

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

7 CFR Part 624

Emergency Watershed Protection Program

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of proposed rulemaking with request for comments.

SUMMARY: The Natural Resources Conservation Service (NRCS) proposes several changes to the implementation of the Emergency Watershed Protection (EWP) Program to improve the effectiveness of its response to natural disasters. These changes to the existing program regulations include the following:

- Modifying the cost-share rate for program assistance;
- Clarifying that EWP assistance is not available for Federal lands except in situations where safeguards are followed to avoid inappropriate augmentation of appropriations;
- Allowing a greater Federal share in areas that qualify as limited resource areas; and
- Describing the parameters under which the agency will purchase floodplain easements as a means to limit flood damages and reduce future Federal obligations.

DATES: Comments on this proposed rulemaking must be received by January 20, 2004 to be considered in the development of the final rule.

ADDRESSES: All comments concerning this proposed rule should be addressed to Director, Watersheds and Wetlands Division, Natural Resources Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013-2890; or fax to (202) 720-2143. This rule may also be accessed, and comments submitted, electronically. Users can access the NRCS Watersheds and Wetlands Division Homepage at <http://www.nrcs.usda.gov/>. Comments may

also be submitted via e-mail to victor.cole@usda.gov. All electronic comments must be submitted as Word or Word Perfect file. Files that cannot be accessed or files that contain special characters or any form of encryption that cannot be accessed will not be accepted or considered.

FOR FURTHER INFORMATION CONTACT:

Victor Cole, (202) 690-4575, Watersheds and Wetlands Division, Natural Resources Conservation Service, or for information regarding floodplain easements, contact Martha Joseph (202) 720-7157, Watersheds and Wetlands Division, Natural Resources Conservation Service.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Agriculture cooperates with other Federal, State, and local agencies in the recovery from natural disasters such as hurricanes, tornadoes, fires, drought, and floods through implementation of the EWP Program (authorized by Section 216 of The Flood Control Act of 1950, Public Law 81-516, 33 U.S.C. 701b-1; Section 403 of the Agricultural Credit Act of 1978, Public Law 95-334, as amended by Section 382, of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104-127, 16 U.S.C. 2203). EWP, through local sponsors, provides emergency measures for run-off retardation and erosion control to areas where a sudden impairment of a watershed threatens life or property. The Secretary of Agriculture has delegated authority for administration of EWP to the Chief of NRCS.

Executive Order 12866

The Office of Management and Budget has determined that this proposed rule is a "significant action" for the purposes of Executive Order 12866. Pursuant to § 6(a)(3) of Executive Order 12866, NRCS has conducted an economic analysis of the potential impacts associated with this proposed rule. The economic analysis concluded that NRCS is conducting the EWP program in a manner that provides significant benefits related to costs. A copy of this cost-benefit analysis is available upon request from the address listed above.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since it does not contain a major proposal requiring preparation of a regulatory analysis. These proposed regulations will not have a significant economic impact on a substantial number of small entities.

Environmental Evaluation

This proposed draft rule is supported by a Programmatic Environmental Impact Statement (PEIS) that was made available in draft form for public review on December 16, 1999 (64 FR 70212). NRCS will consider both the comments received on the draft PEIS and this rule in formulation of the final regulation. Copies of the draft PEIS may be obtained from the Watersheds and Wetlands Division, Natural Resources Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013-2890.

GPEA Statement

NRCS is committed to compliance with the GPEA, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Paperwork Reduction Act

This draft final rule does not change the reporting or record-keeping burden previously required.

Executive Order 13132

This draft rule complies with Executive Order 13132 "Federalism." In pursuing the revision of this rule, NRCS prepared a PEIS in accordance with the National Environmental Policy Act (NEPA) guidelines. Preparation of the PEIS included an extensive "scoping process," which included six public meetings held in different regions of the country; contact with State agencies, primarily the emergency management and fish and wildlife divisions; and publication of the draft PEIS in the **Federal Register**. Concerns in response to the publication of the draft PEIS primarily centered on compliance with historic preservation requirements of individual States. In particular, it was recommended that NRCS coordinate all activities with the respective State historic preservation officer. Much praise was received for the program