

§ 634.19 Project completion and close-out.

(a) The maximum total life of a project shall be fifteen (15) years or less.

(b) The allowable contracting period may be increased if an adequate level of participation has been achieved and the designated management agency assures a significant increase in participation can be reached in a reasonable time.

(c) The grant or fund transfer agreement with an administering agency shall expire when the administering agency has fulfilled all of its obligations in the long-term RCWP contracts.

(d) When a project is completed, the administering agency is to provide the State Conservationist, NRCS, a close-out report which summarizes the actions accomplished.

Subpart C—Participant RCWP Contracts

§ 634.20 Eligible land.

RCWP is only applicable to privately owned land. Land owned by corporations whose ownership is public (i.e., their stock is publicly traded over the market) is eligible for program assistance only if the corporation can document that the installation of BMP's places an inappropriate financial burden on the corporation.

§ 634.21 Eligible participants.

(a) Any landowner or operator whose land or activities in a project area is contributing to the area's agricultural nonpoint source water quality problems and who has an approved water quality plan is eligible to enter into an RCWP contract.

(b) This program will be conducted in compliance with all nondiscrimination requirements as contained in the Civil Rights Act of 1964 and amendments thereto and the Regulations of the Secretary of Agriculture (7 CFR 15.1 through 15.12).

§ 634.22 Application for assistance.

(a) Landowners or operators must apply for RCWP assistance through the office of the administering agency or

its designee(s) by completing the prescribed application form.

(b) The priority for assistance among landowners and operators in developing water quality plans is to be determined jointly, through an agreed-to process, by the county ASC committee and the soil conservation district, with technical assistance from NRCS.

(c) Applications that are ineligible or technically infeasible are to be returned to the applicant with a letter stating the reasons for disapproval. Applications that are of a low priority will be retained and the applicant will be sent a notice that the application is being held for a period to be determined locally for future consideration.

§ 634.23 Water quality plan.

(a) The participant's water quality plan, developed with technical assistance by the NRCS or its designee, is to include appropriate BMP's identified in the approved agricultural portion of the 208 water quality management plan. Such BMP's must reduce the amount of pollutants that enter a stream or lake by:

(1) Methods, such as reducing the application rates or changing the application methods of potential pollutants, and

(2) Methods, such as practices or combinations of practices which prevent potential pollutants from leaving source areas or reduce the amount of potential pollutants that reach a stream or lake after leaving a source area.

(b) Participant's water quality plans shall as a minimum include BMP's for all critical areas or sources. The plans will include BMP's which are required but not cost-shared. Non-cost-shared BMP's, essential for the performance and maintenance of cost-shared BMP's shall be required as a condition of the RCWP contract.

(c) The participant is responsible for compliance with all other applicable Federal, State, and local laws that deal with the participant's nonpoint source water quality problems, such as the treatment, storage, and disposal of hazardous waste. BMP's required for compliance may be cost shared.

(d) It is recognized that the participants' water-quality plans upon which

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the RCWP contracts are to be based may include conservation measures other than those related to water quality improvement. These measures are not eligible for cost sharing under this program. The installation of such conservation measures will not be required as a condition of the RCWP contract and will not be shown in the time schedules for implementing BMP's.

(e) Time schedules for implementing BMP's are to be provided in the participant's water quality plan. The time schedule is to establish the length of the contract within the 5 to 10 year period established by law.

(f) The Natural Resources Conservation Service will certify as to the technical adequacy of the water-quality plan.

(g) The soil conservation districts are to review and approve all water-quality plans and modifications.

§ 634.24 Cost sharing.

(a) The portion of BMP cost (including labor) to be cost shared shall be that part which the Secretary determines is necessary and appropriate. The value of land upon which BMP's are applied, or the participant's water rights, cannot be considered a part of the participant's share of the cost.

(b) The administering agency, in consultation with the county ASC committee(s), soil conservation district(s), and designated management agency will annually set maximum individual BMP cost-share levels for the project area. However, the Federal share of the cost of the contract cannot exceed 50 percent unless a variance has been granted.

(c) Recommended variances exceeding the 50 percent level must be in the public interest and based on the following criteria:

(1) The main benefits to be derived from measures are related to improving offsite water quality, and

(2) The matching share requirements would place a burden on the landowner or operator which would probably prevent him or her from participating in the program.

(d) BMP's to be cost shared must have a positive effect on water quality by reducing the amount of agricultural

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nonpoint source pollutants that enter a stream or lake.

(e) Cost sharing is not to be made available for:

(1) Measures installed primarily for bringing additional land into crop production, including but not limited to land clearing and brush removal;

(2) Measures installed primarily for increasing production on existing cropland, including but not limited to bedding, field ditches, open drains, and tile drains;

(3) Measures having flood protection as the primary purpose, including but not limited to open channels, clearing and snagging, and obstruction removal;

(4) Structural measures authorized for installation under Pub. L. 83-566.

(f) The Federal cost-share level is not to be reduced by the contribution of a State or subdivision thereof. Total payments from Federal, State, and local sources for a BMP may not exceed the total cost of that BMP.

§ 634.25 Contracting.

(a) To participate in RCWP, a landowner or operator must enter into a contract in which he or she agrees to apply his or her water-quality plan. Any person who controls, or shares control, of the farm, ranch, or other land for the proposed contract period (5 to 10 years) must sign the contract.

(b) Cost-sharing payments cannot be provided for any measure that is initiated before the contract is approved by the administering agency.

(c) The participant must furnish satisfactory evidence of his or her control of the farm, ranch, or other land. The administering agency is to determine the acceptability of the evidence and maintain current ownership evidence in the contract file.

(d) RCWP contracts shall include the basic contract document, special provisions as needed, the participant's water-quality plan, schedule of operations, and any other data necessary.

(e) NRCS or its designee shall approve the technical adequacy of the RCWP contract and obtain the required signature of the participants. The NRCS or its designee will provide the contract to the administering agency for certification of fund availability and for execution.