

- (i) A letter from the water-quality management agency designated by the Governor to carry out the approved agricultural portion of the 208 water quality management plan for the area or source certifying that the BMPs to be cost shared are consistent with the BMP's in the 208 plan,
- (ii) A letter from the designated management agency which assures and sets out a strategy for reaching an adequate level of participation (§ 634.5(a)).
- (iii) As appropriate, the preapplication for Federal assistance (OMB Circular A-102) from the identified administering agency, and
- (iv) A listing of the prevailing cost-share levels of other programs in the project area.

**§ 634.14 Review and approval of project applications.**

- (a) In reviewing applications and recommending priorities, the NRCWCC will consider the following:
  - (1) Severity of the water quality problem caused by agricultural and silvicultural related pollutants, including:
    - (i) State designated uses of the water affected,
    - (ii) Kinds, sources, and effects of pollutants, and
    - (iii) Miles of stream or acres of water bodies affected,
  - (2) Demonstration of public benefits from the project, including:
    - (i) Effects on human health,
    - (ii) Population benefited by improved water quality,
    - (iii) Effects on the natural environment, and
    - (iv) Additional beneficial uses of the waters that result from improvement of the water quality,
  - (3) Economic, and technical feasibility to control water quality problems within the life of the project, including:
    - (i) Cost effectiveness of BMP's,
    - (ii) Size of the area and BMP's needed, and
    - (iii) Cost per participant and cost per acre for solution of problem,
  - (4) State and local input in the project area, including:
    - (i) Funds for cost-sharing, technical, and administrative costs. States or local governments with their own cost-

share programs may receive greater consideration for the funding of RCWP projects,

- (ii) Commitment of local leadership to promote the program, and
- (5) The project area's contribution to meeting the national water quality goals.
- (b) Based on the project applications, the NRCWCC is to recommend an upper limit of the Federal contribution to the total cost of the project.
- (c) All project applications will be reviewed by EPA. Project applications approval for funding require written EPA concurrence, except that the Administrator, NRCS, may assume EPA's concurrence if EPA does not act within 45 days following receipt of the project application. EPA review of project applications will occur concurrently with review by the NRCWCC.

(d) The Administrator, NRCS, will approve projects for funding. The NRCWCC acting through the Chairman will announce the approval of the project. The State Conservationist, NRCS, through the SRCWCC, will also inform the other involved Federal, State, and local agencies of the approval.

**§ 634.15 Agreements.**

The State Conservationist, NRCS, upon receiving notice of an approved project, is to enter into a grant agreement with the administering agency, except in those cases where USDA is to administer the program. When USDA retains administration, the State Conservationist, NRCS, is to enter into a fund transfer agreement with the State Executive Director, ASCS.

(a) *Grant agreements.* Grant agreements detail the working arrangements and applicable operating regulations between NRCS and the administering agency. A written grant agreement identifying the parties involved, their responsibilities for carrying out the program, and the amount of program funds to be encumbered by NRCS is to be executed by the parties. This agreement is the fund obligating document. It also sets out the necessary working arrangements between parties for determining and allocating the administering agency's costs. All grants to administering agencies are to be in

accordance with OMB Circular No. A-102, Department of the Treasury Circular No. 1075, and Federal Management Circular No. 74-4. State or local administering agency grants will be funded under Letter-of-Credit serviced by the U.S. Treasury Regional Disbursing Office, or by NRCS approved advance/reimbursement financing arrangements subject to the terms and conditions of the grant agreement.

(1) The grant agreement will provide for payment of cost-sharing for BMP (§634.5(j)) and administrative costs (§634.5(c)).

(2) The grant agreement may provide for payment of technical assistance costs when the administering agency has the capability, and the NRCS designates that agency to provide this assistance to RCWP participants.

(3) The administering agency is to monitor the performance of activities supported by RCWP grant funds to assure that time schedules and participant RCWP contract requirements are being met. Performance goals are to be measured against the terms of the grant agreement and program directives. When NRCS determines that on-site technical inspections, certified completion data, and financial status reports do not provide adequate grant evaluation data, the following information may be requested:

(i) A comparison of actual accomplishments with the objectives established for the plan,

(ii) Reasons why established objectives were not met, and

(iii) Objectives established for the next reporting period.

(4) Grant agreements may be amended by mutual agreement of the parties to the agreement. NRCS may unilaterally amend agreements when the sole consideration is a change in the cost and the Administrator, NRCS, based on NRCWCC recommendations, determines that such an adjustment is necessary to carry out the program efficiently and effectively.

(b) *Fund transfer agreements.* When it is impractical for NRCS to enter into agreements with local soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer the program in a project area, USDA will re-

tain program administration. In this case, the State Executive Director, ASCS, and the State Conservationist, NRCS, are to enter into an agreement for the transfer of funds to ASCS through county ASC committees for activities included in administrative cost (§634.5(c)) and BMP cost (§634.5(j)). The following general working arrangements are to apply:

(1) Administering contracts, making cost-share payment, and program reporting are to be provided by ASCS as the administering agency.

(2) NRCS, or its designee, with appropriate Federal or State agency support, will provide technical assistance to participants in preparing RCWP contracts and in carrying out their water-quality plans.

(c) *Agreements for services.* NRCS may enter into an agreement for services with a State or local agency. The designee must meet the requirements of OMB Circular No. A-102.

(d) *Contracts for services.* NRCS may enter into contracts for services with individuals or firms for providing technical assistance.

#### § 634.16 Suspension of grants.

(a) *Suspension orders.* Work on a project or on a portion or phase of a project for which a grant has been awarded, may be suspended by order of the State Conservationist, NRCS. Suspension does not affect RCWP contracts existing at the time the suspension order is issued, or the administering agency's responsibility to make payments under such contracts unless specifically provided for in the suspend order. In no event will the participant's right to cost-share payment be diminished by action taken under this section.

(b) *Use of suspension orders.* Suspension may be required for good cause, such as default by the administering agency, failure to comply with the terms and conditions of the grant, realignment of programs, or advancements in the state of the art.

(c) *Contents of suspension orders.* Prior to issuance, suspension orders will be discussed with the administering agency and may be appropriately modified, in the light of such discussions. Suspension orders are to include: