

Part 515 – Exhibits

Subpart E – Exhibits

515.40 Agreements with Other Agencies

MEMORANDUM OF AGREEMENT
Between the
Soil Conservation Service, Department of Agriculture
And the
Department of the Army

I. PURPOSE. This Memorandum of Agreement (MOA) provides for cooperation between the Soil Conservation Service (SCS), Department of Agriculture, and the Department of the Army, acting through the Corps of Engineers (Corps), in the execution of emergency assistance authority for repair or restoration of non-Federal water control facilities damaged by flood. It establishes common policy guidelines for each agency to ensure that applicants to either agency will receive comparable emergency assistance. These guidelines apply independent of a major disaster or emergency declaration by the President in accordance with Public Law 93-288.

I. BACKGROUND.

The Corps has authority under PL 84-99, (Section 5 of Flood Control Act of 1941, as amended) to repair any ~flood control work threatened or destroyed by flood.

SCS has the authority under Section 403 of PL 95-334 (Agricultural Credit Act of 1978) to undertake emergency measures for runoff retardation and soil erosion prevention as needed to safeguard life and property from floods, drought, and the products of erosion on any watershed whenever fire, flood, or any other natural occurrence is causing or has caused a sudden impairment.

The SCS has promulgated regulations in 7 CFR 624, and the Corps in 33 CFR 203, to govern the administration of the emergency authorities cited above.

Certain non-Federal projects may be eligible for assistance from either agency

Title 390 – National Emergency Watershed Protection Program Manual
Differences between Corps and SCS policies in the areas of cost-sharing, beneficiaries, and ~sponsorship requirements have led to situations where applicants/sponsors of similar projects could receive different levels of Federal assistance from the Corps and SCS.

When a major disaster or emergency is declared by the President, certain work that is not eligible under SCS and Corps programs may be eligible for Federal disaster assistance from FEMA under Public Law 9-288.

III. POLICY.

The Corps and SCS agree to the following general guidance as a basis for consistent Federal policy for furnishing emergency assistance, on an event basis, to repair non-Federal facilities damaged by a natural occurrence. SCS and Corps shall use the following general guidelines in dividing responsibilities between the two agencies when a disaster occurs. Other assignments may be made by FEMA under the provisions of PL 93-288 and regulations issued pursuant to that act (see paragraph c.

The Corps is responsible for repair of flood damage to non-Federal water projects installed for the purpose of controlling flood waters, including appurtenant streambank erosion control and prevention. This will normally include repairs to non-Federal flood protection projects (channels, levees, or similar works) in urbanized areas regardless of watershed size (subject to the provisions of paragraph IIIc below).

b. The SCS is responsible for repair of flood damage to non-Federal water projects that were installed:

(i) In small watersheds of 400 square miles or less for the purpose of flood prevention; or

(2) For preventing erosion or damages caused by the products of erosion wherever located, except damages to features that are appurtenant to projects which are the responsibility of the Corps.

At the call of either the SCS State Conservationist in a state affected by flooding or a Corps district or division engineer serving that state, a meeting of officials responsible for emergency assistance programs of SCS and the Corps is to be held at a location of mutual convenience to assess the flood damages and determine agency responsibilities for work on the different streams affected by the event. When a major disaster or emergency has been declared under PL 93-288, the Corps and SCS will also establish liaison with the appropriate FEMA Region.

Title 390 – National Emergency Watershed Protection Program Manual
Basic eligibility requirements for emergency assistance under applicable laws, from either the Corps or SCS, will be standardized in the regulations promulgated by each agency. These regulations will be exchanged between the two agencies, and any changes will be coordinated to maintain uniform application of the provisions of this agreement. The following requirements are basic to Federal disaster assistance for public facilities such as flood or erosion control works:

(i) Public Sponsorship.

(2) Cost Sharing.

Acquisition of necessary lands" easements and rights-of-way by local interests (project sponsor).

(3) Minimum engineering and maintenance guidelines.

For any non-Federal flood control project damaged by a natural disaster, other than flood (such as fires, tornadoes, and earthquakes), where assistance from the Corps under PL 84-99 is not authorized, the SCS will have primary responsibility for responding to applications for emergency assistance.

The Corps and SCS will establish comparable engineering and maintenance guidelines for use as a basis for determining eligibility for emergency assistance. Projects not meeting these guidelines will not be eligible for emergency assistance unless the project sponsors/applicants agree to meet these criteria. These guidelines, along with other definitive information on project eligibility, will be exchanged between agencies to assure compatible implementation of this agreement.

FURTHER AGREEMENTS

a. Notwithstanding the above agreements with respect to non-Federal projects, the following statements apply to any project designed and constructed by the Corps or SCS:

(1) The Corps has authority and responsibility under PL 84-99 to repair flood or bank protection works which are designed and constructed by the Corps. SCS shall not provide emergency assistance for any of these projects.

(2) The SCS has authority and responsibility under Section 403 of PL 95-334, subject to limitations promulgated pursuant to that act, to repair flood or erosion prevention works which are designed and constructed by or with the assistance of SCS. The Corps shall not provide emergency assistance for any of these projects.

(3) Paragraphs 1 and 2 above apply to projects which have been transferred to a local sponsor for operation and maintenance. These sponsors are responsible for making those repairs which the responsible Federal agency has determined to be within the requirements of the local cooperation agreement executed for their project.

b. Any assistance furnished under this agreement will be subject to the availability of funds and personnel.

c. This agreement is not intended to conflict with prior memoranda of understanding between the Corps and SCS which govern responsibilities for design and construction of Federal water projects.

d. This Memorandum of Agreement will be effective when signed, and may be terminated at any time by mutual consent of the parties hereto, or by either party after 60 days notice of its desire for termination.

Title 390 – National Emergency Watershed Protection Program Manual

BY: WILSON SCALING

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Chief, Soil Conservation Service
U.S. Department of Agriculture

DATE
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15 MAY 1986

DATE
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5/20/86