

contain language previously found in the existing regulation at § 624.6(c).

Section 624.7 Cost share assistance. This proposed section would rename the existing section and establish a cost-share rate of up to 75 percent for implementation of EWP measures and up to 90 percent for limited-resource areas.

Under current EWP program regulations at § 624.5(c)(1)(ii) and § 624.5(C)(2)(i), impairments determined to be non-exigencies receive up to 80 percent Federal funding, and exigencies receive up to 100 percent Federal funding. The proposal to eliminate the exigency and non-exigency categories would also eliminate the differential cost-share rate. A single category of emergency would allow for a single cost-share rate. In addition, NRCS would reduce the general cost-share ceiling to align it with the 75 percent rate used in related Federal programs. However, some increase in the Federal cost-share rate may be warranted for sponsors within limited-resource areas. Without such assistance, NRCS believes that the needs of such areas will not be met if only 75 percent cost-share rate is available. Therefore, NRCS proposes in section 624.7(b) to allow sponsors of limited-resource areas to be eligible to receive up to 90 percent Federal funding.

The proposed definition of a limited-resource area (see proposed definition in 624.4(d)) is a county where average housing values are less than 75 percent of the State average, per capita income is less than 75 percent of the national per capita income, and unemployment during the preceding 3 years is twice the available U.S. average. All three criteria would have to be met to qualify. NRCS would use the most recent U.S. census and unemployment data to make this determination. Local data may be used for small communities.

If a natural disaster strikes a limited-resource community in a non-designated limited-resource area, the NRCS State conservationist would have the authority to document the limited-resource status using State census data for the three factors mentioned above and approve the 90 percent cost-share rate for that community. In no case would this procedure be used for a unit smaller than a "community," as defined in proposed section 624.4(d).

Section 624.8(b). This proposed paragraph would clarify and replace language previously found in the current regulation § 624.10.

Section 624.8(c)(3) Funding Priorities. This proposed paragraph is being added to provide guidelines for establishing funding priorities to allow the most

effective and efficient use of limited EWP funding. When a State conservationist declares a local disaster, he or she would typically follow these proposed priorities to determine the order in which sites would be recovered. In some cases, the State conservationist may deviate from the list of priorities due to the damage situation (e.g., a building may not be in immediate jeopardy but giving its repair a higher priority may avoid adverse impacts to a cultural resource) or based upon the sponsor's priorities and ability to undertake the project. NRCS priorities are listed in the following table.

NRCS PRIORITY ORDER OF EWP FUNDING

Priority	Damage situation
1	Exigency.
2	Sites where there is a serious, but not immediate, threat to human life.
3	Sites where property, structures, utilities, or other important infrastructure components are threatened.
4	Sites with federally protected resources, including: Sites inhabited by federally listed threatened and endangered (T&E) species or containing the species designated critical habitat where the individuals of the species or the critical habitat would be in jeopardy without the EWP practice; Sites that contain or are in proximity to cultural sites listed on the National Register of Historic Places where the listed resource would be jeopardized if the EWP practice were not installed; Sites where prime farmland supporting high value crops is threatened; Sites containing wetlands that would be damaged or destroyed without the EWP practice; and Sites that have a major effect on water quality.
5	Sites containing unique habitat—supporting State-listed T&E species or species of concern, recreation, or State-identified sensitive habitats other than wetlands.
6	Other lands not listed above.

Currently, in a presidentially declared disaster, NRCS coordinates with the Federal Emergency Management Agency (or the State agency with emergency recovery responsibilities). NRCS would continue to do so after the implementation of this proposed change

and follow the priorities set by those agencies.

Section 624.9 Time limits. This proposed section has been renamed, and it would simplify time limits associated with the obligation of funds and certain limits for completion of work. NRCS proposes a single time frame (220 days after the date when the funds are committed to the State conservationist by the national office) to complete the work.

Section 624.10 Floodplain easement. This proposed section is being added to address administration of EWP floodplain easements.

Section 382 of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104-127, amended the EWP authority to provide for the purchase floodplain easements as an emergency measure. Since 1996, NRCS has purchased floodplain easements on agricultural lands that qualify for EWP assistance. Floodplain easements restore, protect, maintain, and enhance the functions of wetlands and riparian areas; conserve natural values including fish and wildlife habitat, water quality, flood water retention, ground water recharge, and open space; and safeguard lives and property from floods, drought, and the products of erosion.

NRCS may purchase EWP easements on any floodplain lands that have been impaired within a 12-month period or that have a history of repeated flooding (i.e., flooded at least two times during the past 10 years). Since offers into the program may exceed funding, NRCS maintains a list of easement offers that meet basic eligibility criteria at the time of application, and these offers continue to be eligible pending availability of funding.

Under the floodplain easement option, a landowner offers to sell to NRCS a permanent easement that provides NRCS with the full rights to restore and enhance the floodplain's functions and values. In exchange, a landowner receives an easement payment in an amount calculated as the least of one of the three following values:

- (i) A geographic rate established by the NRCS State conservationist;
- (ii) a value based on a market appraisal analysis for agricultural uses or assessment for agricultural land; or
- (iii) the landowner's offer, if one has been made.

NRCS may pay up to 100 percent of the restoration costs of the easement. Restoration efforts include both structural and non-structural practices. To the extent practicable, NRCS may actively restore the natural features and characteristics of the floodplain through