

Farmers' Guide to the Emergency Conservation Program

Second Edition

October 2025



A Publication of Farmers' Legal Action Group, Inc.

Farmers' Guide to the Emergency Conservation Program (ECP)

Second Edition - October 2025

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This material is based upon work supported by the U.S. Department of Agriculture under Agreement No. 2022-70416-37274.



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I. Introduction

The Emergency Conservation Program (ECP) is a disaster-related conservation program run by the Farm Service Agency (FSA) with assistance from the Natural Resources Conservation Service (NRCS). Both FSA and NRCS are agencies of the United States Department of Agriculture (USDA).

Through ECP, FSA can help farmers, ranchers, and other agricultural producers (collectively, “farmers”) to:

- (1) rehabilitate farmland and related infrastructure that is newly damaged by natural disasters; and
- (2) conserve water for livestock, vineyards, and orchards in a drought emergency.¹

ECP is a cost-sharing program, meaning that it reimburses farmers and ranchers for part of the costs of installing or adopting approved “conservation practices.”

Examples of conservation practices include removing debris; grading, shaping, or releveling; replacing or restoring permanent fences; restoring conservation structures (such as dams, ponds, ditches, wells, wind and water erosion controls, and related infrastructure); installing emergency wind erosion control measures; and water conservation and enhancement measures for livestock, orchards, and vineyards.

There is a related program for restoring private non-industrial forests damaged by disaster, the Emergency Forest Restoration Program. This Guide does not cover the forest program. There are separate regulations and a separate FSA Handbook for the forest program.²

A. Assistance for Two Categories of Conservation Practices

As stated above, ECP is designed to help farmers do two types of things after a disaster:

First, ECP can be used to rehabilitate farmland and conservation structures that were damaged by wind and water erosion, floods, hurricanes, or other natural disasters.

Second, ECP can be used to install water conservation measures during severe drought to supply water for both livestock and existing irrigation systems for orchards and vineyards, including ditches and other permanently installed systems. Center pivot, hand move, and wheel move systems are not considered permanent and are therefore ineligible for ECP funds.³

B. Rules that Govern the Emergency Conservation Program

The rules that govern ECP come from several places. This Guide relies on the following sources that set out the rules that control ECP and how FSA understands those rules.

¹ 7 C.F.R. § 701.103(a) (2025); FSA Handbook: Emergency Conservation Program – Beginning October 1, 2023, 1-ECP, page 1-2, para. 2.B (Revision 8, Amendment 1, Nov. 21, 2024) (hereinafter, “ECP Handbook”).

² See 7 C.F.R. pt. 701, subpts. A & C (2025); FSA Handbook: Emergency Forest Restoration Program, 1-EFRP (Rev. 1) Amend. 2 (July 27, 2023).

³ ECP Handbook, page 1-2, para. 2.B (Nov. 21, 2024).

First, a short federal statute authorizes the Emergency Conservation Program at 16 U.S.C. §§ 2201-2205 (2025). The statute is publicly available at <https://www.govinfo.gov/content/pkg/USCODE-2023-title16/pdf/USCODE-2023-title16-chap42.pdf>.

Second, a set of FSA regulations that govern the program are found in Code of Federal Regulations at 7 C.F.R. Part 701 (2025). The last changes to these regulations came in 2023.⁴ The regulations are publicly available at <https://www.ecfr.gov/current/title-7/subtitle-B/chapter-VII/subchapter-A/part-701?toc=1>.

Third, the FSA has a lengthy handbook that sets out FSA interprets and applies the rules that govern the program. FSA published the most recent version (Version 8 – Amendment 1) on November 21, 2024. The full title is FSA Handbook: Emergency Conservation Program – Beginning October 1, 2023, 1-ECP (Revision 8, Amendment 1, Nov. 21, 2024). We refer to it as “ECP Handbook” throughout the rest of this Guide. It is publicly available on the USDA website at: https://www.fsa.usda.gov/Internet/FSA_File/1-ecp_ro8_a01.pdf.

Fourth, FSA sometimes issues what it calls Notices that describe how ECP is to be implemented.⁵

Fifth, state FSA offices may issue supplements to the ECP Handbook to clarify state-specific issues.⁶ These state supplements must be consistent with federal ECP provisions and may not be less restrictive than the ECP Handbook. State offices must implement ECP within national FSA policy and ensure that ECP is carried out the same way throughout the state.⁷

⁴ See 88 Fed. Reg. 1862 (Jan. 11, 2023) (with a technical correction published in 88 Fed. Reg. 39767 (June 20, 2023)).

⁵ See, for example, FSA Notice ECP-94, FY 2025 ECP Payment Scenarios (Jan. 15, 2025; expires Oct. 1, 2025).

⁶ ECP Handbook, page 1-11, para. 11.B (Nov. 21, 2024).

⁷ ECP Handbook, page 1-80, para. 37.A (Nov. 21, 2024).

II. How to Use This Guide

This Guide provides an overview of the USDA Emergency Conservation Program. We recommend that readers start with Section IV (Overview & Post-Disaster Tips) to understand the ECP Program and its application process as a whole. The Post-Disaster Tips subsection describes seven best practices, particularly in the weeks immediately after a disaster and at the outset of the application process. Once you orient yourself with Section IV, you can then skip to other sections to find more detailed discussions of the topics that interest you.

The Table of Contents serves as a navigating tool to direct the reader to their area of interest. The digital version of this Guide is also word searchable in web browsers or pdf software on most smart phones and computers. A digital version is available on FLAG's website at <http://www.flaginc.org/publication>.

If you want to review the actual text of the rules on which this Guide is based, you can use the footnote citations to find and read the relevant text of statutes, rules, and other guidelines. Please see Section I.B above for links to publicly available copies of the legal authorities. Many of our descriptions of the rules closely follow the language of the source text. We have used quotation marks where we want to emphasize a specific term or phrase for the reader.

As in all USDA programs, discrimination is illegal. See Section III, below, for more on discrimination.

III. Discrimination Is Illegal

USDA and all its divisions are prohibited from subjecting any person to discrimination on the basis of race, color, religion, sex, age, national origin, marital status, familial/parental status, sexual orientation, gender identity, disability, political beliefs, or because all or part of an individual's income is derived from any public assistance program.⁸

If you believe USDA staff have discriminated against you, please contact your local community-based farmer advocacy group. You can also contact Farmers' Legal Action Group directly at lawyers@flaginc.org or 1-877-860-4349.

⁸ 7 C.F.R. §15d.3(a) (2025). *See also* USDA, Non-Discrimination Statement, at <https://www.usda.gov/non-discrimination-statement> (last visited August 25, 2025).

IV. Overview & Post-Disaster Tips

A. How the ECP Application and Cost-Sharing Process Works

This overview familiarizes the reader with the ECP process. We describe the process in greater detail in the subsequent sections. We have referenced those sections as appropriate in this overview.

The ECP funding process begins when FSA determines that a natural disaster has occurred in a region and makes funding available for disbursement by local FSA offices consistent with ECP requirements (Section VIII.B). Next, local FSA county offices will determine their sign-up periods (Section IX). Farmers and ranchers will have between 30 and 60 calendar days to apply, unless an extension is offered.

Farmers and ranchers should apply by going into their local FSA office where an FSA employee will work with a farmer to fill out an application in ECP-specific software (Section IX). Making an appointment beforehand may be possible and can eliminate the wait-time for walk-ins. FSA calls ECP applications “Cost Share Requests.” FSA must accept applications even when ECP funding is not yet available and may never be. As noted in the tips below (subsection B), we strongly recommend that farmers apply for ECP funding even when it is not clear if funding will ever become available. If farmers must begin clean up or restoration work before they can receive ECP approval, they should contact FSA and let them know the situation and why immediate work is necessary.

After a farmer applies, the local FSA office—or another technical service provider such as NCRS—will normally conduct an on-site inspection to confirm that the damage caused by natural disaster qualifies for ECP measures. Section X.A covers the types of things FSA will be looking at. If a farmer refuses access to an ECP inspector, they will not be eligible for ECP funding.

FSA usually distributes funds on a first come, first served basis, but when FSA knows that funds are limited, the ECP Handbook directs FSA county offices to prioritize applications before approval (Section IX.F). Relevant prioritization factors include, but are not limited to, unsafe conditions on-site, type and degree of damage, need for technical assistance and availability thereof, environmental concerns, and livestock welfare. If a farmer or rancher qualifies for ECP funding but there are not enough funds available, the local FSA office should perform an inspection and assessment of damage to confirm eligibility and defer a final decision until more funds become available, if ever (Section IX.G).

ECP cost-share amounts generally cover up to 75 percent of eligible costs (Section XVII.A). For beginning, limited resource, and socially disadvantaged farmers, the cost-share payments cover up to 90 percent of eligible costs. Therefore, it is important for such farmers to identify themselves as such and file any necessary forms.⁹ Note, however, that current USDA policies may impact the use of these designations.

FSA will issue a final decision on an ECP application in writing (Section X.D). For approved applications, FSA and the applicant will enter into an agreement called a “Cost Share Agreement” (Section X.E). The agreement will specify:

- Applicant contact information;

⁹ Current USDA policies may discontinue the use of these categories. *See infra* note 191.

- Approved ECP practices, their location, a description of them, their extent, their individual components (if applicable), their lifespan, their expiration date, and all applicable specifications for such practices;
- Deadline for completion of the ECP practices;
- Approved cost-share rate;
- Conditions on which the cost-share is promised to the farmer, including certain performance obligations; and
- Any additional requirements, such as performance specifications for the ECP practices.

The Cost Share Agreement will require the applicant to complete and maintain ECP practices for their designated lifespan (Sections XIII & XV.A). The applicant must certify completion of ECP practices within a certain time period, usually six months, in order to receive the full cost-share payment. Breach of the agreement can lead to FSA seeking the return of some or all ECP cost-share funds (Sections VII, X.E & XV). FSA retains the right to adjust cost-share amounts up or down in certain scenarios, even after the installation of conservation practices (Section XVIII).

After approval, FSA may advance up to 25 percent of the total cost-share amount for immediate use within 60 days (Section XIV.B). Generally, any practices commenced before an applicant's approval are not eligible for funding, but there are waivers when immediate action was justified (Section XII).

If FSA issues an adverse decision on an application, disbursement of funds, or compliance with the cost-share agreement, the farmer can file an administrative appeal with USDA's National Appeal Division (Section XXII).¹⁰

The ECP Handbook provides extensive explanation and examples of the types of farmers, agricultural land, and conservation problems and practices that are eligible for ECP assistance. Sections XIX, XX, and XXI cover this information. Eligible people include individuals and legal entities that own or operate commercial farms or ranches, Native America tribes and tribal members that commercially farm or ranch, and certain organizations that own or operate commercial farms or ranches. Eligible land includes commercial agricultural land, windbreak and shelterbelt land, and roads and ditches used for agriculture.

Generally, conservation problems are only eligible if they arise from new damage caused by a disaster that impairs previously functioning farmland (Section VI). The problem or damage generally must be unusual (except certain wind erosion) and must be so costly as to require federal assistance. Certain water conservation practices are also eligible during severe drought. The types of conservation practices eligible for ECP include:

- removing debris;
- grading, shaping, or releveling;
- replacing or restoring permanent fences;
- restoring agricultural conservation structures (such as dams, ponds, ditches, wells, wind and water erosion controls, and related infrastructure);
- installing emergency wind erosion control measures; and

¹⁰ See 7 C.F.R. § 701.34 (2025). See also USDA, National Appeals Division (NAD), at <https://www.usda.gov/about-usda/general-information/staff-offices/office-hearings-and-appeals/national-appeals-division> (last visited May 13, 2025).

- water conservation and enhancement measures for livestock, orchards, and vineyards.

B. Post-Disaster Tips

In the aftermath of a natural disaster, farmers and ranchers often face significant damage to their land and infrastructure. This can be a stressful and confusing time, so it is important to remember and follow these basic tips to protect one's ability to obtain ECP funding.

1. Document All Damage

Be sure to document all damage to your farm or ranch. Photos and videos are best, but written, dated notes can also suffice—the more detail the better. For silt, dirt, or sand deposits, measure the maximum depth of each deposit; the depth matters for ECP funding purposes (see Sections XXI.A.2 & B.3.d).

2. Contact FSA Before Beginning Restoration Work

Clean up and restoration work often must begin immediately to keep the farm or ranch operating. Although normally such work must wait until after ECP approval, FSA is able to issue waivers in this situation if the farmer can prove that immediate action was justified (see Section XII.B). If the work cannot wait for ECP approval, you should still attempt to contact FSA beforehand and let them know the situation and why you must begin clean up and restoration now.

Be sure to call or visit FSA and speak to someone. At the very least, leave a voicemail. If possible, submit an ECP application at this time, and be sure to request a waiver to allow you to commence work immediately. Whether you leave a voicemail or speak to someone, be sure to follow up with an email or written letter documenting the voicemail or conversation and recounting your situation and why clean up must begin immediately to allow your farm or ranch to continue operating.

3. Document All FSA Communications

Be sure to document all interactions with FSA. After each interaction, request a Receipt for Service. Save all written correspondence. If you call an FSA office or visit in person, be sure to take written, dated notes about what is discussed. If possible, bring a friend (preferably not a relative) along to an FSA office visit who can help remember important details about the ECP process and the conversation. Framing it in this way can help avoid alarming the FSA official.

If an FSA official gives you specific instructions or information regarding how you should proceed with the ECP process, it is best to confirm that information in an email or letter to the official and ask that the official correct any inaccuracies in your written account. If sending a hardcopy letter, be sure to keep a copy and request receipt confirmation from the official. File your emails in digital folders to keep track of them.

4. Always Submit an ECP Application, Even If No Funding Available

FSA may tell you there is no funding. Regardless, you should still submit an ECP application if you likely qualify because funding may become available in the future. If

you submit an application now, you do not have to worry about missing future deadlines, having a lower funding priority than other applications, or losing necessary documentation down the road.

5. Document All Work Performed, including Labor Hours and Materials

Be sure to track and document everything you do in terms of clean up, restoration, etc. Take notes on all labor hours with a description of the work performed and the equipment used. Keep all invoices and receipts for labor, materials, contract services, etc.

6. Keep Track of ECP Obligations and Deadlines

If your ECP application is accepted, your obligations and deadlines should be spelled out in the Cost Share Agreement that both you and FSA sign (see Section X.E). Make sure you fully understand your obligations. If you have any questions, ask them at the outset to avoid misunderstandings down the road.

7. Ask for Extensions Before Deadlines

If you think you may not meet a deadline, ask for an extension before the deadline. Obtaining an extension before a deadline is much easier than after-the-fact (see Sections XIII.A & B).

V. Natural Disaster Defined

ECP defines a natural disaster to include most common-sense examples. The federal regulations define it as “wildfires, hurricanes or excessive winds, drought, ice storms or blizzards, floods, or other naturally-occurring resource impacting events as determined by FSA.”¹¹ The ECP Handbook defines the term simply as “disasters that are naturally caused.” It lists the following examples:

- drought
- explosion
- flood
- high water
- high winds, including micro-bursts
- hurricane
- landslide
- mudslide
- severe snowstorm
- storm, including ice storms
- tidal wave
- tornado
- typhoon
- volcanic eruption
- wildfire by lightning or when exacerbated by natural conditions
- wind-driven water; and
- other natural phenomena.¹²

¹¹ 7 C.F.R. § 701.2, “Natural disaster” (2025).

¹² ECP Handbook, page 1-2, para. 2.B (Nov. 21, 2024).

VI. Conservation Problems that Qualify for ECP

Two types of conservation problems qualify for ECP assistance. FSA can implement ECP when: (1) a disaster causes new damage or impairments requiring rehabilitation of farmland or conservation structures, and (2) severe drought requires emergency water conservation and enhancement measures.¹³

These two categories of conservation problems are discussed below. This Guide provides more detail on eligibility of people, land, and specific ECP practices in Sections XIX, XX, and XXI.

A. New Damage or Impairments Caused by Disaster

FSA may implement ECP when a natural disaster causes new damage or impairments on farmland or conservation structures.¹⁴ To be eligible for ECP, such conservation problems must satisfy six factors. These factors are described below.

1. Damage Must Be New

FSA regulations emphasize that the conservation problem must be new.¹⁵ Problems that existed before the disaster are not eligible.¹⁶

2. Caused by Disaster

The conservation problem must have been caused by the natural disaster.¹⁷ This goes hand-in-hand with the requirement that the damage or problem be new.

3. Must Impair or Endanger Land

The damage or other conservation problem, if not treated, will impair or endanger the land.¹⁸

4. Must Materially Affect Productive Capacity

A conservation problem must “materially affect” the productive capacity of the land or water resource.¹⁹

¹³ 7 C.F.R. § 701.103(a) (2025); ECP Handbook, page 1-2, para. 2.B (Nov. 21, 2024).

¹⁴ 7 C.F.R. § 701.103(a) (2025); ECP Handbook, 4-69, para. 203.A (Nov. 21, 2024).

¹⁵ 7 C.F.R. § 701.105(a)(1) (2025); ECP Handbook, page 6-159, para. 328.A (Nov. 21, 2024).

¹⁶ 7 C.F.R. § 701.105(a)(1)(iv) (2025).

¹⁷ 7 C.F.R. § 701.105(a)(1) (2025); ECP Handbook, page 6-5, para. 277.C & page 6-159 para. 328.A (Nov. 21, 2024).

¹⁸ 7 C.F.R. § 701.105(a)(1)(i) (2025); ECP Handbook, page 6-5, para. 277.C (Nov. 21, 2024).

¹⁹ 7 C.F.R. § 701.105(a)(1)(ii) (2025); ECP Handbook, page 6-5, para. 277.C (Nov. 21, 2024).

“Materially affect” is not defined by FSA. A likely interpretation is that the conservation problem has a significant influence or effect on the productivity of the land. See Black’s Law Dictionary, “Material” (12th ed. 2024).

5. Must Be of Unusual Character—Except Wind Erosion

The damage or impairment resulting from the disaster must be unusual in character.²⁰ In general, this means the conservation problem does not occur frequently in the same area. However, there is an exception for wind erosion: problems caused by wind erosion can be eligible even if the wind erosion is likely to occur frequently.

6. Federal Assistance Must Be Needed to Restore the Land

The damage or impairment must be so severe that it would be too costly for the farmer to rehabilitate without federal assistance.²¹ FSA currently requires a minimum cost estimate of \$1,000 to satisfy this requirement, as described in more detail in Section XVI.A.

B. Water Conservation Measures During Severe Drought

FSA may authorize the use of ECP during “severe drought” to carry out emergency water conservation and water enhancement measures.²²

Severe drought is specifically defined by FSA in this context. The definition has two parts. First, “available water from sources currently being used for livestock or orchards and vineyard irrigation” must have been “reduced below normal.” Second, survival of the livestock, orchards, or vineyard must be “unlikely without additional water.”²³

Normally, for a drought to qualify for ECP, a county must have levels of precipitation at least 40 percent less than normal for the last four months, as well as for all days in the current month.²⁴ If, however, the county has been designated as having a level “D3 Drought Extreme” by the U.S. Drought Monitor, the precipitation data requirement may be waived.

²⁰ 7 C.F.R. § 701.105(a)(1)(iii) (2025); ECP Handbook, page 6-5, para. 277.C (Nov. 21, 2024).

²¹ 7 C.F.R. § 701.105(a)(1)(iv) (2025); ECP Handbook, page 1-3, para. 2.C, page 2-1, para. 66.B & page 4-70, para. 204.A (Nov. 21, 2024).

²² 7 C.F.R. § 701.103(c)(1) (2025). The decision whether ECP is needed will be based, in part, on reports from FSA state and county committees about drought conditions in the area. ECP Handbook, page 6-7, para. 277.F (Nov. 21, 2024).

²³ ECP Handbook, page 6-7, para. 277.F, Exhibit 2, page 7, “Severe drought” (Nov. 21, 2024).

²⁴ ECP Handbook, page 6-7, para. 277.F (Nov. 21, 2024).

VII. General Rules Controlling All Conservation Practices

ECP has general rules that apply to all conservation practices.²⁵ This section discusses those general rules. Section XXI discusses the ECP Handbook's specific examples of conservation practices and any additional specific rules that the ECP Handbook requires.

A. Only the Minimum Needed to Address the Need

Conservation practice specifications must “represent the minimum levels of performance required to address the ECP need.”²⁶ This means that qualified applicants cannot receive more assistance than needed to appropriately address the conservation problem pursuant to NRCS standards and specifications.²⁷

ECP participants are responsible for all costs incurred to improve land and conservation structures *beyond* the minimum NRCS technical standards and specifications.²⁸

B. Restore to Pre-Disaster Condition and Function

ECP cost-share funds can only be used to restore farmland, fences, or other conservation structures to a similar type and function existing before the natural disaster.²⁹ However, if pre-existing structures did not meet NRCS specifications, then the additional costs of restoring structures to meet minimum NRCS specifications are eligible for ECP assistance. Notably, fence repairs do not have to meet NRCS specifications.

C. Ensure Safety of Structure

Safety is one of the main reasons for the requirement that conservation practices meet NRCS standards. In many cases, restoring a structure to its pre-disaster condition would not meet current NRCS standards and specifications.³⁰ The structure then might be unable to withstand a similar, future disaster event or present a hazard to nearby homes and structures. Thus, structures must be restored to meet minimum NRCS standards and specifications, with the exception of fence repair.

D. Comply with All Requirements Upon Which Approval Is Conditioned

All ECP approvals must specify any requirements upon which cost sharing is conditioned. As discussed in Section X.E, a Cost Share Agreement will spell out these requirements. Technical standards and specifications must be included or referenced. And all practices must meet NRCS standards and specifications, with the exception of fence repair.

Examples of types of requirements include:

- Implement required;
- Depth;

²⁵ 7 C.F.R. § 701.112 (2025).

²⁶ 7 C.F.R. § 701.112(d) (2025).

²⁷ ECP Handbook, page 4-69, para. 203.A (Nov. 21, 2024).

²⁸ ECP Handbook, page 4-69, para. 203.A (Nov. 21, 2024).

²⁹ 7 C.F.R. § 701.112(a) (2025); ECP Handbook, page 4-69, para. 203.A (Nov. 21, 2024).

³⁰ ECP Handbook, page 4-69, para. 203.B (Nov. 21, 2024).

- Spacing;
- Tillage measures;
- Type of posts;
- Type of wire;
- Bracing;
- Type of debris; and
- Manner of disposition.³¹

E. Maintenance of Practice for its Lifespan

ECP participants must maintain conservation practices *and* all supporting documentation for the “lifespan” of each specific practice.³² The ECP Handbook defines “lifespan of a practice” as the typical minimum expected length of time that a practice is expected to serve its conservation purpose.³³ ECP participants are solely responsible for all maintenance costs during the lifespan.³⁴

The ECP Handbook provides a sample reference table of lifespans for many common practices in Exhibit 43.³⁵ State Offices will prepare and finalize such a reference table for use by county offices, and the lead technical agency may specify a lifespan for other practices. As discussed below in Section XXI.H.4, when a farmer proposes an “other emergency conservation measure,” the farmer must propose a minimum lifespan. All final ECP Cost Share Agreements will state the lifespan for each practice and reference NRCS maintenance specifications so that the farmer knows their responsibilities.³⁶

During its lifespan, a practice is subject to spot checks to verify that it is being maintained and used for the designed purpose.³⁷ FSA may attempt to claw back cost-share funds if the ECP participant or a successive owner either fails to perform required maintenance, stops using the practice before the lifespan expires, or allows the practice to be destroyed or substantially damaged.³⁸

Notably, if a practice is damaged by a subsequent natural disaster during its lifespan and the disaster is covered by ECP, then the practice could be eligible for additional ECP assistance.³⁹

Lack of maintenance is not a violation in the following circumstances:

- practice has served its purpose for its lifespan;
- failure was because of conditions beyond the producer’s control;

³¹ ECP Handbook, Exhibit 43, page 1, para. A

³² ECP Handbook, page 2-152, para. 123.C & page 8-89, para. 432.C (Nov. 21, 2024).

³³ ECP Handbook, Exhibit 2, page 3 (Nov. 21, 2024). Lifespans begin January 1 after the calendar year the practice is installed.

³⁴ ECP Handbook, page 3-7, para. 153.B (Nov. 21, 2024).

³⁵ ECP Handbook, Exhibit 43, page 2 (Nov. 21, 2024).

³⁶ ECP Handbook, Exhibit 18, para. A (Nov. 21, 2024) (FSA-801B Cost Share Agreement at Part B, no. 10 & Part C).

³⁷ ECP Handbook, page 9-1, para. 680.A (Nov. 21, 2024).

³⁸ ECP Handbook, pages 9-71 to 9-72, paras. 706.A to 706.D (Nov. 21, 2024).

³⁹ ECP Handbook, page 2-152, para. 123.B (Nov. 21, 2024).

- failure occurred after all persons or legal entities who shared in the payment involuntarily lost control of the land; or
- failure occurred on acreage or other extent of the practice on which costs were not shared.⁴⁰

⁴⁰ ECP Handbook, page 9-72, para. 706.D (Nov. 21, 2024).

VIII. ECP Funding Availability—and Possible Unavailability

If a natural disaster strikes, chances are good that ECP will be available to farmers once an official disaster declaration is made for the area. If a disaster declaration has been made, and ECP is not available, it will be due to one of two possibilities. First, Congress may not have provided enough money to fund the program. Second, even if Congress has provided money, FSA may have decided not to implement the program in that county.

A. Congress and Money for ECP

ECP availability depends on Congress to set aside funds for the program.⁴¹ In 2019, for example, Congress appropriated 558 million dollars for ECP for 2018 hurricane and fire disasters, 2019 tornadoes and floods, and other natural disasters.⁴²

If Congress has not approved the money needed to provide ECP assistance, then farmers simply cannot receive such assistance — even if there is a disaster and a farmer meets all of the requirements for the program.⁴³

If money runs low, then some otherwise qualified farmers may not receive any ECP funding.⁴⁴ Section IX.F describes how FSA prioritizes limited funds.

B. Deciding to Make ECP Available

ECP is offered and run through local FSA offices, and it is the local office that must make ECP available in that county.⁴⁵ The local FSA office is responsible for assessing the damage caused by a disaster, reviewing the losses, and creating a map with damaged areas shown. It will also decide which ECP practices will likely be needed to address the damage.⁴⁶

After a disaster, the local FSA office has five working days to make an overall assessment of damage and determine whether the damage satisfies minimum ECP requirements. If so, the local office submits an implementation request to the state FSA office via FSA's internal ECP software.⁴⁷

⁴¹ This point is made many times in the rules. See 7 C.F.R. §§ 701.1(a), 701.103(a) & (d) (2025).

⁴² Additional Supplemental Appropriations for Disaster Relief Act, 2019, Pub. L. No. 116-20, Title I, 133 Stat. 871, 873.

⁴³ 7 C.F.R. § 701.16(b)(1) (2025); ECP Handbook, page 1-3, para. 2.C (Nov. 21, 2024).

⁴⁴ ECP Handbook, page 1-3, para. 2.C (Nov. 21, 2024).

⁴⁵ 7 C.F.R. § 701.1(b) (2025). Significant authority in running the program remains with the national FSA office. See 7 C.F.R. § 701.1(e) & (g) (2025).

⁴⁶ ECP Handbook, page 6-2, para. 277.A; ECP Handbook, Exhibit 2, page 2, “Emergency designation” (Nov. 21, 2024).

⁴⁷ ECP Handbook, page 6-4, para. 277.B & page 6-6, 277.E (Nov. 21, 2024). For disasters that damage farmland, FSA will be looking to see if new conservation problems created by the disaster result in damage that will be unusual in character; the damage cannot be the type of damage that would occur often in the same areas—except in the case of wind erosion. FSA will want to make certain that the disaster affects the productive capacity of the land or water, that the damage will impair or endanger the land if not treated, and that it be so costly to rehabilitate that federal aid is required to return the land to productive use. The type and extent of individual farm damage is the primary consideration for ECP eligibility. The number of farms affected is not the primary question. ECP may be implemented on a single farm if the FSA decides it is justified.

If the state office concurs with the local office, it must submit the implementation request to the national ECP Program Manager via the ECP software as quickly as possible, and no later than six months after the end date of the disaster. A state office may request funding for a county that has not submitted an implementation request.⁴⁸

The approval of the national ECP Program Manager is then required for the disbursement of ECP funding.⁴⁹

For droughts, FSA will look to see that a severe drought has occurred. ECP Handbook, pages 6-5 to 6-7, paras. 277.C to 277.F (Nov. 21, 2024).

⁴⁸ ECP Handbook, pages 6-8 to 6-9, paras. 278.A & 278.B (Nov. 21, 2024).

⁴⁹ ECP Handbook, page 1-3, para. 2.C, page 6-10, para. 278.C (Nov. 21, 2024).

IX. Applying for ECP

ECP applications generally must be completed at a local USDA service office in coordination with USDA staff. FSA uses form FSA-801, ECP Cost Share Request, to document ECP applications. The ECP Handbook provides an example of a completed form FSA-801 at Exhibit 16.⁵⁰ FSA staff use an internal ECP software system that fills out the form as staff input information provided by an ECP applicant. The following subsections describe relevant parts of the application process.

A. ECP Sign-up Period

If FSA approves a request for ECP funding, the local FSA office will set a sign-up period. FSA must inform and educate farmers about the ECP sign-up period using press releases, radio, newspapers, and flyers.⁵¹

The sign-up period must be at least 30 calendar days and no more than 60 calendar days after the date that FSA formally approves ECP implementation in a county.⁵² FSA county offices may extend the sign-up period beyond 60 days if there is “adequate justification” and the ECP Program Manager approves via the ECP software system.⁵³

The ECP Handbook gives two examples of adequate justification.⁵⁴ First, if the disaster is a D3 drought, and the county remains in D3 status during the ECP implementation, that could be a reason to extend the deadline. Second, if the extent of the damage is so widespread that the sign-up period is not long enough for FSA to accommodate all farmers, and FSA has a reasonable expectation that more farmers would apply with additional time, that could be an adequate justification to extend the deadline.

B. FSA Staff Will Assist Eligible Farmers with Submitting Applications

If FSA staff determine that a farmer is likely eligible for ECP cost-sharing, the ECP Handbook directs FSA staff to work with the farmer to complete and submit an ECP application using internal ECP software.⁵⁵

C. One Application Per Farmer, Disaster, and Administrative County

Each farmer should submit a separate ECP application for each disaster and administrative county.⁵⁶ In other words, if a farmer has eligible ECP costs in two administrative counties for the same disaster, the farmer should file two separate ECP applications. If a farmer suffers two different disasters on the same land, then the farmer should file two separate applications, one for each disaster. If two independent farmers have eligible ECP costs on the same land, each farmer submits their own application.

⁵⁰ ECP Handbook, Exhibit 16 (Nov. 21, 2024).

⁵¹ ECP Handbook, page 6-3, para. 277.A (Nov. 21, 2024).

⁵² ECP Handbook, page 6-75, para. 300.A (Nov. 21, 2024).

⁵³ ECP Handbook, page 6-75, para. 300.B (Nov. 21, 2024).

⁵⁴ ECP Handbook, page 6-75, para. 300.B (Nov. 21, 2024).

⁵⁵ ECP Handbook, pages 6-76 & 6-79, paras. 301.A and 301.E (Nov. 21, 2024).

⁵⁶ ECP Handbook, page 6-76 & 6-78, paras. 301.A & 301.D (Nov. 21, 2024).

D. Early Applications

County FSA offices have the discretion to accept ECP applications before the sign-up period begins.⁵⁷ Farmers should check with their local service office about submitting early applications.

E. Late Applications Accepted if FSA Thinks Lateness is “Justified”

FSA may accept late applications up to 30 calendar days after the end of the signup period. The farmer must submit a written justification with the late-filed form FSA-801.⁵⁸

Typical justifications include:

- the claimed damage still exists and normal farming operations are still affected;
- in case of drought, the area remains in a D3 drought on the U.S. Drought Monitor.

The justification must be identifiable and verified by a farm visit.⁵⁹

Any applications that are received more than 30 calendar days after the signup period has ended will be ineligible for ECP.⁶⁰ In such a situation, FSA should notify the farmer that they are ineligible for ECP and that they have appeal rights with the USDA National Appeals Division (NAD).

In such a NAD appeal, a farmer may request equitable relief from the application deadline if the circumstances show that either (1) the farmer “made a good faith effort” to meet the deadline or (2) acting in good faith, the farmer “relied on the action or advice [of a USDA employee] to [their] detriment.”⁶¹

F. Prioritizing Cost Sharing When Funds Are Limited

When funds are limited, the ECP Handbook directs FSA County Committees to prioritize approved ECP applications and approval amounts.⁶² The Handbook provides only one example of a priority factor: “safety that poses a threat to life or property.”⁶³ However, ECP regulations still provide a non-exclusive list of factors for prioritizing requests “before approval,” including:

- (1) Type and degree of damage;
- (2) Type of practices needed to address the problem;
- (3) Availability of funds;
- (4) Availability of technical assistance;
- (5) Environmental concerns;

⁵⁷ ECP Handbook, page 6-78, para. 301.B (Nov. 21, 2024).

⁵⁸ ECP Handbook, page 6-80, para. 301.F (Nov. 21, 2024).

⁵⁹ ECP Handbook, page 6-80, para. 301.F (Nov. 21, 2024).

⁶⁰ ECP Handbook, page 6-80, para. 301.F (Nov. 21, 2024).

⁶¹ 7 U.S.C. § 6998(d) (citing 7 U.S.C. § 7996(b)).

⁶² ECP Handbook, page 6-160, para. 329.A (Nov. 21, 2024).

⁶³ ECP Handbook, page 6-160, para. 329.B (Nov. 21, 2024).

- (6) Safety factors; or
- (7) In the case of ECP, welfare of eligible livestock.⁶⁴

The inconsistency between the ECP Handbook and FSA's regulations makes it unclear how county offices currently prioritize applications and funding. FSA county offices appear to have considerable discretion in deciding how to prioritize limited funding, so practices may vary between counties. Farmers should inquire with their local service offices if they learn that funds are limited and applications and approval amounts may need to be prioritized.

It is possible that local offices may simply reduce cost-share percentages for all applicants on a pro rata basis—an identical percentage reduction applied to all applicants.

G. Applying When ECP Funds Not Available

It is possible that a farmer will apply for ECP at a time in which there are not funds available in that FSA county office.⁶⁵ This could be because funds are approved but not yet sent to the county office. It could also be that the county office had funds for that disaster but has already distributed all of them.

In either case, FSA should accept the farmer's request for ECP assistance, and FSA should do an inspection and assessment of the farmer's damage.⁶⁶ FSA should also inform the farmer in writing that even though the request was accepted and field visits were conducted, there may not be cost-share assistance available. If funds become available, FSA should then process the application.⁶⁷

FSA should also accept an application for ECP even if the county has not been approved for ECP for that disaster.⁶⁸ FSA should then consider the application and decide if the request should lead FSA to implement ECP in that county. If FSA decides not to implement ECP, FSA should tell the farmer in writing that funds are not available for the program and should provide the farmer with appeal rights.

⁶⁴ 7 C.F.R. § 701.16(a) (2025).

⁶⁵ ECP Handbook, page 6-81, para. 301.G (Nov. 21, 2024).

⁶⁶ ECP Handbook, page 6-81, para. 301.G (Nov. 21, 2024).

⁶⁷ ECP Handbook, page 6-81, para. 301.G (Nov. 21, 2024).

⁶⁸ ECP Handbook, page 6-80, para. 301.H (Nov. 21, 2024).

X. FSA Review of ECP Applications

FSA generally reviews applications—formally known as Cost Share Requests, form FSA-801—in the following sequential steps.

A. On-Site Inspection

FSA first performs an on-site inspection within 45 calendar days of receiving a farmer's ECP application.⁶⁹ During an inspection, FSA looks for multiple things. First, FSA will check if the disaster caused damage that is unusual or unlikely to reoccur in the area. Second, FSA will check if the damage is severe enough to justify ECP assistance. Finally, FSA will check if the farmer has already started restoration work. FSA will document the damage with at least one photo, GPS coordinates and a marked map (unless damage is county-wide), and a description of damaged conservation structures.⁷⁰

If the farmer refuses to allow FSA entry onto the farm, FSA will notify the farmer in writing within five working days that FSA considers the land to be ineligible for ECP.⁷¹ FSA will not try to enter the farm again unless the farmer provides written notification to FSA that the farmer has reconsidered and will allow FSA to enter the farm. The farmer has 15 calendar days after the date of FSA's notification of refusal letter to do so.

B. Environmental and Cultural Resource Compliance

Based on the ECP application and on-site inspection, FSA or the assigned technical service provider must complete an environmental evaluation of the proposed conservation practices before the work begins.⁷² The National Environmental Policy Act (NEPA) requires this in order to prevent adverse impacts to endangered species, wetlands, historic properties, and other protected resources.

There are specific forms used to conduct such a NEPA evaluation. FSA uses an Environmental Screening Worksheet (form FSA-850),⁷³ and NRCS uses an Environmental Evaluation Worksheet (form NRCS-CPA-52).⁷⁴ State agencies may use an equivalent form. The ECP Handbook directs the technical agency to complete their form consistent with FSA's Handbook for Environmental Quality Programs (1-EQ, Revision 2).⁷⁵

The forms generally require a description of the site and the proposed action; information about whether the action potentially impacts specific environmental or cultural resources

⁶⁹ 7 C.F.R. § 701.14(a) (2025); ECP Handbook, page 6-147, para. 324.A (Nov. 21, 2024). The requirement for an onsite inspection can be waived in what FSA calls dire circumstances. Such circumstances can include that the damage requires immediate action to prevent significant loss to the operation or presents an immediate threat to public safety or the environment. ECP Handbook, page 6-148, para. 324.B (Nov. 21, 2024).

⁷⁰ 7 C.F.R. § 701.14(a) (2025); ECP Handbook, page 6-147, para. 324.A (Nov. 21, 2024).

⁷¹ ECP Handbook, page 6-158, para. 327.B (Nov. 21, 2024).

⁷² ECP Handbook, pages 6-154 to 6-156, paras. 326.A & B (Nov. 21, 2024).

⁷³ USDA Farm Service Agency, Environmental Screening Worksheet (FSA-850), Feb. 17, 2017, available at <https://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/FSA850.PDF>.

⁷⁴ USDA Natural Res. Cons. Serv., Environmental Evaluation Worksheet (NRCS-CPA-52), Apr. 2023, available at <https://www.nrcs.usda.gov/resources/guides-and-instructions/nrcs-environmental-evaluation-cpa-52-worksheet-tools-and-training>.

⁷⁵ ECP Handbook, page 6-154, para. 326.B (Nov. 21, 2024).

or will have environmental justice impacts; discussions of any such impacts, alternative actions, and mitigation measures; and a finding of whether the action's impacts are significant enough to require further evaluation.

Partial approvals are allowed when conservation practice instances are separated on the farmer's ECP application and able to be approved separately.⁷⁶ This may occur when disaster conditions prevent inspections in portions of a farm or more than one agency is responsible for completing an environmental evaluation of a multi-practice ECP application.

Environmental evaluations generally must be completed before final ECP approval and before any conservation practices commence.⁷⁷ There is an exception for emergency conditions requiring immediate rehabilitation, but an environmental evaluation still must be completed during or after the conservation practices for final approval of ECP cost-share reimbursement.⁷⁸

C. Calculating and Approving Cost-Share Amount

If an ECP application is eligible for approval, FSA must set an approval amount according to the cost-share calculation process described below in Section XVII.

D. Decision in Writing

FSA must inform ECP applicants in writing whether their application is approved or denied.⁷⁹ If the cost-share request is not approved, FSA must explain, in writing, why not and also provide the farmer with appeal rights.⁸⁰

The decision may be deferred if there are not funds available.⁸¹ FSA should tell the farmer if his or her application has been deferred because of a lack of available funds.⁸²

⁷⁶ ECP Handbook, page 6-155, para. 326.B (Nov. 21, 2024). A "practice instance" is a spatial representation of the practice that is included on the ECP application, using the ECP software. ECP Handbook, Exhibit 2, page 7, "Practice Instance" (Nov. 21, 2024).

⁷⁷ ECP Handbook, page 6-154, para. 326.B (Nov. 21, 2024).

⁷⁸ ECP Handbook, page 6-156, para. 326.C (Nov. 21, 2024).

⁷⁹ ECP Handbook, page 8-1, para. 399.B (Nov. 21, 2024).

⁸⁰ ECP Handbook, page 8-5, para. 400.A (Nov. 21, 2024).

⁸¹ ECP Handbook, page 8-5, para. 400.C (Nov. 21, 2024).

⁸² ECP Handbook, page 8-5, para. 400.C (Nov. 21, 2024).

E. Cost Share Agreement for Approved Applications

If FSA approves an application, it will document the relevant terms and conditions in an ECP “Cost Share Agreement,” form FSA-801B.⁸³ The terms and conditions include:

- Applicant contact information
- Approved ECP practices, their location, a description of them, their extent, their individual components (if applicable), their lifespan, their expiration date, and all applicable specifications for such practices;
- Approved cost-share rate;
- Conditions on which the cost-share is promised to the farmer, including certain performance obligations; and
- Any additional requirements.

This agreement is a legal agreement signed by both an FSA representative and the ECP applicant.⁸⁴ ECP applicants should be sure to read all the terms and conditions of the agreement before signing. If they are not clear on the terms, they should get clarification from FSA and, if necessary, seek assistance from a farmer advocacy group or an attorney.

ECP applicants have 15 days after receipt of the Cost Share Agreement to sign and return it to the FSA county office.⁸⁵

If the ECP participant does not comply with the terms of the agreement, FSA may withhold ECP funds and seek return of some or all the ECP funds already paid out.⁸⁶

⁸³ ECP Handbook, page 8-9, para. 403.C (Nov. 21, 2024).

⁸⁴ ECP Handbook, Ex. 18, pages 1-3 (Nov. 21, 2024) (example of completed form FSA-801B).

⁸⁵ ECP Handbook, page 8-9, para. 403.C (Nov. 21, 2024).

⁸⁶ ECP Handbook, Ex. 18, page 2 (Nov. 21, 2024) (FSA-801B Cost Share Agreement at Part C).

XI. Technical Assistance

Technical assistance may be available to ECP farmers as they plan and implement their ECP practices. This can mean that the farmer will receive technical expertise, information, and tools needed to rehabilitate land damaged by the disaster.⁸⁷ FSA, NRCS, and other approved technical service agencies can provide technical assistance.

From FSA's point of view, the technical assistance is intended to help farmers apply conservation practices correctly.⁸⁸ The assistance can include:

- deciding if a practice is needed and feasible;
- performing an environmental assessment, cultural resource review, or archaeological survey;
- determining appropriate measures and design when selecting a site;
- supervising, as needed, the installation of ECP practices; and
- inspecting completed practices to determine whether specifications are met.⁸⁹

Farmers do not have to pay for technical assistance provided by FSA or NRCS.⁹⁰ Farmers are not required to use FSA-provided technical assistance.⁹¹ However, if a farmer chooses to use technical assistance services not provided by FSA or NRCS, the farmer will be responsible for paying for all costs of those outside services with their own personal funds. ECP funds cannot be used to reimburse any of the costs of private technical services.⁹²

⁸⁷ ECP Handbook, page 5-1, para. 226.A (Nov. 21, 2024).

⁸⁸ ECP Handbook, page 5-3, para. 227.B (Nov. 21, 2024).

⁸⁹ ECP Handbook, page 5-4, para. 227.D (Nov. 21, 2024).

⁹⁰ ECP Handbook, page 5-6, para. 229.A (Nov. 21, 2024).

⁹¹ ECP Handbook, page 5-5, para. 228.B (Nov. 21, 2024).

⁹² ECP Handbook, page 5-6, para. 229.B (Nov. 21, 2024).

XII. Conservation Practices Started Before an ECP Application Is Submitted or Approved

The general rule is that ECP cost-share assistance is only available for conservation practices that are started *after* FSA approves an ECP application, formally known as a Cost Share Request, form FSA-801.⁹³ However, there are limited exceptions as discussed in subsection B, below.

A. General Rule: No Coverage for ECP Practices Started Before Approval

FSA generally will not provide ECP assistance for conservation practices or practice components that are “started” before a request for ECP cost sharing is submitted and approved.⁹⁴ For this purpose, FSA considers a practice “started” at the moment when the work begins.⁹⁵

B. Waiver Possible If Immediate Action Needed to Prevent Further Loss

In some natural disaster situations, farmers may need to take immediate action and initiate restoration measures either (1) before filing an ECP application or (2) after filing an application but before FSA has approved it.⁹⁶ FSA has waiver processes for these situations, which are subject to strict limitations.

1. Waiver Before ECP Application Submitted

Where there is an emergency caused by a natural disaster, a farmer may decide they need to begin restoration measures before they can file an application.⁹⁷ FSA may waive the requirement of filing the Cost Share Request before beginning work on ECP practices if all of the following requirements are met.⁹⁸

First, the disaster must have caused a legitimate emergency situation that required the farmer to take immediate action to prevent further losses.⁹⁹ Such situations could include, for example, if a disaster forces the farmer to make an emergency repair of fences to contain livestock, or if a dam poses an immediate threat to life and property. Second, the farmer must submit the Cost Share Request between the date of the disaster and the end of the sign-up period.¹⁰⁰ Third, the practice must have been started before the ECP disaster designation was approved by FSA.¹⁰¹

⁹³ 7 C.F.R. § 701.15(a) (2025); ECP Handbook, page 8-2, para. 399.C (Nov. 21, 2024).

⁹⁴ 7 C.F.R. § 701.15(a) (2025); ECP Handbook, page 6-159, para. 328.B (Nov. 21, 2024).

⁹⁵ See ECP Handbook, page 8-4, para. 399.E (Nov. 21, 2024).

⁹⁶ ECP Handbook, page 8-2, para. 399.C, page 8-4, para. 399.E (Nov. 21, 2024).

⁹⁷ ECP Handbook, page 8-2, para. 399.C (Nov. 21, 2024).

⁹⁸ ECP Handbook, pages 8-2 to 8-3, para. 399.C (Nov. 21, 2024).

⁹⁹ ECP Handbook, pages 8-2 to 8-3, para. 399.C (Nov. 21, 2024).

¹⁰⁰ ECP Handbook, page 8-3, para. 399.C (Nov. 21, 2024). The regulations that govern ECP indicate that the Cost Share Request must be submitted within a “reasonable amount of time” after the ECP enrollment officially begins. 7 C.F.R. § 701.15(b)(3) (2025).

¹⁰¹ The ECP regulations are slightly different than the ECP Handbook rules. Under the regulations, a farmer is only eligible for the waiver if they began the ECP practices no more than 60 days before the ECP disaster designation was approved. See 7 C.F.R. § 701.15(b)(4) (2025). It is unclear,

2. Waiver Before ECP Application is Approved

In some cases, a farmer may need to begin an ECP practice after applying but before the application is approved.¹⁰² A waiver of this requirement is possible on a case-by-case basis if starting the practice was “justified.” As an example, the ECP Handbook says that “prevent[ing] further losses” is one possible justification for beginning work on an ECP practice before the application is approved.¹⁰³ It is best to request such a waiver at the time of applying, or as soon as the farmer knows that they may need to begin work before final approval.¹⁰⁴

therefore, whether a waiver would be approved if a farmer began an ECP practice more than 60 days before an ECP disaster designation was approved.

¹⁰² A practice is considered started when the work begins. ECP Handbook, page 8-4, para. 399.E (Nov. 21, 2024).

¹⁰³ ECP Handbook, page 8-4, para. 399.E.

¹⁰⁴ ECP Handbook, page 8-4, para. 399.E.

XIII. Completing Conservation Practices

FSA has numerous rules relating to the completion of a conservation practice. These rules are described below.

A. Deadline—Typically Six Months from Approval

After receiving approval for ECP cost share, the farmer must complete the approved conservation practice within a specific time period, generally no more than six months.¹⁰⁵ However, in case of catastrophic disaster, FSA may set a period up to 12 months. FSA must mail or email notice of the upcoming deadline at least 30 calendar days before the expiration date of an approved practice.¹⁰⁶

FSA has the power to grant extensions for completion deadlines.¹⁰⁷ **To request an extension, a farmer must submit the request in writing before the practice completion deadline.**¹⁰⁸ Multiple extensions can be sought; however, approval for extensions beyond the first 12 months will require approval from officials at the state or federal headquarters level.¹⁰⁹ If the farmer is dealing with a drought, an extension request will require that FSA assess current drought conditions and the current availability of water.¹¹⁰ For droughts, FSA can approve one four-month extension beyond the initial six-month completion deadline.

B. Certifying Completion

After completing the practice, the farmer must certify completion by submitting a performance report (form FSA-801C) along with any required invoices or data.¹¹¹ Performance reports must be submitted by the expiration date, or by the extension date if the farmer received an extension.¹¹² **If the farmer misses a submission deadline, time limits may be extended only if the failure to submit on time was due to reasons beyond the farmer's control.**¹¹³

The performance reports must include information about the conservation practice work and other documents, such as copies of invoices, deposited checks, and paid receipts.¹¹⁴ If the farmer used his or her own labor, equipment, or materials, the farmer must send in a statement that describes the dates of the work, the cost per hour for labor, the equipment

¹⁰⁵ 7 C.F.R. § 701.21(c) (2025); ECP Handbook, page 8-10, para. 404.A (Nov. 21, 2024).

¹⁰⁶ ECP Handbook, page 8-12, para. 405.B (Nov. 21, 2024).

¹⁰⁷ ECP Handbook, page 8-10, para. 404.B (Nov. 21, 2024).

¹⁰⁸ For details on where to send an extension request, and what to include in the request, see ECP Handbook, pages 8-11 to 8-12, paras. 404.D & E (Nov. 21, 2024).

¹⁰⁹ See ECP Handbook, page 8-10, para. 404.B (Nov. 21, 2024).

¹¹⁰ ECP Handbook, page 8-11, para. 404.C (Nov. 21, 2024).

¹¹¹ 7 C.F.R. § 701.21(a) & (b) (2025); ECP Handbook, page 8-83, paras. 428.A & B, Exhibit 19 (Nov. 21, 2024).

¹¹² ECP Handbook, page 8-85, para. 429.A (Nov. 21, 2024).

¹¹³ 7 C.F.R. § 701.21(c) (2025).

¹¹⁴ ECP Handbook, pages 8-87 to 8-88, paras. 432.A & B, Exhibit 19 (Nov. 21, 2024). Farmers must keep records and supporting documentation for the lifespan of each ECP practice. ECP Handbook, page 8-89, para. 432.C (Nov. 21, 2024).

used, and the charges for it and other information. In some instances, FSA may require an inspection to verify performance, as discussed in subsection C, below.¹¹⁵

If FSA decides that the farmer did not do as much as was claimed on the performance report, FSA may reduce the cost-share payment.¹¹⁶ If the farmer did more work than was reported, FSA will generally not pay any additional cost-share amounts.¹¹⁷ If the increased costs are “substantial,” however, FSA should contact the farmer and the technical agency to determine the correct extent and may modify the cost share according to FSA rules discussed below at Section XVIII.

C. Performance Must Meet Specifications or Requirements & Potential Inspection

A farmer's performance must comply with the specifications and requirements of the Cost Share Agreement, form FSA-801B.¹¹⁸ Once a farmer submits their certification on form FSA-801C, FSA may accept the certification without an on-farm inspection of the practices. However, in some cases—such as the farmer's reported extent appears to be in error or a spot check of the farm suggests the extent performed was questionable—FSA will perform an on-farm inspection and measure the extent performed.¹¹⁹

In general, if the performance does not meet the specifications and requirements contained within the agreement, FSA will withhold the cost-share payment.¹²⁰ There are a few exceptions to this rule.

First, the farmer may receive cost-share funds even though the performance does not meet the specifications or requirements if the farmer relied on official measurements that were in error.¹²¹ This exception is only allowed if the farmer applied enough material to meet the minimum requirements of the inaccurate measurement and the following criteria are satisfied:

- FSA decides the practice solves the problem for which it was approved,
- the farmer made a reasonable effort to meet the requirements,
- the farmer agrees to maintain the practice for its required lifespan, and
- FSA has considered the assigned technical agency's certification.¹²²

If the practice does not meet ECP requirements, and FSA finds that corrective action needs to be taken by the farmer, the farmer will be granted additional time to take such actions.¹²³ If the farmer fails to take the corrective action during that time, FSA will seek a refund of the ECP cost share payment.

¹¹⁵ ECP Handbook, page 8-155, para. 455.B (Nov. 21, 2024).

¹¹⁶ ECP Handbook, page 8-345, para. 525.A (Nov. 21, 2024).

¹¹⁷ ECP Handbook, page 8-345, para. 535.B (Nov. 21, 2024).

¹¹⁸ 7 C.F.R. § 701.21 (2025); ECP Handbook, Exhibit 18 (Nov. 21, 2024).

¹¹⁹ ECP Handbook, page 8-155, para. 455 (Nov. 21, 2024).

¹²⁰ ECP Handbook, Ex. 18, page 2 (Nov. 21, 2024) (FSA-801B Cost Share Agreement at Part C).

¹²¹ ECP Handbook, page 8-413, para. 551.A (Nov. 21, 2024).

¹²² ECP Handbook, page 8-413, para. 551.B (Nov. 21, 2024).

¹²³ ECP Handbook, page 9-6, para. 684.A (Nov. 21, 2024).

D. Failure to Complete ECP Practice

If a farmer fails to complete an ECP practice, FSA will seek to claw back any advance payments or partial payments—unless the farmer was prevented from completing the practice for reasons beyond the producer’s control.¹²⁴

Acceptable reasons for not completing an approved ECP practice may include but are not limited to:

- Flood,
- Drought,
- Death, and
- Involuntary loss of control of the farm.

Unacceptable reasons for not completing practices may include but are not limited to:

- Financial inability to complete the practice, and
- Change in plans for land use.¹²⁵

E. Failure of ECP Practice for Reasons Beyond Farmer’s Control

If a conservation practice meets the minimum requirements but fails for reasons beyond the farmer’s control, FSA will still pay the promised cost-share amount.¹²⁶ However, FSA may require the farmer to do additional work. FSA will decide whether such additional work is eligible for cost-share assistance as part of the process described in Section XVIII, below.

¹²⁴ ECP Handbook, page 8-548, paras. 599.A (Nov. 21, 2024).

¹²⁵ ECP Handbook, page 8-548, paras. 599.B & 599.C (Nov. 21, 2024).

¹²⁶ ECP Handbook, page 8-414, para. 552.A (Nov. 21, 2024). FSA may require that the farmer do some additional work on the conservation practice as a condition of receiving the cost share payment. ECP Handbook, page 8-414, para. 552.B (Nov. 21, 2024).

XIV. ECP Cost-Share Payments

ECP rules allow for three types of cost-share payments—(1) payment upon completion of the ECP practices, (2) advance payments of up to 25 percent that are issued before the practices begin, or (3) partial payments that can be made after a portion of the practice is complete.

A. Payments Upon Completion of Practices

In general, three certifications must be received before an ECP cost-share payment will be issued.¹²⁷ First, the farmer must certify completion of the practice and request payment on form FSA-801C, Part D. Second, the technical service provider must provide a certification on form FSA-801C, Part E. Finally, FSA must complete a certification as well, on form FSA-801C, Part F. Once all three certifications are received, a payment will automatically issue.¹²⁸

As explained in Section XVIII, below, under some circumstances, the payment amount may be less than or greater than the initial amount approved, depending on the extent of practices actually performed. Also, if the farmer misses a submission deadline, time limits may be extended if the failure to submit on time was due to reasons beyond the farmer's control.¹²⁹

B. Advance Payments

FSA allows advance payments for all ECP practices.¹³⁰ Farmers can request 25 percent of the total available cost share as an advance payment to begin ECP work. To do so, a farmer must make the request as part of the Cost Share Request, form FSA-801. A farmer must use the funds within 60 calendar days of receiving the money. The farmer must also provide the FSA county office with proof of using the funds within that same 60-day timeline.¹³¹ If the farmer does not complete all approved practices before the ultimate deadline, FSA will seek to claw back the advance payment unless the failure to do so was due to reasons beyond the farmer's control.¹³²

C. Partial Payments

Under FSA rules, partial payments are sometimes allowed when the farmer has completed part of the conservation practice.¹³³ A farmer may be paid for the completed components of a conservation practice before the rest of the conservation practice is completed, if the farmer makes a cost share request on form FSA-801C that includes a list of all completed scenarios, and the FSA County Committee determines that the completed components are

¹²⁷ ECP Handbook, page 8-479, para. 575.A (Nov. 21, 2024).

¹²⁸ ECP Handbook, page 8-479, para. 575.A (Nov. 21, 2024). For additional information on how payments are calculated and issued, see ECP Handbook, 3-ECP, Emergency Conservation Program Software for 2024 and Subsequent Years page (June 5, 2024).

¹²⁹ 7 C.F.R. § 701.21(c) (2025).

¹³⁰ ECP Handbook, page 8-481, para. 576.A (Nov. 21, 2024).

¹³¹ If a farmer fails to submit proof of using the advanced funds within the 60 days, the county office will allow an additional 15 calendar days before proceeding to seek collection of the funds. ECP Handbook, page 8-481, para. 576.A (Nov. 21, 2024).

¹³² ECP Handbook, page 8-548, paras. 599.A to 599.C (Nov. 21, 2024).

¹³³ ECP Handbook, page 8-547, para. 598.A (Nov. 21, 2024).

a “functional attainment” toward completing the approved practice.¹³⁴ The farmer must also agree to complete the practice before the expiration date. If the farmer does not complete the practice before the expiration date, FSA will seek to claw back the partial payment unless the failure to do so was due to reasons beyond the farmer’s control.¹³⁵

¹³⁴ ECP Handbook, page 8-547, para. 598.B (Nov. 21, 2024).

¹³⁵ ECP Handbook, page 8-548, paras. 599.A to 599.C (Nov. 21, 2024).

XV. Long-Term Obligations

FSA will try to claw back payments from a farmer if the farmer does not properly maintain and use the ECP practices.¹³⁶ FSA may seek a partial or complete refund.

Long-term responsibilities include the following.

A. Maintain and Properly Use Conservation Practice for Its Lifespan¹³⁷

In general, farmers receiving ECP cost-share assistance are responsible for the maintenance and proper use of the conservation practice throughout its normal lifespan. This requirement applies to new farmer-owners that purchase land containing ECP practices and agree in writing to maintain the practice.¹³⁸

During a practice's lifespan, FSA may perform spot checks to ensure that the practice is being maintained and used for its designated purpose. If FSA finds that a conservation practice has not been properly maintained during its lifespan, the farmer will have to refund all or part of the cost-share assistance for that practice.¹³⁹ Included in the list of possible violations, according to FSA, are:

- (1) failure to do normal repair, upkeep, or maintenance on the conservation practice;
- (2) destruction or substantial damage to the practice;
- (3) stopping the use of the practice before its lifespan ends;
- (4) conversion of the practice to a recreational use, unless it will continue to serve its conservation purpose; and
- (5) other use or misuse of the practice so that it fails to meet its conservation purpose.¹⁴⁰

There are limited exceptions to these violations.¹⁴¹ FSA will not consider it a violation to stop maintaining the practice if:

- (1) the practice has served its purpose for its lifespan;
- (2) the failure to maintain and use the practice was due to conditions beyond the farmer's control;
- (3) the failure happened after the farmer involuntarily lost control of the land; or
- (4) the failure happened either on land or with a practice that was not a part of the cost share.

¹³⁶ ECP Handbook, page 9-72, para. 706.C (Nov. 21, 2024).

¹³⁷ As discussed in Section VII.E, above, FSA establishes a lifespan, or minimum period of time, that each practice is expected to function with proper maintenance. A practice's lifespan begins on January 1 after the year that the practice was installed. ECP Handbook, page 2-152, para. 123.C, and Exhibit 2, page 3, "Lifespan of a Practice" (Nov. 21, 2024).

¹³⁸ 7 C.F.R. § 701.31(a) (2025); ECP Handbook, page 9-71, para. 706.A (Nov. 21, 2024).

¹³⁹ 7 C.F.R. § 701.31(b) (2025); ECP Handbook, page 9-72, para. 706.C (Nov. 21, 2024).

¹⁴⁰ ECP Handbook, page 9-71, para. 706.B (Nov. 21, 2024).

¹⁴¹ ECP Handbook, page 9-72, para. 706.D (Nov. 21, 2024).

B. No Actions that Defeat the ECP Purpose

FSA prohibits actions that defeat the purpose of the ECP cost share.¹⁴² If FSA finds that a farmer engaged in such actions, FSA will claw back the cost-share money. Examples of such actions include: failing to maintain practices performed with cost-share funds under a different program; failing to use a conservation practice for the purpose approved; and performing other willful acts that either violate reasonable conservation principles or offset conservation accomplishments.¹⁴³

C. Loss of Control of the Land

If the farmer voluntarily gives up control or title to the land on which the conservation practice has been established, there are two possible outcomes.¹⁴⁴ First, the farmer can get a written statement from the new owner or operator, or both, agreeing to properly maintain the practice for the remainder of its lifespan. Once the written statement is submitted to FSA, the new owner or operator becomes responsible for maintaining the conservation practice. Alternatively, if a written statement is not obtained from the new owner or operator, FSA will require a refund of the remaining cost share, based on the total lifespan of the practice and the age of the practice at the time that ownership changed.

¹⁴² ECP Handbook, page 9-73, para. 717.A (Nov. 21, 2024).

¹⁴³ ECP Handbook, page 9-73, para. 717.B (Nov. 21, 2024).

¹⁴⁴ ECP Handbook, page 8-90, para. 433.B (Nov. 21, 2024).

XVI. Eligible Costs

ECP provides funds through cost sharing. This means that FSA reimburses the farmer for part of the total eligible costs to install or implement eligible conservation practices. This section discusses the rules controlling what costs are eligible for ECP cost sharing. Cost eligibility is part of the basis for how FSA calculates total estimated allowable costs using regional payment scenarios, as described in Section XVII below.

A. Qualifying Minimum Cost Requirement

Any eligible damage must be “so costly that Federal assistance is or will be required” to complete the ECP practice and return the land to productive agricultural use.¹⁴⁵ The Deputy Administrator for USDA establishes the minimum eligible cost amounts, which differ depending on whether or not the farmer is a limited resource, socially disadvantaged, or beginning farmer.¹⁴⁶ Each NRCS State Technical Committee may set higher minimum qualifying costs for that state.¹⁴⁷

1. General Rule—Minimum Cost of at Least \$1,000

In general, ECP is only available when restoring the land or water resources would cost at least \$1,000.¹⁴⁸

1. Minimum Cost for Limited Resource, Socially Disadvantaged, and Beginning Farmers and Ranchers—\$250

The current ECP Handbook states that limited resource, socially disadvantaged, and beginning farmers and ranchers must have sustained an estimated minimum of \$250 in damages to qualify for ECP.¹⁴⁹ The definitions of these terms are discussed in more detail below in Section XVII.A.2.

NOTE: Recent USDA policies may impact the use of some or all of these designations.¹⁵⁰ Farmers wishing to take advantage of such designations should contact their local FSA service offices to inquire whether FSA is still following the relevant ECP rules and regulations.

¹⁴⁵ 7 C.F.R. § 701.110(a) (2025); ECP Handbook, page 4-70, para. 204.A (Nov. 21, 2024).

¹⁴⁶ 7 C.F.R. § 701.110(b) (2025); ECP Handbook, page 4-70, para. 204.A (Nov. 21, 2024).

¹⁴⁷ 7 C.F.R. § 701.110(b) (2025); ECP Handbook, page 4-70, para. 204.A (Nov. 21, 2024).

¹⁴⁸ ECP Handbook, page 4-70, para. 204.A (Nov. 21, 2024).

¹⁴⁹ ECP Handbook, page 4-70, para. 204.A & Exhibit 2, page 7, “Socially Disadvantaged, Limited Resource, and Beginning Farmer or Rancher Provisions.” (Nov. 21, 2024). For purposes of ECP, the relevant definitions for limited resource, socially disadvantaged, and beginning farmers and rancher can be found in FSA Handbook, 1-CM, Common Management and Operating Provisions, Exhibit 2 (Sept. 9, 2024). Importantly, gender does not fall within the definition of a socially disadvantaged farmer or rancher. See ECP Handbook, page 4-70, para. 204.A & Exhibit 2, page 7, “Socially Disadvantaged, Limited Resource, and Beginning Farmer or Rancher” (Nov. 21, 2024).

¹⁵⁰ For instance, in a July 10, 2025 rulemaking, USDA announced that, in certain programs, “USDA will no longer apply race- or sex-based criteria in its decision-making processes” Removal of Unconstitutional Preferences Based on Race and Sex in Response to Court Ruling, 90 Fed. Reg. 30555, 30557 (July 10, 2025). However, ECP is not one of the listed programs.

2. How Project Costs Are Calculated to Determine Whether Minimum Cost Satisfied

To determine whether a project satisfies the minimum cost threshold, FSA uses its payment scenario cost estimate, a process described in Section XVII, below. For example, as the ECP Handbook describes, if a farmer was approved for 1,000 linear feet of terrace and the payment scenario estimate for that work indicated a cost of \$1,001 dollars, the farmer is eligible for the ECP payment even if the actual project only ends up costing the farmer \$900 dollars.¹⁵¹ The same applies if the project ultimately is smaller in scope than originally estimated—800 linear feet rather than 1,000 linear feet in the above example. However, in such a case, the cost share is reduced proportionally.

3. Waiver of Minimum Cost Requirement

Farmers may request a waiver of the minimum cost requirement.¹⁵² The waiver request must be in writing and must show that if the waiver is not granted, it will cause environmental damage or hardship to the farmer. The request must also show that a waiver would accomplish the goals of ECP.

B. Eligible Costs: Materials, Services, Labor, Equipment

Once FSA has decided that a farmer is eligible for ECP assistance, cost-share assistance covers the reasonable costs of completing the ECP-approved practice.¹⁵³ Allowable costs are the costs of any direct and significant materials and services needed to rehabilitate or replace damaged land or structures.¹⁵⁴ This includes: (1) new or used materials, although if they are used they must meet NRCS standards; (2) services; (3) labor; (4) equipment and mobilization; and (5) sales tax. The total allowable cost estimate comes from FSA's payment scenarios, as described in Section XVII, below. Farmers do not provide a cost estimate.

FSA regulations and the ECP Handbook set some limits on the conservation practice costs that may be eligible for ECP cost sharing. These are discussed below.

1. Personal Equipment Is an Allowed Cost

Costs for use of personal equipment is allowed.¹⁵⁵ If a farmer uses personal equipment to complete the ECP practice, the farmer must submit a signed cost-share itemization statement that describes the equipment used.¹⁵⁶

¹⁵¹ ECP Handbook, page 4-70, para. 204.A (Nov. 21, 2024).

¹⁵² 7 C.F.R. § 701.110(c) (2025); ECP Handbook, page 4-70, para. 204.A (Nov. 21, 2024).

¹⁵³ 7 C.F.R. § 701.23(a) (2025).

¹⁵⁴ ECP Handbook, page 4-67, para. 202.A (Nov. 21, 2024).

¹⁵⁵ 7 C.F.R. § 701.23(b)(1) (2025).

¹⁵⁶ ECP Handbook, page 3-8, para 154.B (Nov. 21, 2024). For an example of a cost-share itemization statement, see ECP Handbook, Exhibit 55 (Nov. 21, 2024).

2. Personal Labor Is an Allowed Cost

Personal labor costs are allowed.¹⁵⁷ If a farmer uses personal labor to complete the ECP practice, the farmer must submit a signed cost-share itemization statement that describes the labor provided.¹⁵⁸

3. Only Costs Necessary to Achieve Minimum Performance Standards

Eligible costs cannot be more than what is necessary to achieve the minimum performance required to resolve the problem that is being corrected by the practice.¹⁵⁹ The payment scenario calculation process described in Section XVII, below, is designed to calculate what the total allowable costs are for any given ECP practice.

ECP cost sharing is not authorized for normal upkeep or maintenance of conservation practices.¹⁶⁰

4. Bartering

Bartering can qualify as an eligible way for farmers to pay for work that is reimbursable as a cost share.¹⁶¹ FSA defines bartering as the direct exchange of goods or services without using money, according to the rates of exchange or by bargaining by the parties.¹⁶² For example, a farmer is bartering if the farmer trades 100 straw bales produced on the farm for 250 hours of fence building labor.

FSA will need to approve any bartering cost.¹⁶³ FSA will need to conclude that the bartering is directly related to the ECP practice, and that the value of the bartered goods or services is proportionate to the services rendered or goods received. The bartered goods or services must be received or rendered before a cost-share payment will be made.¹⁶⁴

Before a cost share will be distributed, the farmer must give FSA a signed document that includes the details of the barter agreement, including what goods or services were exchanged.¹⁶⁵ If the bartered goods or services are not actually received or rendered, the farmer will be required to refund the cost share paid for those bartered goods and services.

¹⁵⁷ 7 C.F.R. §701.23(b)(2) (2025).

¹⁵⁸ For an example of a cost-share itemization statement, see ECP Handbook, page 3-8, para 154.B & Exhibit 55 (Nov. 21, 2024).

¹⁵⁹ 7 C.F.R. § 701.23(b)(4) (2025); ECP Handbook, page 4-69, para. 203.A (Nov. 21, 2024).

¹⁶⁰ ECP Handbook, page 6-160, para. 328.B (Jan. 18, 2023).

¹⁶¹ ECP Handbook, page 1-89, para. 44.A (Nov. 21, 2024).

¹⁶² ECP Handbook, Exhibit 2, page 1, "Bartering" (Nov. 21, 2024).

¹⁶³ ECP Handbook, page 1-89, para. 44.A (Nov. 21, 2024). Bartering cannot be used to evade other ECP rules and may not be a method to avoid payment limitations.

¹⁶⁴ ECP Handbook, page 1-89, para. 44.A (Nov. 21, 2024).

¹⁶⁵ ECP Handbook, page 1-89, para. 44.B (Nov. 21, 2024).

C. Ineligible Costs

The ECP Handbook lists several activities and items that are not eligible for ECP cost sharing and are not included in how FSA estimates total allowable costs using payment scenarios, as described in Section XVII.¹⁶⁶ These ineligible costs include the following.

1. Pest and Disease Control

Measures to control insects or rodents and to treat plant diseases or nematodes are not covered costs.¹⁶⁷ Also not included are chopping or shredding residues from crops for insect control.

2. Mowing and Weed Control

Mowing pasture is not a covered cost. Nor is the cost of weed control unless the weed control measure is specifically included in NRCS standards and specifications.¹⁶⁸

3. Land and Water Access

Costs for renting or using of land, and other rights to use land, are not covered.¹⁶⁹

Similarly, costs for the right to use water are not covered.¹⁷⁰ The cost of pumps and pumping accessories are also not covered, except for the cost of permanently installing submersible pumps in wells during drought emergencies. Any wells that do not produce sufficient water are not covered by ECP cost sharing.

4. Machinery and Equipment Repair or Maintenance

Maintenance or repair costs for machinery and equipment are not covered.¹⁷¹

5. Transportation Costs of Farmer

The transportations costs of the farmer are not covered.¹⁷²

6. Lost Revenue

Revenue that was lost or reduced because of the disaster is not a covered cost.¹⁷³

¹⁶⁶ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁶⁷ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁶⁸ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁶⁹ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁷⁰ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁷¹ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁷² ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁷³ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

7. Enhancing Acres or Structures Not Affected by Disaster

The cost to enhance acres or structures not affected by the natural disaster are not covered.¹⁷⁴

8. Fuel

Fuel is not a covered cost for ECP.¹⁷⁵

Other power sources, such as solar-based and wind-based power, may be eligible if they are determined to be the least costly alternative for powering electric fences for livestock or pumping water for livestock.¹⁷⁶ These power sources are also discussed below in Section XXI.F.6.f.

9. Costs for Engineering, Management, Consulting, Permits, or Connection Fees

Charges for engineering, project management, consultants, permits, and connection fees are not covered.¹⁷⁷

10. Buried Mainlines

Buried mainlines are not a covered cost.¹⁷⁸

11. Meeting Supplemental ECP Requirements

Costs related to meeting any supplemental requirements beyond the ECP practice specifications, such as abstaining from harvesting, are not covered costs.¹⁷⁹

12. Practices on Federal and State Land

The costs for practices on federal or state land are not covered by ECP cost sharing—unless subject to an exception as explained below in Sections XX.B.2 & B.3.¹⁸⁰

13. Practices or Maintenance Already Subject to Other Federal Cost-Sharing Programs—No Duplicate Benefits

If a farmer receives or will receive payment under any other Federal program for the same or similar costs on the same piece of land, the farmer will not be eligible for ECP cost sharing for those costs.¹⁸¹ Examples of other potential Federal programs that might provide payments for similar costs include the Conservation Reserve Program, the Wetland Reserve Program, the Emergency Wetland Reserve Program, the Emergency

¹⁷⁴ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁷⁵ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁷⁶ ECP Handbook, Exhibit 43, pages 8, 13 (Nov. 21, 2024).

¹⁷⁷ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁷⁸ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁷⁹ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁸⁰ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

¹⁸¹ 7 C.F.R. § 701.111 (2025); ECP Handbook, pages 2-85 to 2-86, para. 99.A-C (Nov. 21, 2024).

Watershed Protection Program, and the Tree Assistance Program. The rationale behind this rule is that if the farmer received benefits under both programs the farmer would, in effect, be receiving a higher cost share than is allowed.¹⁸²

Similarly, a farmer will not be eligible for ECP cost sharing if the farmer is required to maintain the practice, or enroll the same land, under another federal cost sharing program, such as FEMA assistance.¹⁸³

Any farmer who receives other federal cost share assistance will be required to refund any duplicative ECP cost share funds they received, plus interest.¹⁸⁴

¹⁸² ECP Handbook, page 2-85, para. 99.C (Nov. 21, 2024).

¹⁸³ ECP Handbook, page 2-85, para. 99.B (Nov. 21, 2024).

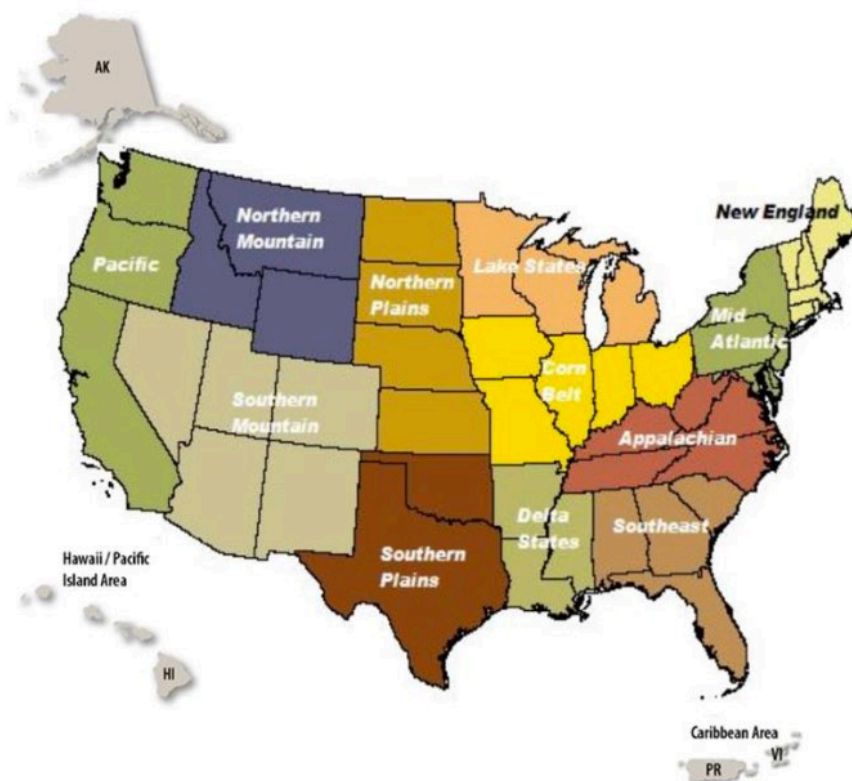
¹⁸⁴ ECP Handbook, page 2-86, para. 99.D (Nov. 21, 2024).

XVII. Calculating ECP Cost-Share Payments

ECP cost-share payments only cover a percentage of total allowable costs that are eligible for reimbursement. The default percentage when funds are not limited is 75 percent.¹⁸⁵ That default is increased to 90 percent for limited resource producers, socially disadvantaged farmers and ranchers, and beginning farmers and ranchers under existing rules and regulations.

To more uniformly calculate the total allowable costs for a given ECP practice in a given region, FSA has come up with a system covering 15 regions across the United States and its territories.¹⁸⁶ That system involves the creation of “payment scenarios”—expressed as a cost per unit for specific ECP practices—which are adjusted regionally to account for geographic variation in costs. The most current map of the regions is reproduced at the bottom of this page.

The following subsections provide more detail on this calculation system. Subsection A covers the default percentages for cost-share assistance. Subsection B covers the “total allowable costs” to which a cost-share percentage is applied. Subsection C covers limitations on total ECP payments. Subsection D covers how contributions of funds, materials, or labor from ineligible persons must be subtracted from the total allowable costs.



Map of ECP Payment Scenario Regions (2024).¹⁸⁷

¹⁸⁵ 7 C.F.R. § 701.126(a) (2025); ECP Handbook, page 4-1, para. 179.A (Nov. 21, 2024).

¹⁸⁶ ECP Handbook, page 3-4, para. 149.B (Nov. 21, 2024).

¹⁸⁷ ECP Handbook, page 3-2, para. 147.B (Nov. 21, 2024).

A. Default Cost-Share Percentages

ECP cost share benefits are generally 75 percent of the costs of the practice, but for some farmers can be up to 90 percent. While prior ECP handbooks specified factors for determining the actual approved cost-share percentage for an ECP application, the current ECP Handbook suggests that FSA staff should use the applicable maximum rate as a default unless funds are limited, in which case local FSA officials will prioritize funds (see Section IX.F, above).

1. The Default Maximum—75 Percent of Costs

In general, a farmer should receive 75 percent of the total allowable costs to perform the conservation practice.¹⁸⁸ For example, if the total allowable costs for all practices on a farm caused by a disaster were \$210,000, the maximum cost share for the farmer would be 75 percent of \$210,000, or \$157,500.¹⁸⁹

2. For Some Farmers, the Default and Maximum Award Is 90 Percent of Costs— Limited Resource, Socially Disadvantaged, and Beginning Farmers

Some farmers and ranchers are eligible to receive 90 percent in cost share assistance. These are limited resource, socially disadvantaged, and beginning farmers and ranchers. For these farmers, the 90 percent cost share means 90 percent of the total allowable cost to perform the practice.¹⁹⁰

Definitions of limited resource producers, socially disadvantaged farmers and ranchers, and beginning farmers and ranchers are provided below.

NOTE: Recent USDA policies may impact the use of some or all of these designations.¹⁹¹ Farmers wishing to take advantage of such designations should contact their local FSA service offices to inquire whether FSA is still following the relevant ECP rules and regulations.

¹⁸⁸ 7 C.F.R. § 701.126(a) (2025); ECP Handbook, page 4-1, para. 179.A (Nov. 21, 2024).

¹⁸⁹ ECP Handbook, page 4-1, para. 179.A (Nov. 21, 2024).

¹⁹⁰ 7 C.F.R. § 701.126(b) (2025); ECP Handbook, page 4-1, para. 179.A (Nov. 21, 2024). Prior to the 2018 Farm Bill, the only category of farmers and ranchers eligible to receive up to a 90 percent cost share were limited resource farmers and ranchers. The 2018 Farm Bill expanded the categories of eligible farmers and ranchers to include both socially disadvantaged and beginning farmers and ranchers. *See* Agriculture Improvement Act of 2018, Pub. L. No. 115-334, § 2403(b) (2018) (codified at 16 U.S.C. § 2202a(b)).

¹⁹¹ For instance, in a July 10, 2025 rulemaking, USDA announced that, in certain programs, “USDA will no longer apply race- or sex-based criteria in its decision-making processes” Removal of Unconstitutional Preferences Based on Race and Sex in Response to Court Ruling, 90 Fed. Reg. 30555, 30557 (July 10, 2025). However, ECP is not one of the listed programs.

a. Limited Resource Farmer or Rancher

A limited resource farmer or rancher is defined by FSA. To qualify, two things must be true.¹⁹² For an entity to qualify as limited resource, all members of the entity must meet the two requirements described below.

First, the farmer or rancher must have direct or indirect gross farm sales that are greater than a certain amount for two calendar years selected by FSA.¹⁹³ Those two years are the two calendar years that were just prior to the tax year before the relevant program year.¹⁹⁴ As an example, for program year 2020, a farmer or rancher would look to calendar years 2017 and 2018 to determine the maximum amount of gross farm sales they could have and still qualify as a limited resource farmer or rancher. USDA has created what it calls a “Limited Resource Farmer/Rancher Self Determination Tool” which helps farmers and ranchers determine if they qualify as limited resource. This tool is available online at <https://lrftool.sc.egov.usda.gov/>.¹⁹⁵

Second, for the same two calendar years described above, the farmer or rancher must have a total household income that was at or below the national poverty level for a family of four.¹⁹⁶

b. Socially Disadvantaged Farmer or Rancher

A socially disadvantaged farmer or rancher is defined by federal statute as a farmer or rancher who is a member of a “socially disadvantaged group.”

A socially disadvantaged group is “a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group, without regard to their individual identities.”¹⁹⁷

USDA has defined a socially disadvantaged farmer or rancher for other programs, such as the FSA Farm Loan Programs, to include American Indians or Alaskan Natives, Asian, Blacks, or African Americans, native Hawaiians or other Pacific Islanders, Hispanic, and women.¹⁹⁸

¹⁹² FSA Common Management and Operating Provision Handbook, 1-CM (Rev.3) Amend. 82, Exhibit 2, page 3, “Limited resource farmer or rancher” (Sept. 9, 2024).

¹⁹³ FSA Handbook, 1-CM, Exhibit 2, page 3, “Limited resource farmer or rancher” (Sept. 9, 2024).

¹⁹⁴ The 1-CM noted that the gross sales amounts may be adjusted upwards for general inflation. FSA Handbook, 1-CM, Exhibit 2, page 3, “Limited resource farmer or rancher” (Sept. 9, 2024).

¹⁹⁵ USDA, NRCS, Limited Resource Farmer/Rancher Home, at <https://lrftool.sc.egov.usda.gov/> (last visited Jan. 9, 2025).

¹⁹⁶ FSA Handbook, 1-CM, Exhibit 2, page 3, “Limited resource farmer or rancher” (Sept. 9, 2024).

¹⁹⁷ 7 U.S.C. § 2279(a)(5)-(6); Agriculture Improvement Act of 2018, Pub. L. No. 115-334, § 2403(b) (2018) (codified at 16 U.S.C. § 2202a(b)); 7 C.F.R. § 701.2(b), “Socially disadvantaged farmer or rancher” (2025).

¹⁹⁸ FSA Direct Loanmaking Handbook, 3-FLP (Revision 2), Exhibit 2, page 23, “Socially Disadvantaged Group” (Sept. 21, 2024).

However, for ECP, FSA defines a socially disadvantaged farmer or rancher based on race and ethnicity only. The definition does not include gender.¹⁹⁹ This means that the ECP definition is slightly different from the FSA definition used for Farm Loan Programs.

c. Beginning Farmer or Rancher

A beginning farmer or rancher is a person or legal entity that has not operated a farm or ranch for more than ten years, and that materially and substantially participates in the farm or ranch's operation.²⁰⁰ Both things must be true to qualify as a beginning farmer or rancher.

B. Calculating Total Allowable Costs for ECP Practices

Cost shares cover a percentage of the “total allowable costs” for specific ECP practices.²⁰¹

Total allowable costs are the total expected costs from only eligible cost types:

(1) materials, (2) services, (3) labor, (4) equipment & mobilization, and (5) sales tax.²⁰²

This total excludes many other potential costs including operation and maintenance costs, administrative and permit costs, and various economic risks.²⁰³ (For more on eligible costs, see Section XVI, above.)

FSA staff calculate the total allowable costs using “payment scenarios,”²⁰⁴ which FSA and NRCS develop every year for each of the 15 regions pictured above in this section.²⁰⁵ The regional payment scenarios provide a cost per unit for a wide range of ECP practices in common contexts. FSA staff use the cost per unit to more uniformly calculate the total expected eligible costs for ECP practices when approving applications.

Again, the final cost share payments for an ECP practice reflect a percentage of the total allowable costs for that practice.

¹⁹⁹ FSA Handbook, 1-CM, Exhibit 2, page 7, “Socially Disadvantaged, Limited Resource, and Beginning Farmer or Rancher Provisions” (Sept. 9, 2024). The ECP Handbook says this is because the 1990 Farm Bill applies to ECP, and the gender is not a covered group under the 1990 Act. See Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. No. 101-624, § 2501(e) (1990) (codified at 7 U.S.C. § 2279(a)(6)).

²⁰⁰ 7 U.S.C. § 2279(a)(2); FSA Handbook, 1-CM, Exhibit 2, page 3, “Limited resource farmer or rancher” (Sept. 9, 2024).

²⁰¹ ECP Handbook, page 3-4, para. 149.B (Nov. 21, 2024). The Handbook defines “total allowable cost” as the total expected cost of the approved extent times the practice unit cost as set by FSA using payment scenarios. The practice unit cost is located on the payment scenario sheet.

²⁰² ECP Handbook, page 3-4, para. 150.A (Nov. 21, 2024).

²⁰³ ECP Handbook, pages 3-3 to 3-5, paras. 149.A & 150.A–C. (Nov. 21, 2024).

²⁰⁴ “Payment scenarios” define the most commonly used materials (and quantities) required to implement a specific conservation practice in each region. Some conservation practices may have more than one payment scenario depending on the different contexts in which ECP practices may be implemented. ECP Handbook, Exhibit 2, page 5 (Nov. 21, 2024).

²⁰⁵ ECP Handbook, pages 3-3 to 3-4, para. 179.C (Nov. 21, 2024).

C. Limitations on Total ECP Payments

1. No More Than 50 Percent of the Land's Agricultural Value

The total payment for a single disaster event may not be more than 50 percent of the agricultural value of the land.²⁰⁶ FSA defines this as 50 percent of the agricultural market value of the land, which is determined by FSA County Committees.²⁰⁷ In making this determination, the County Committees must use “credible resources,” such as land values from the National Agricultural Statistics Service, local land appraisals, comparable sales from local realtors, data from a local land taxing authority, or State university data.²⁰⁸ Because this determination is made at the local level, there could be significant differences in the market value of land from county to county within a state.

If more than one farmer or rancher is eligible for cost share assistance on the same land, the 50 percent limitation on the cost share amount applies to the land as a whole and not to each eligible farmer or rancher.²⁰⁹

2. Total Payment Limitation—\$500,000

The current maximum ECP payment for a farmer or rancher, or a legal entity, is \$500,000.²¹⁰ This maximum was set by the 2018 Farm Bill and may be increased in future farm bills.

D. Contributions from Ineligible Person or Entity

If an ineligible person or entity contributes funding, materials, or services to an eligible person's conservation measures, then FSA will subtract the total value of those contributions from the eligible individuals' total allowable costs when calculating cost-share assistance.²¹¹

²⁰⁶ 16 U.S.C. § 2202a(c). This requirement may be waived by the FSA Deputy Administrator for Farm Programs.

²⁰⁷ 7 C.F.R. § 701.126(a) (2025); ECP Handbook, page 4-2, para. 179.C (Nov. 21, 2024).

²⁰⁸ ECP Handbook, page 4-2, para. 179.C (Nov. 21, 2024). FSA State Committees determine what counts as a “credible resource.”

²⁰⁹ ECP Handbook, page 4-2, para. 179.C (Nov. 21, 2024).

²¹⁰ ECP Handbook, page 1-6, para. 6.A (Nov. 21, 2024). *See also* Agriculture Improvement Act of 2018, Pub. L. No. 115-334, § 2403(c) (2018) (codified at 16 U.S.C. § 2202b).

²¹¹ ECP Handbook, pages 8-225 to 8-226, paras. 481.A & 482.A (Nov. 21, 2024).

XVIII. Adjustments to Cost Share After Approval

FSA may either increase or decrease the cost-share amount or the extent of the conservation practice that was originally approved. This can occur either before or after the cost-share payment is made. The following subsections discuss each situation.

A. Changes to Cost Share or Practice Before Performance Completed

FSA may increase the cost-share amount or the extent of the practice before performance is completed if the technical service agency assigned to the farmer decides that the change is needed and funds are available.²¹²

FSA will decrease the cost share amount and the extent of the practice before performance is completed if the technical service agency assigned to the farmer determines a lesser extent of practice is needed. In this situation, the farmer will be sent an approval letter and a revised Cost Share Agreement (form FSA-801B), and the farmer will have 15 calendar days to sign and return the form to the County Office.²¹³

B. Changes to Cost Share or Practice After Performance but Before Payment

Under certain circumstances, and on a case-by-case basis, FSA may increase the cost-share amount or the extent of the practice after it is approved and completed, but before payment has been made.²¹⁴ To do so, funds must be available and either of the following conditions must apply: (1) the originally approved cost-share amount was based on an estimate that proved to be in error and the farmer could not reasonably have known in advance the amount needed to complete the practice; or (2) the approved cost share was based on an estimate of an incorrect practice, payment scenario, or extent of practice required.

FSA may decrease the cost share amount and extent of the practice after it is approved and completed, but before payment has been made, so long as the technical service agency assigned to the farmer approves the lesser conservation practice.²¹⁵

C. Increases to Cost Share or Practice After Performance and Payment

FSA may increase the cost share amount or the extent of the practice after it has been approved, completed, and the payment made, so long as one of the following is true: (1) FSA or another agency made an error on the original extent; (2) the technical service agency made an error on the original extent reported; (3) a measurement error was made; or (4) a situation similar to reasons one to three resulted in an error that inaccurately calculated the extent of practice or cost-share payment.²¹⁶

²¹² ECP Handbook, page 8-346, para. 526.A (Nov. 21, 2024).

²¹³ ECP Handbook, page 8-346, para. 526.B (Nov. 21, 2024).

²¹⁴ ECP Handbook, page 8-347, para. 527.A (Nov. 21, 2024).

²¹⁵ ECP Handbook, page 8-347, para. 527.B (Nov. 21, 2024).

²¹⁶ ECP Handbook, page 8-348, para. 528.A (Nov. 21, 2024).

D. Increases Not Authorized If Not Approved

If the farmer performs a practice to an extent greater than what FSA approved, FSA will not cover any costs that exceed the original cost share amount.²¹⁷

²¹⁷ ECP Handbook, page 8-348, para. 529.A (Nov. 21, 2024).

XIX. Farmer and Rancher Eligibility for ECP

Several eligibility rules apply to farmers that seek ECP cost-share assistance. They are described below. FSA must evaluate these criteria on an individual basis; it cannot make blanket determinations about ECP eligibility.²¹⁸

A. General Eligibility for Agricultural Producers

Cost-share assistance is only available to agricultural producers who (1) have an interest in the land affected by the natural disaster, and (2) will pay for or perform the conservation practices.²¹⁹

The ECP regulations define an “agricultural producer” as

an owner, operator, or tenant of a farm or ranch used to produce for food or fiber, crops (including but not limited to, grain or row crops; seed crops; vegetables or fruits; hay forage or pasture; orchards or vineyards; flowers or bulbs; or field grown ornamentals) or livestock (including but not limited to, dairy or beef cattle; poultry; swine; sheep or goats; fish or other animals raised by aquaculture; other livestock or fowl) for commercial production. Producers of animals raised for recreational uses only are not considered agricultural producers.²²⁰

The following subsections break down the components of the definition.

1. Person or Legal Entity

Individual people and legal entities—such as partnerships or corporations—can qualify as agricultural producers.²²¹

2. Interest in Farm—as Owner, Operator, Tenant or Sharecropper

An agricultural producer must have an interest in a farm or ranch. This means they can be an owner, operator, tenant, or sharecropper of the farm or ranch.²²² If an agricultural producer rents the land, FSA will pay the cost share to the person who pays the cost of performing the practice.²²³ If two or more parties pay for the ECP practices, each party should have its own Cost Share Agreement and will receive cost shares accordingly.

²¹⁸ ECP Handbook, page 2-1, para. 66.B (Nov. 21, 2024).

²¹⁹ 7 C.F.R. § 701.104(a) (2025); ECP Handbook, page 2-2, para 67.A (Nov. 21, 2024).

²²⁰ 7 C.F.R. § 701.2(b), “Agricultural producer” (2025).

²²¹ 7 C.F.R. § 701.104(a) (2025); ECP Handbook, pages 2-2 and 2-3, para 67.A-B (Nov. 21, 2024). A minor may be eligible if they are legally responsible and independently participate in the operation of a farm.

²²² 7 C.F.R. § 701.2(b), “Agricultural producer” (2025); ECP Handbook, page 2-3, para 67.B (Nov. 21, 2024).

²²³ ECP Handbook, pages 8-614 to 8-615, paras. 623.A-C (Nov. 21, 2024).

3. Producer of Commercial Agricultural Commodities

An agricultural producer must use the farm or ranch to annually produce commercial agricultural commodities.²²⁴ “Agricultural,” for this purpose, is defined according to common sense. Under this definition, an agricultural producer can produce crops such as grains, row crops, seed crops, vegetables, fruits, hay forage or pasture, orchards and vineyards, flowers and bulbs, and field grown ornamentals.²²⁵

An agricultural producer can also raise livestock. In general, by “livestock” FSA means livestock that are used for food, fiber, or labor to produce food or fiber.²²⁶ This includes dairy and beef cattle, poultry, swine, sheep and goats, fish and other animals raised by aquaculture, and other livestock or fowl.²²⁷ It also includes horses, mules, and donkeys that are used for producing food and fiber, such as draft horses and cow ponies, or raised for commercial food or human consumption.²²⁸ Horse breeding operations in the business of producing horse breeding stock for commercial use as a part of the farming operation may also qualify.²²⁹

Raising animals only for recreational purposes, however, is not allowed.²³⁰ Those who raise livestock solely for recreational uses, therefore, are not considered agricultural producers for purposes of ECP.²³¹ Similarly, a farmer or rancher who raises animals for slaughter, but not for human consumption—such as raising livestock for glue—is not eligible as an agricultural producer for purposes of ECP.²³²

4. Responsible for the Costs, Materials, or Labor for the Conservation Practices

The person or legal entity must be responsible for paying for the conservation practices or performing the work themselves.²³³

²²⁴ 7 C.F.R. § 701.2(b), “Agricultural producer” (2025).

²²⁵ For a more comprehensive list of eligible agricultural commodities, see ECP Handbook, page 2-3, para 67. B (Nov. 21, 2024).

²²⁶ 7 C.F.R. § 701.2(b) (2025); ECP Handbook, Exhibit 2, page 3, “Livestock” (Nov. 21, 2024).

²²⁷ For a complete list, see ECP Handbook, Exhibit 2, page 3, “Livestock” (Nov. 21, 2024). Other examples include buffalo or beefalo not running wild or uncontrolled on the range; goats for food or milk production; ducks, geese, and turkey, and those kept for egg production; wine for food; fish for food; and other animals raised exclusively for commercial food or fiber.

²²⁸ ECP Handbook, Exhibit 2, page 3, “Livestock” (Nov. 21, 2024).

²²⁹ To be eligible, the farmer must claim the horse breeding stock for tax purposes with the IRS. ECP Handbook, Exhibit 2, page 4, “Livestock” (Nov. 21, 2024).

²³⁰ 7 C.F.R. § 701.2(b), “Agricultural producer” (2025); ECP Handbook, page 2-3, para. 67.B, Exhibit 2, page 4, “Livestock” (Nov. 21, 2024).

²³¹ This means anyone who raises racehorses, pack animals, rodeo stock, and polo ponies, for example, would not be considered an agricultural producer. ECP Handbook, Exhibit 2, page 4, “Livestock” (Nov. 21, 2024).

²³² ECP Handbook, Exhibit 2, page 4, “Livestock” (Nov. 21, 2024).

²³³ 7 C.F.R. § 701.104(a) (2025).

B. Native American Tribes and Tribal Members

Tribes that own eligible land are eligible for ECP cost-share assistance.²³⁴ Individual Native Americans operating on tribal lands are eligible for ECP if they qualify as tenants or sharecroppers on the land.²³⁵ Individual Native Americans on nontribal lands can also be eligible, but must meet the general eligibility requirements for farmers applying for ECP.²³⁶ And persons—whether Native American or not—who have grazing rights on tribal lands will be eligible for ECP if the rights arise out of a written lease or permit that was issued by an appropriate official.²³⁷

C. Other Potentially Eligible Organizations

Certain organizations that control farmland may be eligible for ECP under certain conditions.

1. Cooperative Grazing Associations

Cooperative grazing associations and districts that own or lease land may be eligible for ECP cost-share assistance. They still must meet the general eligibility requirements discussed in Subsection A, above. Accordingly, such associations are not eligible if they are only a permittee or licensee with respect to the land because that is an insufficient interest in the land.²³⁸

An individual member of a grazing association or district who has a legal right to graze land owned or leased by the association or district is considered a tenant under ECP and therefore can receive cost-share assistance. Although the ECP Handbook generally allows owners and tenants to share costs in other contexts, in this context, the Handbook prohibits cost-share to both an association (or district) and a member for practices performed on the same land.²³⁹

2. Clubs and Organizations

Youth clubs and organizations, such as 4-H clubs, Future Farmers of America, and so forth, may be eligible for ECP cost-share funds.²⁴⁰ They must satisfy the eligibility requirements in Subsection A, above, be officially represented by an adult, and request cost-share assistance on privately owned land that is eligible for ECP.

Sports clubs can also be eligible if they otherwise qualify as an ECP-eligible person or legal entity under Subsection A, above.²⁴¹

²³⁴ ECP Handbook, page 2-4, para. 68.A (Nov. 21, 2024).

²³⁵ ECP Handbook, page 2-4, para. 68.B (Nov. 21, 2024).

²³⁶ ECP Handbook, page 2-4, para. 68.C (Nov. 21, 2024).

²³⁷ ECP Handbook, page 2-4, para. 68.D (Nov. 21, 2024). The Handbook does not define who qualifies as an “appropriate official.”

²³⁸ ECP Handbook, page 2-4, para. 69.A (Nov. 21, 2024).

²³⁹ ECP Handbook, page 2-4, para. 69.A (Nov. 21, 2024).

²⁴⁰ ECP Handbook, page 2-5, para. 70.A (Nov. 21, 2024). For a youth club or organization to qualify, the land must meet all ECP eligibility requirements and be privately owned.

²⁴¹ ECP Handbook, page 2-5, para. 70.B (Nov. 21, 2024).

3. State-Created Districts with Power to Tax

Certain state-created districts or authorities also may be eligible for ECP.²⁴² For purposes of ECP, a “district” means organized districts, mutual water companies, and associations.²⁴³ They can be either formal or informal, and are formed under state law to solve a common problem, such as flood control, or carry out a common purpose, such as distributing irrigation water. They have the authority to tax or assess individual members, and can encumber a member’s land, water rights, or other property through unpaid liens.

a. Eligibility of Districts Themselves

A district may be eligible for ECP cost share—as a separate entity from its individual members—if it otherwise qualifies as an eligible person or legal entity.²⁴⁴ For example, if the district owns commercial farmland that is leased to an operator, the district would likely be eligible for ECP.

b. Eligibility of Members of Districts

A farmer or rancher that qualifies as an eligible person or legal entity is eligible for ECP if the conservation practices are for the benefit for their own farmland and they personally pay for the costs of the work.²⁴⁵ Likewise, a group of farmers or ranchers may do the same. Individuals or groups may contract the work out to the district or another vendor.²⁴⁶

c. No Cost Share Allowed if District Legally Obligated to Perform the Work

Neither a district nor its members are eligible for cost share if the district has the legal obligation to carry out the conservation practices in question.²⁴⁷

FSA may issue waivers to this rule when state law or other law limits the district’s taxing authority to the point that the district cannot raise sufficient funds to carry out required conservations practices.²⁴⁸ In this case, individual members who voluntarily perform the practices using their own funds may be eligible for cost share.

²⁴² ECP Handbook, page 2-6, para. 72 (Nov. 21, 2024).

²⁴³ ECP Handbook, page 2-6, para. 72.B (Nov. 21, 2024).

²⁴⁴ ECP Handbook, page 2-6, para. 72.C (Nov. 21, 2024).

²⁴⁵ ECP Handbook, page 2-7, para. 72.D (Nov. 21, 2024).

²⁴⁶ ECP Handbook, page 2-7, para. 72.D (Nov. 21, 2024). If an individual or group receives funding, free materials, or free service from a district and the district is not an eligible entity, then the district’s contributions will be deemed contributions from an ineligible entity and subtracted from the individual’s total costs when calculating cost share. ECP Handbook, page 2-7, para. 72.F, page 8-226, para. 482.A (Nov. 21, 2024).

²⁴⁷ ECP Handbook, page 2-1, para. 66.D, page 2-6, para. 72.A (Nov. 21, 2024).

²⁴⁸ ECP Handbook, page 2-7, para. 72.E (Nov. 21, 2024).

D. Government Entities—Not Eligible

Federal, state, and local governments are not eligible for ECP.²⁴⁹ This includes federal and state agencies; state-supported colleges and universities; county, city and other local governments; and independent school districts.

²⁴⁹ ECP Handbook, page 2-5, para. 71.A-C (Nov. 21, 2024).

XX. Land Eligibility for ECP

ECP funds can only be used on land that is eligible for the program. The following rules apply.

A. What County Is the Land In

ECP is available on a county-by-county basis. The land in question therefore must be physically located in a county for which ECP is available.²⁵⁰ The following two subsections discuss wrinkles in this rule.

1. Land Must be in Eligible County, or Eligible Portion of County

To be eligible for ECP, the land damaged by a natural disaster needs to be physically located in an ECP-approved county, or portion of a county that has been approved for ECP.²⁵¹

2. Location of Land—When Not in Farmer's Administrative County

If property that is damaged by a natural disaster is physically located in one county approved for ECP funding, but is administered by FSA in a different county, that land is still eligible for ECP.²⁵² The county that administers the land is still responsible for requesting funds and processing the ECP application.

B. Who Owns the Land

The question of who owns the land is important for ECP eligibility.

1. Privately Owned Land

Privately owned land is generally eligible for ECP as long as it satisfies relevant criteria discussed below in subsection C.²⁵³

²⁵⁰ 7 C.F.R. § 701.105(a)(2) (2025); ECP Handbook, page 2-75, para. 94.A, page 2-82, para. 96.A (Nov. 21, 2024). Because a state is defined for ECP purposes as including Puerto Rico, the Virgin Islands, Guam, or Commonwealth of the Northern Mariana Islands, ECP is available in those places. ECP Handbook, Exhibit 2, page 7, "State" (Nov. 21, 2024).

²⁵¹ ECP Handbook, page 2-75, para. 94.A (Nov. 21, 2024).

²⁵² ECP Handbook, page 2-75, para. 94.A, pages 2-82 to 2-83, para. 96.A (Nov. 21, 2024). FSA is structured into what it calls "Local Administrative Areas" (LAAs) which are specific areas within a county, or several counties, that are represented by an elected FSA County Committee member. Each of these LAAs, in turn, is associated with one Administrative County. For purposes of ECP eligibility, even if the damaged property is not itself located in the farmer's FSA Administrative County, the land can be eligible for ECP so long as the county where the land is physically located at least partially lies within an ECP-eligible county.

²⁵³ See ECP Handbook, page 2-75, para. 94.A (Nov. 21, 2024); 7 C.F.R. § 701.2, "Agricultural producer" (2025).

2. State-Owned Land

If land is owned by a state, the land may be eligible for ECP if two requirements are met. First, the land must remain in farm production during the lifespan of the ECP practice.²⁵⁴ Second, the farmer must directly benefit from the conservation practice.

If, however, the practice mainly benefits a state or state agency, or if the farmer's lease does not allow the farmer to accept cost shares, ECP is not available on state-owned land.²⁵⁵

3. Federally Owned Land

Federally owned land can be eligible for ECP if five criteria are satisfied.²⁵⁶ First, an eligible private person or entity must be farming the land. Second, the farmer's lease does not prohibit ECP cost share. Third, the conservation practice must primarily benefit nearby or adjacent land that the farmer performing the practice privately owns. Fourth, the farmer must have permission from the Federal agency to install and maintain the practice. Fifth, the federal land must be the most practical place for the practice.²⁵⁷

In addition, if the disaster is a drought, the conservation practice must also primarily benefit the livestock owned or managed by the farmer.²⁵⁸

If, however, the ECP practice is for the benefit of land owned by a federal agency, ECP is not available. Presumably, this condition occurs when the conservation practices do not "primarily benefit nearby or adjacent privately owned farmland."²⁵⁹

These rules apply even if the land is only temporarily owned by the federal government, or a corporation owned by the United States.²⁶⁰ Conducting ECP practices on federal lands may trigger additional permitting requirements with which the farmer must comply.²⁶¹

4. Native American Lands

Land owned by Native Americans or a Native American tribe is eligible for ECP, subject to other applicable eligibility requirements.²⁶² As discussed above in Section XIX.B, Native American tribes and tribal members are generally eligible for ECP cost sharing.

²⁵⁴ 7 C.F.R. § 701.106(a)(1) (2025). However, the ECP Handbook states only that the land must be "likely" to remain in farm production. See ECP Handbook, page 2-84, para. 98.A (Nov. 21, 2024).

²⁵⁵ 7 C.F.R. § 701.106(a)(2) (2025); ECP Handbook, page 2-84, para. 98.A (Nov. 21, 2024).

²⁵⁶ 7 C.F.R. § 701.106(b) (2025); ECP Handbook, page 2-84, para. 98.B (Nov. 21, 2024). In addition, the farmer's lease must not prohibit cost-share assistance.

²⁵⁷ 7 C.F.R. § 701.106(b)(1)(i)-(v) (2025); ECP Handbook, page 2-84, para. 98.B (Nov. 21, 2024).

²⁵⁸ 7 C.F.R. § 701.106(b)(1)(vi) (2025); ECP Handbook, page 2-84, para. 98.B (Nov. 21, 2024). The same rule applies for corporations that are owned by the federal government.

²⁵⁹ 7 C.F.R. § 701.106(b)(2) (2025); ECP Handbook, page 2-84, para. 98.B (Nov. 21, 2024).

²⁶⁰ ECP Handbook, page 2-85, para. 98.C (Nov. 21, 2024).

²⁶¹ ECP Handbook, pages 1-87 to 1-88, para. 43 (Nov. 21, 2024).

²⁶² ECP Handbook, page 2-83, para. 97.A (Nov. 21, 2024).

C. What Is the Land Used For

In general, ECP is only available for land that is used in one of three different ways: (1) for agriculture; (2) for windbreaks or shelterbelts; or (3) for road access or ditches when debris in or on them is interfering with normal farming operations.²⁶³ Thus, not all damaged areas or structures on a farm will be eligible.²⁶⁴ These three categories are discussed in the following subsections.

1. Land Used for Agricultural Production

ECP is available for land that is expected to have “annual agricultural production.”²⁶⁵

a. Annual Agricultural Production, Defined

FSA defines “annual agricultural production” as production of crops for food or fiber in a commercial operation that occurs on an annual basis under normal conditions.²⁶⁶ The use of the phrase “commercial operation” suggests that the farmer must plan to sell the food or fiber or use it to produce livestock or goods that will ultimately be sold in commerce. Purely subsistence farming would not satisfy this.

b. Uses that are NOT Agricultural Production

Land that is not in agricultural production is generally not eligible for ECP cost share. There are a broad range of uses of land on a farm that will not be considered to be agricultural production by FSA.

FSA gives the following examples of land uses that are not eligible land uses for purposes of ECP:

- stream banks;
- channels, levees, and dikes;
- native woodland areas; and
- land used for recreational purposes.²⁶⁷

However, there is a limited exception for removal of debris that interferes with normal farming operations, as discussed in subsection C.3, below.²⁶⁸

²⁶³ 7 C.F.R. § 701.105(a)(3) (2025).

²⁶⁴ See, for example, ECP Handbook, pages 2-77 and 2-78, para. 94.B (Nov. 21, 2024).

²⁶⁵ 7 C.F.R. § 701.105(a)(3)(i), (b)(10) (2025); ECP Handbook, page 2-76, para. 94.A, page 2-80, para. 95.A, page 6-159, para 328.A (Nov. 21, 2024).

²⁶⁶ 7 C.F.R. § 701.2(b), “Annual agricultural production” (2025).

²⁶⁷ ECP Handbook, page 2-80, para. 95.A (Nov. 21, 2024).

²⁶⁸ ECP Handbook, page 2-78, para. 95.B (Nov. 21, 2024).

2. Windbreak or Shelterbelt

Land may be eligible for ECP if it is used as a field windbreak or a farmstead shelterbelt.²⁶⁹ Eligible practices include removing debris that interferes with the normal farming operation on the farm and correcting damage caused by the natural disaster. For example, a farmer may need to clear damaged areas, replant all or portions of a windbreak or shelterbelt, purchase tree or shrub seedlings, establish temporary vegetative cover to protect seedlings, and control weeds while seedlings grow. To be eligible, the windbreak or shelterbelt must not be in the Conservation Reserve Program (CRP).²⁷⁰

3. Roads, Ditches, or Farmstead Land Containing Debris that Interferes with Normal Farming Operations

Land may be eligible for ECP if it contains debris that could significantly interfere with the normal operation of the farm and needs to be removed. FSA provides three eligible categories: (1) private access roads, (2) field ditches, and (3) land surrounding a farmstead.²⁷¹ Access roads must be on privately owned, rented, or leased farmland, and must be privately maintained.²⁷²

D. Examples of Eligible Land Uses

The ECP Handbook lists a number of land uses that are eligible for ECP. These eligible land uses are described below.

1. Field Road, Farm Lanes, Field Ditches, and Land around Farmstead When Debris Interfering with Normal Farming Operations

Field roads, farm lanes, field ditches, and land around a farmstead can be eligible if they contain debris that interferes with normal farming operations.²⁷³

2. Fencing

Fencing can be an eligible land use if the fence involves livestock and the fence is damaged by disaster.²⁷⁴ A damaged fence on federally owned land, however, is not eligible unless an exception applies, as described in Section XX.B, above.

²⁶⁹ 7 C.F.R. § 701.105(a)(3)(ii) (2025); ECP Handbook, page 2-76, para. 94.A, Exhibit 43, page 16 (Nov. 21, 2024).

²⁷⁰ ECP Handbook, Exhibit 43, page 16 (Nov. 21, 2024).

²⁷¹ 7 C.F.R. § 701.105(a)(3)(iii) (2025); ECP Handbook, page 2-73, para. 94.A, page 2-78, para. 94.B, & Exhibit 43, page 4 (Nov. 21, 2024).

²⁷² ECP Handbook, Exhibit 43, page 4 (Nov. 21, 2024).

²⁷³ ECP Handbook, page 2-78, para. 94.B (Nov. 21, 2024).

²⁷⁴ ECP Handbook, page 2-78, para. 94.B (Nov. 21, 2024).

3. Fields

Fields can be an eligible land use for ECP. The field must not be subject to frequent damage, and it must not have been damaged three or more times in the last ten years by the same type of disaster.²⁷⁵

4. Grazing Land

Land used for grazing for commercial livestock production is eligible for ECP.²⁷⁶ However, this does not apply to federally owned grazing land federally owned land, unless an exception applies, as described in Section XX.B, above.

5. Orchards and Groves

Land used for commercially producing orchards and groves is eligible for ECP.²⁷⁷

6. Christmas Tree Farmland

Land used for commercial Christmas tree production is eligible for ECP.²⁷⁸

7. Nurseries

Land devoted to nursery stock (including ferneries) is eligible for ECP. This includes nursery stock grown in containers. The nursery stock must either be grown for commercial uses or it must be grown on land in containers for at least one year.²⁷⁹

8. Aquaculture Facilities

Land containing commercial aquaculture facilities is eligible.²⁸⁰ The ECP Handbook defines an aquaculture facility as “a commercial aquaculture operation conducted on private land.” And it defines aquaculture as “[raising] aquatic species for food from a commercial operation conducted on private land.”²⁸¹

The Handbook names a commercial catfish pond and related fencing as an eligible example.²⁸² A recreational fishpond is not eligible because it is not considered to be primarily agricultural or to have a conservation use.²⁸³

²⁷⁵ ECP Handbook, page 2-78, para. 94.B (Nov. 21, 2024).

²⁷⁶ ECP Handbook, page 2-75, para. 94.A (Nov. 21, 2024).

²⁷⁷ ECP Handbook, page 2-75, para. 94.A (Nov. 21, 2024).

²⁷⁸ ECP Handbook, page 2-76, para. 94.A (Nov. 21, 2024).

²⁷⁹ ECP Handbook, page 2-76, para. 94.A (Nov. 21, 2024).

²⁸⁰ ECP Handbook, page 2-75, para. 94.A (Nov. 21, 2024).

²⁸¹ ECP Handbook, Exhibit. 2, page 1, “Aquaculture Facility” (Nov. 21, 2024).

²⁸² ECP Handbook, page 2-78, para. 94.B (Nov. 21, 2024).

²⁸³ ECP Handbook, page 2-77, para. 94.B (Nov. 21, 2024). A fence around a recreational fishing pond is also not eligible.

9. Land with Conservation Structures Supporting Agriculture

Land where conservation structures are installed to support or protect commercial agricultural land may be eligible for ECP.²⁸⁴ Such conservation structures include waterways, terraces, sediment basins, diversions, temporary or permanent vegetative cover, and grade stabilization structures including protective fencing.²⁸⁵

10. Agricultural Land Protected by Levees or Dikes Built to Federal Standards

Levees or dikes built to U.S. Army Corp of Engineers, NRCS, or similar standards that protect agricultural land are eligible so long as they were effectively functioning before the disaster.²⁸⁶

Before approving a U.S. Army Corps of Engineers' levee for ECP funds, FSA must believe, and have supporting documentation, that the levee will eventually be restored to Army Corps standards and specifications.²⁸⁷

E. Examples of Land Uses that are NOT Eligible

FSA rules list a number of land uses that are not eligible for ECP. These ineligible land uses are described below.

1. Land Damaged by Poor Farming Practices

If “poor farming practices” have “materially contributed” to damaging the land, the land is not eligible for ECP.²⁸⁸ For example, the regulations state that the failure to farm on the contour could be considered a poor farming practice.

2. Land Devoted to Trees, Woodlands

Land devoted to trees, such as for timber production, is not eligible for ECP.²⁸⁹ Native woodlands are also ineligible because they are not considered to be in agricultural production.²⁹⁰ As discussed in Section I, above, there is a separate emergency program for private non-industrial forests, the Emergency Forest Restoration Program.

²⁸⁴ ECP Handbook, page 2-76, para. 94.A (Nov. 21, 2024).

²⁸⁵ ECP Handbook, pages 2-77 to 2-78, para. 94.B (Nov. 21, 2024).

²⁸⁶ ECP Handbook, page 2-75, para. 94.A (Nov. 21, 2024). This is true regardless of the type of levee or dike.

²⁸⁷ ECP Handbook, page 2-82, para. 95.C (Nov. 21, 2024). FSA may wait until the work actually starts to approve the ECP cost share and may require some special agreements with the farmer.

²⁸⁸ 7 C.F.R. § 701.105(b)(9) (2025); ECP Handbook, page 2-80, para. 95.A (Nov. 21, 2024).

²⁸⁹ 7 C.F.R. § 701.105(b)(11) (2025); ECP Handbook, page 2-80, para. 95.A (Nov. 21, 2024).

²⁹⁰ 7 C.F.R. § 701.105(b)(10) (2025); ECP Handbook, page 2-80, para. 95.A (Nov. 21, 2024).

3. Land Damaged by Wildfire that was Not Naturally Caused

Land damaged by wildfire that is started by other than natural causes is not eligible for ECP.²⁹¹

4. Land On, In, or Near Levees, Streams, Reservoirs, Channels

Many land uses that are near water make the land not eligible for ECP. For example, land on which levees and dikes are built is not eligible.²⁹² This category is different from land “protected by” a levee or dike built to U.S. Army Corps of Engineers, NRCS, or similar standards, as discussed above in subsection D.10.

Land between levees and streams, or other bodies of water, is also not eligible for ECP.²⁹³ Land next to a stream is not eligible, regardless of whether the stream is perennial or intermittent.²⁹⁴ Land that is next to a water impoundment reservoir that is subject to inundation when the reservoir is filled is not eligible.²⁹⁵ Land that is subject to a flowage or flood easement is not eligible when water is released and inundates those easements with water during normal operations.²⁹⁶ Land located in old or new channels of a stream, creek, river, or other waterway is not eligible; however, the Deputy Administrator for Farm Programs may make an exception when land is located within or on the banks of an irrigation canal and the canal is not subject to flooding.²⁹⁷

5. Land with Debris from a Collapsed Barn or Poultry House

Debris from a collapsed barn that is in the building's footprint or on the farmstead is not eligible.²⁹⁸ The reasoning here is that such structures are primarily capital investments and not agricultural land. However, as discussed in subsection C.3 above, if debris from a collapsed barn is interfering with normal agricultural operations, the debris removal could be covered. The same rule applies for debris from a collapsed poultry house.

6. Land Around Farmstead Not Blocked by Debris

Damaged non-agricultural land that is on the farmstead is not eligible for ECP. The reasoning here is that the land is not used for agriculture.²⁹⁹ However, if there is debris that interferes with normal farming operations on this land, debris removal can be covered.

²⁹¹ ECP Handbook, page 2-80, para. 95.A (Nov. 21, 2024).

²⁹² 7 C.F.R. § 701.105(b)(3) (2025); ECP Handbook, page 2-79, para. 95.A (Nov. 21, 2024).

²⁹³ 7 C.F.R. § 701.105(b)(6) (2025); ECP Handbook, page 2-79, para. 95.A (Nov. 21, 2024).

²⁹⁴ ECP Handbook, page 2-77, para. 94.B (Nov. 21, 2024).

²⁹⁵ 7 C.F.R. § 701.105(b)(2) (2025); ECP Handbook, page 2-79, para. 95.A (Nov. 21, 2024).

²⁹⁶ 7 C.F.R. § 701.105(b)(5) (2025); ECP Handbook, page 2-79, para. 95.A (Nov. 21, 2024).

²⁹⁷ 7 C.F.R. § 701.105(b)(7) (2025); ECP Handbook, page 2-80, para. 95.A (Nov. 21, 2024).

²⁹⁸ ECP Handbook, page 2-77, para. 94.B (Nov. 21, 2024).

²⁹⁹ ECP Handbook, page 2-77, para. 94.B (Nov. 21, 2024).

7. Greenhouses, Hoop Houses, and Other Confined Areas

Land under greenhouses, hoop houses, high-tunnels, or other confined areas, including corrals, milking parlors, barn lots, or feeding areas is not eligible for ECP.³⁰⁰

8. Land Subject to Frequent or Severe Damage

Land subject to frequent damage, or particularly susceptible to severe damage, is not eligible for ECP.³⁰¹

FSA defines “severe damage” as damage that impairs or endangers the land or materially affects the productive capacity of the land.³⁰² FSA may look at all relevant factors when making this decision.³⁰³ These factors can include, but are not limited to: (1) the location of the land; (2) the history of damage to the land; and (3) whether the land is or could have been protected by a functioning levee or dike built to U.S. Army Corps of Engineers, NRCS, or comparable standards.³⁰⁴ FSA considers land to be subject to “frequent damage” when it has required ECP rehabilitation in response to disaster damage three or more times in the last ten years.³⁰⁵ FSA may also look to the Federal Emergency Management Agency or other governmental information that describes flood susceptibility of the land, soil surveys, aerial photographs, or flood plain data.³⁰⁶

9. Irrigation Lines

Main irrigation lines, including buried mainlines, are not eligible for ECP because FSA considers them as not having a conservation use.³⁰⁷ Center pivot irrigation is also not covered because such equipment is considered “portable.”³⁰⁸

³⁰⁰ 7 C.F.R. § 701.105(b)(8) (2025); ECP Handbook, page 2-80, para. 95.A (Nov. 21, 2024).

³⁰¹ 7 C.F.R. § 701.105(b)(4) (2025); ECP Handbook, page 2-79, para. 95.A (Nov. 21, 2024).

³⁰² ECP Handbook, Exhibit 2, page 7, “Severe damage” (Nov. 21, 2024).

³⁰³ 7 C.F.R. § 701.105(b)(4) & (c) (2025); ECP Handbook, page 2-81, para. 95.B (Nov. 21, 2024).

³⁰⁴ 7 C.F.R. § 701.105(c) (2025); ECP Handbook, page 2-81, para. 95.B (Nov. 21, 2024).

³⁰⁵ ECP Handbook, page 2-81, para. 95.B (Nov. 21, 2024). The three years of damage includes the current year.

³⁰⁶ 7 C.F.R. § 701.105(c) (2025); ECP Handbook, page 2-81, para. 95.B (Nov. 21, 2024).

³⁰⁷ Previously, main irrigation lines were eligible land uses for ECP. *See*, for example, ECP Handbook, page 5-25, para. 111.B (Sept. 10, 2015). The rules no longer provide cost-share assistance for main irrigation lines. *See* ECP Handbook, page 2-77, para. 94.B (Nov. 21, 2024).

³⁰⁸ ECP Handbook, page 2-77, para. 94.B (Nov. 21, 2024).

XXI. Conservation Practices Authorized By ECP: Eight Types of Practices

The ECP Handbook describes eight general types of conservation practices that qualify for ECP cost sharing. They are:

- debris removal;
- grading, shaping, or leveling land;
- restoring permanent fences;
- restoring structures and installations;
- emergency wind control;
- drought emergency measures;
- windbreaks and shelterbelts; and
- other emergency conservation measures.³⁰⁹

Approved conservation practices vary with the type of disaster. The following sections discuss those practices and what is required for each of them.

A. Debris Removal from Farmland

Debris removal is a possible use of ECP funds.³¹⁰ In general, this means removing debris from farmland that was deposited by a natural disaster. Several rules apply to debris removal.

1. Debris Deposited by Disaster

ECP funds may be used to remove debris only if that debris was deposited by the disaster.³¹¹

2. What Kind of Debris

The debris left by the natural disaster can include woody material, rock, trash, personal property, and sand or silt over 12 inches deep.³¹² The debris may have been left by either wind or water.

3. Debris Interferes with Farming Operations

The debris must interfere with normal farming operations.³¹³

If the debris is on farmland, three criteria must be satisfied: the debris (1) “materially affects” the productive capacity of the land, (2) prevents carrying out effective

³⁰⁹ ECP Handbook, Exhibit 43, page 1, para. A (Nov. 21, 2024).

³¹⁰ ECP Handbook, Exhibit 43, page 3, para. B (EC1) (Nov. 21, 2024).

³¹¹ ECP Handbook, Exhibit 43, page 3, para. B (EC1) (Nov. 21, 2024).

³¹² ECP Handbook, Exhibit 43, page 3, para. B (EC1) (Nov. 21, 2024).

³¹³ ECP Handbook, Exhibit 43, page 4, para. B (EC1) (Nov. 21, 2024).

conservation measures, and (3) prevents returning the land to productive agricultural use.³¹⁴ By farmland, FSA means both cropland and noncropland.³¹⁵

If the debris is on a farmstead or access roadway, it must be possible that it will “significantly interfere with normal farming operations” with its presence.³¹⁶ The access roadway must be privately maintained and must be on the privately owned, rented, or leased farmland with damage reported on a corresponding Cost Share Request form (FSA-848).

Removing debris that will not interfere with normal farming operations is not an authorized use of ECP funds.³¹⁷

4. Need Labor and Equipment

The debris must be significant enough that labor and/or equipment is required for its removal.³¹⁸

5. Removal Returns to Agricultural Use

Removing the debris must return the land to agricultural use.³¹⁹

6. Method of Removal

A variety of removal methods are allowed by FSA, and they generally fit with what most people would do to remove debris.³²⁰ Methods can include carrying debris by hand or snaring, dragging by light equipment, excavation, burning, chipping, shredding, hauling, and depositing or burying at approved locations within environmental compliance guidelines.

7. Debris Disposal, Recycling, or Re-use

Debris must be disposed of in a way that will not interfere with existing conservation facilities, nor create a health hazard or an environmental problem, whether on or off-site.³²¹

Recycling or re-use of materials should be considered “as a first option” for disposing of material.³²² For example, it may be possible to mulch woody debris.

³¹⁴ ECP Handbook, Exhibit 43, page 4, para. B (EC1) (Nov. 21, 2024).

³¹⁵ ECP Handbook, Exhibit 2, page 3, “Farmland” (Nov. 21, 2024). Farmland is land devoted to agricultural production, including aquaculture. 7 C.F.R. § 701.2, “Farmland” (2025).

³¹⁶ ECP Handbook, Exhibit 43, page 4, para. B (EC1) (Nov. 21, 2024).

³¹⁷ ECP Handbook, Exhibit 43, page 4, para. B (EC1) (Nov. 21, 2024).

³¹⁸ ECP Handbook, Exhibit 43, page 4, para. B (EC1) (Nov. 21, 2024). The 2015 version of the ECP Handbook required that any labor and equipment used to remove debris be *not* normally required in the operation of the farm or ranch. The current 2024 version of the ECP Handbook does not contain this requirement.

³¹⁹ ECP Handbook, Exhibit 43, page 3, para. B (EC1) (Nov. 21, 2024).

³²⁰ ECP Handbook, Exhibit 43, page 3, para. B (EC1) (Nov. 21, 2024).

³²¹ ECP Handbook, Exhibit 43, page 4, para. B (EC1) (Nov. 21, 2024).

³²² ECP Handbook, Exhibit 43, page 3, para. B (EC1) (Nov. 21, 2024).

8. Environmental Evaluation Still Required

An environmental evaluation is required for debris removal, even if there is no expected ground disturbance.³²³ Please refer to Section X.B, above, for a brief explanation of environmental evaluations.

B. Grading, Shaping or Leveling Land

ECP funds may be used to grade, shape, or level land.³²⁴ Similar measures may also qualify for ECP funds. Two rules apply to grading, shaping, or leveling land, and FSA provides examples of eligible and ineligible activities.

1. Must Be For Land Damaged by Disaster

The land must have been damaged by flood, hurricane, or other eligible natural disasters.³²⁵

2. Must Return Land to Agricultural Use

The grading, shaping, or leveling must return the land to agricultural use.³²⁶

3. Examples of Things Covered and Not Covered

FSA lists examples of things that might be funded.³²⁷

a. Gullies—Covered for Grading, Shaping, Filling

Gullies created by the disaster may be graded, shaped, and filled with ECP cost-share funds.³²⁸

b. Relevel Irrigated Land—Sometimes Covered

Releveling of previously level irrigated farmland can sometimes be covered under ECP.³²⁹ Releveling of irrigated land does not qualify if it counts as “floating” or “land planing.”³³⁰

³²³ ECP Handbook, page 6-156, para. 326.C & Exhibit 43, page 3, para. B (EC1) (Nov. 21, 2024).

³²⁴ ECP Handbook, Exhibit 43, page 5, para. C (EC2) (Nov. 21, 2024).

³²⁵ ECP Handbook, Exhibit 43, page 5, para. C (EC2) (Nov. 21, 2024).

³²⁶ ECP Handbook, Exhibit 43, page 5, para. C (EC2) (Nov. 21, 2024).

³²⁷ ECP Handbook, Exhibit 43, page 6, para. C (EC2) (Nov. 21, 2024).

³²⁸ ECP Handbook, Exhibit 43, page 6, para. C (EC2) (Nov. 21, 2024).

³²⁹ ECP Handbook, Exhibit 43, page 6, para. C (EC2) (Nov. 21, 2024).

³³⁰ These terms are not defined. In general, land planing is smoothing the land surface with a land plane to remove minor irregularities without changing the general topography. Land floating is a practice that is designed to conserve water in irrigation.

c. Ponding Caused by Disaster—Covered

Humps, ridges, and depressions that cause water to pond on the surface may be removed with ECP cost-share funding.³³¹ Draining wetlands is not an approved ECP practice.

d. Sand and Silt Incorporation—Covered if Sand or Silt is Six to Twelve Inches Deep

Sand and silt deposits that are 6 to 12 inches deep may be incorporated into the soil with ECP cost-sharing funds.³³² Deposits less than six inches deep are not covered. Deposits greater than 12 inches deep are eligible under the category of debris removal, as discussed in Section XXI.A.2, above.

e. Re-establish Permanent Vegetative Cover—Sometimes Covered

ECP funds may be used to re-establish vegetative cover only when the following three things are true. First, the grading and shaping is required for rehabilitation of the area. Second, pre-existing permanent vegetative cover was destroyed by the disaster. Third, if the cover is not re-established, the devegetated area will be subject to critical wind or water erosion.³³³

Vegetative cover, however, is not covered if there was no vegetative cover on the land before the disaster.³³⁴

f. Normal Farming Operations—Not Covered

Measures that are performed in connection with normal farming operations are not covered under ECP.³³⁵

g. Roadways and Field Roads—Not Covered

Repairing and restoring roads, including field roads, is not covered by ECP, even if such actions are required to correct damage to the land.³³⁶

C. Replacing, Restoring, or Repairing Permanent Fences

ECP funds may be used to replace, restore, or repair permanent fences that were damaged by natural disasters.³³⁷ The following rules apply.

³³¹ ECP Handbook, Exhibit 43, page 6, para. C (EC2) (Nov. 21, 2024).

³³² ECP Handbook, Exhibit 43, page 6, para. C (EC2) (Nov. 21, 2024).

³³³ ECP Handbook, Exhibit 43, page 6, para. C (EC2) (Nov. 21, 2024).

³³⁴ ECP Handbook, Exhibit 43, page 6, para. C (EC2) (Nov. 21, 2024). This is true even if grading and shaping is required to correct damage to the same land.

³³⁵ ECP Handbook, Exhibit 43, page 6, para. C (EC2) (Nov. 21, 2024).

³³⁶ ECP Handbook, Exhibit 43, page 6, para. C (EC2) (Nov. 21, 2024).

³³⁷ ECP Handbook, Exhibit 43, page 7, para. D (EC3) (Nov. 21, 2024).

1. Only Permanent Fences

Only permanent fences may be restored, replaced, or repaired with ECP cost-share funds. FSA defines “eligible permanent farm fencing” as a “permanent barrier recognized within the county as a farm fence built to control livestock.”³³⁸

As more livestock farmers use rotational grazing, a question may arise as to whether the restoration of mobile fencing qualifies under ECP. Arguably, these fences, although sometimes rotated within the same pasture, qualify as permanent fencing under the ECP definition. This argument should be especially compelling since rotational grazing has conservation benefits as a production method.

2. Fence Has Agricultural Purpose

Fences must be used for agricultural purposes.³³⁹ For FSA, this appears to mean that the fence must be for the purpose of keeping livestock in or out or keeping wildlife out of agricultural land. The alternatives—ornamental fences and commercial hunting or recreational fences—are not eligible.³⁴⁰

3. Destroyed or Seriously Damaged

The farm fence must have been destroyed or seriously damaged by the disaster.³⁴¹

4. Must Restore Fence to Previous Condition and Function

Cost-share funds must be used to restore the fence to a type (barbed wire, high tensile wire, woven wire) and function that is similar to that of the fence before the disaster.³⁴² However, the type of fence may need to be altered to conform to NRCS standards and specifications, as discussed in the next subsections 5 and 6.

5. New or Restored Fencing Must Meet NRCS Standards and Specifications

If a fence is replaced or restored, then it must meet NRCS standards and specifications.³⁴³ The specifications could include requirements for size and type of posts and wire, spacing, bracing, and placement.

6. Repaired Fencing Does Not Have to Meet NRCS Standards and Specifications

In contrast to fence replacement or restoration, “fence repair” does not have to meet NRCS standards and specifications.³⁴⁴ The ECP Handbook does not provide an explanation of how FSA distinguishes between repair and restoration. Presumably, the

³³⁸ ECP Handbook, Exhibit 2, page 2, “Eligible permanent farm fence” (Nov. 21, 2024).

³³⁹ ECP Handbook, Exhibit 43, page 7, para. D (EC3) (Nov. 21, 2024).

³⁴⁰ ECP Handbook, Exhibit 43, pages 7-8, para. D (EC3) (Nov. 21, 2024).

³⁴¹ ECP Handbook, Exhibit 43, page 7, para. D (EC3) (Nov. 21, 2024).

³⁴² ECP Handbook, Exhibit 43, page 7, para. D (EC3) (Nov. 21, 2024).

³⁴³ ECP Handbook, page 4-69, para. 203.A, Exhibit 43, page 7, para. D (EC3) (Nov. 21, 2024).

³⁴⁴ ECP Handbook, page 4-69, para. 203.A, Exhibit 43, page 1, para. A (Nov. 21, 2024).

distinction concerns the degree of damage and degree of new materials and labor required to make the fence functional again.

7. FSA Considerations for Approving Fence Restoration

FSA must consider the following when deciding whether to approve fence restoration under ECP.³⁴⁵ These questions go to the requirements discussed directly above and likely assist FSA decisionmakers in ensuring that funds are being used appropriately and proportionately to the damage suffered by a farmer.

- Was the fence used to exclude or enclose livestock?
- Was the fence used to exclude wildlife from agricultural land?
- What was the type of fence before the disaster?
- What was the agricultural function of the fence before the disaster?
- What was the extent of damage to the fence?

8. Examples of Eligible Fences

Examples of fences that FSA says would be eligible include: fences needed to return the land to productive agricultural use; fencing used to keep livestock or wildlife away from crops; cross fences; boundary fences; cattle gates; and solar-based and wind-based power sources if determined to be the least costly option to replace electric fences.³⁴⁶

Notably, ECP funds are no longer available for the restoration of fencing using reusable material from the damaged fence.³⁴⁷ This is a change from prior ECP policy.

D. Restoring Conservation Structures and Installations

ECP funds may be used to restore conservation structures and other installations damaged by a natural disaster.³⁴⁸ As described below, several rules apply. NRCS is responsible for the technical evaluations of these practices.

1. Functioning Before Disaster

The conservation structure must have been functioning before the disaster. Moreover, the functionality of the practice before the disaster controls the extent of restoration that is funded by ECP cost-sharing.³⁴⁹

2. Seriously Damaged

Conservation structures and other installations must have been “seriously damaged” by the approved disaster to receive cost-share assistance.³⁵⁰

³⁴⁵ ECP Handbook, Exhibit 43, page 7, para. D (EC3) (Nov. 21, 2024).

³⁴⁶ ECP Handbook, Exhibit 43, page 8, para. D (EC3) (Nov. 21, 2024).

³⁴⁷ ECP Handbook, Exhibit 43, page 8, para. D (EC3) (Nov. 21, 2024).

³⁴⁸ ECP Handbook, Exhibit 43, page 9, para. E (EC4) (Nov. 21, 2024).

³⁴⁹ ECP Handbook, Exhibit 43, page 9, para. E (EC4) (Nov. 21, 2024).

³⁵⁰ ECP Handbook, Exhibit 43, page 9, para. E (EC4) (Nov. 21, 2024).

3. Types of Structures and Installations

Examples of authorized practices for ECP restoration include the following. Please note that several activities or structures are not eligible even though they seem close to the sort of things that are approved.

a. Springs, Dams, Ponds, Wells—Covered

In general, dams, ponds, and other water impoundments for agricultural uses can be restored with ECP funds.³⁵¹ Wells and spring developments are also eligible.

Irrigation wells, however, are not eligible.³⁵²

b. Means of Moving Water—Sometimes Covered

A variety of water-moving mechanisms may be restored with ECP funds.³⁵³ These include: sod waterways; installed open or closed drainage systems; diversions or spreader ditches; structures for protecting outlets or water channels before the disaster; pipelines; and ditches and other permanently installed systems.

Water-moving systems that are not eligible include buried mainlines; wheel move systems; hand move systems; and center pivot systems.³⁵⁴ Buried mainlines were eligible in prior ECP policy but are no longer eligible for ECP funding.³⁵⁵

c. Terraces—Covered

Terrace systems can be restored or repaired with ECP funds.³⁵⁶

d. Solar Units for Livestock Water Damaged by Wildfire—Covered

Solar units that provide water for livestock and that were damaged by wildfire may be restored or repaired with ECP funds.³⁵⁷

e. Livestock Water Facilities Damaged by Wildfire, Flooding, or Hurricane—Covered

Livestock water facilities can be restored with ECP funding when the facilities have been damaged by wildfire, flooding, or hurricane.³⁵⁸

³⁵¹ ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

³⁵² ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

³⁵³ ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

³⁵⁴ ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

³⁵⁵ ECP Handbook, page 4-68, para. 202.B (Nov. 21, 2024).

³⁵⁶ ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

³⁵⁷ ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

³⁵⁸ ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

f. Permanent Vegetative Cover—Covered

Permanent vegetative cover can be eligible for restoration.³⁵⁹ Restoration of vegetative cover may be in conjunction with the re-establishment of other eligible structures or installations needed to prevent critical erosion or siltation.

g. Animal Waste Lagoons Outside the 100-year Floodplain—Covered

Lagoons that collect animal waste may be repaired or replaced if they are outside the 100-year floodplain.³⁶⁰ Lagoons within a 100-year floodplain are not eligible.³⁶¹

h. Silt Removal—Not Covered under this Category

Silt removal is not eligible in this category of restoration of conservation structures or installations.³⁶²

However, removal of silt greater than 12 inches deep is potentially eligible under the category of debris removal, as discussed above in Section XXI.A.1. And incorporation of silt 6 to 12 inches deep back into soils is potentially eligible under the category of grading, shaping, or leveling, as discussed above in Section XXI.B.3.d.

i. Motors, Portable Pumps, and Portable Pipes—Not Covered

Restoration of motors, portable pumps, and portable pipes are not covered for restoration or repair with ECP cost share.³⁶³

However, in case of drought emergency, motors or pumps permanently installed in wells may be eligible for ECP repair funds, as discussed below in Section XXI.F.6.f.

j. Roadways —Not Covered

Restoration of roadways, including field roads, is not an eligible use of cost-share funds.³⁶⁴

³⁵⁹ ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

³⁶⁰ ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

³⁶¹ ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

³⁶² ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

³⁶³ ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

³⁶⁴ ECP Handbook, Exhibit 43, page 10, para. E (EC4) (Nov. 21, 2024).

E. Emergency Wind Erosion Control

ECP funds may be used for emergency wind erosion control measures on farmland that was damaged by a natural disaster.³⁶⁵ The following rules apply.

1. Serious Wind Erosion Required

ECP funds are possible for emergency wind erosion control when farmland is subjected to serious wind erosion.³⁶⁶

The erosion must have been caused by either an extended period of insufficient moisture or crop residue or stubble that is not adequate to protect the land.

2. Examples of Wind Erosion Control Measures

The following practices are examples of eligible measures under this category:

- Contour or cross slope chiseling; and
- Other chiseling where chiseling is not practical to perform on the contour or on the cross slope; and
- Deep plowing or other similar measures that bring subsoil clods to the surface.

ECP funding is not available for “measures considered to be part of normal farming operations, such as those needed to prepare a seedbed for the next crop.”³⁶⁷

3. Specifications for Wind Erosion Control

FSA specifications for the practice are likely to include things like the implement the farmer must use, the depth and spacing of the tillage, and whether other tillage measures will be required.³⁶⁸

³⁶⁵ ECP Handbook, Exhibit 43, page 11, para. F (EC5) (Nov. 21, 2024).

³⁶⁶ ECP Handbook, Exhibit 43, page 11, para. F (EC5) (Nov. 21, 2024).

³⁶⁷ The authors believe that the current ECP Handbook contains a typo erroneously stating that funding is available for “measures considered to be part of normal farming operations, such as those needed to prepare a seedbed for the next crop.”³⁶⁷ This is almost certainly a drafting error for two reasons: (1) providing funding for normal farming operations goes against the general ECP rule that funds must only be used for responding to new, extraordinary damage caused by a disaster (see Section VI.A, above); and (2) performing measures in connection with normal farming operations is specifically *not* authorized for the conservation practice of grading, shaping, and leveling (see Section XXI.B.3.f, above). See ECP Handbook, Exhibit 43, page 11, para. F (EC5) (Nov. 21, 2024). Furthermore, previous versions of the ECP Handbook contained an identical table stating that erosion control measures part of normal farming practices are not eligible. See FSA Handbook: Emergency Conservation Program, 1-ECP, Exhibit 12, page 12, para. EC5.C (Revision 6, Amendment 2, Sept. 16, 2021)

³⁶⁸ ECP Handbook, Exhibit 43, page 11, para. F (EC5) (Nov. 21, 2024).

F. Drought Emergency Measures

ECP funds may be used in times of drought for water conservation and water enhancement measures related to livestock, orchards, and vineyards.³⁶⁹ The following rules apply.

1. Drought Conditions Required

Drought emergency measures only qualify for ECP funding when severe drought impacts livestock or orchards and vineyards.³⁷⁰ Qualifying severe drought conditions include an extended period of insufficient moisture, a lack of reliable livestock water, or a lack of reliable supply of water for orchard and vineyard existing irrigation systems, as described above in Section VI.B.

2. Measures Must Address Drought-Related Problem

The farm or ranch must be experiencing a drought-related problem, and the ECP conservation practice must be installed primarily to deal with that problem.³⁷¹

3. Farm Must Have Had Adequate and Functioning Water Measures Before the Drought

A farm must have had adequate and functioning livestock water systems or adequate irrigation systems before the drought.³⁷²

4. End of Funding If Drought Situation Changes

FSA will monitor the situation to see if the severe drought conditions end.³⁷³ If FSA decides the program is no longer needed, FSA will stop approving new practices and take back all unobligated funds from FSA county offices.

5. Three Types of Drought Emergency Measures Covered

Three types of activities are allowed as drought emergency measures.³⁷⁴

a. Water Facilities that Allow for Grazing

Emergency measures that are needed to permit livestock grazing of range, pasture, or forage are eligible for ECP funding.³⁷⁵ There must be adequate permanent range and pasture residue for livestock in the area to be served by the proposed water facility at the time of the request.³⁷⁶ Further, the distribution of livestock water facilities should prevent overgrazing.

³⁶⁹ ECP Handbook, Exhibit 43, page 12, para. G (EC6) (Nov. 21, 2024).

³⁷⁰ ECP Handbook, Exhibit 43, page 12, para. G (EC6) (Nov. 21, 2024).

³⁷¹ ECP Handbook, Exhibit 43, page 12, para. G (EC6) (Nov. 21, 2024).

³⁷² ECP Handbook, Exhibit 43, page 12, para. G (EC6) (Nov. 21, 2024).

³⁷³ ECP Handbook, Exhibit 43, page 13, para. G (EC6) (Nov. 21, 2024).

³⁷⁴ ECP Handbook, Exhibit 43, page 12, para. G (EC6) (Nov. 21, 2024).

³⁷⁵ ECP Handbook, Exhibit 43, page 12, para. G (EC6) (Nov. 21, 2024).

³⁷⁶ ECP Handbook, Exhibit 43, page 12, para. G (EC6) (Nov. 21, 2024).

However, the water facilities *cannot* be used to make it possible for livestock to graze crop residues, field borders, or temporary or supplemental pasture crops.³⁷⁷

b. Emergency Water for Confined Livestock

ECP funds may be allowed for providing emergency water for confined livestock operations.³⁷⁸ The livestock must have been confined before the drought in order to qualify for cost-share assistance.

c. Emergency Water for Orchards and Vineyards

ECP cost-share funds may be used for a drought emergency measure that supplies emergency water for existing irrigation systems that serve orchards and vineyards.³⁷⁹

6. Examples of Covered Emergency Drought Measures

Examples of authorized and unauthorized measures for drought emergencies include the following.

a. Installing Pipes for Water

Installing a pipe to an existing or newly developed source of water because the primary water source is not adequate is an accepted ECP drought emergency measure.³⁸⁰ The costs related to a one-time connection to a public rural utility line charged by the water service authority are eligible but limited to labor, equipment, and materials. Farmers are solely responsible for charges for fees and water service. However, costs are not covered if a rural waterline is constructed before a meter is installed at the farm.³⁸¹

ECP does not cover construction of pipelines to supply water for vegetable or other short-term crops.³⁸²

b. Water Storage Facilities

Providing water storage facilities can be an accepted drought emergency measure.³⁸³ This can include tanks that become a part of a new or existing water distribution system. Troughs above ground can be approved if they are needed to supply water for immediate needs for livestock.

³⁷⁷ ECP Handbook, Exhibit 43, page 14, para. G (EC6) (Nov. 21, 2024).

³⁷⁸ ECP Handbook, Exhibit 43, page 12, para. G (EC6) (Nov. 21, 2024).

³⁷⁹ ECP Handbook, Exhibit 43, page 12, para. G (EC6) (Nov. 21, 2024).

³⁸⁰ ECP Handbook, Exhibit 43, page 13, para. G (EC6) (Nov. 21, 2024).

³⁸¹ ECP Handbook, Exhibit 43, page 14, para. G (EC6) (Nov. 21, 2024).

³⁸² ECP Handbook, Exhibit 43, page 14, para. G (EC6) (Nov. 21, 2024).

³⁸³ ECP Handbook, Exhibit 43, page 13, para. G (EC6) (Nov. 21, 2024).

However, repairing or deepening ponds is not an eligible activity. Neither is removing silt from water impoundments.³⁸⁴

c. Wells

Wells can be eligible for ECP cost-share assistance for drought emergencies. For example, constructing and deepening wells for livestock water sources is allowed.³⁸⁵ Wells can also be funded when there is no other source of emergency water available that could be developed at a lesser cost. When wells are installed as a conservation practice, pump equipment and adequate storage facilities also must be provided.³⁸⁶

ECP does not cover work on wells that do not produce sufficient water. ECP also does not cover the costs of pumps and motors not permanently installed in wells.³⁸⁷

d. Water Recovery Pits for Orchards and Vineyards

Construction of tail water recover pits for irrigation systems to orchards and vineyards is covered.³⁸⁸

e. Springs or Seeps

The development of a spring or a seep for livestock water is permitted for drought emergencies.³⁸⁹

f. Water Pumps and Solar and Wind-Based Power for Pumps

The permanent installation of a submersible pump is eligible for drought emergency ECP assistance if the pump would address the water needs of livestock on hand at the time of the disaster.³⁹⁰

Solar and wind-based power sources to power pumps for livestock water are also eligible if they are determined to be the least costly alternative within the lifespan of the practice.³⁹¹

7. Examples of Measures NOT Covered

A number of water efforts that one might think are eligible under ECP are not allowed as a drought emergency measure.

³⁸⁴ ECP Handbook, Exhibit 43, page 14, para. G (EC6) (Nov. 21, 2024).

³⁸⁵ ECP Handbook, Exhibit 43, page 13, para. G (EC6) (Nov. 21, 2024).

³⁸⁶ ECP Handbook, Exhibit 43, page 12, para. G (EC6) (Nov. 21, 2024).

³⁸⁷ ECP Handbook, Exhibit 43, page 14, para. G (EC6) (Nov. 21, 2024).

³⁸⁸ ECP Handbook, Exhibit 43, page 13, para. G (EC6) (Nov. 21, 2024). Tailwater is the runoff from irrigation.

³⁸⁹ ECP Handbook, Exhibit 43, page 13, para. G (EC6) (Nov. 21, 2024).

³⁹⁰ ECP Handbook, Exhibit 43, page 13, para. G (EC6) (Nov. 21, 2024).

³⁹¹ ECP Handbook, Exhibit 43, pages 12-13, para. G (EC6) (Nov. 21, 2024).

a. Water Hauling

ECP funds may not be used to haul water.³⁹²

b. When Primary Water Use is For Headquarters, Barns, Corrals, Recreation, or Wildlife

Water facilities installed as a drought emergency measure cannot be primarily for the headquarters of the farm.³⁹³ In addition, livestock water facilities are not allowed if they are primarily for barns, corrals, recreation, or wildlife—unless, as noted above, they are for livestock that are already confined.³⁹⁴

c. Irrigating Cover Crops

Using water to establish permanent or temporary vegetative cover is not eligible.³⁹⁵ In addition, ECP funds may not be used for livestock water facilities on land on which the cover crop will be used for hay or silage, or will be chopped and hauled to headquarters for feeding.³⁹⁶

d. Water to Allow Grazing on Certain Lands

As noted above in Section XXI.F.5.a, ECP funds may not be used for livestock water facilities that will make it possible for livestock to graze crop residue, to graze on field borders, or to graze on temporary or supplemental pasture crops.³⁹⁷

G. Windbreaks and Shelterbelts

ECP funds may be used to restore or replace field windbreaks and farmstead shelterbelts to stop wind erosion or provide energy conservation.³⁹⁸

FSA does not define windbreaks or shelterbelts. The Handbook does state that planting orchard trees and ornamental plantings is not considered planting a windbreak or shelterbelt.³⁹⁹ Two rules apply, and the ECP Handbook provides examples, as described in the following subsections.

1. Must Be Seriously Damaged by Disaster

Field windbreaks and farmstead shelterbelts must have been “seriously damaged” by a natural disaster.⁴⁰⁰ If not damaged by the disaster, they do not qualify.

³⁹² ECP Handbook, Exhibit 43, page 14, para. G (EC6) (Nov. 21, 2024).

³⁹³ ECP Handbook, Exhibit 43, page 14, para. G (EC6) (Nov. 21, 2024). The incidental use of water at headquarters is permitted if it does not lessen the effectiveness of the emergency water facility in serving its primary purpose.

³⁹⁴ ECP Handbook, Exhibit 43, page 14, para. G (EC6) (Nov. 21, 2024).

³⁹⁵ ECP Handbook, Exhibit 43, page 14, para. G (EC6) (Nov. 21, 2024).

³⁹⁶ ECP Handbook, Exhibit 43, page 14, para. G (EC6) (Nov. 21, 2024).

³⁹⁷ ECP Handbook, Exhibit 43, page 14, para. G (EC6) (Nov. 21, 2024).

³⁹⁸ ECP Handbook, Exhibit 43, page 16, para. I (EC8) (Nov. 21, 2024).

³⁹⁹ ECP Handbook, Exhibit 43, page 16, para. I (EC8) (Nov. 21, 2024).

⁴⁰⁰ ECP Handbook, Exhibit 43, page 16, para. I (EC8) (Nov. 21, 2024).

2. Conservation Reserve Program Lands Are Not Eligible

ECP funds may not be used to restore or replace windbreaks or shelterbelts when they are on land in the Conservation Reserve Program (CRP).⁴⁰¹

3. Measures Allowed

FSA allows a number of measures to restore or replace windbreaks or shelterbelts. They include the following.

a. Debris Removal

Removing debris from field windbreaks or farmstead shelterbelts is allowed as an ECP emergency measure.⁴⁰²

b. Re-Planting Windbreaks or Shelterbelts

Planting field windbreaks or farmstead shelterbelts is allowed as an emergency measure.⁴⁰³ To qualify, the windbreaks or shelterbelts must have existed before the disaster.

c. Purchasing Seedlings and Young Shrubs

Purchasing tree seedlings or young shrubs used for field windbreaks or farmstead shelterbelts is allowed as an emergency measure.⁴⁰⁴

d. Establishing Vegetative Cover

Establishing vegetative cover where needed to prevent serious erosion until trees or shrubs are established is allowed as an emergency measure.⁴⁰⁵

e. Weed Control

Chemical or mechanical weed control measures, where needed to establish trees for the windbreak, are allowed as an emergency measure.⁴⁰⁶ This may only be done during the first 24 months after planting.

H. Other Emergency Conservation Measures

ECP funds may be used for other emergency conservation measures under the following guidelines.⁴⁰⁷ To use such an “other” measure, farmers must submit a practice description for approval by the ECP Program Manager, regardless of whether the practice has been approved in a prior year.

⁴⁰¹ ECP Handbook, Exhibit 43, page 16, para. I (EC8) (Nov. 21, 2024).

⁴⁰² ECP Handbook, Exhibit 43, page 16, para. I (EC8) (Nov. 21, 2024).

⁴⁰³ ECP Handbook, Exhibit 43, page 16, para. I (EC8) (Nov. 21, 2024).

⁴⁰⁴ ECP Handbook, Exhibit 43, page 16, para. I (EC8) (Nov. 21, 2024).

⁴⁰⁵ ECP Handbook, Exhibit 43, page 16, para. I (EC8) (Nov. 21, 2024).

⁴⁰⁶ ECP Handbook, Exhibit 43, page 16, para. I (EC8) (Nov. 21, 2024).

⁴⁰⁷ ECP Handbook, Exhibit 43, page 15, para. H (EC7) (Nov. 21, 2024).

1. Must Meet ECP Requirements, Generally

Other emergency conservation measures must meet the general ECP practice requirements, which are described above in Section VII.

2. Categories of Other Emergency Conservation Measures

The rules allow farmers and local FSA offices to be creative in developing measures that are not specifically described in the other seven specified ECP practices discussed in the subsections above. The examples below provide some examples and general guidelines. Nonetheless, approval ultimately depends on the ECP Program Manager or their agents.

a. Restoring Conservation or Pollution Abatement Practice

One category of “other” measures is replacing or restoring pollution abatement practices that are damaged by a natural disaster.⁴⁰⁸ This suggests that conservation practices or pollution abatement practices that are damaged by the natural disaster, but that are not mentioned in the other categories, may be eligible. Pollution abatement practice is not defined, but abate generally means to reduce.

b. Restoring Land to Normal Capacity

It is possible to use ECP funds to restore eligible land to its normal production capacity after a natural disaster has impaired a pre-existing capacity.⁴⁰⁹

c. Restoring Land to Productive Agricultural Use

It is possible to use ECP funds to return eligible land to productive agricultural use after a natural disaster has impaired a pre-existing productive agricultural use.⁴¹⁰

d. Conserving and Enhancing Water Resources

Conserving and enhancing water resources impaired by a natural disaster is an eligible use of ECP assistance.⁴¹¹

3. Uses NOT Allowed for Other Emergency Conservations Measure

FSA rules clearly name two types of actions that do not fit into the catchall category of other emergency conservation measures.

⁴⁰⁸ ECP Handbook, Exhibit 43, page 15, para. H (EC7) (Nov. 21, 2024).

⁴⁰⁹ ECP Handbook, Exhibit 43, page 15, para. H (EC7) (Nov. 21, 2024).

⁴¹⁰ ECP Handbook, Exhibit 43, page 15, para. H (EC7) (Nov. 21, 2024).

⁴¹¹ ECP Handbook, Exhibit 43, page 15, para. H (EC7) (Nov. 21, 2024).

a. Conservation or Environmental Problem that Existed Before the Disaster

ECP funds cannot be used to solve a conservation or environmental problem that existed before the disaster.⁴¹²

b. Activity Normally Performed Independently of ECP Support

ECP funds may not be used for an activity normally performed by farmers independently of ECP support.⁴¹³

4. Minimum Lifespan

Proposals for “other” emergency conservation measures must specify a minimum lifespan.⁴¹⁴ Over that time period, FSA may spot check to be sure that the practice is maintained and being used for its designed purpose.⁴¹⁵

5. Payment Scenario or Flat Rate

If a normal ECP payment scenario cannot be matched to the need of the proposal, cost share components must be approved by the NRCS State Technical Committee or the local FSA County Committee.⁴¹⁶ The cost share rate for a custom ECP component should be expressed as a flat rate and must be based on the average cost of performing the appropriate unit of measure.⁴¹⁷

⁴¹² ECP Handbook, Exhibit 43, page 15, para. H (EC7) (Nov. 21, 2024).

⁴¹³ ECP Handbook, Exhibit 43, page 15, para. H (EC7) (Nov. 21, 2024).

⁴¹⁴ ECP Handbook, Exhibit 43, page 15, para. H (EC7) (Nov. 21, 2024).

⁴¹⁵ ECP Handbook, Exhibit 2, page 3, “Lifespan of a Practice” (Nov. 21, 2024). A lifespan begins on January 1 after the calendar year in which the practice is installed.

⁴¹⁶ ECP Handbook, Exhibit 43, page 15, para. H (EC7) (Nov. 21, 2024).

⁴¹⁷ ECP Handbook, Exhibit 43, page 15, para. H (EC7) (Nov. 21, 2024).

XXII. ECP Appeals to USDA's National Appeals Division

Many adverse decisions made under ECP are appealable to USDA's National Appeals Division (NAD).⁴¹⁸ Examples of appealable decisions include:

- a determination of ineligibility for ECP,
- denial of ECP benefits, and
- a decision that the farmer has not complied with ECP requirements.⁴¹⁹

FSA's written adverse decisions should contain instructions on how to appeal the decision to NAD.⁴²⁰ ECP follows the appeals process found in FSA Handbook, 1-APP, Program Appeals, Mediation, and Litigation (Sept. 13, 2016).

In some instances, if an FSA county committee has not already approved the adverse decision, then the farmer must first seek informal review by the county committee before the farmer can appeal to NAD.⁴²¹

⁴¹⁸ 7 C.F.R. § 701.34 (2025); ECP Handbook, page 9-76, para. 711.B (Nov. 21, 2024).

⁴¹⁹ ECP Handbook, page 5-8, para. 230.C, pages 6-80 to 6-81, paras. 301.F & H, page 8-5, para. 400.A, page 8-13, para. 406.A, page 9-76, para. 711.B (Nov. 21, 2024).

⁴²⁰ See, for example, ECP Handbook, page 5-8, para. 230.C, page 8-5, para. 400.A, page 9-76, para. 711.B (Nov. 21, 2024).

⁴²¹ 7 C.F.R. § 11.5(a) (2025).