

SUBCHAPTER D—LONG TERM CONTRACTING

PART 630—LONG TERM CONTRACTING

AUTHORITY: Pub. L. 75-430, 49 Stat. 1151 (16 U.S.C. 590d); Pub. L. 84-1021, 70 Stat. 1115 (16 U.S.C. 590p(b)); Pub. L. 91-118, 83 Stat. 194 (16 U.S.C. 590d).

§ 630.1 Purpose.

The purpose of this subchapter is to provide for programs to extend cost sharing and technical assistance through long term contracts to landowners and others for making land use changes and to install measures to conserve, develop, and utilize the soil, water, and related natural resources on their lands.

[40 FR 53370, Nov. 18, 1975]

PART 631—GREAT PLAINS CONSERVATION PROGRAM

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AUTHORITY: 16 U.S.C. 590p(b).

SOURCE: 49 FR 11142, Mar. 27, 1984, unless otherwise noted.

Subpart A—General Provisions

§ 631.1 Purpose.

(a) The Great Plains Conservation Program (GPCP) is a special program targeted to the total conservation treatment of farm or ranch units with the most severe soil and water resources problems. The purpose of the program is to assist farm, ranch and other land users to make changes in their cropping systems and land uses which are needed to conserve, develop, protect, and utilize the soil and water resources of their lands. This purpose is achieved by controlling erosion, conserving water, and adjusting land use to mitigate climatic, soil, topographic, flood, saline and other natural hazards.

(b) Program participation is voluntary and is carried out by applying a conservation plan encompassing an entire operating unit. A conservation plan is developed with the land user in consultation with the local conservation district and is used to establish a GPCP contract. This contract provides for cost sharing between the land user and the Secretary of Agriculture for applying needed land use adjustments and conservation treatment within a specified time schedule. The program is supplemental to, not a substitution for, other programs in the Great Plains area.

§ 631.2 Definitions.

The terms defined shall have the following meaning in this part and in all contracts, forms, documents, instructions, and procedures in connection therewith, unless the contract or subject matter requires otherwise.

Applicant. A land user who has requested in writing to participate in the GPCP.

Area conservationist. The NRCS employee who is the supervisor with primary responsibility for quality control. This person serves as contracting officer if designated by the state conservationist.

Chief. The Chief of the Natural Resources Conservation Service (NRCS), USDA.

Conservation district (CD). A conservation district, soil conservation district, soil and water conservation district, natural resource district, or similar legally constituted body with which the Secretary of Agriculture cooperates pursuant to the Soil Conservation and Domestic Allotment Act. The members of governing bodies of these organizations may be known as supervisors, directors, or commissioners.

Conservation plan. A written record of the land user's decisions regarding planned land use and treatment, including estimates of extent and cost. The timing of applications for each practice and/or identifiable unit is scheduled in the conservation plan.

Conservation practice. A specific treatment which is planned and applied according to NRCS standards and specifications as a part of a resource management system for land, water, and related resources.

Contract. A legal document that binds both the participants and the federal government to carry out the terms and conditions of the conservation plan. The contract forms the basis for GPCP sharing the costs of implementing the conservation plan.

Contracting officer. The NRCS employee authorized to sign GPCP contracts on behalf of NRCS.

County program committee. A group of Federal, State, and local officials selected by the designated conservationist. The committee provides ideas to the designated conservationist regarding program development and interagency program coordination.

Designated county. A county within a Great Plains state that the Chief has designated for participation.

Designated conservationist. A district conservationist or other NRCS employee who the state conservationist has designated to be responsible for administration of the GPCP in a designated county.

District conservationist. The NRCS employee assigned to direct and supervise NRCS activities in one or more conservation districts.

Great Plains area. The area comprising those counties within the Great Plains states designated for GPCP participation.

Great Plains states. Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Identifiable unit. A discernibly distinct component of a conservation practice.

Land user. An individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other nonpublic legal entity having control of a unit of land. This definition includes two or more persons having a joint or common interest.

Life span. The period of time specified in the contract and/or operation and maintenance agreement during which the resource management systems of component practices are to be maintained and used for the intended purpose. Most practices will have a useful life beyond the specified life span.

Operation and maintenance agreement. A document signed by both the participant and the contracting officer outlining the operation and maintenance requirements for applied conservation treatment.

Operating unit. A parcel or parcels of land, whether contiguous or noncontiguous, constituting a single management unit for agricultural purposes.

Other land. Nonagricultural land on which erosion must be controlled to protect agricultural land and which can be covered by contract.

Participant. A land user who is a party to a GPCP contract.

Resource management system. A combination of conservation practices identified by the land or water use that, if installed, will protect or improve the soil or water resource base.

Specifications. Minimum quantity or quality requirements established by NRCS to meet the standard for a specific conservation practice.

State conservationist. The NRCS employee authorized to direct and supervise NRCS activities within the state.

State program committee. A group of Federal, state, and local officials selected by the state conservationist. The committee provides ideas to the state conservationist regarding program development, coordination, general policies, and operating procedures of GPCP in the state.

§ 631.3

Technical assistance. Guidance provided to land users regarding the use and treatment of soil, water, plant, animal, and related resources. This assistance may include conservation plan formulation, application, and maintenance and is usually confined to those activities which the recipient could not reasonably be expected to do without specialized assistance.

Technical guide. A document containing detailed information on the conservation of soil, water, plant, animal, and related resources applicable specifically to the area for which it is prepared.

§ 631.3 Administration.

(a) NRCS is responsible for the administration of the Great Plains Conservation Program (GPCP).

(b) The program shall be carried out in close cooperation with interested Federal, state, and local government units and organizations. The program in designated counties shall be coordinated with the long-range program of conservation districts operating in such counties and with other USDA activities.

(c) Applicants who have USDA-Farmers Home Administration (FmHA) loans must furnish to NRCS satisfactory evidence that the conservation plan used as a basis for the GPCP contract is compatible with assistance provided by FmHA. Such evidence may consist of written acknowledgement by the authorized FmHA official that the GPCP conservation plan is compatible with the farm management plan prepared for FmHA program purposes.

§ 631.4 Program applicability.

The program is applicable only to designated counties within the Great Plains states. County designation is a responsibility of the NRCS Chief.

§ 631.5 Land user eligibility.

Any land user in a designated county may file an application for participation in the GPCP with the NRCS field office. A land user who develops an acceptable conservation plan in cooperation with NRCS and the conservation district that is in compliance with the terms and conditions of the program is eligible to sign a contract.

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§ 631.6 Land eligible for the program.

The program is applicable to:

- (a) Privately owned land,
- (b) Nonfederally owned public land under private control for the contract period and included in the participant's operating unit, and
- (c) Federally owned land, if installation of conservation practices would directly benefit nearby or adjoining privately owned land of persons who maintain and use the Federal land.

§ 631.7 Conservation treatment eligible for cost sharing.

(a) The state conservationist, in consultation with the state program committee, shall select the resource management systems, conservation practices, or identifiable units eligible for GPCP cost sharing in the state.

(b) The designated conservationist, in consultation with the county program committee, shall select from the state list the eligible conservation systems, practices, or identifiable units eligible for GPCP cost sharing in the county.

§ 631.8 Cost-share rates.

(a) The Federal rate may not exceed 80 percent.

(b) The maximum Federal rate (percentage) within each state for each practice or identifiable unit shall be established by the state conservationist.

(c) The maximum rate (percentage) for each county is established by the designated conservationist not to exceed the state rate (percentage).

(d) The rate (percentage) established by a state conservationist or a designated conservationist shall not exceed the amount necessary and appropriate to apply conservation treatment.

§ 631.9 Conservation plan.

(a) An applicant is responsible for developing a conservation plan, in cooperation with the conservation district, that protects the resource base in a manner acceptable to NRCS. This plan will be used as a basis for developing a contract. Conservation treatment is to be planned and implemented as a resource management system.

(b) The applicant decides how the land will be used and selects the resource management systems that will

achieve the applicant's objectives and provide protection of soil, water, and related resources acceptable to NRCS. Eligible practices may be included in the conservation plan to enhance fish and wildlife and recreation resources, promote the economic use of land, and reduce or control agriculture-related pollution.

(c) Technical assistance will be provided by NRCS, as needed by the land user. NRCS may utilize the services of private, local, state, and other Federal agencies in discharging its responsibilities for technical assistance.

(d) Participants are responsible for accomplishing the conservation plan and may use all available sources of assistance, including other USDA programs that are consistent with the conservation plan.

(e) All conservation practices scheduled in the conservation plan are to be carried out in accordance with the applicable NRCS technical guide.

Subpart B—Contracts

§ 631.10 Contracts.

(a) To participate in the program, an applicant must enter into a contract agreeing to implement a conservation plan. All persons who control or share control of the operating unit for the proposed contract period must sign the contract or one person with power-of-attorney may sign the contract for all persons. The applicant must provide the contracting officer with satisfactory evidence of control of the operating unit for the life of the proposed contract.

(b) Contracts may be entered into not later than September 30, 1991. The contract shall be for a period needed to establish the conservation treatment scheduled in the conservation plan and must extend at least 3 years but not more than 10 years.

(c) Contracts may be transferred or modified by mutual consent. The transferee assumes full responsibility for the contract including operation and maintenance of all land treatment installed under the contract. Also included are payments made under the contract to the participant or preceding participants before and after the transfer.

(d) Contracts may be terminated by mutual consent or by NRCS for cause.

§ 631.11 Conservation practice maintenance.

(a) Each participant is obligated to maintain the resource management systems or conservation practices applied under the contract for the duration of the contract. Practices installed before execution of the contract are to be maintained as specified in the contract.

(b) If the life span of the practices or resource management systems extends beyond the period of the contract, state conservationists may make the operation and maintenance of those practices or systems a condition of the contract. The length of such operation and maintenance shall extend for the expected life span.

§ 631.12 Cost-share payments.

(a) Federal cost sharing shall be adjusted so that the combined cost share by Federal and state government or subdivision of a state shall not exceed 100 percent of the cost.

(b) Cost-share payments for completing resource management systems or a practice or an identifiable unit according to specifications will be made by NRCS as specified in the contract or as adjusted according to § 631.12(a).

§ 631.13 Disputes and appeals for matters other than contract violations.

Applicants or participants may appeal decisions regarding matters other than contract disputes under this part in accordance with part 614 of this title.

[60 FR 67316, Dec. 29, 1995]

§ 631.14 Contract violations.

Contract violations, determinations and appeals will be handled in accordance with the terms of the contract and attachments thereto. Violations involving fraud are to be handled in accordance with current USDA regulations.

Subpart C—Miscellaneous

§ 631.20 Setoffs.

(a) If any participant to whom compensation is payable under the program is indebted to U.S. Department of Agriculture (USDA), or any agency thereof, or is indebted to any other agency of the United States, and such indebtedness is listed on the county claim control record maintained in the office of the county ASC committee, the compensation due the participant shall be set off against the indebtedness. Indebtedness owing to USDA, or any agency thereof, shall be given first consideration. Setoffs made pursuant to this section shall not deprive the participant of any right to contest the justness of the indebtedness involved either by administrative appeal or by legal action.

(b) Participants who are indebted to this program for any reason will be placed on the USDA claim control record promptly by the state conservationist after the participant has been given opportunity to pay the debt.

§ 631.21 Compliance with regulatory measures.

Participants who carry out conservation practices shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary for the implementation and maintenance of the conservation practices in keeping with applicable laws and regulations. Participants shall save the United States harmless from any infringements upon the rights of others or from any failure to comply with applicable laws or regulations.

§ 631.22 Access to operating unit.

Any authorized NRCS representative shall have the right to enter an operating unit for the purpose of ascertaining the accuracy of any representations made in a contract or leading up to a contract, and as to the performance of the terms and conditions of the contract. Access shall include the right to measure acreages, render technical assistance, and inspect any work undertaken under the contract.

§ 631.23 State conservationist's authority.

The state conservationist may take the initiative to revise or require revision of any determination made by the contracting officer or the district conservationist in connection with the program, except that the state conservationist may not revise any executed contract other than as may specifically be authorized herein.

PART 632—RURAL ABANDONED MINE PROGRAM

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