

**Finding of No Significant Impact for the Programmatic Environmental Assessment (EA) on the Interim Final Rule for the Wildlife Habitat Incentives Program (WHIP)**

I. AGENCY ROLE AND RESPONSIBILITY - United States Department of Agriculture (USDA) – Natural Resources Conservation Service (NRCS)

In accordance with NRCS regulations (36 Code of Federal Regulations 650) implementing the National Environmental Policy Act (NEPA), NRCS has completed an environmental review of the following proposed action.

The proposed action is promulgation of the Interim Final Rule for WHIP as required by the Food, Conservation, and Energy Act of 2008 (hereafter referred to as the 2008 Act).

II. NRCS DECISION TO BE MADE

As Chief of NRCS, I must make the following decision:

1. Develop rules to implement WHIP.

I must also determine if the Agency’s preferred alternative (Alternative 2) will or will not be a major Federal action significantly affecting the quality of the human environment. The Programmatic EA accompanying this finding has provided the analysis needed to assess the significance of the potential impacts from the selected alternative. The decision on which alternative is to be implemented and the significance of that alternative’s impacts are under Part VII of this finding.

III. PURPOSE AND NEED FOR ACTION

The 2008 Act has authorized the 2008 WHIP to be implemented in all 50 States, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of Mariana Islands. The 2008 Act authorizes a total of \$425 million in cost-share funds to implement conservation practices to develop and enhance wildlife habitat on privately owned agricultural and nonindustrial private forest land and tribal land. Overall, WHIP has provided \$285 million in cost-share funds for conservation practices benefiting wildlife on over 3.9 million acres.

NRCS’ need for action is also tied to the passage of the amended WHIP provisions in the 2008 Act which requires WHIP to be implemented in a manner that achieves the stated purposes.

IV. ALTERNATIVES CONSIDERED IN THE PROGRAMMATIC EA

Two alternatives were analyzed in the Programmatic EA and are characterized as follows:

Alternative 1: No Action – No implementation of WHIP.

Alternative 2: Agency Preferred Alternative – WHIP is implemented according to the new 2008 Act requirements under the Interim Final Rule developed by NRCS.

## V. NRCS' DECISION AND FACTORS CONSIDERED IN THE DECISIONS

Based on the evaluation in the Programmatic EA, I have chosen to select Alternative 2 as the Agency's preferred alternative. I have taken into consideration all of the potential impacts of the proposed action incorporated herein by reference from the Programmatic EA and balanced those impacts with considerations of the Agency's purpose and need for action.

In accordance with the Council on Environmental Quality's (CEQ) "40 Most Asked Questions" guidance on NEPA, Question 37(a), NRCS has considered "which factors were weighed most heavily in the determination" when choosing the Agency Preferred Alternative (Alternative 2) to implement. Specifically, I acknowledged that based on the Programmatic EA, potential impacts to soil, water, air, fish and wildlife, and human resources were heavily considered in the decision. As a result, the Agency's Preferred Alternative (Alternative 2) would result in an overall net beneficial impact to the human environment based on all factors considered.

NRCS has preliminarily determined, based upon the evaluation of impacts in the 2008 WHIP Programmatic EA, attached hereto and made a part hereof, and the reasons provided below, that there will be no significant individual or cumulative impacts on the quality of the human environment as a result of implementing the WHIP as authorized by the Food, Conservation, and Energy Act of 2008 (2008 Act); particularly when focusing on the significant adverse impacts which the National Environmental Policy Act (NEPA) is intended to help decisionmakers avoid and mitigate against.

The Programmatic EA evaluated the potential environmental effects of the proposed actions from a broad scale national perspective. Although the Agency Preferred Alternative would not have any direct environmental effects given it concerns national rulemaking, the potential indirect and cumulative environmental effects from application of conservation practices under WHIP were also evaluated in general terms and contexts. It should be noted that NRCS prepares environmental documentation through an environmental evaluation (EE) on a site-specific level, for all activities entered into under WHIP to ensure that no extenuating circumstances occur that were not contemplated in the programmatic analysis. This EE is done in compliance with the NRCS' NEPA implementing regulations at 7 Code of Federal Regulations (CFR) Part 650.5. When extenuating circumstances do occur, NRCS conducts additional environmental analyses to properly address additional environmental concerns and/or consults with the appropriate organizations to avoid, minimize, reduce, or otherwise mitigate adverse impacts on relevant and protected resources.

## VI. FINDING OF NO SIGNIFICANT IMPACT

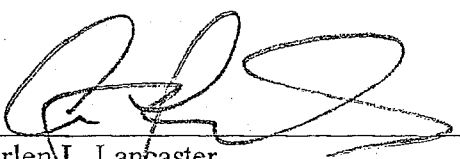
To determine the significance of the action analyzed in this Programmatic EA, the Agency is required by NEPA regulations at 40 CFR 1508.27 and NRCS regulations at 36 CFR Part 650 to consider the context and intensity of the proposed action. Based on the Programmatic EA, review of the NEPA criteria for significant effects, and based on the analysis in the Programmatic EA, I have determined that the action to be selected, Alternative 2 (Agency Preferred Alternative), would not have a significant effect upon the quality of the human environment. Therefore, preparation of an Environmental Impact Statement (EIS) on the final action is not required under Section 102(2)(c) of the NEPA, CEQ implementing regulations (40

CFR Part 1500-1508, 1508.13), or NRCS environmental review procedures (7 CFR Part 650). This finding is based on the following factors from CEQ's implementing regulations at 40 CFR Part 1508.27 and from NRCS regulations at 7 CFR Part 650:

- 1) The Programmatic EA evaluated both beneficial and adverse impacts of the proposed action. The Program recognizes that short term adverse impacts do commonly occur, as identified in the conservation practice network diagrams (incorporated by reference into the Programmatic EA), but are out-weighed by the long term benefits to wildlife species and their habitats. Through the NRCS planning process and site-specific environmental evaluations, adverse impacts are mitigated.
- 2) Since the conservation practices implemented generally restore natural ecosystem functions, threats to public health or safety have not surfaced as an issue in the 12 years that the Program has been implemented and are not anticipated to be a concern in the future.
- 3) NRCS regulations (7 CFR Part 650) and policy (General Manual 420 Part 401), require that NRCS identify, assess, and avoid effects to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. In accordance with these requirements, it is not anticipated that implementing Alternative 2 for WHIP would have adverse effects on these resources.
- 4) The effects on the human environment are not considered controversial for Alternative 2. Public comments from 52 Farm Bill Forums were reviewed in preparing the Programmatic EA, and there were no issues raised by the public considered to be controversial.
- 5) Alternative 2 is not considered highly uncertain and does not involve unique or unknown risks. NRCS has implemented WHIP for the previous 12 years on over 3.9 million acres as discussed in the Programmatic EA. The 2008 Act authorizes the continuation of WHIP along the course of the existing program with minor changes noted in the Programmatic EA. The effects of the conservation practices to be applied are analyzed from a broad scale national perspective in the Programmatic EA and have been detailed in the practice effects network diagrams incorporated by reference in the Programmatic EA. The conservation practices are also vetted through NRCS practice standards development system. Practice standards are developed based on field application and periodic monitoring, review, and revision as new technologies emerge to ensure they perform as anticipated.
- 6) Alternative 2 will not establish a precedent for future actions with significant effects, nor does it represent a decision in principle about future considerations. The proposed action will be carried out through fiscal year 2012, at which time the Farm Bill may be revised to address the concerns relevant at that time.
- 7) Alternative 2 will not result in individually or cumulatively significant impacts on the environment as discussed in Section 4.7 of the Programmatic EA.

- 8) Alternative 2 will not cause loss or destruction of significant scientific, cultural, or historical resources as addressed in Section 4.6.3 of the Programmatic EA. NRCS follows the procedures developed in accordance with a nationwide programmatic agreement between NRCS, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers, which called for NRCS to develop consultation agreements with State Historic Preservation Officers and federally recognized tribes (or their designated Tribal Historic Preservation Officers). These consultation agreements focus historic preservation reviews on resources and locations that are of special regional concern to these parties.
  
- 9) Alternative 2 will not adversely affect endangered or threatened species, marine mammals or critical habitat. National priorities for WHIP include the protection, restoration, development, or enhancement of State and federally listed endangered and threatened species. NRCS regularly consults with the appropriate Services to ensure these species are not jeopardized and that there are no adverse modifications to designated critical habitat. On the contrary, many WHIP projects conserve species as noted in Section 4.5.
  
- 10) Alternative 2 does not violate Federal, State, local law, or requirements imposed for protection of the environment as noted in Section 4 of the Programmatic EA. The major laws identified with the selection of Alternative 2 include the Clean Water Act, Clean Air Act, Magnuson-Stevens Fishery Conservation and Management Act, Endangered Species Act, National Historic Preservation Act, Marine Mammal Protection Act, the Executive Order 12898 on Environmental Justice, and Migratory Bird Treaty Act. Alternative 2 is consistent with the requirements of these laws.

Based on the information presented in the attached WHIP Programmatic EA, I find in accordance with 40 CFR Part 1508.13 that the selection of the Agency Preferred Alternative (Alternative 2) is not a Major Federal Action significantly affecting the quality of the human environment requiring preparation of an EIS.

  
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 Arlen L. Lancaster  
 Chief, Natural Resources Conservation Service  
 U.S. Department of Agriculture

January 9, 2009  
 Date