NRCS will take into account the following resources as they may affect the priority, including, but not limited to:

(A) Sites inhabited by federally listed threatened and endangered species or containing federal designated critical habitat where the species or the critical habitat could be jeopardized, destroyed, or adversely modified without the EWP practice;

(B) Sites that contain or are in the proximity to cultural sites listed on the National Register of Historic Places where the listed resource would be jeopardized if the EWP practice were not installed;

(C) Sites where prime farmland supporting high value crops is threatened;

(D) Sites containing wetlands that would be damaged or destroyed without the EWP practice;

(E) Sites that have a major effect on water quality; and

(F) Sites containing unique habitat, including but not limited to, areas inhabited by State-listed threatened and endangered species, fish and wildlife management areas, or State-identified sensitive habitats; and

(v) Other funding priorities established by the Chief of NRCS.

§ 624.9 Time limits.

Funds must be obligated by the State Conservationist and construction completed within 220 calendar days after the date funds are committed to the State Conservationist, except for emergency situations in which case the construction must be completed within 10 days after the date the funds are committed.

§ 624.10 Floodplain easements.

(a) General. NRCS may purchase floodplain easements as an emergency measure. NRCS will only purchase easements from landowners on a voluntary basis.

(b) Floodplain easements. (1) Floodplain easements established under this part will be:

(i) Held by the United States, through the Secretary of Agriculture;

(ii) Administered by NRCS or its designee; and

(iii) Perpetual in duration;

(2) Eligible land. NRCS may determine land is eligible under this section if:

(i) The floodplain lands were damaged by flooding at least once within the previous calendar year or have been subject to flood damage at least twice within the previous 10 years; or

(ii) Other lands within the floodplain would contribute to the restoration of the flood storage and flow, erosion control, or that would improve the practical management of the easement; or

(iii) Lands would be inundated or adversely impacted as a result of a dam breach.

(3) Ineligible land. NRCS may determine that land is ineligible under this section if:

(i) Implementation of restoration practices would be futile due to “on-site” or “off-site” conditions;

(ii) The land is subject to an existing easement or deed restriction that provides sufficient protection or restoration, as determined by the Chief of NRCS, of the floodplain’s functions and values; or

(iii) The purchase of an easement would not meet the purposes of this part.

(4) Compensation for easements. NRCS will determine easement compensation in accordance with applicable regulation and other law.

(5) NRCS will not acquire any easement unless the landowner accepts the amount of the easement payment that is offered by NRCS. NRCS reserves the right not to purchase an easement if the easement compensation for a particular easement would be too expensive, as determined by NRCS.

(6) NRCS may provide up to 100 percent of the restoration and enhancement costs of the easement. NRCS may enter into an agreement with the landowner or another third party to ensure that identified practices are implemented. NRCS, the landowner, or other designee may implement identified practices. Restoration and enhancement efforts may include both structural and non-structural practices. An easement acquired under this part shall provide NRCS with the full authority to restore, protect, manage, maintain, and enhance the functions and values of the floodplain.

(7) The landowner must:
§ 624.11  Waivers.

To the extent allowed by law, the NRCS Deputy Chief for Programs may waive any provision of these regulations when the agency makes a written determination that such waiver is in the best interest of the Federal government.

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