

For: State and County Offices

ECP Debris Removal Environmental Requirements

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

NEPA requires Federal agencies to consider the effect of program activities on the environment. 1-ECP, subparagraph 175 B requires that COC's complete FSA-850's **before** approving ECP applications. See 1-ECP, Exhibit 11.5 for an example of FSA-850.

B Purpose

This notice provides guidance on completing appropriate FSA-850 or NRCS CPA-052 for debris removal under ECP.

2 Policy

A Presidentially Declared Disasters

Based on the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93-288, as amended, 42 U.S.C. 5121-5207, and related authorities, FSA-850 is **not** required for ECP projects that only involve debris removal, when the debris results from a Presidentially declared disaster.

Disposal Date	Distribution
November 1, 2010	State Offices; State Offices relay to County Offices and NRCS State Offices

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2 Policy (Continued)

B Other Designated Disasters

FSA-850 is **not** required if the disaster is **not** a Presidentially declared disaster and **both** of the following apply:

- ECP project solely involves sand and debris removal, or other projects that do **not** require a revised conservation plan
- ECP project will **not** result in **either** of the following:
 - any ground disturbance beyond any previous disturbance; that is, disturbance below original plow zone
 - burial of debris onsite.

C Cultural Resources

Although FSA-850 may not be required, it does not mean that FSA is exempt from complying with National Historic Preservation Act (NHPA), Section 106. However, regardless of whether a disaster is Presidentially declared or only ECP designated, if the criteria under subparagraph B are met, then NHPA, Section 106 would **not** apply.

D Examples

This table provides examples of applying policy.

Item	Example
1	ECP has been authorized in a region after a significant flood event. The project will consist solely of removing woody debris that was left after flood waters receded. Removing the debris will not result in disturbing any of the soil below the debris and the debris will be moved off-site to be chipped for mulch. This type of debris removal would not require FSA-850. FSA would not be required to consult under NHPA, Section 106. However, if the debris would be buried onsite, instead of mulched, then FSA-850 would be required.
2	ECP has been authorized in a region after a significant flood event. The project will consist of removing woody debris and removing a fence that was heavily damaged by the debris. The removal will be conducted by using a bull dozer that will disturb the soil and that may also uproot trees that have grown up around the damaged fence. This type of project would require completing FSA-850, including NHPA, Section 106 consultation, because implementing the practice would disturb the soil and uproot nearby trees. If disturbance would not go below the plow zone, then no FSA-850 or Section 106 consultation would be required.
3	A Presidential disaster is declared because of a hurricane. The disaster area became eligible for ECP. If the projects are solely for removing debris, then FSA would not need to complete FSA-850, but may need to conduct NHPA, Section 106 consultation if the criteria in subparagraph B are met. If the ECP projects involve activities other than debris removal, then FSA-850 will be required and NHPA, Section 106 consultation will apply.

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3 Action

A County Office Action

County Offices shall follow the policy and procedure in this notice.

When a disaster is declared, either Presidential or otherwise, and becomes eligible for ECP, CED **must** refer to the policy in paragraph 2 to determine whether FSA-850 and/or NHPA, Section 106 consultation needs to be completed.

NRCS CPA-052 or FSA-850 is still **required** when a new conservation plan is developed for all other ECP practices **before** approval, such as terrace repairs, water lines, etc. NRCS generally completes CPA-052, as part of their conservation planning, and provides FSA a copy.

FSA is the lead agency for ECP; therefore, CED's are responsible for checking CPA-052's for accuracy and signing to indicate that **all** of the needed requirements have been completed. If NRCS does **not** complete CPA-052, then CED is responsible for completing FSA-850 **before** ECP approval.

B State Office Action

State Offices shall ensure that County Offices follow the procedure and policy in this notice.

C Contact

Direct questions about this notice for:

- NEPA and FSA-850 to Matthew T. Ponish, FSA National Environmental Compliance Manager, by either of the following:
 - e-mail to **matthew.ponish@wdc.usda.gov**
 - telephone at 202-720-6853
- NHPA and cultural resources to Ben Horter, Federal Preservation Officer, CEPD, by either of the following:
 - e-mail to **ben.horter@wdc.usda.gov**
 - telephone to 202-690-1164.