

**Forest Service Manual
National Headquarters - Washington Office
Washington, DC**

**Forest Service Manual 3500 – Cooperative Watershed Management
Chapter 3540 - Emergency Watershed Protection**

Amendment: 3500-2000-1

Effective date: December 08, 2000

Duration: This amendment is effective until superseded or removed.

Approved by: Mike Dombeck, Chief

Date approved: December 04, 2000

Responsible Staff:

Last Change:

Superseded Document(s): 3500 Table of Contents, Amendment 3500-90-1; 3500 Zero Code, Amendment 3500-90-1; 3510, Amendment 3500-90-1; 3520, Amendment 3500-90-1; 3530, Amendment 3500-90-1; 3540, Amendment 3500-90-1; 3560, Amendment 3500-90-1; 3570, Amendment 3500-90-1

Posting Instructions: This is a technical amendment that converts the format and style of this FSM title from Applixware to the current corporate word processing application. Since this amendment replaces all text except Interim Directives (ID's), do not check for the last transmittal received for this title; instead place this transmittal sheet at the front of the title. DO NOT remove ID's when posting this amendment. ID's are not being reformatted at this time.

Digest: Following is an explanation of the changes throughout the directive by section.

Please read the new posting instructions (above) carefully.

3500: The entire amendment text has been reformatted and replaced, so that the amendment text on the Service-wide Directives Home Page in the Forest Service Web/Intranet (<http://fsweb.wo.fs.fed.us/directives/index.html>) corresponds with the amendment text on the Forest Service Directives Home Page in the Forest Service World Wide Web/Internet (<http://www.fs.fed.us/im/directives>).

Although some minor typographical and technical errors have been corrected, substantive direction has not been changed.

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3540.1 - Authorities

Section 403 of Title IV of the Agricultural Credit Act of 1978 and section 216 of the Flood Prevention Act of 1950. The Emergency Watershed Protection Program as described in 7 CFR 624 is authorized in the 50 States, Puerto Rico, and the U.S. Virgin Islands.

3540.2 - Objective

Assist in relieving imminent hazards to life and or property from floods and the products of erosion created by natural disasters that cause a sudden impairment of watershed condition.

3540.3 - Policy

The Emergency Watershed Protection Program shall be used only in instances when existing local, State, and Federal programs do not provide adequate facilities and funds for immediate remedial action. To be eligible for assistance, the threat to life or property must significantly exceed that which existed before the impairment.

3540.31 - National Forest System Lands

Emergency watershed protection funds may be requested from a State Conservationist to relieve emergency conditions on National Forest System lands (FSM 2528). These funds may be requested when other funding sources are insufficient or exhausted.

3540.32 - Other Forest Land

Emergency watershed protection funds may be requested from a State Conservationist by a sponsor to relieve emergency conditions on other forest lands. The Forest Service shall cooperate with other Federal officials, including the Soil Conservation Service, State Foresters, and other State or local agencies.

3540.4 - Responsibilities

3540.41 - Soil Conservation Service

The Soil Conservation Service administers the program providing national direction and guidance as contained in their National Watersheds Manual Part 512, and Emergency Watershed Protection Handbook. The Soil Conservation Service transfers funds to the Forest Service for work to be completed by the Forest Service or its cooperators.

State Conservationists administer the program in their respective States and must approve Forest Service requests for funding.

3540.42 - Forest Service

The Forest Service administers emergency watershed protection measures on National Forests and National Grasslands, on all forested lands or rangelands within National Forest boundaries, on adjacent rangelands administered under formal agreement with the Forest Service, and on other forested lands. On these lands, emergency work may be done by either the Soil Conservation Service or the Forest Service as mutually agreed.

3540.42a - Cooperative Forestry

The Washington Office Cooperative Forestry Staff is responsible for Forest Service participation in this program including national coordination with the Soil Conservation Service.

3540.42b - Regional Foresters and Area Director

Regional Foresters administer the program on National Forest System lands. Regional Foresters, except Region 9, and the Northeastern Area Director administer the program on other forested lands. The Area Director coordinates the total program within the Northeastern Area States.

Regional Foresters or Area Director shall:

1. Prior to disasters, establish procedures as necessary to coordinate the Emergency Watershed Program with other Federal, State, and local programs.
2. Following disasters, notify the State Conservationist of emergency situations and request necessary exigency funds.
3. Coordinate emergency watershed protection surveys with other natural disaster surveys (FSM 1590, 2523, 2529, and 7734) on National Forest System lands and work with the Soil Conservation Service and State Forester for surveys on private lands.
4. Plan emergency measures using an interdisciplinary planning approach and secure approval of permanent measures.
5. Comply with Forest Service environmental policy and procedures.
6. Request nonexigency funds through the State Conservationist.
7. Execute the appropriate assistance document for the installation of the emergency measures on private lands.
8. Follow procedures in FSH 1909.13, chapter 40, section 45.4 on yearend unobligated balances.
9. Make a final report on the completed projects to the State Conservationist with a copy to the Washington Office Cooperative Forestry Staff.

10. Conduct reviews.

These responsibilities may be re-delegated to Forest Supervisors.

3540.5 - Definitions

Emergency Measures. Those actions taken for exigency and nonexigency situations to remove or reduce hazards created by the disaster to safeguard life and property from flooding or the products of erosion.

Emergency Watershed Protection Project. A project includes all the work authorized for an individual event. One project may include activities on more than one National Forest.

Exigency. A situation that exists when the near-term probability of damage to life or property is high enough to constitute an immediate threat which demands immediate Federal action. An exigency continues to exist as long as the probability of damage continues at a high enough level.

Natural Occurrence. Includes but is not limited to floods, fires, windstorms, earthquakes, volcanic actions, slides, tornadoes, and drought.

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

Sudden Watershed Impairment. A single natural occurrence or a short-term combination of occurrences. Watershed impairments resulting from long-term combinations or a series of natural or other occurrences are not considered sudden watershed impairments.

Watershed Emergency. Exists when a natural occurrence causes a sudden impairment of a watershed creating an imminent threat to life or property.

Watershed Impairment. Exists when the ability of a watershed to carry out its natural functions is reduced to the extent of creating an imminent threat to life or property.

3541 - Program Administration

3541.1 - Conditions of Eligibility

3541.11 - Eligible Recipients

Those eligible for assistance are public or private landowners, land managers, land users, or others who: (1) have a legal interest in or responsibility for the values threatened by a watershed emergency; and (2) have exhausted or have insufficient funds or other resources available to provide adequate relief from the applicable hazards.

Interested persons, other than Federal agencies, must be represented by a project sponsor. Project sponsors must: (1) be a legal subdivision of a State government or a State itself; (2) have legal authority and agree to use such authority to obtain needed land rights, water rights, and permits; and (3) agree to provide for the operation and maintenance of completed emergency measures.

3541.12 - Eligible Measures

To be eligible for assistance a measure must meet all the following criteria:

1. Retard runoff or prevent soil erosion;
2. Reduce threats to life or property caused by the watershed emergency;
3. Be economically and environmentally defensible and technically sound;
4. Be limited to what is necessary to reduce the threat to a level not to exceed that which existed before the watershed was impaired;
5. Yield benefits to more than one individual; and
6. Conform with Executive Order 11990, Protection of Wetlands, and Executive Order 11988, Flood Plain Management.

3541.13 - Limitations

Emergency Watershed Protection funds shall not be used to:

1. Perform normal operation or maintenance.
2. Change preexisting watershed conditions such as channel debris, ground cover, or hydrologic function which existed before the watershed emergency.
3. Repair, rebuild, or maintain private or public transportation facilities, public utilities, or similar facilities.
4. Work on any measure installed under a Soil Conservation Service project agreement or on measures installed by other Federal agencies unless an exception is granted by the Chief, Soil Conservation Service.
5. Construct works that would adversely affect downstream water rights.
6. Make improvements to public or private property not essential to the reduction of threats caused by watershed impairment.

7. Perform any work not determined to be economically and environmentally defensible under the provisions of this program.
8. Perform burn rehabilitation work on National Forest System lands which would normally be funded by burn rehabilitation funds (FSM 2523.21b).

3541.2 - Implementation

Emphasize measures which are the least expensive and most environmentally sound. Accomplish measures using the least damaging techniques and equipment to retain as much of the pre-existing channel characteristics and riparian habitat as possible. Use concurrent installation of measures needed to offset adverse impacts of the emergency measures. If this is not practicable, ensure installation within 30 days of the other measures.

A team consisting of personnel from the Forest Service and Soil Conservation Service must determine the eligibility of all permanent measures. This team is available to help determine the eligibility of other emergency measures or practices and to assist with administrative details.

Regions and Areas are limited to the installation of measures and the geographic area as described in the investigation report. The Soil Conservation Service must approve significant deviations from the proposed treatment.

3541.3 - Environmental Considerations

Compliance with Forest Service environmental policies and procedures (FSM 1950 and FSH 1909.15) is required for all Emergency Watershed Protection work. Environmental considerations must be integrated into emergency work by using an interdisciplinary planning approach.

3541.4 - Cost Sharing

3541.41 - National Forest System Lands

Cost sharing is waived for measures to be installed on National Forest System lands.

3541.42 - Private Lands

Federal funds may bear up to 100 percent of the emergency measure costs in an exigency situation and 80 percent in a non-exigency situation. Sponsors must obtain any needed land rights. Sponsors may provide their share of construction costs in the form of cash, labor, equipment, or similar services.

3541.5 - Funding

The Soil Conservation Service authorizes the Forest Service to release funds to Regions for work to be done on National Forest System lands as well as work the Forest Service agrees to do on other lands. Requests for additional project funding must be made through the State Conservationist.

3541.6 - Time Limits

1. In an exigency situation, funds must be obligated within 10 days after receipt or when conditions permit beginning construction activities. All work must be completed within 30 days following fund obligation. The Soil Conservation Service may grant a 10-day extension.

2. In nonexigency situation, obligate funds and complete construction within 220 consecutive calendar days after the date of receipt of funds. The Soil Conservation Service may grant extensions if unforeseen events or uncontrollable conditions cause delays. Requests for extensions must be documented and submitted through the State Conservationist.

3541.7 - Contracting

Refer to Part 6 of the Federal Acquisition Regulations for the requirements in order to use less than full and open competition for emergencies.

3541.8 - Advance Preparation

Prompt response to an emergency situation is crucial. Since work cannot be scheduled in advance, the Regions and Area must plan ahead before a disaster occurs. Agreements with Federal, State, and local agencies should be considered where several agencies may be involved and the synchronization of emergency watershed protection funding with burn area rehabilitation and sponsor funding is required.

3542 - Procedures for National Forest System Projects

3542.1 - Damage Survey

Identify potential Emergency Watershed Protection projects through the Natural Disaster and Flood Damage Survey procedures in FSM 2529.

3542.2 - Request for Funding

3542.21 - Exigencies

Notify the State Conservationist of the emergency situation and provide an estimate of funds needed for remedial action; then confirm the situation in a letter for the State Conservationist as the official request for funds. Immediately notify Cooperative Forestry, Washington Office.

3542.22 - Nonexigencies

Following a field investigation, send the State Conservationist a report to support the need and eligibility of emergency assistance. Send a copy of the report to Cooperative Forestry, Washington Office. State Conservationists are required to submit a request for funds to their Chief within 60 days after the disaster event.

3542.3 - Documentation

Nonexigency requests must be supported by information which documents the following:

1. Brief description of the disaster.
2. Extent of values at risk because of watershed impairment.
3. Estimated damages to values if the threat is realized.
4. Probability of future events.
5. Nature, extent, and cost of emergency measures.
6. Beneficial and adverse effects of measures on environmental resources, including fish and wildlife habitat.
7. Impact of emergency measures on water resources.

Plans should contain information from concerned resource management staffs and should document that proposed measures do not improve on present conditions, are environmentally sound, and economically justified.

3542.4 - Allocation of Funds

Allotments are made for each approved emergency project on a Regional basis. The Forest Service may not commit Emergency Watershed Protection funds until notified by the Washington Office that these funds are available.

Unobligated balances from completed projects may be retained until recalled.

At the end of the fiscal year follow the procedures in FSH 1909.13, chapter 40, section 45.4.

3542.5 - Completion Reports

3542.51 - Final Report

A final report is due to the State Conservationist 60 days after the work is completed. The purpose of this report is to document that the entire project is complete and to provide the

best estimate of cost. The report should relate back to the information in the request. The following information is required by the Soil Conservation Service:

1. Brief description of the disaster.
2. Identification of the benefits of the emergency assistance project.
3. A tabulation of measures installed and their costs.
4. A statement that the project is completed and identification of any surplus balances if they are known.

The final report is for program administration purposes and should be kept brief. An electronic copy of the final report should be sent to Cooperative Forestry in the Washington Office.

3542.52 - Detailed Accomplishment Reports

Detailed project accomplishment reports including pictures should be prepared for the larger projects. These reports provide a more complete record of accomplishments and are useful in technology transfer and in demonstrating program accomplishments. They should be sent to Cooperative Forestry within six months after the work is finished.

3543 - Assistance Out-Service

3543.1 - Application for Assistance

Sponsors, including the State Forester, may apply to the Region, Area, or Soil Conservation Service for emergency watershed protection assistance on other forest lands. The Forest Service and the Soil Conservation Service work cooperatively with other Federal, State, and local government agencies to assist sponsors in preparing their applications. Arranging sponsors and obtaining approval of landowners for emergency measures is primarily a responsibility of State or local organizations.

If local authorities and facilities are not adequate to handle the emergency, the Forest Service should assist the State Forester or other appropriate officials by: (1) determining needs; (2) requesting funds; and (3) providing technical assistance for the installation of emergency measures.

3543.2 - Investigations

Upon receipt of an application for assistance, the Regional Forester or Area Director shall investigate immediately the emergency to determine if emergency watershed protection is applicable. The Forest Service must coordinate investigations with the Soil Conservation Service. Classify the emergency as either an exigency or nonexigency.

3544 - Administrative Controls

3544.1 - Reviews

The Regional Foresters and Area Director should conduct post installation reviews to determine that measures installed conform to policy.

Criteria for reviews are:

1. Exigency Work.
2. Unusual measures.
3. Major Projects.
4. Projects which had unusual delays in being implemented.
5. Selected routine projects.

3544.2 - Records

Records of obligations, expenditures, and unobligated balances will be maintained on a project basis. Other fiscal record requirements concerning use of funds by the Forest Service will be followed. When applicable, such records will also cover cooperative deposits and reimbursements to State Foresters or other State and local agencies.