

EMERGENCY WATERSHED PROTECTION PROGRAM (EWP)

Wisconsin Sponsor's Guide



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USDA - NATURAL RESOURCES CONSERVATION SERVICE
EMERGENCY WATERSHED PROTECTION (EWP) PROGRAM
SPONSOR'S GUIDE

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This document is intended to provide an overview of the EWP program and answer many frequently asked questions. Additional information may be obtained from the NRCS web site: <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/ewp>

Introduction

The USDA Natural Resources Conservation Service (NRCS) is authorized under Section 216 of Public Law 81-516, Section 403 of Title IV of the Agricultural Credit Act of 1978, Public Law 95-334, and Section 382, Title III, of the 1996 Farm Bill PL 104-127 to provide technical and financial assistance for emergency watershed protection. Codified rules for administration of the Emergency Watershed Protection (EWP) program are set forth in 7 CFR 624.

The EWP program can be used whenever a natural disaster creates a sudden watershed impairment that is a threat to life and/or property. The EWP program is used to provide both technical and financial assistance to restore community's impaired watershed(s) to a stable hydrologic function. Emergency watershed protection consists of measures to reduce hazards to life and property from natural disasters such as floods, wildfires, tornadoes, and drought. Persons or entities must have exhausted or have insufficient funds or other resources available to provide adequate relief.

The term "property" applies to significant infrastructures such as dwellings, office buildings, utilities, bridges, and roads. Land is not defined as property for the EWP program.

Funding for the EWP program is not a budgeted line item for NRCS. Funding for this program is in the form of supplemental appropriations from Congress on an as needed and available basis. Therefore, funding to carry out this program is never guaranteed to be available at all times. Upon receipt of funding, NRCS will enter into an agreement with the sponsor to repair eligible sites approved for funding.

The EWP program cannot be used for general maintenance of stream banks and other structures, or for long-term flood control. Normal rainfall events and required maintenance activities do not meet these criteria.

All applicable Federal, state, and local laws, rules and regulations must be adhered to while carrying out emergency watershed protection measures.

Typical EWP program practices in Wisconsin include;

- Sediment or debris removal
- Stream bank stabilization
- Levee, dike, and dam repair
- Grade stabilization
- Erosion control
- Floodplain easements
- PL-566 dam repairs

Declaration of an Emergency

NRCS may be involved in two (2) different types of emergencies:

- Presidentially Declared Disaster
- Local Disaster

Through Public Law 93-288, the President of the United States can declare an area a “major disaster area.” When a Presidentially declared disaster occurs, the Federal Emergency Management Agency (FEMA) is responsible for coordinating all disaster activities. EWP program assistance may be provided if the NRCS State Conservationist (STC) determines the EWP program is applicable.

In the absence of a Presidentially declared disaster and when local conditions warrant, the NRCS STC may declare a “local” emergency and, pending funding, provide assistance to requesting sponsors under the EWP program. FEMA is usually not involved in recovery activities for local disasters, creating a greater coordination role for NRCS.

Types of Emergencies

There are two (2) categories of emergency work within the EWP program:

- Exigency and
- Non-exigency

Exigencies are emergency situations that require an immediate response (1 to 10 days) to protect against an imminent threat to life and/or property. An “imminent threat” is present when there is the potential for a subsequent natural event of the same intensity or less that will cause significant damage to property and/or threaten human life.

All other situations are termed “non-exigencies” and should be completed within two hundred and twenty (220) days from the date Wisconsin NRCS receives EWP funding.

Eligible Sponsors

EWP assistance must be administered through an eligible project sponsor. Sponsors must be:

- A local unit or subdivision of state government
- state government
- Native American tribes
- Potential Sponsors
 - Drainage districts
 - Watershed districts
 - Land and Water Conservation Departments
 - County governments
 - Municipal, township or local unit of government
 - Native American Tribes
- A project sponsor must have:
 - A legal interest in, or responsibility for, the areas threatened by a watershed emergency
 - Be capable of obtaining necessary land rights and required permits
 - Be capable of performing all required operation and maintenance (O&M) responsibilities
 - Administer contracting when part of a locally led contract.

Financial Assistance

NRCS provides financial assistance up to 75 percent of the construction costs for installing eligible emergency measures to protect lives and property. Sponsors are responsible for providing their 25 percent cost-share. Work **must not** begin before the execution of an agreement with NRCS.

Applying for EWP Assistance

Following a natural disaster, if a sponsor believes they are eligible for EWP assistance, the following steps will be used for requesting assistance.

- The sponsors will tour the area with the NRCS District Conservationist (DC) to evaluate watershed impairments that meet EWP program criteria.
- Sponsor submits a formal request to the NRCS STC for EWP assistance, within 10 days for exigency sites and within 60 days for non-exigency sites. See Appendix A for sample letter of request.
- NRCS and the sponsor will complete a damage survey report (DSR) for each site damaged from natural disasters. Sponsors will determine priorities for emergency assistance and coordinate work with other Federal and local agencies.

Damage Survey Reports

The Damage Survey Report (DSR) is used to document damage caused by a natural disaster, repair methods, and costs required to correct the problem. It is important to complete the DSR as completely and accurately as possible since it is the document used to determine eligibility and justify the expenditure of EWP funds. The costs and benefits computed for the DSR are estimates; however, they should be reasonable and based on the best professional judgment. It is not expected that an excessive amount of time be expended completing the DSR. Generally, a majority of the DSR can be completed on-site based on conditions observed and with minimal surveys and other measurements.

For a site to be eligible for EWP program assistance, all of the following must apply

- Damage was the result of a natural disaster
- Recovery measures would be for runoff retardation or soil erosion prevention
- Threat to life and/or property
- Event caused a sudden impairment to the watershed
- Imminent threat was created by this event
- For structural repairs, the site has not been repaired twice within the last ten years?
- Economic, environmental, and social documentation adequate to warrant action?
- Proposed action technically sound?

Implementing the Works of Improvement

Upon receipt of funding, NRCS will enter into a cooperative agreement with the sponsor to repair eligible sites approved for funding. The agreement spells out the sponsor's and NRCS's roles and financial commitments. See Appendix B for sample cooperative agreement.

The cooperative agreement obligates funds for the repair and establishes the time period (220 days for non-exigency and 10 days for exigency projects).

The contracting mechanism used for implementing EWP recovery efforts is typically through local contracting arranged through the cooperative agreement between the sponsor and NRCS.

During performance of the cooperative agreement, NRCS will appoint a liaison to provide assistance. The sponsor will administer the project with minimal agency collaboration, participation, or intervention as long as it is performed in accordance with the terms of the project agreement. NRCS oversight will include the following:

- Review and concurrence of recipient construction plans and specification prior to award.
- Normal Federal management during the project such as site visits, performance reports, financial reporting, and audits to ensure that standards, objectives, terms, and conditions of the project are accomplished.
- General statutory requirements agreed to in advance of the award such as civil rights, environmental protection, and provisions for the handicapped.
- Review of performance after completion.
- Involvement to correct deficiencies in project or financial performance in accordance with the terms of the agreement.

Supporting Documentation

Files should be maintained on each EWP funded agreement for a period of three years after the project is completed. If the project is the object of litigation that begins before the end of the three-year period, records will need to be maintained until the end of the litigation or the three-year period, whichever is longer.

Land rights

The sponsor must possess the legal authority to obtain landrights. The sponsor is responsible to obtain the necessary real property rights, including any rights needed for the relocation of fences, bridges, etc, and submitting a signed Form NRCS-ADS-78, "Assurances relating to Real Property Acquisition,"

Permits

EWP work often involves construction in and along streams. The sponsor si responsible for acquiring all required federal, state, Tribal, and local permits prior to construction.

Design Process

Prior to starting the design, the sponsor's engineer shall meet with the NRCS Project Manager to discuss the design parameters. NRCS will provide standard drawings and details used for similar sites. The design process will be as follows.

- Sponsor will schedule a pre-design conference with the NRCS Liaison to set design parameters and schedule.
- Sponsor will submit 30, 60, 90 percent plans and specifications to NRCS for review and concurrence by NRCS engineer.
- Sponsor will provide NRCS a final copy of construction plans and specifications signed and sealed by a registered professional engineer, quality assurance plan, and operation and maintenance plan prior to start of construction and preferably prior to bid solicitation for locally led contracting.

Cost Share

NRCS funding to the Sponsor is in two separate NRCS funding accounts.

Technical Assistance (TA) is for technical and administrative costs directly charged to the project. NRCS pays up to 100% of these costs. (The agreement may limit NRCS dollar amounts)

Financial Assistance (FA) is for on-the-ground construction work. NRCS pays up to 75% of total construction costs. The sponsor is responsible for 25% of these total construction costs in either direct cash expenditures by the Sponsor or the value of in-kind materials and/or construction services. (The agreement may limit NRCS dollar amounts)

In order for funds to be expended according to NRCS program requirements, the Sponsor must account for expenditures separately.

Reimbursement

Sponsors requesting reimbursement for EWP approved repair costs must submit a completed form SF-270 and include documentation for any eligible expenditure that has not been previously submitted. Documentation will include, as a minimum, a certification of completion signed by the sponsor and a summary (labor, materials, equipment, contracts, etc.) of the actual eligible construction cost.

Form SF-270, Request for Advance or Reimbursement can be submitted as often as needed to receive reimbursement. Sponsors will be paid by electronic funds transfer (EFT) in approximately 14 days after the reimbursement request is approved by NRCS.

See Appendix J for a copy of SF-270.

Operation and Maintenance

The sponsor will implement the operation and maintenance on all EWP structural measures. NRCS may periodically visit the site to determine if the measure is function as planned.

Frequently Asked Questions

Q. What is sudden watershed impairment?

Sudden watershed impairment is caused by a natural disaster and is widespread over a watershed area. The damage renders the streams, creeks, and drainage ways incapable of their normal function and threatens life or property.

Q. What can be used to satisfy the sponsor's 25% cost-share requirement for construction work?

Either cash or "in-kind" construction services or a combination of the two. In-kind construction services include costs associated with materials, equipment, and labor.

Q. What is an exigency site and how long does the sponsor have to fix such a site?

An exigency situation exists if there is an immediate threat of damage to life or property—immediate action must be taken. After the sponsor is notified that funds are available, work on an exigency site must be completed within 10 days.

Q. How long does the sponsor have to fix non-exigency sites?

All sites should be repaired as soon as possible. However, work on non-exigency sites must be completed within 220 days after the EWP funds have been made available to Wisconsin NRCS. On smaller projects, less than 220 days may be required.

Q. What type of easements are required for EWP work?

For permanent, long-life measures that are off the sponsor's right of way (R.O.W.), permanent easements should be obtained. Work permits may be adequate for work consisting of shaping, vegetation, and minor rock structures. The sponsors are responsible for obtaining the easements or permits they deem necessary for accomplishing the work and for providing future maintenance. The sponsors must provide NRCS written assurance that the necessary easements and permits have been obtained, but they do not have to provide copies of the easements.

Q. Which sites must have a site-specific O&M Plan prepared?

Permanent, long-life measures such as gabion structures, large pipe drop structures, large grade stabilization structures, etc., require a formal Operation and Maintenance (O&M) Plan. O&M on these sites is required for at least 5 years.

Q. What kinds of damage are not eligible for repair under the EWP program?

- Damage that would be expected from a “normal” storm event. This is considered routine operation and maintenance.
- Damage that existed before the disaster event.
- Washed-out roads, road surfaces, bridges, culverts, utilities, and similar structures.
- Erosion that only threatens farmland, woodland, or pastureland.
- Damage to beaches, dunes, or shorelines.
- Damage to structures installed by other federal agencies, such as canals and drainage channels built by the Corps of Engineers.

Q. The sponsor or landowner has already performed emergency repair work at a location prior to requesting assistance from the EWP program. Can this work be reimbursed through the EWP program?

No.

Q. How “fancy” (neat and detailed) do construction drawings have to be?

Drawings only need to be as detailed as is necessary to convey the information required to construct the work. The amount of detail should be commensurate with the complexity of the site.

Q. Can some of the sites in a project agreement be paid before all the sites included in the agreement are complete?

Yes, with a SF-270, Request for Advance or Reimbursement. The sponsor will have to pay for the works of improvement prior to reimbursement and provide supporting documentation to justify the reimbursement. It is the sponsor’s responsibility to track expenses (labor, materials, equipment, services) and keep accurate records for reimbursement.

Q. If the sponsors are unable to complete the agreed-to-work within the allotted time, what should they do?

They should notify the NRCS district conservationist and request a time extension to the STC at least 30 days prior to the agreement completion date. If they are working diligently to complete the work and delays have been outside the sponsor’s control, an extension will generally be granted.

Sample Letter for Requesting EWP Assistance

State Conservationist
USDA Natural Resources Conservation Service
8030 Excelsior Drive, Suite 200
Madison, WI 53717

Dear: State Conservationist

We request Federal assistance under the provisions of Section 216, Public Law 516, to restore damages sustained in *<Enter Name of County, City, etc.>* by storms of *<Enter Name and/or Type of Disaster that Occurred>* on *<Enter Date Disaster Occurred>*. This work is needed to safeguard lives and property from an imminent hazard of *<Enter Hazard Type>*.

Due to *<Enter Type of Disaster on Enter Date>* the *<Describe the type or types of damage and locations (e.g. streambank next to the County Road Bridge 2A is eroding and threatening to damage the bridge and eventually take the bridge out if the erosion is not stopped.)>*

We understand, as sponsors of an Emergency Watershed Protection project that our responsibilities will include acquiring landrights and any permits needed to construct, and if required, to operate and maintain the proposed measures.

We do not have sufficient funds to provide adequate relief from the *<Enter Name of Disaster>* hazards. We understand that as a sponsor of this project we are required to provide a minimum of 25% of the total installation cost.

The names, addresses, and telephone numbers of the administrative and technical contact persons in our organization are as follows:

<Enter Name> <Title>> <Address> <Telephone Number> <Email address> <FAX Number of Sponsor's Representative>

Please contact *<Enter Person's Name from Above Paragraph>* for any additional information that you might need in assessing our request.

Sincerely,

<Enter Name>
<Enter Title