

Appendix 6: NEPA Categorical Exclusions - U.S. Department of the Interior Departmental Manual 6, Section 516, Chapter 8.5 (516 DM 8.5)

Attachment A: Department of Interior NEPA Categorical Exclusions

Attachment B: NEPA Compliance Checklist

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NEPA COMPLIANCE CHECKLIST

State: Michigan Federal Financial Assistance Grant/Agreement/Amendment Number:
 Grant/Project Name: Rouge River Mystery Oil Spill - Damage Assessment and Restoration Plan

See ATTACHED

This proposal is; is not completely covered by categorical exclusion _____ in 516 DM 2, Appendix _____; and/or 516 DM 6, Appendix 1.
 (check (✓) one) (Review proposed activities. An appropriate categorical exclusion must be identified before completing the remainder of the Checklist. If a categorical exclusion cannot be identified, or the proposal cannot meet the qualifying criteria in the categorical exclusion, or an extraordinary circumstance applies (see below), an EA must be prepared.)

Extraordinary Circumstances:

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

- | Yes | No | |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 1. Have significant adverse effects on public health or safety. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2. Have significant adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas under Federal ownership or jurisdiction. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5. Have a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 7. Have significant adverse effects on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office, the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, or a consulting party under 36 CFR 800. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 8. Have significant adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant adverse effects on designated Critical Habitat for these species. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 9. Have the possibility of violating a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 10. Have the possibility for a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 11. Have the possibility to limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 12. Have the possibility to significantly contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112). |

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

Yes No This grant/project includes additional information supporting the Checklist.

Concurrences/Approvals:

Project Leader: *[Signature]* Date: 9/11/15

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

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

- is a categorical exclusion as provided by 516 DM 6, Appendix 1 and/or 516 DM 2, Appendix 1. No further NEPA documentation will therefore be made.
- is not completely covered by the categorical exclusion as provided by 516 DM 6, Appendix 1 and/or 516 DM 2, Appendix 1. An EA must be prepared.

Service signature approval:

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

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NEPA Categorical Exclusions

U.S. Department of the Interior Departmental Manual 6, Section 516, Chapter 8.5 (516 DM 8.5)

The text presented below is from the above-cited section of the Department of Interior Departmental manual. This section is referred to in FWS Form 3-2185 (attached) as 516 DM 6 Appendix. The Trustees for the 2002 Rouge River Mystery Oil Spill have proposed to implement four projects to compensate for resource injuries associated with the Spill:

- **Humbug Marsh/Monguagon Creek Bank Habitat Improvements**
- **Gibraltar Wetland Restoration**
- **Great Lakes Marsh Restoration**
- **Pointe Mouillee Wetland Restoration**

These projects were evaluated for their compliance with departmental direction regarding the use of Categorical Exclusions under the National Environmental Policy Act of 1969 (NEPA; 40 CFR 1508). Relevant text is indicated by the use of **underlined, bold text**; notes and comments documenting the rationale used for the selection of a particular categorical exclusion is indicated by the use of *bold italic text*.

516 DM 8.5

8.5 Categorical Exclusions. Categorical exclusions are classes of actions which do not individually or cumulatively have a significant effect on the human environment. Categorical exclusions are not the equivalent of statutory exemptions. If exceptions to categorical exclusions apply, under 516 DM 2, Appendix 2 of the Departmental Manual, the Departmental categorical exclusions cannot be used. In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, the following Service actions are designated categorical exclusions unless the action is an exception to the categorical exclusion.

A. **General.**

- (1) Changes or amendments to an approved action when such changes have no or minor potential environmental impact.
- (2) Personnel training, environmental interpretation, public safety efforts, and other educational activities, which do not involve new construction or major additions to existing facilities.
- (3) The issuance and modification of procedures, including manuals, orders, guidelines, and field instructions, when the impacts are limited to administrative effects.
- (4) The acquisition of real property obtained either through discretionary acts or when acquired by law, whether by way of condemnation, donation, escheat, right-of-entry, escrow, exchange, lapses, purchase, or transfer and that will be under the jurisdiction or control of the United States. Such acquisition of real property shall be in accordance with 602 DM 2 and the Service's procedures, when the acquisition is from a willing seller, continuance of or minor modification to the existing land use is planned, and the acquisition planning process has been performed in coordination with the affected public.

- B. Resource Management. Prior to carrying out these actions, the Service should coordinate with affected Federal agencies and State, tribal, and local governments.
- (1) Research, inventory, and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction of contaminants, or no introduction of organisms not indigenous to the affected ecosystem.
 - (2) **The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.**

PROJECTS:

Gibraltar Wetland Restoration
Pointe Mouillee Wetland Restoration

The Gibraltar Wetland Restoration and Point Mouillee Wetland Restoration projects would include the replacement and improvement of various existing water control infrastructures including replacing pumps, gates, and dikes for better hydrology management of the wetlands. These actions are thought to have minimal disruptions to the human and natural environment.

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

PROJECTS:

Humbug Marsh/Monguagon Creek Bank Habitat Improvements
Gibraltar Wetland Restoration
Pointe Mouillee Wetland Restoration

The Humbug Marsh/Monguagon Creek Bank Habitat Improvements project would include soft substrate stabilization techniques, and replanting riparian and wetland vegetation. The Gibraltar and Pointe Mouillee Wetland Restoration projects would involve the construction of small water control structures, and dikes. These projects are anticipated to have limited environmental or human impact.

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

PROJECTS :

Humbug Marsh/Monguagon Creek Bank Habitat Improvements
Gibraltar Wetland Restoration
Great Lakes Marsh Restoration
Pointe Mouillee Wetland Restoration

The Humbug Marsh/Monguagon Creek Bank Habitat Improvement project would reintroduce native riparian and wetland plant species to increase diversity and bank stabilization. Gibraltar Wetland Restoration, Great Lakes Marsh Restoration, and Pointe Mouillee Wetland Restoration projects would increase habitat quality and diversity through the reintroduction of native wetland plants. These projects are anticipated to have limited impact to the natural or human environment.

- (7) Minor changes in the amounts or types of public use on Service or State-managed lands, in accordance with existing regulations, management plans, and procedures.
- (8) Consultation and technical assistance activities directly related to the conservation of fish and wildlife resources.
- (9) Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated. Examples could include minor changes in the type and location of compatible public use activities and land management practices.
- (10) The issuance of new or revised site, unit, or activity-specific management plans for public use, land use, or other management activities when only minor changes are planned. Examples could include an amended public use plan or fire management plan.
- (11) **Natural resource damage assessment restoration plans, prepared under sections 107, 111, and 122(j) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA); section 311(f)(4) of the Clean Water Act; and the Oil Pollution Act; when only minor or negligible change in the use of the affected areas is planned.**

PROJECTS :

Humbug Marsh/Monguagon Creek Bank Habitat Improvements
Gibraltar Wetland Restoration
Great Lakes Marsh Restoration
Pointe Mouillee Wetland Restoration

The Humbug Marsh/Monguagon Creek Bank Habitat Improvements, Gibraltar Wetland Restoration, Great Lakes Marsh Restoration, and Pointe Mouillee Wetland Restoration projects are proposed restoration projects developed by the Trustees of the Rouge River Mystery Oil Spill as part of the natural resource damage assessment restoration plan (DARP) and as such has undergone extensive assessment to limit their impact on both the natural and human environment.

C. Permit and Regulatory Functions.

- (1) The issuance, denial, suspension, and revocation of permits for activities involving fish, wildlife, or plants regulated under 50 CFR Chapter 1, Subsection B, when such permits cause no or negligible environmental disturbance. These permits involve endangered and threatened species, species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), marine animals, exotic birds, migratory birds, eagles, and injurious wildlife.
- (2) The issuance of ESA section 10(a)(1)(B) "low-effect" incidental take permits that, individually or cumulatively, have a minor or negligible effect on the species covered in the habitat conservation plan.
- (3) The issuance of special regulations for public use of Service-managed land, which maintain essentially the permitted level of use and do not continue a level of use that has resulted in adverse environmental effects.
- (4) The issuance or reissuance of permits for limited additional use of an existing right-of-way for underground or above ground power, telephone, or pipelines, where no new structures (i.e., facilities) or major improvement to those facilities are required; and for permitting a new right-of-way, where no or negligible environmental disturbances are anticipated.
- (5) The issuance or reissuance of special use permits for the administration of specialized uses, including agricultural uses, or other economic uses for management purposes, when such uses are compatible, contribute to the purposes of the refuge system unit, and result in no or negligible environmental effects.
- (6) The denial of special use permit applications, either initially or when permits are reviewed for renewal, when the proposed action is determined not compatible with the purposes of the refuge system unit.
- (7) Activities directly related to the enforcement of fish and wildlife laws, not included in 516 DM 2, Appendix 1.4. These activities include:
 - (a) Assessment of civil penalties.
 - (b) Forfeiture of property seized or subject to forfeiture.
 - (c) The issuance or reissuance of rules, procedures, standards, and permits for the designation of ports, inspection, clearance, marking, and license requirements

pertaining to wildlife and wildlife products, and for the humane and healthful transportation of wildlife.

- (8) Actions where the Service has concurrence or coapproval with another agency and the action is a categorical exclusion for that agency. This would normally involve one Federal action or connected actions where the Service is a cooperating agency.

D. Recovery Plans. Issuance of recovery plans under section 4(f) of the ESA.

E. Financial Assistance.

- (1) State, local, or private financial assistance (grants and/or cooperative agreements), including State planning grants and private land restorations, where the environmental effects are minor or negligible.
- (2) Grants for categorically excluded actions in paragraphs A, B, and C, above; and categorically excluded actions in Appendix 1 of 516 DM 2.