

§ 623.22

person of payments for cost-share practices or easements for the purpose of obtaining a payment to which a person would otherwise not be entitled.

(c) An owner of land subject to this part who succeeds to the responsibilities under this part shall report in writing to NRCS any interest of any kind in the land subject to this part that is retained by a previous participant. Such interest includes a present, future or conditional interest, reversionary interest or any option, future or present, with respect to such land and any interest of any lender in such land where the lender has, will, or can obtain, a right of occupancy to such land or an interest in the equity in such land other than an interest in the appreciation in the value of such land occurring after the loan was made. A failure of full disclosure will be considered a scheme or device under this section.

§ 623.22 Filing of false claims.

If it is determined by NRCS that any participant has knowingly supplied false information or has knowingly filed a false claim, such participant shall be ineligible for any payment under this part. False information or false claims include claims for payment for practices which do not meet the specifications of the applicable WRPO. Any amounts paid under these circumstances shall be refunded, together with interest as determined by NRCS, and any amounts otherwise due such participant shall be withheld.

PART 624—EMERGENCY WATERSHED PROTECTION

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7 CFR Ch. VI (1-1-03 Edition)

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§ 624.1 Purpose.

This part sets forth the requirements and procedures for Federal assistance administered by the Natural Resources Conservation Service (NRCS) under section 216, Pub. L. 81-516 and section 403 of Title IV of the Agricultural Credit Act of 1978, Pub. L. 95-334.

§ 624.2 Objective.

The objective of the Emergency Watershed Protection (EWP) program is to assist in relieving imminent hazards to life and property from floods and the products of erosion created by natural disasters that cause a sudden impairment of a watershed.

§ 624.3 Scope.

(a) Authorized EWP technical and financial assistance may be made available when an emergency exists. Emergency watershed protection consists of emergency measures for runoff retardation and soil erosion prevention as needed to reduce hazards to life and property from floods, drought, and the products of erosion on any watershed impaired by a natural disaster.

(b) Technical assistance includes engineering and other technical expertise necessary for planning and installing emergency measures. Emergency watershed protection is authorized in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

§ 624.4 Administration.

NRCS shall provide overall administrative directive and guidance for EWP. NRCS will transfer funds to the Forest Service (FS) of the U.S. Department of Agriculture (USDA) at the national level for work to be installed by FS or its cooperators. Under general program criteria and procedures established by NRCS, FS is responsible for administering EWP measures on National Forests and National Grasslands. FS is also responsible for emergency measures on all forested lands or rangelands within the National Forests, on adjacent rangelands that are administered under formal agreement with FS, and on other forest lands. On

these lands, emergency work is done by either NRCS or FS as mutually agreed. In carrying out their responsibilities, FS and NRCS work cooperatively with other Federal, State, and local government agencies.

§ 624.5 Eligible emergencies, recipients, and assistance.

(a) *Conditions of eligibility.* Emergency watershed protection assistance is made available when the following conditions of eligibility are determined to exist by the state conservationist. Procedures for providing emergency assistance vary according to whether the watershed emergency constitutes an exigency or a nonexigency situation. Emergency measures for both types of situations are those undertaken to remove or reduce hazards created by the disaster to safeguard life and property from flooding, drought, or the products of erosion.

(1) *Watershed emergency.* A watershed emergency exists when a natural occurrence causes a sudden impairment of a watershed that creates an imminent threat to life or property. To be eligible for assistance, the imminent threat to life or property must significantly exceed that which existed before the impairment.

(i) *Natural occurrence* includes but is not limited to floods, fires, windstorms, earthquakes, volcanic actions, and drought.

(ii) A *watershed impairment* exists when the ability of a watershed to carry out its natural functions is reduced to the extent of creating an imminent threat to life or property.

(iii) A *sudden watershed impairment* results from a single natural occurrence or a short-term combination of occurrences. Watershed impairments resulting from long-term combinations or series of natural or other occurrences are not considered sudden watershed impairments.

(iv) *Exigency and nonexigency situations.* Watershed emergencies are classified as either exigency or non-exigency situations.

(A) An *exigency* exists when the near-term probability of damage to life or property is high enough to demand immediate Federal action. An exigency continues to exist as long as the prob-

ability of damage continues at a high enough level.

(B) A *nonexigency* situation exists when the near-term probability of damage to life or property is high enough to constitute an emergency but not sufficiently high to be considered an exigency. A nonexigency situation continues to exist as long as the probability of damage remains high enough to be considered an emergency.

(v) *Changes in emergency situations.* Changes in the near-term probability of threat to life or property will be reflected by changes in the classification of emergencies. As the near-term probability that the threats will be realized is reduced because of emergency assistance or other factors, exigency and nonexigency situations will be appropriately reclassified. Similarly, as occurrences increase the probability of threats to life or property, situations previously considered nonemergencies will be appropriately reclassified as nonexigencies and previous non-exigency emergency situations will be appropriately reclassified as exigencies.

(vi) *Drought emergencies.* Assistance is available in drought emergencies when the eligibility criteria specified in this rule are met and the Agricultural Stabilization and Conservation Service (ASCS) determines that a drought emergency exists under regulations promulgated to carry out sections 401 and 402 of the Agriculture Credit Act of 1978 (Pub. L. 95-334).

(b) *Eligible recipients.* Include those public or private landowners, land managers, land users, or others who—

(1) Have a legal interest in or responsibility for the values threatened by a watershed emergency; and

(2) Have exhausted or have insufficient funds or other resources available to provide adequate relief from the applicable hazards. Interested persons other than Federal agencies must be represented by a project sponsor. Project sponsors must:

(i) Be a State or political subdivision of a State or a qualified Indian tribe or tribal organization;

(ii) Have legal authority and agree to use such authority to obtain needed landrights, water rights, and permits; and