

## Part 510 – Introduction

### Subpart A – General

#### 510.0 Purpose

This manual contains the NRCS policy for the Emergency Watershed Protection (EWP) Program. Parts 510 to 513 of this manual provide policy for implementing EWP recovery measures. Parts 514 and 515 of this manual provide policy for implementing federally held EWP floodplain easements.

#### 510.1 References

##### A. Statutory Authorities

The Secretary of Agriculture is authorized to undertake emergency watershed protection measures, including the purchase of floodplain easements, for runoff retardation and soil-erosion prevention, in cooperation with landowners and land users, as the Secretary deems necessary to safeguard lives 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 of that watershed. This manual sets forth the policies and procedures for emergency watershed protection measures provided by NRCS under the following authorities:

- (1) Section 216 of Public Law 81-516 (33 U.S.C. Section 701b-1).
- (2) Section 403 of title IV of Public Law 95-334, the Agricultural Credit Act of 1978, as amended by Section 382 of the Federal Agriculture Improvement and Reform Act of 1996, Public law 104-127 (16 U.S.C. 2203).

##### B. Program Regulation

- (1) The manual contains NRCS policy for administering the EWP Program and measures as set forth in 7 CFR Parts 624 and 654.
- (2) The Chief of NRCS has been delegated authority for emergency flood control work under 33 U.S.C. 701b-1 and the EWP Program under sections 403 of the Agricultural Credit Act of 1978, 16 U.S.C. 2203, in 7 CFR § 2.43.
- (3) Under such general program criteria and procedures as may be established by NRCS, the Chief of the Forest Service is delegated authority for emergency flood prevention measures program under the Flood Control Act (33 U.S.C. 701b-1) in 7 CFR § 2.60.

#### 510.2 Policy

##### A. Program Objective

The objective of the EWP Program is to provide assistance in implementing emergency recovery measures for runoff retardation and erosion prevention to relieve imminent hazards to life and property created by a natural disaster that causes a sudden impairment of a watershed.

##### B. Scope

EWP Program is designed for and provides technical and financial assistance that may be made available to a qualified sponsor, or landowners when a floodplain easement is the selected alternative by NRCS, upon a qualified sponsor or landowner's request when a Federal emergency is declared by the President or when a local watershed emergency is declared by the NRCS State Conservationist (STC). Emergency watershed protection is authorized in the 50 States, the

District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

### 510.3 Responsibilities

#### A. Deputy Chief for Programs

The Deputy Chief for Programs is responsible for –

- (1) Fund management to ensure that EWP Program funds are allocated, obligated, and dispersed in a timely and legally appropriate manner.
- (2) To the extent allowed by law, providing waivers to any provision of the EWP Program regulations (7 CFR 624) when the agency makes a written determination that such waiver is in the best interest of the Federal government.
- (3) Through the national EWP program manager, receive damage survey reports and provide notice of the availability of funds.

#### B. State Conservationist

The STC is responsible for –

- (1) Declaring local watershed emergencies and determining that watershed impairments exists.
- (2) Determining that the current condition of the land or watershed impairment poses a threat to health, life, or property.
- (3) Administering the EWP Program within their area of responsibility in compliance with applicable statutes, regulations, and policies.
- (4) Implementing the EWP Program and providing sufficient staff resources to meet the time limits of 7 CFR 624:
  - (i) Able to receive requests for assistance from sponsors within 60 days of the natural disaster occurrence, or 60 days from the date when the site is accessible.
  - (ii) On receipt of a formal request for EWP assistance, immediately investigate the emergency situation to determine whether EWP is applicable.
  - (iii) Submitting an initial cost estimation and damage survey report to the national EWP Program manager no later than 60 days from receipt of the sponsor request.
  - (iv) Obligating funds and ensuring construction is complete within 220 days after the date funds are committed, except for exigency situations in which case the obligation and construction must be completed within 10 days after the date the funds are committed.
- (5) Developing and maintaining the State's EWP emergency recovery plan (ERP).
- (6) Providing status and final reports to the national EWP Program manager.
- (7) Appointing a State EWP Program manager.

#### C. State EWP Program Manager

The State EWP Program manager is responsible for duties as assigned by the STC to administer the EWP Program in compliance with applicable statutes, regulations, and policies.

### 510.4 Waivers

To the extent allowed by law, the Deputy Chief for Programs may waive any provision of 7 CFR 624 when the agency makes a written determination that such waiver is in the best interest of the Federal government. A waiver to the EWP regulation also waives any policy provisions in this manual that are associated with the waived regulation. The STC may request a waiver with supporting justification that demonstrates the waiver is in the best interest of the Federal government.

## **Part 510 – Introduction**

### **Subpart B – Coordination**

#### **510.10 Pre-Disaster Preparedness**

Each STC must develop and maintain an EWP emergency recovery plan (ERP) that contains specific state procedures for implementing emergency recovery measures if a disaster occurs. The STC must review and update the ERP annually. The ERP must comply with laws, regulations, executive orders, and other requirements applicable to the EWP Program, and, at a minimum, should include:

- A. State specific emergency recovery process and flow chart.
- B. Contact information for local, state, and federal emergency managers.
- C. Interagency coordination and contacts for emergency consultations and permits .
- D. Description of typical recovery measures and implementation examples for the state.

#### **510.11 Coordination**

A. Presidential Declaration

If the President declares an area to be a major disaster area, NRCS will provide assistance which will be coordinated with the Federal Emergency Management Agency (FEMA) or its designee. NRCS and FEMA committed to enhancing coordination in a 2018 Memorandum of Understanding. As part of that effort, an Interagency Coordination and Operations (ICO) Plan describes coordination between NRCS and FEMA. The ICO Plan clarifies that the EWP Program’s specific authority is only available after NRCS determines that EWP measures are necessary (See Appendix D of the ICO Plan).

B. State and Local Watershed Emergencies

When the STC determines that a watershed impairment exists, but the President does not declare an area to be a major disaster area, FEMA does not coordinate assistance. In this situation, NRCS will assume the lead, provide assistance, and coordinate work with the appropriate State office of emergency preparedness and other Federal, tribal, or local agencies involved with emergency activities, as appropriate.

C. Impairment on U.S. Forest Service Lands

In the case where the watershed impairment exists solely on Forest Service (FS) System lands, the FS will determine the existence of the impairment, assume the lead, provide assistance and coordinate work with the appropriate State office of emergency preparedness and other Federal, tribal, or local agencies involved with emergency activities, as appropriate.

## **Part 511– Program Administration**

### **Subpart A – Eligibility**

#### **511.0 Sponsor Eligibility**

When the STC declares that a watershed impairment exists, NRCS may, upon request, make assistance available to a sponsor which must be a State or political subdivision thereof, qualified Indian tribe or tribal organization, or unit of local government with –

- A. A legal interest in or responsibility for the values threatened by a watershed emergency
- B. Is capable of obtaining necessary land rights
- C. Is capable of carrying out any operation and maintenance that may be required
- D. Private entities or individuals may receive assistance only through the sponsorship of a governmental entity.
- E. Sponsors must:
  - (1) Contribute their share of costs, as determined by NRCS, by providing funds or certain services necessary to undertake the activity. Contributions that may be applied towards the sponsor’s applicable cost share of construction costs include:
    - (i) Cash;
    - (ii) In-kind services such as labor, equipment, design, surveys, contract administration and construction inspection, and other services as determined by the State Conservationist; or
    - (iii) A combination of cash and in-kind services;
  - (2) Obtain any necessary real property rights, water rights, and regulatory permits; and
  - (3) Agree to provide for any required operation and maintenance of the completed emergency measures.

#### **511.1 Program Eligibility**

- A. Watershed Emergency
  - (1) A watershed emergency is required to provide EWP program assistance. Watershed emergency means adverse impacts to resources exist when a natural occurrence causes a sudden impairment of a watershed and creates an imminent threat to life or property.
    - (i) Watershed impairment means the situation that exists when the ability of a watershed to carry out its natural functions is reduced to the point where an imminent threat to health, life, or property is created. This impairment can also include sediment and debris deposition in floodplains and upland portions of the watershed.
    - (ii) Imminent threat means a substantial natural occurrence that could cause significant damage to property or threaten human life in the near future.
    - (iii) Property is defined as any artificial structure permanently affixed to the land such as, but not limited to, houses, buildings, roads, utilities, structures, dams. Standing timber, orchards, growing crops, other agronomic crops are not considered property under the EWP Program. If the threat is only to standing timber, orchards, growing crops, other agronomic crops, etc., it is not eligible for EWP Program assistance.
  - (2) NRCS will provide EWP assistance based upon the STC’s determination that the current condition of the land or watershed impairment poses a threat to health, life, or property. This assistance includes EWP measures associated with the removal of public health and safety threats, and restoration of the natural environment after disasters, including acquisition of floodplain easements.

B. Eligibility Limitations

Limitations to providing assistance include –

- (1) In cases where the same type of natural event occurs within a 10-year period and a structural measure has been installed or repaired twice within that period using EWP assistance, then EWP assistance is limited to those sites eligible for the purchase of a floodplain easement.
- (2) EWP assistance will not be used to perform operation or maintenance, such as the periodic work that is necessary to maintain the efficiency and effectiveness of a measure to perform as originally designed and installed.
- (3) EWP assistance will not be used to repair, rebuild, or maintain private or public transportation facilities, public utilities, or similar facilities.
- (4) EWP assistance, funded by NRCS, will not be provided on any Federal lands if such assistance is found to augment the appropriations of other Federal agencies.
- (5) EWP assistance is not available for repair or rehabilitation of nonstructural management practices, such as conservation tillage and other similar practices.
- (6) EWP assistance will not be used to repair coastal erosion to beaches, dunes, and shorelines, including those along the Great Lakes.
- (7) EWP assistance is only available when sponsors document they have exhausted or have insufficient funding or other resources available to provide adequate relief from applicable hazards.

C. Structural Practices

Sponsors may receive EWP assistance for structural, enduring, and long-life conservation practices including, but not limited to grassed waterways, terraces, embankment ponds, diversions, and water conservation systems, except where the recovery measures are eligible for assistance under the Emergency Conservation Program administered by the Farm Service Agency.

- (1) EWP assistance may be available for the repair of certain structural practices (i.e., dams and channels) originally constructed under Public Law 83–566; Public Law 78–534; Subtitle H of Title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451 et seq., commonly known as the Resource Conservation and Development Program); and the Pilot Watershed Program of the Department of Agriculture Appropriation Act of 1954 (Pub. L. 83–156; 67 Stat. 214). EWP assistance may not be used to perform operation and maintenance activities specified in the agreement for the covered structure entered into with the eligible local organization responsible for the works of improvement.
- (2) NRCS may authorize EWP assistance for modifying damaged practices when technology advances or construction techniques warrant modifications, including when modifications are the result of federal permitting or other requirements necessary to implement the recovery measure, and will be cost-shared.

D. Increased Protection

In cases other than those described in paragraph (C)(2) above, if the sponsor desires to increase the level of protection that would be provided by the EWP practice, the sponsor will be responsible for paying 100 percent of the costs of the upgrade or additional work.

## 511.2 Eligible EWP Measures

A. Requirements

- (1) NRCS will only provide assistance for measures that meet all four of the following conditions, and only activities that meet these four conditions are defined as EWP measures:
  - (i) Provide protection from additional flooding or soil erosion

- (ii) Reduce threats to life or property from a watershed impairment, including sediment and debris removal in floodplains and uplands
  - (iii) Restore the hydraulic capacity to the natural environment to the maximum extent practical
  - (iv) Are economically and environmentally defensible and technically sound
- (2) NRCS may determine that a measure is not eligible for assistance for any reason.
- (3) NRCS will not provide funding for activities undertaken by a sponsor prior to the signing of an agreement between NRCS and the sponsor.

B. Defensibility

Defensibility is a requirement for eligible measures and means the extent to which an action is –

- (1) More beneficial than adverse in the extent and intensity of its environmental and economic effects
- (2) In compliance with Federal, State, and local laws
- (3) Acceptable to affected individuals and communities
- (4) Effective in restoring or protecting the natural resources
- (5) Complete with all necessary components included
- (6) Efficient in achieving the desired outcome.

C. Technical Soundness

All engineering work performed by NRCS or for NRCS, including work by NRCS for others, must conform to the requirements of Title 210, National Engineering Manual. EWP measures may include one or more conservation practices. All EWP measures must be designed according to NRCS conservation practice standards and specifications, if applicable, found in the Field Office Technical Guide (FOTG).

## **Part 511– Program Administration**

### **Subpart B – Assistance**

#### **511.10 Requests for Assistance**

##### **A. Application**

Sponsors must submit a formal request to the State Conservationist for assistance within 60 days of the natural disaster occurrence (includes, but is not limited to, floods, fires, windstorms, ice storms, hurricanes, typhoons, tornadoes, earthquakes, volcanic actions, slides, and drought), or 60 days from the date when access to the sites becomes available. At a minimum, requests must include statements that –

- (1) Document their eligibility of an EWP sponsor
- (2) The sponsor understands their responsibilities of –
  - (i) Contributing their share of costs, as determined by NRCS, by providing funds or eligible services necessary to undertake the activity.
  - (ii) Obtaining any necessary real property rights, water rights, and regulatory permits.
  - (iii) Agreeing to provide for any required operation and maintenance of the completed emergency measures.
- (3) Includes information pertaining to the natural disaster, including the nature, location, and scope of the problems and the assistance needed.
- (4) Document they have exhausted or have insufficient funding or other resources available to provide adequate relief from applicable hazards. If this is unknown at the time of application, they acknowledge such documentation is required prior to receiving EWP assistance.
- (5) Acknowledgment that NRCS will not provide funding for activities undertaken by a sponsor prior to the signing of the agreement between NRCS and the sponsor.

#### **511.11 Assistance Funding**

##### **A. Steps to Fund Availability**

- (1) When a formal request for EWP assistance is received, the STC or designee must immediately investigate the emergency situation to determine whether EWP assistance is applicable.
- (2) The STC will complete a damage survey report (DSR) (see Part 512 of this manual for DSR contents), which provides the information pertaining to proposed EWP measure(s) and indicates the amount of funds necessary to undertake the Federal portion. The DSR will be submitted to the national EWP program manager no later than 60 days from receipt of the formal request from the sponsor. Conservation Technical Assistance (CTA) funds can be used for performing initial disaster assessments and preparing DSRs.
- (3) If national EWP funds are available, the Deputy Chief for Programs will provide a notice of funding availability, directly or through the national EWP program manager, that funds may be used for the proposed EWP measures identified in the DSR. Funds may be made available whole or in parts.
- (4) If the Deputy Chief for Programs determines that EWP funds are insufficient or otherwise not available, the national EWP program manager will notify the appropriate state EWP program manager that the DSR will be placed on a waitlist. Wait listed DSRs will be funded according to funding priorities. When funding becomes available for the waitlist, the state EWP program managers will confirm if funding is still needed prior to fund allocation to the STC.
- (5) Funds are considered committed to the STC when a DSR has been accepted by the national

Program manager and funds for the proposed emergency measures are made available to the STC in the financial management system.

- (6) Requests for additional funds for emergency measures may be approved by the Deputy Chief for Programs provided the STC documents that the EWP measures are still eligible (see Part 511.2 C).
- (7) Available funds may be returned to the national EWP account –
  - (i) At any point the STC determine the funds are no longer needed.
  - (ii) By the national EWP program manager, but only after 120 days from the time limits of Part 511.11(D) have passed.

B. Funding Priority

NRCS will provide EWP assistance based on the following criteria, which are ranked in the following order of importance –

- (1) Exigency situations.
- (2) Sites where there is a serious, but not immediate threat to human life.
- (3) Sites where buildings, utilities, or other important infrastructure components are threatened.
- (4) When reviewing 1 through 3 of this section, NRCS will take into account the following resources as they may affect the priority, including, but not limited to –
  - (i) Sites inhabited by federally listed threatened and endangered species or containing federally designated critical habitat where the species or the critical habitat could be jeopardized, destroyed, or adversely modified without the EWP measure.
  - (ii) 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 measure were not installed.
  - (iii) Sites where prime farmland supporting high value crops is threatened.
  - (iv) Sites containing wetlands that would be damaged or destroyed without the EWP measure.
  - (v) Sites that have a major effect on water quality.
  - (vi) Sites containing unique habitat, including but not limited to, areas inhabited by State-listed threatened and endangered species, fish and wildlife management areas, or State-identified sensitive habitats.
- (5) Other funding priorities established by the Chief of NRCS.

C. Fund Usage

- (1) NRCS will only provide funding for work that is necessary to reduce applicable threats.
- (2) 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.
- (3) NRCS will not provide funding for activities undertaken by a sponsor prior to the signing of the agreement between NRCS and the sponsor.
- (4) Prior to entering any agreement with NRCS, the sponsor must provide documentation the sponsor has exhausted or has insufficient funding or other resources available to provide adequate relief from applicable hazards.
- (5) Financial assistance (FA) funds are used for the NRCS contribution toward the construction costs of the emergency measures, including work performed to offset or mitigate adverse impacts as a result of the emergency measures. For each DSR, FA funds are provided to the STC based on the construction cost-share rate determined by NRCS (See Part 511.10) and obligation method. FA funds may be obligated by –
  - (i) An agreement
  - (ii) A Federal contract

- For Federal construction contracts, up to 100 percent of the construction cost may be provided to the STC as FA, and the sponsor will reimburse their cost share to NRCS as documented in a formal agreement between NRCS and the sponsor.
- (6) Technical Assistance (TA) funds are used for planning, design, contract administration, and construction inspection of emergency measures. For each DSR, TA funds are initially provided to the STC based on 15 percent of the eligible construction costs. TA funds may be used for –
    - (i) NRCS expenses administering EWP measures
    - (ii) An agreement
    - (iii) A Federal contract
  - (7) TA and FA funds must not be used for costs that are the responsibility of the sponsor (see Part 511.12 D.)
  - (8) EWP funds provided for a specific emergency event and provided a disaster project number (5000 series) should only be used for emergency measures for that specific event.

D. Assistance Time Limits

- (1) Funds must be obligated by the STC and construction completed within 220 calendar days after the date funds are committed to the STC (Part 511.11(A)(5)), except for exigency situations in which case the construction must be completed within 10 days after the date the funds are committed.
- (2) The STC is delegated the authority to waive the time limit:
  - (i) for up to 18 months from the disaster date declared on the electronic disaster report (EDR) for non-exigency measures
  - (ii) for up to 90 days from the disaster date declared on the EDR for exigency measures
- (3) All other time limit waivers are made by the Deputy Chief for Programs and may be requested by the STC.
- (4) All time limit waivers must include the following documentation with concurrence from both NRCS and the sponsor:
  - (i) The reasons that construction will not be complete within the required time limit
  - (ii) A schedule for completing the outstanding milestones and deliverables
  - (iii) An outline of the additional resources the sponsor and STC will direct to accomplishing the milestones and deliverables according to the project schedule
  - (iv) a determination that the waiver is in the best interest of the Federal Government
- (5) All agreement or contract extension requests must be submitted to the appropriate officer or management specialist no later than 30 calendar days before agreement or contract expiration.

## 511.12 Cost-Sharing

A. NRCS Contribution

- (1) The NRCS contribution as FA and TA is determined by NRCS and documented in an agreement between NRCS and the sponsor.
- (2) Except as provided for limited resource areas, the Federal contribution for construction of emergency measures may not exceed 75 percent of the construction cost of such emergency measures.
- (3) If NRCS determines that an area qualifies as a limited resource area, the Federal contribution for construction of emergency measures may not exceed 90 percent of the construction cost of such emergency measures.
- (4) Work done to offset or mitigate adverse impacts as a result of the emergency measures are calculated as construction cost of such emergency measures.

B. Limited-Resource Areas

- (1) Limited resource areas (LRAs) are defined as a county where:
  - (i) Housing values are less than 75 percent of the State housing value average; and
  - (ii) Per capita income is 75 percent or less than the National per capita income; and
  - (iii) Unemployment is at least twice the U.S. average over the past 3 years based upon the annual unemployment figures.
- (2) NRCS will use the recent National census information available when determining LRAs.

C. Congressional Policy Declaration

The sponsor's share of the costs for the construction of EWP eligible measures may be waived in American Samoa, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands in accordance with 48 U.S.C. Section 1469(d).

D. Sponsor Contribution

- (1) Sponsors must contribute their share of the construction costs, as determined by NRCS, by providing funds or certain services necessary to undertake the activity. Contributions that may be applied towards the sponsor's applicable cost share of construction costs include:
  - (i) Cash;
  - (ii) In-kind services such as labor, equipment, design, surveys, contract administration and construction inspection, and other services as determined by the STC; or
  - (iii) A combination of cash and in-kind services.
- (2) Sponsors are responsible for the following costs, and these costs do not apply to the sponsor's construction cost share:
  - (i) Associated with obtaining any necessary real property rights, water rights, and regulatory permits.
  - (ii) Necessary to provide for any required operation and maintenance of the completed emergency measures.
  - (iii) All services not considered in-kind as determined by the STC.
- (3) Sponsors cannot use funds received from a Federal grant as their matching share for EWP recovery measures, unless there is statutory authority allowing specific grants to be used as a federal match.

### 511.13 Exigent Situations

A. Definition

Exigency means those situations that demand immediate action to avoid potential loss of life or property, including situations where a second event may occur shortly thereafter that could compound the impairment, cause new damages or the potential loss of life if action to remedy the situation is not taken immediately.

B. Administering Exigencies

If an exigency is anticipated, the state EWP program manager should immediately contact the national EWP program manager to expedite funding availability. Unless modified by a waiver, all policies and procedures in this manual apply to exigencies, with the follow exceptions –

- (1) Priority EWP assistance is available to alleviate exigency situations. Exigency situations are ranked as the top funding priority for recovery measures. NRCS may approve assistance for temporary correction measures to relieve an exigency situation until a more acceptable solution can be designed and implemented.
- (2) Funds must be obligated and construction completed within 10 days after the date funds are committed to the STC for exigency situations.

## **Part 512– Program Requirements**

### **512.0 Rapid Survey**

Following a natural occurrence with the potential to cause a watershed impairment, the STC may conduct a rapid survey to confirm if a watershed impairment exists and poses a threat to health, life, or property.

### **512.1 Electronic Disaster Reports**

STCs must submit an EDR to the national EWP Program manager after an emergency is declared for events that may lead to a watershed impairment and sponsor requests for EWP assistance. The EDR is required before any funding is made available for recovery assistance. Emergency declarations may be for Federal emergencies declared by the President or local watershed emergencies declared by the STC. EDRs may be updated as disaster declarations are added or expanded. The EDR must include –

- A. Location information, state, counties affected.
- B. Event name, date, and type.
- C. Emergency declaration type.
- D. Rapid survey results, if conducted.

### **512.2 Disaster Project Numbers**

After receiving an EDR, the national EWP program manager will assign a disaster project number (5000 series) for each disaster event. The assigned number will be used to account for funds expended in NRCS’s financial accounting system, as well as for correspondence, communications, and reporting.

### **512.3 Damage Survey Report and Environmental Evaluation**

#### **A. Damage Survey Report Team**

Once a sponsor has made a complete formal request for assistance, the STC will establish an interdisciplinary team to evaluate the site and complete the damage survey report (DSR) and environmental evaluation. Sponsor should be provided an opportunity to contribute staff to the DSR team for activities within their jurisdiction. Expertise recommended for the team should include the following disciplines:

- (1) Personnel with EWP program experience
- (2) Engineering
- (3) Resource conservation and planning
- (4) Economics
- (5) Biology
- (6) Cultural resources and historic properties
- (7) Agreements and contracting
- (8) Other disciplines as needed.

#### **B. Damage Survey Report Documentation**

- (1) The DSR is used by the STC to document program applicability, measure eligibility, funding priorities, and cost estimates for recovery measures.
- (2) At least one DSR per eligible sponsor request must be completed by the STC and submitted to the national EWP program manager.

- (i) NRCS may determine that a measure is not eligible for assistance. for any reason. If the STC makes an ineligibility determination, additional analysis is not needed, and the DSR submission will document the reason the site is ineligible.
- (ii) Multiple DSRs may be submitted per sponsor request if needed for clarity and documentation management.
- (3) The DSR must document the following information and determinations –
  - (i) Disaster project number and DSR number.
  - (ii) Disaster date and date when access to the sites becomes available.
  - (iii) Sponsor Information –
    - Requester is a qualified sponsor
    - Documentation that the sponsor has exhausted other resources or have insufficient funding available to provide adequate relief from applicable hazards
    - Date sponsor submitted a formal request for assistance to the STC
  - (iv) Program eligibility –
    - Watershed impairment exists or current condition of the land poses a threat to health, life, or property
    - No more than two similar structural measures have been completed within the previous 10-years for the same type of natural event at the same site
    - Not for operation or maintenance
    - Not for repair, rebuild, or maintain private or public transportation facilities, public utilities, or similar facilities
    - Not on Federal lands if EWP assistance is found to augment the appropriations of other Federal agencies
    - Not for repair or rehabilitation of nonstructural management practices
    - Not eligible for assistance under the Emergency Conservation Program administered by FSA
  - (v) EWP measure eligibility –
    - Provides protection from additional flooding or soil erosion
    - Reduces threats to life or property from a watershed impairment, including sediment and debris removal in floodplains and uplands
    - Restores the hydraulic capacity to the natural environment to the maximum extent practical
    - Are economically and environmentally defensible and technically sound
  - (vi) Number of locations and extent of damage, including environmental and cultural resources at risk, because of the watershed impairment
  - (vii) Estimated damages to the values at risk if the threat is imminent but not yet realized
  - (viii) Events that must occur for any imminent threat to be realized and the estimated probability of their occurrence both individually and collectively
  - (ix) Estimates of the nature, extent, and costs of the emergency measures to be constructed to recover from an actual threat or relieve an imminent threat
  - (x) Thorough description of the beneficial and adverse effects on environmental resources, including fish and wildlife habitat
  - (xi) Description of water quality and water conservation impacts, as appropriate
  - (xii) Analysis of effects on downstream water rights
  - (xiii) 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 (see Environmental Evaluation below)
  - (xiv) One of the following construction cost share rates –
    - Up to 75 percent
    - Up to 90 percent for areas that meet the definition of a limited resource area

- An alternate rate documented in a waiver
- (xv) Funding priority.

C. Environmental Evaluation

- (1) The Environmental Evaluation worksheet (Form NRCS-CPA-52) is the part of planning that inventories and estimates the potential effects on the human environment of alternative solutions to resource problems. The CPA-52 provides for the documentation of that part of the planning process and was designed to assist with compliance requirements for applicable Federal laws, regulations, Executive Orders, and NRCS planning policy.
- (2) All emergency measures documented in a DSR must include a complete CPA-52.
- (3) A DSR may be supported by one or more CPA-52s.
- (4) All compliance items the CPA-52 identifies as requiring additional action must be resolved prior to construction of the emergency measures.

## 512.4 Planning Considerations

- A. All EWP planning will follow NRCS’s nine step planning process. New planning of long-term structural actions not categorically excluded or addressed in an existing NEPA document may require PR&G analysis.
- B. 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.
- C. When planning emergency recovery measures, NRCS will emphasize 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 measures may include, but are not limited to, timing of the construction to avoid impacting fish spawning, clearing of rights-of-way, reshaping spoil, debris removal, use of bioengineering techniques, and revegetation of disturbed areas.
- D. Mitigation actions needed to offset potential adverse impacts of the EWP measures should be planned for installation before, or concurrent with, the installation of the EWP Program measures. In rare occurrences where mitigation cannot be installed concurrently, plans will require mitigation be accomplished as soon as practical. NRCS may determine that a measure is not eligible for assistance for any reason, including economic and environmental factors or technical feasibility.

## 512.5 Operation and Maintenance

- A. Responsibility
  - (1) The need for an O&M agreement will be determined by the STC on non-Federal lands. Where an O&M agreement is necessary, the sponsor will provide the O&M and adopt standards for Federal grant property (34 CFR part 256). Where no O&M agreement is necessary, other arrangements will be made for complying with Federal property management.
  - (2) The Federal agency administering the Federal land is responsible for operating and maintaining emergency measures installed on Federal land.
- B. Performance
  - (1) O&M is a prerequisite for approval of Federal emergency assistance when:
    - (i) The emergency measure needs to be operated and maintained in order to serve its intended purpose, or

- (ii) The emergency measure needs to be operated and maintained to ensure that it will not become hazardous.
- (2) The sponsor’s obligations for O&M begin when the measure is installed and extend for the duration of the time required for the emergency measure to serve the purpose for which it is installed. The duration required will be documented in the O&M agreement.
- (3) Operation and maintenance are to be performed in a manner that will protect the environment and otherwise comply with NRCS, State, and local requirements. The method of performing O&M is at the option of the sponsor(s).

## **Part 513 – Recovery Reporting**

### **513.0 Status Reports**

The STC must provide a report by the 15<sup>th</sup> day of each month to the national EWP program manager for all funded DSRs. The monthly reports must –

- A. Include the DSR emergency recovery measures and associated agreement and contract statuses, including implementation milestone tracking.
- B. Continue for each funded DSR until the measures described in the DSR are either withdrawn from consideration or construction is completed.

### **513.1 Final Report**

When all emergency recovery measures for a disaster event (5000 series disaster project number) are complete, the STC will submit a final report to the national EWP program manager within 30 days after the closeout of the last agreement of the disaster event. The final report must include –

- A. The type and amounts of emergency recovery measures installed.
- B. The benefits provided.

### **513.2 Records Management**

Records for structural recovery measures will be maintained by the STC for a minimum of 10 years to check for repetitive damage limitations (511.1 B (1)). All other records will be maintained in accordance NRCS records management policy and guidance.