

## Natural Resources Conservation Service, USDA

## § 634.4

(a) A National Rural Clean Water Coordinating Committee (NRCWCC), chaired by the Administrator, NRCS, is to assist in carrying out the Rural Clean Water Program.

(b) At the State level, a State Rural Clean Water Coordinating Committee (SRCWCC) is to assist the State Conservationist, NRCS, in administering the program. The State Conservationist will chair the SRCWCC.

(c) To assure coordination at the project level, a local Rural Clean Water Coordinating Committee is to be established at the time the application is developed. An existing local committee may be used, where practicable, to perform the functions of this committee.

(d) The Administrator, NRCS, through the State Conservationists, NRCS, is to enter into agreements, where practicable, with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program for a project area. That portion of program administration to be conducted by these agencies will be defined in the project application and grant agreement. Where this is not practicable, USDA will administer the program in a project area. In those instances where USDA retains administration of the program in a project area, NRCS will enter into agreements for the transfer of funds to the Agricultural Stabilization and Conservation Service (ASCS) for the administration of part of the program.

### § 634.4 Responsibilities.

(a) *Environmental Protection Agency (EPA) will—*

(1) Approve 208 water quality management plans,

(2) Participate in the National and State Rural Clean Water Coordinating Committees,

(3) Review and concur in project applications approved for funding in accordance with § 634.14,

(4) Advise the Secretary of Agriculture of practices which tend to defeat the purposes of contracts with rural landowners or operators in accordance with section 208(j)(1)(iv) of the act,

(5) Assist USDA in evaluating the effectiveness of the program in improving water quality, and

(6) Concur in the selection of project areas and the criteria for comprehensive, joint USDA-EPA water quality monitoring, evaluation, and analysis in accordance with § 634.50.

(b) *U.S. Department of Agriculture (USDA) will—*

(1) With the concurrence of EPA, administer a program to enter into contracts to install and maintain best management practices to control agricultural nonpoint source pollution for improved water quality,

(2) Act through NRCS and such other USDA agencies as the Secretary may designate,

(3) Provide technical assistance and share the cost of carrying out best management practices that are set forth in the contracts,

(4) Where practicable, enter into agreements with soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program for a project area,

(5) Administer the program where it is not practicable for soil conservation districts, State soil and water conservation agencies, or State water quality agencies to administer all or part of the program for a project area,

(6) Together with local soil conservation districts, determine the priorities for assistance to individual participants to assure that the most critical water quality problems are addressed,

(7) Assist in evaluating the overall effectiveness of the program in improving water quality, and

(8) Within the framework of the 208 planning process, make additional investigations or plans, where necessary, to supplement information contained in the approved agricultural portion of 208 water quality management plans for the purpose of selecting among projects to be funded.

(c) *Natural Resources Conservation Service (NRCS) will—*

(1) Provide RCWP leadership,

(2) Retain major technical responsibility for RCWP, and provide leadership to assure the adequacy of standards and specifications for use by all administering agencies,

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(3) Manage budgeting, accounting, and reporting,

(4) Chair NRCWCC and assure that RCWP applications are distributed to the NRCWCC, including EPA, for review,

(5) For the Secretary of Agriculture, with the concurrence of the Administrator, EPA, approve RCWP projects for funding,

(6) For the Secretary of Agriculture, select and enter into agreements with either soil conservation districts, State soil and water conservation agencies, or State water quality agencies, where practicable, to administer all or part of the program,

(7) Enter into fund transfer agreements to transfer funds to ASCS in those instances where the administration of contracts is retained by USDA,

(8) Enter into agreements with other USDA agencies, as appropriate, for support which they are to provide,

(9) Chair SRCWCC,

(10) For the Secretary of Agriculture, in coordination with NRCWCC, determine the maximum Federal contribution to the total cost of the project,

(11) Provide technical assistance through soil conservation districts or arrange for other Federal, State, local agencies, or private individuals or firms to provide technical assistance as appropriate,

(12) Provide technical assistance to soil conservation districts and County Agricultural Stabilization and Conservation (ASC) Committees to assist them in determining priorities of assistance among individual participants,

(13) Develop appropriate technical and administrative training programs,

(14) Provide leadership for USDA for comprehensive joint USDA-EPA water quality monitoring, evaluation, and analysis in selected project areas,

(15) Provide leadership for USDA in evaluating the effectiveness of the program in improving water quality,

(16) Carry out the function of soil conservation districts for approving water quality plans where no soil conservation district exists, and

(17) Through the State Conservationist, after considering recommendations of the SRCWCC, reach agreement with the Governor on the recommended

administering agency to be included in the project application.

(d) *The Agricultural Stabilization and Conservation Service (ASCS) will—*

(1) Participate on the National, State, and local coordinating committees.

(2) Provide guidance to State and County ASC Committees and coordinate the Agricultural Conservation Program (ACP) and the Forestry Incentives Program (FIP) with RCWP,

(3) Where the administration of contracts is retained by USDA, enter into agreements with NRCS for the transfer of funds to be allocated to County ASC Committees,

(4) Consolidate reports of the annual cost-share disbursements made by the State ASC Committee, and report these disbursements to NRCS,

(5) Furnish data on land use, crop history, and cost-shared conservation measures,

(6) Review plans and contracts to assure coordination with other farm programs, and

(e) *The Forest Service (FS) will—*

(1) Retain technical responsibility for forestry,

(2) Provide technical assistance through the State forestry agency (State Forester as appropriate) for planning, applying, and maintaining forestry best management practices, and

(3) Participate on the National, and as appropriate, State, and local coordinating committees.

(f) *The Science and Education Administration (SEA) will—*

(1) Develop, implement, and coordinate educational programs for agricultural nonpoint source water pollution control,

(2) Participate on the National, and as appropriate, State, and local coordinating committees, and

(3) Provide technical assistance for appropriate BMP's.

(g) *The Economics, Statistics, and Cooperatives Service (ESCS) will:*

(1) Participate on the National coordinating committee and, as appropriate, participate in State, and local coordinating committee activities,

(2) Assist in the economic evaluation of best management practices and RCWP projects,

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(3) Make data available from existing and planned ESCS surveys relating to water quality and related matters,

(4) Assist in RCWP evaluation by making available the ESCS land and water resource economic modeling systems, and

(5) Conduct socioeconomic research, within ESCS authorities and funds, on relevant policy and program issues pertinent to RCWP.

(h) *The Farmers Home Administration (FmHA) will—*

(1) Participate on the National, and as appropriate, State and local coordinating committees, and

(2) Provide assistance and coordinate their farm loan and grant programs with RCWP.

(i) The NRCWCC is chaired by the Administrator, NRCS. Other members of the National Committee are the Administrators of ASCS, FmHA, and ESCS; the Chief of FS; the Director of SEA; and the Assistant Administrator for Water and Waste Management, EPA. Non-Federal agencies such as conservation districts, State soil and water conservation agencies, State water quality agencies, and other organizations are invited to attend as observers. The duties of the Committee are to:

(1) Coordinate individual agency programs with the Rural Clean Water Program,

(2) Recommend to the Administrator, NRCS, the project applications to be funded,

(3) Advise the Administrator, NRCS, on the maximum Federal contribution to the total cost of the project,

(4) Assist the Administrator, NRCS, in mediating agency differences at the State level,

(5) Periodically advise the Secretary and Assistant Secretary for Conservation, Research and Education of program and policy issues, and

(6) Recommend project areas and criteria for comprehensive, joint USDA/EPA water quality monitoring, evaluation, and analyses.

(j) The SRCWCC is chaired by the State Conservationist, NRCS. Other members of the State committee are the State 208 water quality agency, a designated representative of the areawide agencies, the State soil and

water conservation agency, a designated representative of soil and water conservation districts, other State and local agencies or individuals as the Governor deems appropriate, and representatives of the agency members of the NRCWCC. The duties of the committee are to insure that a process exists:

(1) To consult with the Governor or his designee on the Governor's determination of priority project areas,

(2) To assure coordination of activities at the project level by assisting in determining the composition and responsibilities of the local rural clean water coordinating committee,

(3) To prepare the RCWP applications for the Governor to submit to the State Conservationist, NRCS, based on priorities established by the Governor,

(4) To incorporate adequate public participation, including public meeting(s), and appropriate environmental assessment in the preparation of RCWP applications,

(5) To monitor and evaluate the RCWP in the State and to assist USDA and EPA in their comprehensive, joint water quality monitoring and evaluation of selected project areas in accordance with §634.50,

(6) To develop procedures for coordination between conservation districts and county ASC committees and between RCWP and other water quality programs at the local level,

(7) To assist the State Conservationist, NRCS, in mediating agency differences at the local level,

(8) To initiate a written agreement setting forth any or all of the above activities when the Governor and the Secretary of Agriculture or his designee deem it appropriate, and

(9) To make recommendations to the State Conservationist, NRCS, concerning the selection of the administering agency to be included in the project application.

(k) The State soil and water conservation agency will, as appropriate:

(1) Assist in preparing and submitting applications for RCWP,

(2) Administer all or part of the RCWP for a project area,

(3) Carry out the responsibilities of soil conservation districts for determining priority for assistance among

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individual participants where no soil conservation district exists, and

(4) Participate on the State and local coordinating committees.

(1) The State 208 water quality agency will, as appropriate:

(1) Assist in preparing and submitting applications for rural clean water projects,

(2) Administer all or part of the RCWP for a project area,

(3) Participate on the State and local coordinating committees, and

(4) Assist in monitoring and evaluating the water quality effectiveness of projects.

(m) The soil conservation district will:

(1) As appropriate, assist in the preparation and submission of applications for rural clean water projects,

(2) As appropriate, administer all or part of the RCWP in a project area.

(3) As appropriate, participate on the local coordinating committees,

(4) Approve participants' water quality plans, and

(5) Together with the county ASC Committee, determine the priority for assistance among individual participants to assure that the most critical water quality problems are addressed.

(n) The county ASC committee will:

(1) Together with the soil conservation district, determine the priority for assistance among individual participants to assure that the most critical water quality problems are addressed,

(2) Receive applications for assistance for individual participants where USDA retains administration of the program,

(3) Make cost-share payments to individual participants where USDA retains administration of the program, and

(4) As appropriate, participate on the local coordinating committees.

(o) The designated management agency(s) for the agricultural portion of a 208 plan for the project area will:

(1) Assist in preparing and submitting an application for a rural clean water project in an area for which they were designated,

(2) Submit a letter, as part of the project application, certifying that the BMP's proposed for cost sharing are

consistent with the BMP's in the approved 208 plan,

(3) Submit a letter, including a schedule, giving assurance that an adequate level of participation in the project will be achieved within 5 years, and

(4) As appropriate, serve as the administering agency.

(p) The administering agency will:

(1) As appropriate, enter into a grant agreement or fund transfer agreement with the Natural Resources Conservation Service for:

(i) Receiving funds from the Natural Resources Conservation Service for administrative costs, cost sharing, and technical assistance, as appropriate, associated with carrying out the project,

(ii) Establishing detailed work schedules in accordance with the approved project application,

(iii) Establishing the maximum amount of administrative costs chargeable to the grant,

(iv) Establishing an adequate financial management system,

(v) Preparing a cost allocation plan,

(vi) Monitoring and reporting performance,

(vii) Reviewing applications for assistance from landowners or operators,

(viii) Certifying availability of funds, and

(ix) Complying with OMB Circular A-102 and other appropriate regulations,

(2) Enter into contracts with participants for the installation and maintenance of BMP's based on water quality plans developed by participants,

(3) Make cost-share payments to participants upon receipt of certification by NRCS,

(4) Issue modifications to participant RCWP contracts,

(5) Develop average cost rates for each practice applicable in the project area.

(6) Sample and inspect materials used in the installation of BMP's,

(7) Establish a contract violations and appeals and collections process,

(8) Provide for public involvement in the implementation of RCWP in a project area, and maintain a mailing list of interested individuals and organizations for informing the public

about the activities contemplated and carried out in the project area, and

(9) Maintain records, provide necessary facilities, personnel, and legal counsel for carrying out these responsibilities.

(q) The Governor of each State will:

(1) In order to qualify for assistance under RCWP:

(i) Establish priorities for RCWP project areas in the State,

(ii) Coordinate the development of RCWP project applications with the SRCWCC and local agencies,

(iii) Submit, in order of priority, RCWP project applications to the Administrator, NRCS, through the State Conservationist, NRCS, and

(iv) Recommend an eligible State or local agency to serve as the administering agency of the project, or request USDA to be the administering agency.

(2) Where appropriate, with the State Conservationist, NRCS, set forth the activities of the SRCWCC in a written agreement,

(3) Assign additional State and local agencies or individuals to membership on the SRCWCC, as appropriate, and

(4) Reach agreement with the State Conservationist, NRCS, in selecting the administering agency.

#### § 634.5 Definitions.

(a) *Adequate level of participation.* An adequate level of participation is reached when participants, having control of 75 percent of the identified critical area or source of the pollution problem in the project area, are under contract. Exceptions may be made where the approved agricultural portion of the 208 plan provides data and analyses which indicate that a greater or lesser percentage of the critical area or source treated is needed to attain water quality standards or water quality goals. Fifty (50) percent of the adequate level of participation is to be achieved within 3 years; the remainder within 5 years.

(b) *Administering agency.* A soil conservation district, State soil and water conservation agency, or State water quality agency that enters into an agreement with the State Conservationist, NRCS, to administer assigned responsibilities for RCWP projects; or

ASCS, when USDA retains contract administration.

(c) *Administrative cost.* Grant and fund transfer costs, including allowable costs incurred by the Administering agency in contract administration. These costs, indirect and direct, include charges for personnel, travel, materials, and supplies. The costs are limited to a maximum of 5 percent of the Federal share for BMP cost.

(d) *Agreement.* A legal instrument reflecting the relationship between NRCS and the administering agency for performance of RCWP activities.

(e) *Agricultural nonpoint source pollution.* Pollution originating from existing nonpoint sources that are (a) agriculturally related, including runoff from animal waste disposal areas and from land used for livestock and crop production, or (b) silviculturally related pollution.

(f) *Agricultural portion of a 208 plan.* That portion of the 208 plan that deals with agriculture and those silvicultural activities related to farming and ranching enterprises.

(g) *Appeals board.* A group of three or more individuals, including a hearing officer, established by the administering agency with the concurrence of the State conservationist, NRCS, to review asserted contract violations, hear associated appeals, and report its findings, conclusions, decisions, and recommendations in State or locally administered projects.

(h) *Average cost.* The calculated cost, determined by recent actual local costs and current cost estimates, considered necessary for carrying out BMP's or an identifiable unit thereof.

(i) *Best Management Practice (BMP).* A single practice or a system of practices included in the approved RCWP application that reduces or prevents agricultural nonpoint source pollution to improve water quality.

(j) *BMP cost.* The amount of money actually paid or obligated to be paid by the participant for equipment use, materials, and services for carrying out BMP's or an identifiable unit of a BMP. If the participant uses his or her own resources, the cost includes the computed value of his or her own labor, equipment use, and materials.