

(5) Are economically and environmentally defensible and technically sound.

(d) *Documentation.* NRCS shall document the economic rationale of proposed practices in appropriate detail before the allocation of emergency funding, including projects under consideration for floodplain easements in § 624.10. Generally, the expected value of the property restored should exceed the cost of emergency measures, including taking into consideration environmental benefits. Documentation shall include, but is not limited to:

(1) Number of locations and extent of damage, including environmental and cultural resources at risk, because of the watershed impairment;

(2) Estimated damages to the values at risk if the threat is imminent but not yet realized;

(3) Events that must occur for any imminent threat to be realized and the estimated probability of their occurrence both individually and collectively;

(4) Estimates of the nature, extent, and costs of the emergency practices to be constructed to recover from an actual threat or relieve an imminent threat;

(5) Thorough description of the beneficial and adverse effects on environmental resources, including fish and wildlife habitat;

(6) Description of water quality and water conservation impacts, as appropriate;

(7) Analysis of effects on downstream water rights; and

(8) Other information deemed appropriate by NRCS to describe adequately the environmental impacts to comply with the National Environmental Policy Act, Endangered Species Act, National Historic Preservation Act, and related requirements.

(e) *Implementation.* When planning emergency recovery practices, NRCS shall place emphasis on measures that are the most economical and are to be accomplished by using the least damaging practical construction techniques and equipment that retain as much of the existing characteristics of the landscape and habitat as possible. Construction of emergency practices may include, but are not limited to, timing of the construction to avoid impacting fish spawning, clearing of right-of-ways, reshaping spoil, debris removal, use of bioengineering techniques, and revegetation of disturbed areas. Mitigation actions needed to offset potential adverse impacts of the EWP practices should be planned for installation before, or concurrent with, the installation of the

EWP practices. In rare occurrences where mitigation cannot be installed concurrently, plans shall require mitigation be accomplished as soon as practical.

(f) NRCS may determine that a measure is not eligible for assistance for any reason, including economic and environmental factors or technical feasibility.

§ 624.7 Cost sharing.

(a) Except as provided in paragraph (b) of this section, the Federal contribution toward the implementation of emergency measures shall not exceed 75 percent of the construction cost of such emergency measures, including work done to offset or mitigate adverse impacts as a result of the emergency measures.

(b) If NRCS determines that an area qualifies as a limited resource area, the Federal contribution toward the implementation of emergency measures shall not exceed 90 percent of the construction cost of such emergency measures.

(c) If a natural disaster strikes a limited resource community in a non-designated limited-resource area, the NRCS State conservationist has the authority to document the limited resource status using census data for the three factors listed in § 624.4(g)(1) through (3) of this part, 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.

§ 624.8 Assistance.

(a) Sponsors must submit a formal request to the State conservationist for assistance within 60 days of the natural disaster occurrence, or 60 days from the date when access to the sites becomes available. Requests shall include a statement that the sponsors understand their responsibilities and are willing to pay its cost-shared percentage and information pertaining to the natural disaster, including the nature, location, and scope of the problems and the assistance needed.

(b) On receipt of a formal request for EWP assistance, the State conservationist shall immediately investigate the emergency situation to determine whether EWP is applicable. The State conservationist will take into account the funding priorities identified in paragraph (c)(3) of this section. The State conservationist will forward the damage survey report, which provides the information pertaining to proposed EWP practice(s) and indicates the amount of funds necessary to undertake the Federal portion, to the NRCS Chief

or designee. This information will be submitted no later than 60 days from receipt of the formal request from the sponsor. NRCS may not commit funds until notified by the Chief, or his designee, of the availability of funds.

(c) Before the release of financial assistance, NRCS will enter into an agreement with a sponsor that specifies the responsibilities of the sponsor under this part, including any required operation and maintenance responsibilities.

(1) NRCS will only provide funding for work that is necessary to reduce applicable threats.

(2) Efforts must be made to avoid or minimize adverse environmental impacts associated with the implementation of emergency measures, to the extent practicable, giving special attention to protecting cultural resources and fish and wildlife habitat.

(3) Funding priorities. NRCS shall provide EWP assistance based on the following criteria:

- (i) Exigency situations;
- (ii) Sites where there is a serious, but not immediate threat to human life;
- (iii) Sites where buildings, utilities, or other important infrastructure components are threatened;
- (iv) Sites with federally protected resources, including, but not limited to:

(A) Sites inhabited by federally listed threatened and endangered species or containing the species designated critical habitat where the individuals of the species or critical habitat would be in jeopardy without the EWP practice;

(B) Sites that contain or are in the 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;

(C) Sites where prime farmland supporting high value crops is threatened;

(D) Sites containing wetlands that would be damaged or destroyed without the EWP practice; and,

(E) Sites that have a major affect on water quality.

(v) Sites containing unique habitat, including but not limited to, State-listed threatened and endangered species, fish and wildlife management areas, or State-identified sensitive habitats; and,

(vi) Other lands not listed above.

§ 624.9 Time limits.

Funds must be obligated by the State conservationist and construction completed within 220 calendar days after the date funds are committed to the State conservationist.