

Planning Policy and Guidance



Natural Resources Conservation Service

Conservation Planning Course

Module 2 Planning Policy and Guidance

Objectives

At the end of this module, the participant will be able to:

1. List various policies relating to conservation planning.
2. Explain how policy, procedures, technical guidance, and programs fit together.
3. Explain how programs support implementation of conservation plans.

Training Aids

Overhead projector and flipchart

Method of Instruction

Pre-course reading, presentation, and discussion

Pre-Course Reading

1. Policies related to:
 - *Conservation Planning (General Manual 180, Part 409)*
 - *FOTG (General Manual 450, part 401)*
2. *National Planning Procedures Handbook, Part 600.1, "Framework for Planning"*

Total Time

1 Hour

Module 2 – Objectives

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Module 2
Planning Policy and Guidance

Instructor Note

Be prepared to share real life examples of how these policies are applied in your state.

Overhead #2-1

Introduction

Review module objectives and instructor expectations

MODULE II

**Planning Policy and
Guidance**

Slide 1

Question

How do we explain guidance, policies, and authorities to clients?

Overhead #2-2

Policies set the parameters for our work. They are the direct result of legislation, departmental regulations, or agency rules. Policies are more than just guidance. They dictate acceptable practices or performance. Handbooks or bulletins, give us advice and suggest a course of action. It is the way we implement policy. Typically, guidance is flexible, policy is not.

POLICY vs GUIDANCE

Slide 2

Overhead #2-3

Policy

- Legislation, Rules or Regulations
- Inflexible
- Set parameters
- General Manual
- Departmental Memos

Slide 3

Overhead #2-4

GUIDANCE

- Suggestions/Advice
- Set limits of acceptability
- Flexible (to some extent)

Slide 4

Overhead #2-5

Policies and Procedures

Following is a discussion of some of the most significant policies that affect conservation planning. These policies influence everything from who receives our services to the required treatment of certain resources like endangered species or that old log cabin on the back forty.

POLICIES AND PROCEDURES

- I. Conservation Planning
- II. Field Office Technical Guide
- III. Documentation of Conservation Planning Data
- IV. Other Related Policies
- V. Programs

Slide 5

Overhead #2-6

I. Conservation Planning Policy and Procedures

Conservation planning policy is located in General Manual (GM) Section 180, Part 409. The policy was most recently revised in July, 1999. Planning policy sets the rules and framework for our actions as conservation planners. This policy establishes guidelines and methodology to direct the agency toward accomplishing our vision. There are several key elements in our current planning policy. These include:

PLANNING POLICY (GM 180, Part 409)

- Three-Phase—
Nine-Step
- Sound Use and
Mgt. Resources
(SWAPAH)
- NPPH/FOTG

- The use of a three-phased, nine-step planning process to accomplish resource management.
- The NRCS objective in conservation planning is to help each client attain sustainable use and sound management of their soil, water, air, plant, and animal resources. The purpose is to prevent the degradation of resources and to assure their sustained use and productivity, while considering the client's economic and social needs related to the resources.
- The NRCS Conservation Planning process emphasizes development of resource management systems. When programs exist that define other levels of planning for specific resource issues, clients will be offered alternatives that, as a minimum, meet the criteria of those programs.
- Human considerations (economic and social), related to the resources, will be addressed.
- The State Conservationist will ensure that all NRCS employees, district employees, conservation volunteers, natural resource agency employees, and commercial providers (third party vendors) employed or utilized by NRCS for conservation planning, meet minimum NRCS conservation planning training and approval requirements.

Planning procedures and methodology are contained in the National Planning Procedures Handbook, which serves as the principle text for this course. The handbook which was revised in January 2000, provides a solid connection between General Manual Policies and Field Office Technical Guides.

II. Field Office Technical Guide

Instructor Note

In States where Field Office personnel are not familiar with General Manual 450, Part 401, concerning the Field Office Technical Guide, SWAPAH Resource Considerations, the RMS Process and CED Process, it may be prudent to have an in depth review of this policy. You may want to provide some background and history of changes in policies and procedures. Method of delivery may include slide presentations, Q&A's, or other suitable means.

Overhead #2-7

Field Office Technical guide policy is found in GM Section 450, Part 401. This policy guides the development and contents of the FOTG. This part contains policy for establishing quality criteria for the natural resources, use of the CED and RMS process, establishment and delineation of common resource areas, and a host of other guidance.

FOTG
(GM 450, Part 401)

- Establishes policy
- Quality Criteria
- Resource Concerns
- CED Process
- RMS Process

Slide 8

Overhead #2-8

Recent developments in farm bill legislation have brought the Field Office Technical Guide into a whole new arena. The FOTG has become more important than ever for providing information to the conservation planner, as well as, state and federal agencies, commodity groups, and others. **The guiding force for our business process is the quality criteria in Section III.** These criteria are a result of national, state and local regulations, community standards, resource needs, agency mission, and partnership objectives. The FOTG is open to public input and scrutiny. This requires us to keep the document up to date, complete and accurate within the bounds of best available knowledge and technology.

FOTG (continued)

- Best available technology
- Importance outside NRCS
 - Other Agencies
 - Basis for Regulations
- Keep complete and accurate

Slide 8

III. Documentation of Conservation Planning Data

Conservation planning data may be documented in either hard copy or electronic format as appropriate. Agency approved software and software components will be used when the data is documented electronically.

Overhead #2-8

DOCUMENTATION

- Hard Copy
- Or
- Electronic Format

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IV. Overview of Other Related Policy

Overhead #2-10

**OTHER
POLICIES**

- NEPA
- T&E Species
- FOIA
- Cultural Resources
- Civil Rights
- Wetlands
- Appeals

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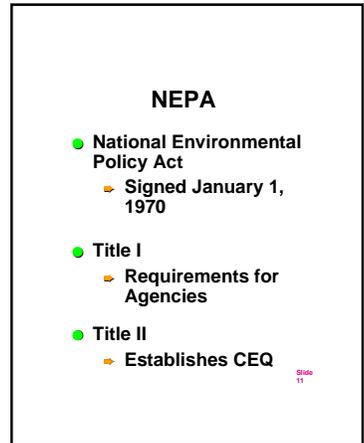
Question

*Is there a point where we withdraw our services?
When and Why?*

National Environmental Policy Act (NEPA)

Overhead #2-11

The National Environmental Policy Act (NEPA), was signed into law on January 1, 1970. The Act establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment. It provides a process for implementing these goals within federal agencies. The Act also established the Council on Environmental Quality (CEQ).

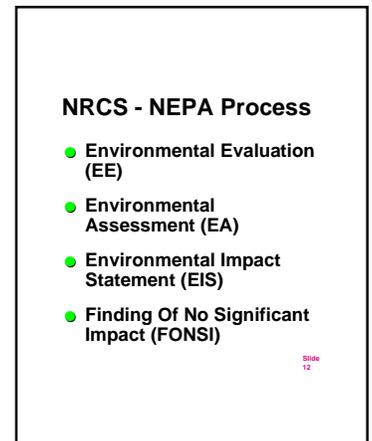


Title I of NEPA requires the federal government to use all practicable means to create and maintain conditions under which man and nature can exist in productive harmony. Section 102 requires federal agencies to incorporate environmental considerations in planning and decisionmaking. It includes policy on the development of Environmental Impact Statements (EIS).

Title II of the Act establishes the CEQ. Section 204 lists the duties and function of the Council. These include gathering trend information, evaluating federal programs, promoting national policies and conducting studies related to environmental quality.

In 1978 CEQ promulgated regulations implementing NEPA. The regulations address the procedural provisions of the Act and administration of the process. The NEPA process within NRCS usually begins with an Environmental Evaluation (EE). See Exhibit 3 in the NPPH for an example EE worksheet. The evaluation may lead to an Environmental Assessment (EA), which provides the analysis of whether an Environmental Impact Statement must be written, or to a Finding of No Significant Impact (FONSI).

Overhead #2-12



Cultural Resources

Overhead #2-13

NRCS is responsible for accounting for cultural resources in all agency undertakings. NRCS cultural resources policy is contained in GM 420, Part 401. Procedures are included in General Manual 420, Part 601. NRCS cultural resource policy and procedure calls for every state to obtain an agreement with their respective State Historic Preservation Officer. These state-level agreements specify how NRCS cultural resource compliance activities will take place within each state.

CULTURAL RESOURCES (GM 420, Parts 401, 601)

- NRCS must account for Cultural Resources
- Agreement with SHPO
 - Specifies how NRCS compliance activities will take place in each state.

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Threatened and Endangered Species

Overhead #2-14

Policy which guides compliance with the federal Endangered Species Act (ESA), et. seq., is found in GM 190, Part 410. Two sections of the ESA are particularly relevant to NRCS planners and their clients.

Section 7 directs federal agencies to (1) use their programs and authorities to promote the conservation of T&E species and (2) insure that their funds and actions do not jeopardize the continued existence of T&E species or adversely modify designated critical habitat. NRCS employees are charged with conserving both plants and wildlife.

T & E Species (GM 190, Part 410)

- Endangered Species Act (ESA)
- Section 7
 - Promote T & E Species
 - No adverse effect
- Section 9
 - Prohibited Activities

Section 9 of the Act applies to all clients as well as NRCS planners. This section prohibits “taking” of T&E wildlife, but does not afford protection to T&E plants on private lands. The definition of “take” includes “harm”, which has been defined as habitat modifications that kill or injure wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

Freedom of Information Act (FOIA) and Privacy Act (PA)

Instructor Note

If the FOIA / PA Officer cannot be present at the course, they could participate via telephone during this discussion. There will likely be many questions on this topic. The topic will need to be laid out well. Examples would be in order.

Overhead #2-15

NRCS policy and procedures on the Freedom of Information Act (FOIA) and the Privacy Act (PA) are contained in National Instruction 120-310 and GM 120, Part 408, Subpart C.

FREEDOM OF
INFORMATION AND
PRIVACY ACT

National Instruction
120-310
and
GM 120, Part 408,
Subpart C

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Instructor Note

The following information is lifted from the policy in the General Manual. For additional information, refer to the complete text in the General Manual and to the National Instruction.

Overhead #2-16

If a letter requests information found in NRCS records that is not normally created or distributed to the public, treat it as a FOIA request even if it does not cite FOIA.

As a general matter, requests for personal information contained in files referenced by a personal identifier would be exempt from release under exemption (b)(6) of the FOIA, and therefore should be denied under the PA.

Field and area offices are not to respond to FOIA requests unless the FOIA/PA officer for that State specifically instructs local offices to release records after the FOIA/PA officer has reviewed the written request. If requests are received in field and area offices, they are to be forwarded the same working day they are received to the FOIA/PA officer in the State Office.

NRCS should not provide any information that reflects on the client's personal, commercial, and financial matters, or that causes substantial harm to the competitive position of the client, or that impairs the Government's ability to obtain necessary information in the future.

Kind or location information on cultural resources will not be released.

FOIA

- Exemptions
 - Identifying personal information
 - locations of cultural resources
- Penalty for releasing information

Slide 2-16

Federal employees are subject to a \$5,000 fine under the PA for releasing information that is barred from disclosure under the act.

Civil Rights

Instructor

The following information was extracted from the “NRCS Civil Rights Compliance in Program Delivery”, NEDC Training Course - April 1996, Lesson 1. It would be a very good source for information if you want to expand on this section.

Overhead #2-17

Civil rights policies are an integral part of our agency function. It is not merely a rule of employment but also program delivery. Civil rights laws exist to ensure that everyone benefits equally from NRCS services and that there is equal opportunity in receiving NRCS program benefits.

CIVIL RIGHTS

- More Than Rules of Employment
- Integral Part of Agency function
- Everyone Has Equal Access to Services and Benefits

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Overhead #2-18

Following is a list of laws and regulations that provide the basis for our civil rights policies:

1. Title VI and VII of the Civil Rights Act of 1964

- Title VI deals with nondiscrimination in program delivery with respect to race, color, and national origin;
- Title VII deals with nondiscrimination in employment;

Both serve as the legal backdrop for the NRCS Civil Rights Implementation Plan.

2. Title IX of the Education Amendments of 1972

- Prohibits discrimination on the basis of sex in providing programs and services to clients.

3. Section 504 of the Rehabilitation Act of 1973

- Prohibits discrimination on the basis of handicap in providing programs and services to clients.

4. Age Discrimination Act of 1975

- Prohibits discrimination on the basis of age in providing programs and services to clients.

5. USDA Regulations

- 4330-1 Program Compliance Reviews
- 4300-3 Equal Opportunity Public Notification

CIVIL RIGHTS

- Civil Rights Act of 1964
- Education Amendments of 1972
- Rehabilitation Act of 1973
- Age Discrimination Act of 1975
- USDA Regulations

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These laws identified six prohibited grounds of discrimination: race, color, national origin, age, sex, and handicap. It is NRCS's responsibility to properly follow these laws and regulations. We must ensure that civil rights compliance in program delivery is fully understood and incorporated into all our initiatives, including conservation planning. Civil Rights compliance is not a stand alone program like RC&D or Conservation Operations. It is an integral part of all that we do.

Wetlands Conservation Technical Assistance

NRCS wetlands technical assistance policy, GM 190, Part 410.26 provides direction to conservation planners in assisting landowners with various aspects of wetland conservation. In 1977, NRCS, which at that time was the Soil Conservation Service, revised its technical assistance policy in adherence to President Carter's Executive Order 11990. These changes restricted situations in which we could provide assistance for new construction in wetlands. Several draft versions of this policy have been issued over the years. But until recently, there have been no revised editions issued.

Overhead #2-19

WETLANDS CONSERVATION TECHNICAL ASSISTANCE

- Executive Order 11990 - 1970
- USFWS Circular 39
- Food Security Act of 1985
- Section 404 - Clean Water Act

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The need for a revised policy was acute. Former policy permitted landowners to violate wetland provisions (Swampbuster) of the Food Security Act of 1985 and, in some cases, Section 404 of the Clean Water Act. Wetland identification was based on the United States Fish and Wildlife Service, Circular 39, Wetlands of the United States, which was replaced in 1979 by the Cowardin system.

Wetland conservation policy requires the use of the National Food Security Act Manual (NFSAM) and the 1987 Corps of Engineers Wetland Delineation Manual when identifying wetlands in an agricultural setting. The policy brings our assistance in line with the Food Security Act of 1985, as amended, and gives more flexibility in addressing wetland issues. The Federal Agricultural Improvement and Reform Act of 1996 emphasized this flexibility.

Appeals and Mediation

Any adverse or potentially adverse decision issued by NRCS officials may ultimately be appealed to the National Appeals Division (NAD). The Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, 7 U.S.C. 6995, provides that NRCS maintain an informal appeal process applicable to all programs where clients have the right to appeal to the NAD. Policy and procedures for the informal appeals process are found in GM 180, Part 410, Issue 1.

Overhead #2-21

APPEAL AND MEDIATION

- Formal
 - Appeal to NAD
- Informal
 - Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994
 - GM 180, Part 410, Issue 1

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Overhead #2-22

Programs authorized by the Food Security Act of 1985, as amended, are the jurisdiction of the Farm Services Agency, through county committees. This includes appeals that result from adverse decisions made by NRCS concerning technical determinations made under Title XII of the Food Security Act. Title XII programs include:

- Highly Erodible Land and Wetland Conservation
- Conservation Reserve Program
- Wetlands Reserve Program
- The Environmental Quality Incentives Program (EQIP), with passage of the Federal Agricultural Improvement and Reform act of 1996.
- The Environmental Easement Program

APPEAL AND MEDIATION

- Food Security Act - Title XII
 - Farm Services Agency Jurisdiction
 - Includes HEL, CRP, WRP, WQIP, EEP

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V. Programs

Discussion Questions:

Questions

- 1. How has the perception of NRCS been affected by programs such as the Food Security Act?***
- 2. How do we overcome negative perceptions?***
- 3. Are there ways to use these perceptions to our advantage?***

Overhead #2-23

PROGRAMS

- Influence Planning Workload
- Support Planning Process
 - Plan for Program
 - Plan for Resources
- Voluntary vs. Mandatory Resource Treatment

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An area to consider in the planning process is the effect of legislated mandates and funded programs. As an agency, we have had cost-share programs that have influenced our planning and field office workloads.

A typical view of these programs is one in which the planning process supports the program rather than the program supporting the process. The point being that many times we are given “X” number of dollars and told to spend them. This is very true of programs that have been in existence for several years. These programs, the Agricultural Conservation Program, and to some extent the Great Plains Conservation Program, have shifted our focus from planning for the resource needs to planning for program participation.

The pendulum is beginning to swing the other way. To keep up with this swing, we must concentrate on our planning (business process) and manage programs to help implement and accelerate conservation treatment. This is apparent in the language of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) and agency emphasis concerning “on-site” technical assistance.

PROGRAMS

- New Program Emphasis
- Agency Emphasis

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Overhead #2-24

The last decade has shown what happens when we do not respond quickly to resource concerns, either real or perceived. Congress is more than willing to step in and take the lead to treat resource concerns. An example is the Food Security Act of 1985 (FSA). The public and Congress perceived that farm programs were leading to excessive erosion rates. Popular opinion held that the agricultural community was not accepting the responsibility for erosion caused by farming activities. This led to the connection of commodity programs to soil erodibility. The result turned our agency's focus to one resource, to one land use, and to one step in the planning process (decisionmaking) using one concern, economics, as the reason for participation.

There is no doubt that FSA resulted in a great amount of conservation treatment. Millions of acres of highly erodible land received at least partial treatment. The need for a broader perspective is evident. We must widen our scope to plan for the sustainability of our resources (SWAPA) and become proactive in their treatment. Through the use of a planning process that includes all resources and addresses potential concerns and opportunities, we can direct programs toward supporting the process.

The 1996 Act is turning cost-share programs toward support of the process. New programs, such as the Environmental Quality Incentives Program (EQIP) are providing cost-share support to practices that are planned as a part of a conservation system or for an entire system as a cost-sharable unit. There is a strong effort to tie these dollars to the impacts of the practice or system on the resources. This is a dramatic shift that may serve as the basis for future incentive programs.

Overhead #2-25

Workloads and priorities will continue to be influenced by legislation and public pressures. Changes in department and agency structure as a result of the Reorganization Act of 1994 will have far reaching effects on the way we do business. The extent to which we can address priorities will always be dependent upon funding and mandated programs. Our commitment to the planning process at all levels of the agency should help us use programs to support the process, balance quality with quantity and provide better service to our clients and partners.

PROGRAMS

- Commitment to Planning Process
 - Use Programs to Support Process
 - Balance Quality and Quantity
 - Provide Better Service to Clients and Partners

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Wrap-Up

This module has provided an overview of the most significant policies that affect conservation planning assistance. However, it is not a complete list or review. Everyone should make an effort to be familiar with these and other policies. Conducting our business according to policies will ensure that we are working within our agency's scope and authority and provides us protection from personal liability.

Overhead #2-26

WRAP-UP

- Overview of Significant Policies
- Not a Complete List
- Become Familiar with Policies Affecting Your Planning Responsibilities
- Stay Within Scope and Authority

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