

PROGRAMMATIC WETLAND FINDING [FHWA] for Categorical Exclusions (CE's)

1. Relevant to: Categorical Exclusions for projects with impacts to jurisdictional or non-jurisdictional wetlands.

2. Regulatory Background

- (1) EO 11990. <http://environment.fhwa.dot.gov/guidebook/vol1/doc14u.pdf>
- (2) US DOT Order 5660.1A
- (3) 23CFR777 <http://www.fhwa.dot.gov/hep/23cfr777.htm>

3. Procedures by Agreement with FHWA

Procedures for the approval of wetland findings for CE's are documented in the *ITD/FHWA Programmatic Wetland Agreement & Finding for CE Transportation Projects in Idaho, 2006*.

This MOA allows ITD to approve programmatic CE's without separate FHWA approval of the Wetland Finding. Note: projects with an Individual 404 permit are not eligible for programmatic CE approval by ITD.

4. NEPA Documentation for wetland impacts (*detail of documentation should be commensurate with the level of impact.*)

- (1) Consider project effects on wetlands in the NEPA evaluation.
- (2) Coordinate with F&G in areas designated in the USACE NWP Regional Conditions. http://www.nww.usace.army.mil/html/offices/op/rf/regional_permits/2012%20NWP_Regional%20Conditions%20with%20PCN%20Map.pdf.
- (3) Also reference the 2005 Idaho Wetland Conservation Plan to assess level of statewide importance of the wetland area. <http://parksandrecreation.idaho.gov/assets/content/docs/Comp%20Planning/Wetlands%20Plan%20SCORTP%202006-2010.pdf>
- (4) Include a supported "no practicable alternative" finding in the environmental evaluation (ITD 654 summary).
- (5) Summarize the details of the wetland evaluation; incorporate information by reference to technical reports where possible.
- (6) Summarize the proposed mitigation. (Note: In-lieu fee and out-of-kind mitigation do not disqualify the project from programmatic CE approval, but require prior approval from FHWA on the proposed mitigation plan).
- (7) Include wetlands avoidance, minimization and/or mitigation measures in the NEPA document commitments.
- (8) Update data on impacts and mitigation, as needed, during the PSE reevaluation, for the purpose of wetland data tracking (as required by FHWA Division office).

5. Definition. *Practicable* means available and capable of being done after taking into consideration cost, existing technology, and logistics, in light of overall project purposes. Cost may be a factor, but should not be the only factor. A practicable alternative is an alternative that is possible (i.e., feasible), after considering:

- safety aspects;
- ability to meet the action's transportation objectives; and

- ability to meet accepted design, engineering, environmental, economic, or any other applicable factors.

Sample language for CE Wetlands Summary

WETLANDS SUMMARY

I. No Practicable Alternative Finding

0.4 total acres of wetlands will be impacted by the proposed action. Avoidance alternatives are not practicable. All practicable measures to minimize wetland impacts have been considered and incorporated into the project’s design and included in the environmental commitments.

The “do nothing” alternative is not practicable because it does not meet the project purpose and need.

Other alternatives that will not result in wetland impacts are not prudent or practicable because of topographic constraints at the project site. The narrow canyon and proximity to the river allow little room to realign the road or change the grade to avoid wetlands. Avoidance of wetlands would result in substandard geometric design. The alignment was modified as much as possible, within engineering standards, to avoid adjacent wetlands.

II. Wetland impacts

Portions of 2 wetland areas are subject to permanent impacts. The importance of the wetlands is not significant, nor is the magnitude of the impacts. None of the wetlands are identified in the State Comprehensive Outdoor Recreation Plan (SCORP)/Idaho Wetlands Conservation Prioritization Plan (F&G).

Impacts

Area	Type	Acres	Acres
A	PEM	0.2	
B	PFO		0.2

Details on impacts, wetland type, function and value and drawings are included the Wetland Assessment Report, incorporated here by reference, and maintained in the project record.

III. Wetland Mitigation

Mitigation will be in the form of onsite mitigation. The mitigation ratio is anticipated to be 1.5:1, to be determined by the USACE. A mitigation plan will be prepared.