

§ 636.8 WHIP plan of operations.

(a) As a condition of participation, the participant develops a WHIP plan of operations with the assistance of NRCS or other public or private natural resource professionals who are approved by NRCS. A WHIP plan of operations encompasses the parcel of land where habitat will be established, improved, protected, enhanced, or restored. The WHIP plan of operations will be approved by NRCS and address at least one of the following as determined by NRCS:

(1) Fish and wildlife habitat conditions that are of concern to the participant;

(2) Fish and wildlife habitat concerns identified in State, regional, tribal land, or national conservation initiatives, as referenced in § 636.6(a); or

(3) Fish and wildlife habitat concerns identified in an approved area-wide plan that addresses the wildlife resource habitat concern.

(b) The WHIP plan of operations forms the basis for the WHIP cost-share agreement and will be attached and included as part of the cost-share agreement, along with the O&M agreement. The WHIP plan of operations includes a schedule for implementation and maintenance of the conservation activities, as determined by NRCS.

(c) The WHIP plan of operations may be modified in accordance with § 636.10.

(d) All conservation activities in the WHIP plan of operations must be approved by NRCS and developed and carried out in accordance with the applicable FOTG.

(e) The participant is responsible for the implementation of the WHIP plan of operations.

§ 636.9 Cost-share agreements.

(a) To apply for WHIP cost-share assistance, a person, tribe, or legal entity must submit an application for participation at a USDA Service Center to an NRCS representative.

(b) A WHIP cost-share agreement will:

(1) Incorporate the WHIP plan of operations;

(2) Be for a time period agreed to by the participant and NRCS, with a minimum duration of one year after the completion of conservation activities

identified in the WHIP plan of operations and a maximum of 10 years, except for agreements entered into under paragraph (c) of this section;

(3) Include all provisions as required by law or statute;

(4) Include any participant reporting and recordkeeping requirements to determine compliance with the cost-share agreement and program;

(5) Be signed by the participant;

(6) Specify payment limits described in § 636.7(f) including any additional payment limitation associated with determinations made under § 636.7(g);

(7) Include an O&M agreement that describes the O&M for each conservation activity and the agency expectation that WHIP-funded conservation activities will be operated and maintained for their expected lifespan; and

(8) Include any other provision determined necessary or appropriate by the NRCS representative.

(c) Notwithstanding any limitation of this part, NRCS may enter into a long-term cost-share agreement that:

(1) Is for a term of at least 15 years;

(2) Protects and restores essential plant or animal habitat, as determined by NRCS; and

(3) Provides cost-share payments of no more than 90 percent of the cost of implementing the WHIP plan of operations to develop fish and wildlife habitat.

§ 636.10 Modifications.

(a) The participant and NRCS may modify a cost-share agreement if both parties agree to the modification. The WHIP plan of operations is revised in accordance with NRCS requirements, and the agreement is approved by the designated conservationist.

(b) Any modifications made under this section must meet WHIP program objectives and must be in compliance with this part.

(c) In the event implementation of a conservation activity fails through no fault of the participant, the State Conservationist may modify the cost-share agreement in order to issue payments to re-implement the activity, at the rates established in accordance with § 636.7, provided such payments do not exceed the payment limitation requirements as set forth in § 636.7.