

SUMMARY

S.1 Background and Organization of Summary

The Emergency Conservation Program (ECP) provides emergency funding to farmers and ranchers who have suffered damage to their agricultural lands as a result of severe wind erosion, floods, hurricanes, drought, or some other natural disaster. ECP is permanently authorized by Title IV of the Agricultural Credit Act of 1978 (P.L. 95-334) and is administered by USDA's FSA. Funds for the program are allocated to States after the ECP designation has been authorized. Initial funding is based on the estimates needed to begin implementing ECP.

The goal of ECP is to restore agricultural lands to a productive state following a natural disaster and to provide assistance to agricultural producers to carry out emergency water conservation or water enhancing measures during periods of severe drought. State and County Farm Service Agency (FSA) committees administer ECP with technical support provided by the Natural Resources Conservation Service (NRCS). During periods of severe drought the determination to implement the program is made by the FSA's Deputy Administrator for Farm Programs.

This Programmatic Environmental Impact Statement (PEIS) analyzes the impacts associated with the proposed changes to the ECP, which are meant to clarify current regulations and expand upon them to reflect current policy.

This Summary presents a synopsis of the PEIS and is organized for ease of reading as follows, with the PEIS source chapters indicated:

- S.2 Purpose and Need for the Action (Chapter 1)
- S.3 Affected Environment (Chapter 2)
- S.4 Current Program (Chapter 3)
- S.5 Alternatives including the Proposed Action (Chapter 4)
- S.6 Comparison of Impacts of the ECP Alternatives (Chapter 4, based on the impacts analyzed in Chapter 5)

S.2 Purpose of the Proposed Action

FSA's Proposed Action is **ECP's Improvement and Expansion**. The **Purpose of the Proposed Action** is to propose changes in the ECP that will make the program easier to administer and prevent potential abuse. This action would also make ECP's cost-share rates consistent with other USDA programs.

Under the current regulations, the maximum rate of cost-share assistance is calculated according to a sliding scale. To eliminate confusion, this new rule would provide, instead, for a standard maximum percentage of 75 percent to be used for all costs associated with the practice for which the cost-share is to be received. Payments would continue to be limited by a number of other criteria and by the provision that the reimbursement may not exceed \$200,000 per person per disaster. Under this proposed rule, the local county FSA committees (COC) would be allowed to

permit reimbursements up to 75 percent for all reimbursable costs. However, the per person reimbursement cap would still apply along with certain additional allowances that are made with respect to limited resource producers. Under the proposed rule, a special 90 percent rate would be allowed for these limited resource producers.

The new changes would have little or no effect on land eligibility or existing ECP conservation practices outlined by the current program. However, provisions would be added specifying that, in certain instances, ECP funding can be made available for certain measures dealing with confined livestock. Assistance for confined livestock operations cannot be allocated for replacing or repairing buildings but could be used to help with cleanup efforts on those buildings, or supply waters during times of severe drought.

Other technical and clarifying changes have been made and provisions have been added regarding schemes, devices, and debt avoidance to assure that the program is operated in a manner that is most beneficial to farmers and best serves the public. Provisions have been added to assure that special consideration be given to limited resource producers in order that the most beneficial use of ECP funds may be obtained.

S.3 Affected Environment

The geographic scope of the environment potentially affected by ECP encompasses all agricultural lands of the United States and its territories. Any of these lands could be impaired by a natural disaster, with attendant impacts to the terrestrial and aquatic ecosystems and human resources associated with these agricultural lands.

This chapter first defines what agricultural lands are eligible for ECP cost-share assistance and describes the different agricultural regions of the U.S. It then goes to give a general description of the soil and water resources associated with agricultural lands, their watershed ecosystems, including aquatic habitats, floodplains, wetlands, riparian areas, and their terrestrial ecosystems. The focus of the discussion is on the characteristics that indicate their general condition or health. The chapter then describes the characteristics of affected human communities, focusing on the rural communities most likely to be affected by disasters and ECP activities.

S.4 Current Program

ECP provides emergency cost-share assistance to farmers and ranchers to restore agriculture lands damaged by severe wind erosion, floods, hurricanes, or other natural disasters. It is administered by FSA state committees (STC) and county committees (COC) and is currently authorized by the Agricultural Credit Act of 1978 Title IV, Public Law 95-334, 16 U.S.C. 2201-2205, as amended. Regulations for FSA administration of ECP are codified at 7 CFR Part 701.

This program is available for drought aid but is not limited to drought or other emergencies. It does not require a major disaster determination by the President or Secretary of Agriculture to provide local assistance. Except for drought, the COC may implement the program with the concurrence of the STC. During periods of severe drought the determination to implement the program is made by the FSA's Deputy Administrator for Farm Programs.

Funding for ECP is appropriated by Congress, usually through supplemental appropriations in response to disasters, and is held in reserve at the national level. Funds are allocated after a determination has been made authorizing ECP designation. Funds are allocated to States based on the estimate of funds needed to begin implementing ECP.

Immediately following a natural disaster event, COC visit the site and make an overall assessment of the damage to ensure that the damage meets the minimum ECP requirements. The COC then consults with STC to obtain concurrence before approving the disaster damage for cost-share assistance. The STC is responsible for administering ECP within the State according to national policy. Eligibility for the program is established after the COC determines whether:

- The natural disaster has created new conservation problems which, if not treated would impair or endanger the land;
- Materially affect the productivity of the land;
- Represent unusual damage that does not occur frequently;
- Or be so costly to repair that Federal assistance is required to return the land to productive agriculture use.

S.4.1 Eligible Natural Disasters

The FSA Emergency Conservation Program Handbook identifies states that natural disasters and major disasters are interchangeable to mean any:

- Hurricane or typhoon
- Tornado
- High winds, including micro-bursts
- Storms, including ice storms
- High water and Wind-driven water
- Tidal waves
- Earthquakes
- Volcanic eruptions
- Landslides
- Mudslides and Floods
- Severe snowstorms
- Drought
- Wildfire
- Other natural phenomenon

S.4.2 Activities Authorized Under each ECP Practice Category

Funds received by ECP to rehabilitate farmlands damaged by natural disaster may be used for the purposes listed in Table S.4-1.

| Table S.4-1. Current ECP Program Practices | |
|---|---|
| CODE | ECP Practice |
| EC1 | Debris removal |
| EC2 | Grading and shaping of farmland |
| EC3 | Fence restoration |
| EC4 | Restoring structures |
| EC5 | Emergency Wind Erosion Control Measures |
| EC6 | Water conservation measures, which include providing water for livestock and emergency irrigation in periods of severe drought |
| EC7 | Other conservation measures may be authorized by COC with the approval of the State Committee and the Agency's Deputy Administrator for Farm Programs |
| EC8 | Field Windbreaks and Farmstead Shelterbelts Emergency Measures |

S.4.3 Ineligible Measures

Measures ineligible for cost-share assistance include:

- Mowing of pastures;
- Measures to control insects or rodents;
- Measures to treat plant diseases or nematodes;
- Engineering charges;
- Consultant fees, or permit fees;
- Chopping or shredding residues from crops for insect control;
- Providing land;
- Right to use water;
- Power source;
- Meeting supplemental requirements, such as abstaining from harvesting; producer's transportation costs;
- Weed control measures;
- Loss of or reduction in revenue from the land;
- Rent or other costs of using land;
- Cost of pumps and pumping accessories, except for permanently installed pumps in wells during drought emergencies.

S.5 Alternatives including the Proposed Action

S.5.1 Scoping for the ECP Programmatic EIS

FSA conducted formal scoping for the ECP PEIS, meeting with and soliciting input from representatives of other Federal, state, and local agencies, and the general public. Public scoping meetings were held in six cities located around the country. The Federal Register and national newspapers published notices that FSA was preparing a PEIS and that input was being sought through public scoping meetings, a toll-free phone line, regular mail, and email. The Proposed Action and Alternatives reflect ideas voiced and recommendations made during that scoping process.

S.5.2 Definition of ECP Alternatives including the Proposed Action

Three Program Alternatives described here were analyzed in detail for environmental impacts:

1. No Program- Baseline
2. No Action- Current Program
3. Proposed Action- Improvement and Expansion of the Current Program (FSA's Preferred Alternative)

No Program (Baseline)

The No Program alternative is used as an analytical device to establish a baseline upon which to evaluate the other alternatives. This alternative represents a true baseline rather than a "permanent legislation" alternative, since not enough information exists to define the latter. The analysis will establish a baseline by describing what would happen if ECP had never existed.

No Action (Current Program)

Under the No-Action Alternative, FSA State and county committees would continue to administer the ECP under its current regulations. FSA would not make substantive changes in its administration, the mechanisms for review of projects before funding, or follow-up on the program's procedures after completion. FSA would continue to set cost-share levels up to 64 percent based on a sliding rate. FSA would not have a special cost-share level for limited resource producers. This alternative simply continues the current program.

Proposed Action (Improvement and Expansion)

Under the Proposed Action, FSA would institute changes to facilitate the administration of the program without incurring significant additional costs while making the ECP cost-share rates consistent with other USDA programs. Also it is meant to prevent potential abuse such as when a large practice is subdivided into several smaller practices to avoid lower reimbursement rates applicable at the higher loss levels. It is also meant to improve program delivery and ensure the economic, environmental, and social defensibility and technical soundness of its decisions and practices. FSA would also expand the ECP to provide extra funding to those limited resource producers to deal with disaster recovery work it has not addressed previously.

S.5.2.1 Elements of the Proposed Action

The Proposed Action is comprised of 4 new elements:

- Does away with the tiered level of cost sharing currently in use, allowing for a consistent cost-share rate;
- Tentatively added provisions for measures dealing with confined livestock;
- Provides for a higher level of cost-share assistance for limited resource producers, and;
- Requires the completion of the environmental evaluation checklist form, "FSA 850," prior to awarding of the cost-share assistance.

The proposed changes in ECP are meant to clarify current regulations and expand upon them to reflect current policy. It is meant to make the program easier to administer and prevent potential abuse such as when a large practice is subdivided into several smaller practices to avoid lower reimbursement rates applicable at the higher loss levels. This action will also make ECP cost-share rates consistent with other USDA programs. The new changes have little or no effect on land eligibility or existing ECP conservation practices outlined by the current program. However, provisions will be added specifying that in certain instances ECP funding can be made available for certain measures dealing with confined livestock. Assistance for confined livestock

operations cannot be allocated for replacing or repairing buildings but could be used to help with cleanup efforts on those buildings, or supplying water in times of sever drought.

Other technical and clarifying changes have been made and provisions have been added regarding schemes and devices and debt avoidance to assure that the program is operated in a manner that is most beneficial for farmers and the public. Provisions have been added to assure that special consideration be given to limited resource producers in order that the most beneficial use of ECP funds may be obtained. The definition of a 'limited resource producer' will be determined by the Deputy Administrator, but is tentatively defined as any producer with an annual gross income of \$20,000 or less derived from all sources, including income from a spouse or other members of the household, for each of the prior 2 years; or less than 25 cropland acres aggregated for all crops, where the majority of the producer's annual gross income is derived from such a farm or farms, but the producer's annual gross income from all farming operations does not exceed \$20,000. Final authorization of this definition is yet to be made by the Deputy Administrator.

The new rule would change how the maximum cost-share level is computed. Under the current regulations, the maximum rate of cost-share is calculated according to a sliding scale, with a higher cost-share percentage being allowed for the first part of the costs of the practice up to a certain limit, and a lower percentage being allowed for additional costs. To eliminate confusion, this new rule would provide, instead, for a standard maximum percentage to be used for all costs associated with the practice for which the cost-share is to be received. This change would make the program easier to administer without significant additional costs. Payments will continue to be limited by a number of other criteria and by the provisions that in no case may the reimbursement exceed \$200,000 per person per disaster. In this rule, the local county FSA committee would be allowed to permit reimbursements of up to 75 percent for all reimbursable costs, subject to the same per person limitations that now exist in the regulations and subject to certain additional allowances that are made with respect to limited resource producers. Under the proposed rule, a special 90 percent rate could be allowed for limited resource producers.

The 75 percent rate, like the sliding rate contained in the current regulations, goes to determining the maximum total amount that can be paid to all participants that are involved with all practices applied for that particular disaster. However, the \$200,000 limit is, and would remain under this rule, a separate and distinct limit that would limit how much an individual "person" could receive.

In addition, each person participating in the ECP would be required to fill out an Environmental Evaluation Checklist before FSA's decision is made on whether or not to approve the cost-share assistance (See Appendix D). This form is an environmental evaluation checklist that provides a mechanism for:

- Reviewing actions to determine impacts.
- Documenting a finding of no significant impact, as well as compliance determinations for other applicable environmental laws, regulations, and policies.
- Discussing Environmental Assessments

This environmental evaluation checklist also provides a format for assessing potential impacts and reviewing alternatives and mitigations measures when potential impacts to any of the protected resources listed on the FSA-850, item 3, are identified, these protected resources include: wetlands, floodplains, sole source aquifer recharge areas, critical habitat for threatened and endangered species, wilderness, coastal barrier in coastal barrier resources system or approved coastal zone management areas, natural landmarks, and historical and archaeological sites.

S.6 Comparison of the Impacts of the CRP Program Alternatives

Table S.6-1 compares the potential environmental impacts resulting from each of the alternatives analyzed in this PEIS.

Table S.6-1. Summary of the Impacts of the ECP Alternatives

| <u>Environmental Resource</u> | <u>Alternative 1 – No Program</u> | <u>Alternative 2 – No Action Alternative – Continue the Current Program</u> | <u>Alternative 3 – Proposed Action – ECP Improvement and Expansion</u> |
|--------------------------------------|---|--|--|
| Water Resources | <p>If there were no ECP Program, disaster recovery efforts would likely be reduced or not undertaken in some floodplain locations. Damaged marginal agricultural production areas might be abandoned for farming and might revert to natural vegetative cover in the long term. This might reduce some of the impacts of farming on affected watersheds. Where wildfires or drought have eliminated protective cover over upland areas including hillsides, lack of restoration measures would leave these sites vulnerable to water and wind erosion that could adversely impact water resources.</p> | <p>Minor short-term effects on water resources such as sedimentation from restoration practices would temporarily add to any adverse impacts that may be resulting from farming activities such as soil erosion or pesticide or fertilizer use. These effects may be important in watersheds already stressed by farming and other factors such as development or that are sensitive to natural disasters.</p> | <p>The same short-term effects on water quality as under the No Action Alternative would occur and temporarily add to any agricultural degradation of water quality. Until specific practices are determined for confined livestock operations no additional impacts are expected from any program changes.</p> |
| Wetlands | <p>If there were no ECP Program disaster recovery efforts would likely be reduced or not undertaken in some locations. Damaged marginal agricultural production areas might be abandoned for farming and might revert to natural vegetative cover in the long term. This might reduce some of the impacts of farming on affected downstream wetlands. Where wildfires or drought have eliminated protective cover over upland areas including hillsides, lack of restoration measures would leave these sites vulnerable to water and wind erosion that could adversely impact wetlands in the watershed.</p> | <p>Wetlands on agricultural lands would not be affected by continuing the current ECP program. FSA would ensure that any disaster recovery measures to be taken would not adversely affect wetlands although some impacts to wetlands downstream in the watershed may continue to occur to the extent that any deleterious farming practices resume after disaster recovery.</p> | <p>Wetlands would not be affected by instituting the proposed ECP program. FSA would not allow any disaster recovery measures to be taken that would adversely affect wetlands although some impacts to downstream wetlands may continue to occur to the extent that any deleterious farming practices resume after disaster recovery.</p> |

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|--------------------------------------|---|---|---|
| Soil Quality | <p>If there were no ECP Program, disaster recovery efforts would likely be reduced or not undertaken in some locations. Damaged marginal agricultural production areas might be abandoned for farming and might revert to natural vegetative cover in the long term. This might reduce some of the impacts of farming on soils in these locations.</p> <p>Where wildfires or drought have eliminated protective cover over upland areas including hillsides, lack of restoration measures would leave these sites vulnerable to water and wind erosion that could remove or damage topsoil.</p> | <p>Short-term minor effects from restoration practices would continue to occur, and could add to any erosion and soil quality impacts that are a part of general agricultural production. FSA would ensure that highly erodible land soils are protected from erosion by ensuring the producer is in compliance with HEL requirements.</p> | <p>Short-term minor effects from restoration practices would continue to occur, same as the current program and could add to any erosion and soil quality impacts that are a part of general agricultural production. FSA would ensure that highly erodible land soils are protected from erosion by ensuring the producer is in compliance with HEL requirements. No further impacts are expected because of the proposed ECP changes.</p> |
| Air Quality | <p>No program would be expected to have effects on air quality from wind erosion. Where wildfires or drought have eliminated protective cover over upland areas including hillsides, lack of restoration measures would leave these sites vulnerable to wind erosion that could lead to air quality impacts from airborne particulate matter.</p> | <p>Short-term minor effects from restoration practices would continue to occur, and could add to any erosion and soil quality impacts that are that are a part of general agriculture production. FSA would ensure that highly erodible land soils are protected from wind erosion, in particular, by ensuring the producer is in compliance with HEL requirements.</p> | <p>Short-term minor effects from restoration practices would continue to occur, same as the current program and could add to erosion that is a part of general agriculture production. FSA would ensure that highly erodible land soils are protected from erosion by ensuring the producer is in compliance with HEL requirements. No further impacts are expected because of the proposed ECP changes.</p> |

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|--------------------------------------|---|---|--|
| Vegetation | If there were no ECP Program, disaster recovery efforts would likely be reduced or not undertaken in some locations. Damaged marginal agricultural production areas might be abandoned for farming and might revert to natural vegetation, for example in floodplains. Plant associations such as bottomland hardwood forests might expand in the long term. Rare plant species might benefit from these changes. Where wildfires or drought have eliminated protective cover over upland areas including hillsides, lack of restoration measures would leave these sites vulnerable to wind erosion that could adversely affect any natural revegetation that might occur in the short term. | Restoration of crop production, pasture, and shelterbelt sites would maintain sites in managed use that would likely otherwise revert to natural vegetation. | Restoration of crop production, pasture, and shelterbelt sites would maintain sites in managed use that would likely otherwise revert to natural vegetation. |
| Wildlife and Their Habitats | If there were no ECP Program disaster recovery efforts would likely be reduced or not undertaken in some locations. Damaged marginal agricultural production areas might be abandoned for farming and might revert to natural vegetative cover, which would provide wildlife cover and food in the long term. Some wildlife species dependent in part on farming to maintain earlier successional and transitional habitats and to provide a portion of their food, may be adversely affected. Wildlife requiring later successional and relatively undisturbed habitats may benefit where farming is reduced. | Some wildlife species dependent in part on farming to maintain earlier successional and transitional habitats and to provide a portion of their food, may benefit from restoration measures. Wildlife requiring later successional and relatively undisturbed habitats would not benefit where farming is restored. | Some wildlife species dependent in part on farming to maintain earlier successional and transitional habitats and to provide a portion of their food, may benefit from restoration measures. Wildlife requiring later successional and relatively undisturbed habitats would not benefit where farming is restored |

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|--|--|---|--|
| Socioeconomic and Other Human Resources | Farm owners and operators would experience a greater exposure to the risk and uncertainty associated with a natural disaster | The primary beneficial impact of the program is to provide repair funds and inject necessary capital into the local economy at a time when individual producers/operators and their surrounding communities are under stress as the result of the disaster event. | The primary effect of ECP program with the changes proposed under this alternative would be similar to those outlined for the no action alternative; that is the beneficial aspect of repairing and restoring the affected area to its pre-disaster condition and use. |