affect undisturbed natural areas or a wild and scenic river?
- p. Affect game animals or fish or their taking?
- q. Affect rare, threatened, or endangered species, or a critical habitat? (A consultation with U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act may be required.)
- r. Affect species balance, especially among predators?
- s. Involve special hazards, such as radioactivity or electromagnetic radiation?

APPENDIX I (CONTINUED)

- t. Affect or be located in a wetland, flood plain, or the coastal zone?
- u. Affect a known or potential cultural, historical, or archaeological site, district, or area? (A consultation with the State Historical Preservation Officer is required.)
- v. Affect local or regional systems related to:
 - 1) transportation?
 - 2) water supply?
 - 3) power and heating?
 - 4) solid waste management?
 - 5) sewer or storm drainage?
- w. Affect local land use through effects on:
 - 1) flood plains or wetlands?
 - 2) location land use?
 - 3) aesthetics?
 - 4) access to minerals?
- x. Affect socioeconomic aspects of an area, including:
 - 1) population?
 - 2) housing supply or demand?
 - 3) employment?
 - 4) commercial activities?
 - 5) industrial activities?
 - 6) cultural patterns?
- y. Cause or contribute to unacceptable noise level?
- z. Affect public health or safety?
- aa. Cause public reaction or controversy?