

during disaster events would be eligible for EWP Program technical and cost-share assistance. This provision would allow repair of conservation practices that may include grassed waterways, terraces, embankment ponds, diversions, and water conservation systems. Nonstructural and/or management practices such as conservation tillage would not be eligible. Additionally, natural disaster recovery practices where assistance is provided under the Emergency Conservation Program (ECP) administered by the Farm Service Agency would not be eligible for EWP assistance. EWP differs significantly from ECP because a sponsor is required for EWP recovery work, and unlike ECP, EWP recovery assistance does not provide financial assistance directly to individuals. NRCS is interested in receiving comments related to this proposed expansion of the eligibility of EWP assistance to allow repair of conservation practices.

Under this proposed paragraph, NRCS could provide EWP assistance toward upgrading damaged or undersized practices for structural/enduring/long-life conservation practices when technology advances or construction techniques warrant. All structural/enduring/long-life conservation practices for which the sponsor is required to obtain a permit issued by a Federal, State, or local entity shall be designed and installed to meet the permit requirements or NRCS standards, whichever is greater.

The benefits obtained by adopting this proposal include:

- Allowing repair work that would address conservation needs that may not be covered by other programs;
- Helping to ensure that practices will be repaired and remain functional rather than being abandoned and becoming a hazard;
- Allowing the EWP Program to assist more landowners so that a greater number of people will benefit from natural resource protection;
- Providing rapid treatment of natural resources by the EWP Program that might prevent further damage on and off site; and
- Encouraging needed repairs by sponsors by providing assistance through the EWP Program.

*Section 624.6(c).* This proposed provision would expand the areas now covered under the EWP Program. Currently, EWP Program work is normally confined to watercourses and areas immediately adjacent, except in case of drought or fire where work may be carried out on critical areas in upland portions of a watershed. However,

agricultural productivity, public health and safety, and the environment are often threatened in the aftermath of disasters that occur outside these limits. NRCS proposes that the availability of EWP Program assistance expand to include practices needed on all privately owned lands. This provision of the proposed regulation would expand the EWP Program to include areas away from streams and would allow the removal of sediment and other debris from agricultural land (croplands, orchards, vineyards, and pastures) and windblown debris, particularly in areas considered environmentally sensitive. Environmentally sensitive areas may include lands especially vulnerable to damage from the products of erosion, points of groundwater re-charge, habitat of endangered or threatened species, or cultural resource sites. This provision of the proposed regulation also provides for EWP assistance for drought recovery activities.

Deposits of large quantities of sediments and other debris on floodplains usually occurs from major flooding. Such materials are usually coarse and infertile, and frequently destroy or smother plants and impair normal agricultural use. This is a normal occurrence in the dynamics of floodplain systems, but it can jeopardize the productivity of agricultural lands. Under this proposed regulation, NRCS would consider alternative practices to address the type of damage such as:

- Removing and disposing the sediment and other debris
- Incorporating the sediment into the underlying soil
- Offering to purchase a floodplain easement (see § 624.10)

Whether these sites qualify for EWP assistance and the most effective alternative treatment depends upon many factors: Size of the particles, depth of material deposited, lateral extent of the deposit, land use and soil type of the underlying material, and value of the land to the entire agricultural operation. Floodplain easements (see § 624.10) can provide disaster relief where there is too much debris to incorporate or haul off-site, or otherwise dispose.

Most debris that is deposited on upland areas is carried from winds of hurricanes or tornadoes. Such debris may cover portions of several watersheds and normally consists of downed trees, utility poles, and fence posts; livestock and poultry carcasses; or building materials, such as insulation, shingles, metal roofing, metal siding, and similar non-biodegradable materials. Similarly, ice storms may result in debris deposition

and cause the death of livestock and poultry. Debris removal will typically be associated with the removal of debris from upstream of bridges and culverts, or in upland areas where buildup of debris in a waterway will cause flooding of homes and other structures.

The practice components adopted to address upland debris deposition could include, but not be limited to:

- Creating access when needed to move trucks and heavy equipment to a debris site
- Using chain saws, other power tools, winches, and other machinery and heavy equipment to gather and process the debris for onsite disposal or removal
- Disposing of debris in accordance with local rules and regulations on-site by burial, chipping, or burning
- Loading on trucks for removal and disposal off-site in approved sites or landfills based upon the composition of the material
- Obtaining special technical assistance and personnel to handle hazardous materials such as asbestos, petroleum products, propane, or other compressed gas containers, or other potentially hazardous or toxic compounds or materials
- Grading, shaping, and revegetating, by seeding or planting, any portion of the area affected by the debris removal operation

Drought recovery practices are generally temporary in nature and are intended to reduce the consequences of a drought. EWP assistance typically includes providing temporary water for livestock to reduce the use of drought impacted water sources, or prescribed grazing and/or purchasing and transporting hay, which allows rangeland to recover more rapidly. Planting vegetation may be used to reduce soil erosion. EWP assistance will not be used during drought situations to install permanent practices or structures, including water wells, irrigation systems, or purchase of portable equipment (*i.e.*, water pumps). EWP practices during drought situations will not be conducted at the expense of another natural resource, such as pumping or releasing water from a water body to an extent that is environmentally detrimental.

*Section 624.6(d) Documentation.* This proposed paragraph would rename the existing section 624.6(d). The information found in this paragraph clarifies the language found in the existing regulation at § 624.6(b).

*Section 624.6(e) Implementation.* This proposed paragraph would rename the existing section 624.7(e) and would