

## § 632.21

which is to verify eligibility and recommend funding priorities to the NRCS district conservationist. The NRCS district conservationist is to assign funding priorities according to the recommendations unless he determines that applications are incomplete, ineligible, or unfeasible. Low priority applications that cannot be serviced within specific time periods established by the State conservationist are to be returned to the applicant with an appropriate explanation. These applicants may reapply at a later date if they are still interested.

(b) Eligible applicants are serviced within each subpriority according to the following criteria:

(1) The specific type, amount, and relative importance of benefits to be derived. (Public benefits and offsite environmental improvement will take precedence over onsite benefits.)

(2) Feasibility and practicability of reclaiming for the proposed uses.

(3) Land user's ability to proceed.

(4) Date of the application.

## § 632.21 Reclamation plan.

(a) *Responsibility.* Land users are responsible for developing a reclamation plan that will serve as a basis for a contract. Normally, a land user will need the technical services of NRCS and the conservation district or another professional to develop an acceptable plan.

(b) *Objectives and priorities.* The reclamation plan is to provide for the appropriate program objectives and priorities as stated in §§ 632.2 and 632.12 and meet the definition of a reclamation plan as defined in § 632.4.

(c) *Review.* (1) In areas served by conservation districts, reclamation plans are to be reviewed and signed by the district board to insure that planned land use and treatment is compatible with surrounding land uses and that proposed assistance is consistent with the district plan of work and priorities. In areas not served by conservation districts, the land use compatibility review may be performed by the local reclamation committee.

(2) If reclamation plans include lands within or adjacent to Federal lands, the plan is to be reviewed with the appropriate Federal land management

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agency to insure that the planned land use is compatible with that of the surrounding area.

(3) Land users are responsible for insuring that the proposed land use and treatment is compatible with local land use ordinances.

(d) *Approval.* Proposed land use, conservation treatment, and sequence of application contained in the plan are to be agreed to by both NRCS and the land user. The district conservationist is to sign the reclamation plan to indicate technical approval.

## § 632.22 Contracts.

(a) *Cost-sharing contracts.* A land user who has an approved reclamation plan may enter into a contract with NRCS to receive Federal cost-share assistance. All land users are to sign the contract. A land user is required to furnish evidence of management control, such as a long-term lease, recorded deed, or land contract, and must have the written consent of the landowner. The NRCS contracting officer is to sign the contract after determining that all documents meet program requirements.

(b) *Effect of contract.* A land user who signs a contract is obligated to apply or arrange for the application of the land use and conservation treatment as scheduled in the reclamation plan according to approved standards and specifications. A land user may request NRCS to award and administer a contract to apply the conservation treatment as scheduled in the reclamation plan in accordance with § 632.16(a)(3).

(c) *Permits, landrights, and water rights.* The land user is responsible for obtaining the permits, surface landrights, and water rights that may be required to perform the planned work. NRCS is to assist land users in identifying the specific permit, landright, or water right required.

(d) *Operation and maintenance.* During the contract period the land user is responsible for the operation and maintenance of applied conservation treatment. Operation and maintenance requirements are to be included in the contract.

(e) *Period of contract.* The contract period is to be no less than 5 nor more than 10 years. A contract is to extend

for at least 3 years after the application of the last cost-shared conservation treatment to insure adequate establishment of vegetation and other treatment. Exceptions to the 3-year provision may be granted by the state conservationist for unusual circumstances.

(f) *Transfer of contract.* (1) If during the contract period all or part of the right and interest in the land is transferred by sale or other action, the contract is terminated on the land unit that was transferred and the land user:

(i) Forfeits all right to any future cost-share payments on the transferred land unit, and

(ii) Must refund cost-share payments that have been made on the transferred land unit not to exceed the difference between the estimated value of the land at the time of entering into the contract and at the time of transfer, unless the new land user becomes a party to the contract as provided in paragraph (f)(2) of this section.

(2) If the new land user becomes a party to the contract:

(i) He is to assume all obligations of the previous land user on the transferred land unit.

(ii) The contract with the new land user is to remain in effect with the original terms and conditions.

(iii) The contract is to be modified in writing to show the changes caused by the transfer. If the modification is not acceptable to the contracting officer, the provisions of paragraphs (f)(1) (i) and (ii) of this section apply.

(3) The transfer of all or part of a land unit by a land user does not affect the rights and obligations of other land users who have signed the contract.

(g) *Modification of contract.* (1) A contract previously entered into with a land user may be modified only with the approval of the State conservationist or as authorized under established policies. No contract may be modified unless it is determined that the modification is desirable to carry out the program.

(2) Contracts may be modified to add, delete, substitute, or reapply conservation treatment if:

(i) Applied conservation treatment failed to achieve the desired results through no fault of the land user,

(ii) Applied treatment deteriorated because of conditions beyond the control of the land user, or

(iii) Other treatment is substituted that will achieve the desired results.

(h) *Joint contract.* A land user may enter a contract jointly with other land users subject to the 320 acres maximum limitation per landowner. However, joint participation is permitted only if it will result in better land use and treatment than individual participation or if it is required by §§ 632.14 and 632.18(a)(2).

(i) *Termination of contract.* Contracts may be terminated by mutual consent of the signatories only if the State conservationist determines that the termination is authorized under established policies and is in the public interest. In this case, the State conservationist is to determine the amount of refund.

**§ 632.23 Access to land unit and records.**

Any authorized NRCS employee or agent is to have the right of access to land under application or contract and the right to examine any program records to ascertain the accuracy of any representations made in the application or contract. This includes the right to furnish technical assistance and to inspect work done under the contract.

**Subpart D—Cost-Share Procedures**

**§ 632.30 Applicability.**

This subpart contains procedures for making cost-share payments to a land user when land use and conservation treatment is applied as specified in § 632.16(a)(1) or (2).

**§ 632.31 Cost-share payment.**

(a) *Amount of cost-share payment.* Cost-share payments are to be made at rates specified in the contract. The cost-share payment is to be determined by one of the following methods:

(1) Average cost.

(2) Actual cost but not more than the average cost.

(3) Specified maximum cost. If the average cost or the specified maximum cost at the time of starting the installation of a conservation practice or