

For: State and County Offices

ECP and EFRP Questions and Answers

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

On November 22, 2010, Notice CONSV-103 was issued to:

- inform State Offices of mandatory State and County Office training requirements
- provide deadlines for completing the FY11 ECP and EFRP Training
- instruct State Offices to submit training completion reports to CEPD.

Notice CONSV-104 was subsequently issued on December 16, 2010, to extend the deadline for completing the training. As part of this training, the National Office hosted Microsoft Live Meeting sessions for State Office specialists, and a number of questions were asked and answered during these sessions.

B Purpose

This notice:

- provides a summary and clarification of the questions and answers that emerged from the ECP and EFRP Microsoft Live Meeting sessions on November 30, 2010, and December 6, 2010

Note: See Exhibit 1.

- assists offices in understanding and implementing ECP and EFRP, as well as the new web-based automation for ECP and EFRP.

Disposal Date	Distribution
July 1, 2011 2-10-11	State Offices; State Offices relay to County Offices

Notice CONSV-105

2 Action

A County Office Action

County Offices shall follow provisions of this notice.

B State Office Action

State Offices shall ensure that County Offices follow provisions of this notice.

3 Contact

A County Offices

If there are questions about this notice, County Offices shall contact the State Office.

B State Offices

The following table provides contacts if there are questions about this notice.

IF questions are about...	THEN contact...
ECP	Jim Williams, acting ECP manager, by either of the following: <ul style="list-style-type: none">• e-mail to jim.williams@wdc.usda.gov• telephone at 202-720-9562
EFRP	Jim Michaels by either of the following: <ul style="list-style-type: none">• e-mail to james.michaels@wdc.usda.gov• telephone at 202-690-0794.

Questions and Answers

A EFRP Policy Questions

Q1: What is EFRP?

A1: EFRP, authorized through amendments under the 2008 Farm Bill, provides payments to nonindustrial private forest (NIPF) landowners who are approved for program participation to carry out emergency measures to restore land damaged by a natural disaster. Funding for EFRP is appropriated by Congress.

Note: See 1-EFRP, paragraph 1 for additional information on this topic.

Q2: What land is eligible to apply for EFRP?

A2: COC's determine EFRP land eligibility based on onsite inspections of damage, taking into account the type and extent of damage. For land to be eligible, the land must:

- have existing tree cover, or had tree cover immediately before the natural disaster and suitable for growing trees
- be owned by any nonindustrial private individual, group, association, corporation, or other private legal entity that has definitive decision-making authority over the land.

In addition, the natural disaster must create damage that, if untreated, would impair or endanger the natural resources on the land and materially affect future use of the land.

Note: See 1-EFRP, Part 1, Sections 7 and 8 for additional information on this topic.

Q3: How much assistance can I receive under EFRP?

A3: EFRP participants may receive financial assistance of up to 75 percent of the cost to implement approved emergency forest restoration practices, as determined by COC's.

Individual or cumulative requests for financial assistance of \$50,000 or less per person or legal entity, per EFRP-designated disaster, are approved at the COC level. Financial assistance from \$50,001 to \$100,000 is approved at the STC level. Financial assistance over \$100,000 must be approved by the National Office. Further, there is a payment limitation of \$500,000 per person or legal entity per disaster.

Note: See 1-EFRP, paragraphs 5, 42, 175, 179, and 292 for additional information on this topic.

Questions and Answers (Continued)**A EFRP Policy Questions (Continued)**

Q4: What kinds of practices can be applied under EFRP?

A4: To restore NIPF, EFRP participants may implement emergency forest restoration practices, including emergency measures necessary to:

- address damage caused by a natural disaster to natural resources on NIPF land
- restore forest health and forest-related resources on the land.

Examples of EFRP practices include practices that help restore forest ecosystems, such as bottomland hardwood, upland softwood, longleaf pine, and others, through debris removal, site preparation, planting, and other activities.

Other emergency measures may be authorized by COC's, with approval from STC's and the National Office.

Note: See 1-EFRP, paragraphs 6, 21, 32, 35, 46, 47, 112, 293, and 418, Part 2, and Exhibit 17 for additional information on this topic.

Q5: When is the signup period for EFRP?

A5: Signup periods for EFRP will be announced by an affected County Office after a disaster has occurred and the county is authorized for EFRP implementation. However, EFRP applications may be accepted at any time. Generally, signup periods last between 30 and 60 calendar days.

Note: See 1-EFRP, paragraphs 152 and 153 for additional information on this topic.

Q6: How does an NIPF landowner obtain more information about EFRP?

A6: NIPF landowners should visit their local County Office to apply for EFRP, or visit online at <http://disaster.fsa.usda.gov> and www.fsa.usda.gov/conservation for more information.

Note: See 1-EFRP, paragraphs 151 through 153 for additional information on this topic.

Questions and Answers (Continued)**A EFRP Policy Questions (Continued)**

Q7: What is NIPF land under EFRP?

A7: For EFRP, NIPF land is rural land, as determined by FSA, that:

- has existing tree cover, or had tree cover immediately before the natural disaster and suitable for growing trees
- is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity that has definitive decision-making authority over the land.

Notes: See 16 U.S.C. 2206 and 1-EFRP, subparagraph 35 B, paragraph 110, and Part 1, Sections 7 and 8 for additional information on this topic.

A definition will be added to 1-EFRP, Exhibit 2 in a future amendment.

Q8: Under EFRP, how will you determine when a corporation is nonindustrial versus industrial?

A8: FSA will look to the long history under the Forest Service (FS) for making similar determinations and adopting those guidelines for its programs. For example, similarly to FS, corporations with wood processing capabilities are considered industrial and, consequently, corporations that do **not** have wood processing capabilities are considered nonindustrial. For new situations that may arise, FSA will consult with FS to ensure consistency of application.

Note: A note on this topic will be added to 1-EFRP, subparagraph 92 B in a future amendment.

Q9: I would appreciate any help you could give on what is considered NIPF. Past meetings I have had with the State FS have left me with the impression their definition would be 1 tree on the prairie qualifies as a forest. My State does have heavily wooded areas in the State as well as areas where the only trees are those that have been planted by State Conservation Districts or State FS. Is NIPF limited to multiple trees and multiple species types?

Questions and Answers (Continued)

A EFRP Policy Questions (Continued)

A9: Strictly speaking, NIPF is **not** limited to land with multiple trees and multiple species types; however, a single tree is not likely to ever qualify for EFRP. For land to be eligible, the land must:

- have existing tree cover, or had tree cover immediately before the natural disaster and suitable for growing trees
- be owned by any nonindustrial private individual, group, association, corporation, or other private legal entity that has definitive decision-making authority over the land.

In addition, the natural disaster must create damage that, if untreated, would impair or endanger the natural resources on the land and materially affect future use of the land. 1-EFRP does **not** specifically provide a minimum acreage requirement for participation in EFRP; however, FS generally defines forest land as at least 120 feet wide and 1 acre in size and at least 10 percent cover by live trees of any size. 1-EFRP also establishes a minimum eligible cost, which is generally \$1,000.

Note: See 1-EFRP, paragraph 132 and Part 1, Sections 7 and 8 for additional information on this topic. A note on this topic will be added in 1-EFRP, paragraph 110 in a future amendment.

Q10: Would riparian tree areas along a river qualify when flooding occurs?

A10: Yes, if the area along the river is NIPF. If the area is approved for EFRP implementation because of flooding, restoration of the riparian trees may qualify for EFRP.

Note: This example will be added to 1-EFRP, subparagraph 110 B in a future amendment.

Q11: Would 1 row of field windbreaks that are damaged by ice storms qualify for EFRP?

A11: As discussed in question 9, FS generally defines forest land as at least 120 feet wide and 1 acre in size and at least 10 percent cover by live trees of any size. Most field windbreaks would **not** meet this definition and, therefore, technical assistance providers would **not** deem this land as NIPF. Damage to field windbreaks and shelterbelts should generally be addressed under ECP.

Note: As discussed in question 9, a note on this topic will be added in 1-EFRP, paragraph 110 in a future amendment.

Questions and Answers (Continued)**A EFRP Policy Questions (Continued)**

Q12: Is NIPF limited to commercial forest?

A12: NIPF is **not** limited to forests that are actively used for producing paper or other forest products. In fact, many commercial forests may **not** be eligible because they are deemed industrial.

Note: As discussed in question 8, a note on this topic will be added to 1-EFRP, subparagraph 92 B in a future amendment.

Q13: Is there a maximum acreage that can be enrolled in EFRP?

A13: No, but the land must be NIPF and payments may **not** exceed the \$500,000 per person or legal entity per disaster limit.

Note: See 1-EFRP, paragraph 5 for additional information on this topic.

Q14: I was just reading 1-EFRP and was wondering if they made a mistake in subparagraph 176 A where it indicates the limited resource maximum C/S percent is 75 percent. Didn't they mean to make it the same as for ECP at 90 percent?

A14: No, that is **not** a mistake. The EFRP statute limits financial assistance to no more than 75 percent.

Note: See 1-EFRP, paragraphs 42 and 179 for additional information on this topic.

Q15: On EFRP ineligible for C/S, it says weed control measures. Many times a weed control measure is needed as part of site prep for seedling establishment either pre- and/or post-planting. Is that for maintenance issues only?

A15: Yes, this applies only to weed control for maintenance. Herbicide application is acceptable under some practices in 1-EFRP, Exhibit 17, if specified as necessary in the approved tree planting plan to establish cover.

Note: This will be clarified in 1-EFRP, subparagraph 46 B in a future amendment.

Q16: Where can I find more details on technical assistance for EFRP?

A16: FSA is negotiating an Interagency Agreement with FS on technical assistance.

Once negotiations have been completed and the Interagency Agreement is signed, additional guidance will be issued, including amending 1-EFRP, Part 1, Section 6.

Questions and Answers (Continued)**A EFRP Policy Questions (Continued)**

Q17: Are disease and insect infestations eligible disasters under EFRP?

A17: All EFRP implementation requests for disease and insect infestations should be forwarded to the National Office to determine whether they constitute a disaster under EFRP. Disease and insect damage may be eligible under EFRP as other natural phenomena or in relation to another type of natural disaster, depending on the circumstances.

Note: See the definition of natural disaster in 1-EFRP, Exhibit 2. The review process for situations involving disease and insect infestations will be further clarified in 1-EFRP, paragraphs 21 and 35 in a future amendment.

Q18: Can we use a precipitation data/drought monitor as evidence that disease and insect infestations are disasters under EFRP?

A18: This information may be considered as 1 piece of evidence in determination.

Note: See question 17. The review process for situations involving disease and insect infestations will be further clarified in 1-EFRP, paragraphs 21 and 35 in a future amendment.

Q19: Can EFRP financial assistance be provided for planting 10-foot tall trees after a disaster rather than seedlings?

A19: Although not strictly precluded under 1-EFRP, using EFRP funds for planting 10-foot tall trees after a disaster does **not** seem to be a technically or financially sound use of EFRP funds. Based on recommendations from the technical assistance provider, COC must make the determination on whether to approve such an application.

Q20: Is Indian trust land eligible under EFRP?

A20: Indian trust land shall be treated similarly to life estates in perpetuity, and may be eligible under EFRP if all other EFRP eligibility criteria are met. The Tribe or individual Indian may be considered the “owner” for the purposes of EFRP.

Notes: EFRP payment may **not** replace payments or improvements that would be done by BIA normally, or which BIA is obligated to do.

The eligibility of Indian trust land under EFRP will be further clarified in 1-EFRP, Part 1, Sections 7 and 8 in a future amendment.

Questions and Answers (Continued)

B Policy Questions Applicable to Both ECP and EFRP

Q1: In my county, the overwhelming majority of contracts were re-enrolled CRP acreage where no C/S was paid through the existing contract. Is the intent of 1-ECP, paragraph 6 and 1-EFRP, paragraph 6 to restore C/S CRP acreage in order to bring it back into compliance with the CRP contract, e.g. re-establish the cover?

A1: No, it would **not** be appropriate to use very limited ECP and EFRP funds to augment CRP.

Note: 2-CRP is being amended to clarify that restoration activities on re-enrolled CRP acreage should be cost-shared under CRP unless CRP funds are not available. 1-ECP and 1-EFRP will be amended to clarify this as well in a future amendment.

Q2: Why can't we just use the drought monitor alone for making drought determinations under ECP and EFRP?

A2: The drought monitor is used as 1 piece of information for making drought designations under ECP and EFRP. Precipitation data, groundwater data, and anecdotal evidence may provide additional information that helps in making this determination.

Note: See the following for additional information on this topic:

- 1-ECP, paragraphs 21 and 35
- 1-EFRP, paragraphs 21 and 35.

Q3: Does the new approval letter inform the participant to sign and return FSA-848A?

A3: Yes.

C ECP and EFRP Automation Questions

Q1: Should my ECP application be processed in CRES or the Cost Share Software (CSS)?

A1: If the ECP application is being received under a disaster that was approved for implementation:

- before December 6, 2010, then the application should be processed in CRES
- on or after December 6, 2010, then the application should be processed in CSS.

Note: See 1-ECP, paragraph 33 for additional information on this topic.

Questions and Answers (Continued)

C ECP and EFRP Automation Questions (Continued)

Q2: C/S is limited to percent of average cost or installation cost. For multiple components, you can have individual components that would be more than average cost, but all components for the practice would not exceed average cost. Is this figured by CSS at each component level or for the entire practice?

A2: Under the new system, maximum not-to-exceed rates will be based on the average cost times the C/S percentage. If a **practice rate** is established, the lesser of the total eligible costs for the practice times the C/S percentage or the not-to-exceed rate times the practice extent will be used to determine the payment.

If **component rates** are used, the lesser of the total eligible costs for that component times the financial assistance percentage or the not-to-exceed rate times the component extent will be used to determine the payment.

Note: See the following for additional information on this topic:

- 1-ECP, paragraphs 239 and 294
- 1-EFRP, paragraphs 239 and 294.

Q3: Will software give County Office users a warning message when C/S agreement is over the COC approval limit?

A3: Yes, if the approval amount exceeds the COC authority, a State and/or National signature date will be required.

Note: See the CSS User Guide, Section 7, page 44 for additional information on this topic.

Q4: In the example for approving C/S agreement for 2 participants where 1 of the participants is ineligible, why does the County Office user have to remove the ineligible participant before approving the agreement since we will only pay the eligible participant after practice has been certified complete and all required documentation has been presented for payment?

Questions and Answers (Continued)

C ECP and EFRP Automation Questions (Continued)

A4: In the new software, the “applicants” and “participants” are stored separately. If an applicant is removed after application completion, they will still be listed as an applicant on FSA-848, but they will **not** be listed as a participant on FSA-848A. The removal of ineligible participants is necessary because they do **not** meet the eligibility requirements for the program. If eligibility changes after approval, removing the participant is **not** necessary because payment will **not** be disbursed to ineligible participants.

Note: See the following for additional information on this topic:

- 1-ECP, paragraph 239
- 1-EFRP, paragraph 239
- CSS User Guide, Section 7, page 45.

Q5: Are we able to make partial payments? If so, can you expand on instructions a little more? If partial payments can be made when the practice is completed, will software issue only the remaining payment amount or will it create receivable in NRRS for partial payment and then issue full payment with partial payment portion paying off NRRS receivable and remaining payment going to applicable participant?

A5: As long as a final payment has **not** been flagged in the producer certification module, partial payments are possible. Partial payments will be recorded based on the performance extent that is certified (positive or negative).

Note: See the CSS User Guide, Section 8, page 59 for additional information on this topic.

Q6: It seems the County Office user will have to enter the same information several times throughout this process. Can the software be modified to pre-populate this information and allow the County Office user to modify if necessary, i.e. extent approved?

A6: The data is **not** pre-populated to encourage the County Office user to fully evaluate the extent requested, extent needed, extent approved, and extent performed before approving these values since they may vary.

Q7: Will State Office users be able to view the same screens as County Office users?

A7: Right now, there is no “View” option available for State Offices, but we have put this on the list for a future enhancement. For the time being, you may have to use the “Netmeeting” or “Live Meeting” tool to view. We will keep you informed of when the “View” option becomes available.

Questions and Answers (Continued)

C ECP and EFRP Automation Questions (Continued)

Q8: In CSS, do you need field numbers on the forest land?

A8: The farm, tract, and field numbers must be established in CLU.

Note: See the CSS User Guide, Section 2, page 13 for additional information on this topic.

Q9: In CSS, how is the list of Hydrologic Unit Codes (HUC's) generated, and how do we choose HUC?

A9: The list in CSS includes all HUC's for the nation. HUC should be selected, using GIS to determine which HUC has the most land from the application.

Q10: How do we use GIS for ECP/EFRP?

A10: Additional guidance may be issued on this topic. In the meantime, contact your State GIS specialist about the best way to use GIS to accomplish your needs under ECP/EFRP.

Note: See the following for additional information on this topic:

- 1-ECP, paragraphs 171, 214, and 421
- 1-EFRP, paragraphs 171, 214, and 421.

Q11: If I print FSA-848 before eligibility and forget to go check eligibility, will the system prompt me?

A11: The application will **not** be available for needs determination or environmental compliance until the preliminary eligibility check is complete, the participant's signature date is entered, and the application has been submitted.

Note: See the CSS User Guide, Section 2, pages 20 and 21 for additional information on this topic.

Q12: Can I see a report of all the county rates in my State?

A12: This is **not** currently possible in the software, but is possible as a future enhancement.

Q13: As a State user, will I be notified if a county changes a rate?

A13: No, there is **not** an e-mail notification process at this time.

Questions and Answers (Continued)**C ECP and EFRP Automation Questions (Continued)**

Q14: When setting up components and entering average actual unit cost, should I be entering average actual cost or average actual cost times the C/S percentage?

A14: You should enter the average actual unit cost, and the software will apply the C/S percentage when calculating financial assistance.

Note: See the following in the Program Provisioning User Guide for additional information on this topic:

- for State Office users, Section 4A, page 13 and Section 4B, page 15
- for County Office users, Section 8A, page 28 and Section 8B, page 30.

D Other Training Questions

Q1: In training module 1.4 of the FY11 ECP and EFRP Training, “producing lands” are ineligible. What are producing lands?

A1: This is a typo in the module. The slide should say “providing land” rather than “producing lands”. Slide 4 of the Power Point presentation on the DAFP Intranet site will be corrected. See 1-EFRP, subparagraph 46 B.