

implementing the plan will be determined at the time the plan is prepared.

(4) The project areas selected for detailed analysis are to be representative of agricultural and silvicultural nonpoint source pollution problems, categories of agriculture and silvicultural nonpoint source pollutants, agricultural enterprises, and BMPs used in the RCWP.

(5) Preference in the selection of project areas for comprehensive evaluation is to be given to those project areas for which long-term baseline information exists on land use, hydrologic data, and water quality.

(6) Monitoring and evaluation of selected project areas is to begin sufficiently in advance of the installation of BMPs to document, in a statistically satisfactory manner, existing land-use practices and baseline water-quality problems.

(7) The water quality monitoring and evaluation plan will provide sufficient basic information to adequately describe the land use, hydrologic water quality relationship. As a minimum, the plan will contain the following components:

- (i) Chemical and physical water quality monitoring,
 - (ii) Biological monitoring,
 - (iii) Appropriate hydrologic data,
 - (iv) Soils properties and characteristics, topographic information,
 - (v) Land use and farm inventory.
- (b) *Program and project evaluation.*

(1) There will be a continuing evaluation of the Rural Clean Water Program to measure its effectiveness and for each project for which cost-sharing funds are provided.

(2) Program and project evaluations will be conducted under the direction of the Assistant Secretary for Conservation, Research and Education, USDA, the Director of Economics, Policy Analysis, and Budget, USDA; and the Assistant Administrator for Water and Waste Management, EPA; or their representatives working through NRCWCC.

(3) Evaluative reports for the program and each project area will be submitted annually to the Secretary of Agriculture and the Administrator, EPA.

(c) *Funding.* (1) Research oriented activities will be from sources other than RCWP.

(2) Funding for program and project monitoring and evaluation will be provided through RCWP and other authorizations.

PART 636—WILDLIFE HABITAT INCENTIVES PROGRAM

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AUTHORITY: 16 U.S.C. 3839bb-1.

SOURCE: 62 FR 49365, Sept. 19, 1997, unless otherwise noted.

§ 636.1 Applicability.

(a) The purpose of the WHIP is to help participants develop habitat for upland wildlife, wetland wildlife, threatened and endangered species, fish, and other types of wildlife.

(b) The regulations in this part set forth the requirements for the Wildlife Habitat Incentives Program (WHIP).

(c) The Chief, NRCS may implement WHIP in any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 636.2. Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the Chief, NRCS.

(b) The State Conservationist will consult with the State Technical Committee in the implementation of the

§ 636.3.

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program and in establishing program direction for the NRCS in the applicable State. The State Conservationist has the authority to accept or reject the State Technical Committee recommendation; however, the State Conservationist will give strong consideration to the State Technical Committee's recommendation.

(c) NRCS may enter into cooperative agreements with Federal agencies, State and local agencies, conservation districts, local watershed groups, and private entities to assist with program implementation, including cost-share agreement execution, assistance, planning, and monitoring responsibilities.

(d) NRCS may make payments pursuant to agreements with other Federal, State, or local agencies, conservation districts, local watershed groups, or private entities for program implementation, coordination of enrollment of cost-share agreements, or for other goals consistent with the program provided for in this part.

(e) NRCS will provide the public with reasonable notice of opportunities to apply for participation in the program.

(f) Nothing in this part shall preclude the Chief of NRCS, or a designee, from determining any question arising under this part or from reversing or modifying any determination made under this part.

§ 636.3. Definitions.

Chief means the Chief of the Natural Resources Conservation Service or the person delegated authority to act for the Chief.

Conservation district means a political subdivision of a State, Native American Tribe, or territory, organized pursuant to the State or territorial soil conservation district law, or Tribal law. The subdivision may be a conservation district, soil conservation district, soil and water conservation district, resource conservation district, natural resource district, land conservation committee, or similar legally constituted body.

Conservation plan means a record of a participant's decisions, and supporting information, for treatment of a unit of land or water, and includes a schedule of operations, activities, and estimated

expenditures needed to solve identified natural resource problems.

Cost-share agreement means the document that specifies the obligations and the rights of any person who has been accepted for participation in the program.

Cost-share payment means the payments under this part to develop wildlife habitat.

Habitat development means the physical actions or practices undertaken to establish, improve, protect, enhance, or restore the present conditions of the land for the specific purpose of improving conditions for wildlife.

Participant means an applicant who is a party to a WHIP cost-share agreement.

Person means an individual, partnership, association, corporation, cooperative, estate, trust, joint venture, joint operation, or other business enterprise or other legal entity and, whenever applicable, a State, a political subdivision of a State, or any agency thereof.

Practice means a specified treatment, such as a structural or land management measure, which is planned and applied according to NRCS standards and specifications.

Recurring practices means practices repeated on the same area over the life of a cost-share agreement to achieve specific habitat attributes.

State Conservationist means the NRCS employee authorized to direct and supervise NRCS activities in a State, the Caribbean Area, or the Pacific Basin Area.

State Technical Committee means a committee established by the Secretary of the United States Department of Agriculture in a State pursuant to 16 U.S.C. 3861.

Wildlife means birds, fishes, reptiles, amphibians, invertebrates, and mammals, along with all other animals.

Wildlife habitat means the aquatic and terrestrial environments required for wildlife to complete their life cycles, including air, food, cover, water, and spatial requirements.

§ 636.4. Program requirements.

(a) To participate in WHIP, a person must:

(1) Develop and agree to comply with a WHDP, as described in § 636.7;