

Record of Decision
Environmental Protection Agency for the adoption of the Final NOAA Restoration Center's
Programmatic Environmental Impact Statement for Coastal Habitat Restoration

Summary

In compliance with the National Environmental Policy Act (NEPA, 42 U.S.C. § 4321 et seq.), this Record of Decision documents the Environmental Protection Agency (EPA) adoption of the Programmatic Environmental Impact Statement (PEIS) for coastal habitat restoration activities developed by the National Oceanic and Atmospheric Administration Restoration Center (NOAA RC). NOAA RC developed the PEIS in 2015 to evaluate coastal habitat restoration activities funded or implemented through its existing programs. The on-the-ground restoration activities evaluated in the PEIS are similar to the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA) program as implemented by the EPA. In addition to activities for riverine and coastal restoration, the 2015 PEIS also analyzes technical assistance activities and conservation transactions. The EPA will not use those components of the PEIS, only the components that address restoration.

The 2015 PEIS expanded and updated similar analyses that NOAA RC conducted for an earlier Programmatic Environmental Assessment (PEA) and Supplemental Programmatic Environmental Assessment (SPEA) published in 2002 and 2006, respectively. Since adoption, NOAA has effectively applied the 2015 PEIS to hundreds of projects, achieving greater efficiency and effectiveness. The EPA's adoption of this PEIS will streamline the NEPA process for regularly conducted, on-the-ground, riverine and coastal restoration projects supported by the EPA by minimizing redundant processes while assuring compliance with NEPA on projects that do not generate significant deleterious impacts to the human environment and that are of little or no controversy.

The NOAA RC PEIS analyzed a suite of restoration activities that have been shown to effectively conserve and restore coastal and marine habitats and ecosystems. Fish passage improvements, hydrologic/tidal reconnection, freshwater wetland restoration, shellfish restoration, coral recovery, saltmarsh and barrier island restoration, coastal erosion prevention, debris removal, and invasive species removal are among the most common project types implemented by NOAA RC and the EPA through the CWPPRA program. The purpose, scope, geographic locations, and activities that NOAA RC evaluated also characterize many of the projects implemented in coastal landscapes through the EPA's participation in CWPPRA.

On April 21, 2023, the EPA published a notice in the *Federal Register* (88 FR 24612) announcing the EPA's planned adoption of the NOAA RC PEIS. The NOAA RC PEIS complies with all Council on Environmental Quality (CEQ) and the EPA requirements for preparing an Environmental Impact Statement (EIS).

Restoration Activities Analyzed and Covered by NOAA RC PEIS

Coastal restoration activities commonly implemented by the NOAA RC and the EPA are described in eleven sections of the NOAA RC PEIS. NOAA RC and the EPA have many years of experience with these activities, and the EPA collaborates on coastal restoration projects of shared interest through the EPA participation in CWPPRA as a Task Force member, as a project Federal sponsor, and as a representative on CWPPRA committees and workgroups. Project implementation often employs several of the actions in combination for achievement of restoration objectives. Full descriptions of the activities are included in Section 2 of the PEIS.

- 1) Beach and dune restoration (see PEIS section 2.2.2.1)

- 2) Debris removal (see PEIS section 2.2.2.2)
- 3) Fish passage (see PEIS section 2.2.2.3)
dam and culvert removal, modification, or replacement technical and nature-like fishways
- 4) Fish, wildlife, and vegetation management (see PEIS section 2.2.2.4) invasive species control
prescribed burns and forest management species enhancement
- 5) Freshwater stream restoration (see PEIS section 2.2.2.5) channel restoration
bank restoration and erosion reduction
- 6) Reefs (see PEIS section 2.2.2.6) coral reef restoration shellfish reef restoration artificial reefs
- 7) Road upgrading and decommissioning; trail restoration (see PEIS section 2.2.2.7)
- 8) Signage and access management (see PEIS section 2.2.2.8)
- 9) Subtidal planting (see PEIS section 2.2.2.9) submerged aquatic vegetation
marine algae
- 10) Water conservation and stream diversion (see PEIS section 2.2.2.10)
- 11) Wetland restoration (see PEIS section 2.2.2.11) levee and culvert removal, modification, and set-back
fringe marsh and shoreline stabilization sediment removal sediment/material placement wetland
planting

Decision Options Considered

PREFERRED ALTERNATIVE, the EPA adopts NOAA RC PEIS and implements streamlined programmatic NEPA process for coastal habitat restoration projects.

After detailed study of the NOAA RC PEIS, the EPA recognized the potential efficiencies of the programmatic approach to NEPA compliance afforded by the EPA adoption of the NOAA RC PEIS. Review and analysis time and costs will be reduced significantly with no reduction in commitment to national environmental policy and human quality of life. Additionally, because coastal restoration projects are undertaken by the EPA for the broad purpose of *improving* the natural and human environments, most of the EPA's site-specific, on-the-ground restoration actions are found, upon detailed, site-specific analysis, to have no potential for significant deleterious impacts to those environments. NOAA RC has had similar experience with its coastal restoration actions and developed the PEIS to analyze successful categories of restoration actions and develop specific implementation practices to minimize even short-term negative impacts and maximize long-term benefits to the natural and human environments through improved function in coastal ecosystems. Since its adoption eight years ago, NOAA has applied this PEIS to hundreds of projects with no controversy, saving staff time and other resources as a result.

NO-ACTION ALTERNATIVE, the EPA maintains current NEPA processes.

Currently the EPA conducts individual NEPA analyses of site-specific restoration actions. These detailed compliance efforts can be time-intensive and costly, often delaying environmental benefits and reducing funds for project implementation. Maintaining this action-by-action processing results in no change to the EPA's existing NEPA compliance strategy.

Public Comment

During the draft PEIS public comment period NOAA RC received comments that ranged from suggestions for additional covered activities, to comments on resources missing from the analysis, to support for the preferred alternative. Comments were received from non-profit organizations, government agencies (federal and state), for-profit organizations, and individuals. Summarized comments are presented in Chapter 5.0 of the PEIS, with a full list of comments included in Appendix B of the PEIS. The final NOAA RC PEIS was published in the *Federal Register* on June 19, 2015, at 80 FR 35305.

The EPA published its Notice of Intent to Adopt the NOAA RC PEIS on April 21, 2023, and invited agency and public comment for this adoption action (88 FR 24612, [EIS No. 20160280]). The 30-day comment period for this action ended May 22, 2023; the EPA received no comments on the proposed adoption.

Environmentally Preferable Alternative and Rationale for Selection

The EPA analyzed the two decision alternatives described above and determined that Alternative I (adopting the NOAA RC PEIS) is the environmentally preferable alternative. This alternative achieves the EPA’s CWPPRA mission objective of delivering a broad range of coastal habitat restoration projects while streamlining NEPA compliance. The preferred alternative enables the EPA to maintain a high level of efficiency and flexibility for its habitat restoration within CWPPRA. With no negative public comments received during NOAA RC’s PEIS development process and no public comments received during the EPA’s adoption notice, the EPA is confident that adoption of the NOAA RC PEIS and institution of the streamlined NEPA approach will achieve strong cost and time efficiencies while preserving strong national, regional, and local commitments.

Monitoring and Mitigation Measures

The EPA works with CWPPRA partners to monitor and evaluate coastal habitat restoration projects to determine and document success of implementation and effectiveness. Construction monitoring is employed as needed to ensure covered restoration actions are carried out as designed. This monitoring may include review of as-built topography or bathymetry or documentation of other structural components of the project such as initial survival of plantings or final water levels. When appropriate, effectiveness monitoring is initiated following construction to assess the mid- or long-term ecological success of restoration actions and to assess progress toward the desired outcomes of a covered project. Effectiveness monitoring evaluates ecological benefits and/or performance of new techniques and thus guides site-specific adaptive management, informs future the EPA project selection, and advances restoration practice.

All practicable means to avoid or reduce adverse impacts from implementing the preferred alternative will be adopted through best management practices or mitigation measures described in Section 4 (action-specific) and Appendix D (general, used across multiple restoration activities) of the PEIS for each activity type. These practices are not an exhaustive list of best practices used in the EPA’s implementation of the CWPPRA program, but practices that were considered in the analysis of impacts during development of the PEIS. Project-specific compliance with all Federal, State, and local laws must be documented prior to undertaking restoration actions described in the PEIS. Federal environmental compliance requirements are site- and project-specific, and can include the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammals Protection Act, the Migratory Bird Treaty Act, the National Historic Preservation Act, the Clean Water Act, the Rivers and Harbors Act, and the Coastal Zone Management Act, among others.

Implementation Strategy

The EPA will institute a consistent screening process for use of the PEIS. Project managers will complete an “EPA CWPPRA NEPA Inclusion Analysis Form” (Appendix A) which will be submitted for review to the EPA CWPPRA team member familiar with coastal restoration concepts and outcomes and committed to diligent application of the NEPA process. Using the analyses provided in the NOAA RC PEIS and additional information as necessary, the review team will assess and confirm that the proposed habitat restoration actions are within the range of alternatives and potential environmental

consequences analyzed in the PEIS and will not have significant adverse impacts on the natural or human environment. The NEPA signatory authority will sign and date the inclusion form. This analysis and authorization will be documented in project files maintained by program staff at the EPA Region 6. Documentation of the EPA's use of the PEIS for analysis and NEPA compliance for projects will be made available to the public. Future site-specific restoration activities the EPA proposes that are not within the scope of environmental consequences considered in this PEIS will require additional and separate NEPA review and analysis.

National Environmental Policy Act Compliance

The EPA used the NEPA process to guide its decision to adopt the NOAA PEIS for coastal restoration activities. The "EPA CWPPRA NEPA Inclusion Analysis Form" (Appendix A) will be used to concisely determine and document whether the proposed project activities and site-specific environmental consequences are within ranges analyzed in the PEIS, and that extraordinary, site-specific circumstances would not elevate negative project or activity impacts to a level of significance. Future site-specific restoration activities that the EPA proposes that are not within the scope of environmental consequences considered in this PEIS will require additional and separate NEPA review and analysis.

Minor Corrections to the NOAA RC PEIS

When the US Fish and Wildlife Service (USFWS) adopted the NOAA RC PEIS on August 20, 2019, their review revealed inconsistencies that represented translation or editorial errors only (Appendix A -- <https://www.fws.gov/node/417871>).

Authorities

This Record of Decision was developed in accordance with NEPA (42 U.S.C. § 4321 et seq.), the CEQ's regulations for implementing NEPA (40 CFR parts 1500 through 1508), and the EPA's procedures for implementing NEPA (40 CFR part 6).

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Appendix A
Sample EPA CWPPRA NEPA Inclusion Analysis Form