

## Farm Service Agency, USDA

## § 701.16

which requested cost-sharing is considered by the county committee as most needed. The method approved shall provide for the issuance of notices of approval showing for each approved practice the number of units of the practice for which the Federal Government will share in the cost and the amount of the cost-share for the performance of that number of units of the practice. To the extent practicable, notices of approved practices shall be issued before performance of the practice is started. No practice may be approved for cost-sharing except as authorized by the county program, or in accordance with procedures incorporated therein. Available funds for cost-sharing shall not be allocated on a pro-rata basis, but shall be directed to the accomplishment of the most enduring benefits attainable.

(a) Cost-sharing may be approved under annual agreements or long-term agreements.

(b) Annual agreements may be approved in all counties. Long-term agreements are limited to farms or ranches which are within Soil Conservation Districts (or comparable districts) through which the Soil Conservation Service provides planning and technical services, except:

(1) Farms and ranches located within a county designated for the Great Plains Conservation Program are only eligible for long-term agreements that cover part of a farm. Long-term agreements that cover whole farms shall not be approved in these counties.

(2) Farms and ranches not located within a Soil Conservation District (or comparable district) may be eligible for a long-term agreement, provided conservation plans of operations are developed by the farmer or rancher in cooperation with the Soil Conservation Service and approved by an appropriate State official or, in cases where an appropriate State official is not available, approved by the Soil Conservation Service.

### § 701.16 Long-term agreements.

(a) The period of a long-term agreement will be for not less than three (3) program years nor more than ten (10) program years. The county committee and the signatories to the agreement in consultation with the Soil Conserva-

tion Service representative, will mutually determine the period of the agreement.

(b) The long-term agreement will be based on a conservation plan of operations for the farm or ranch or portion thereof which has been approved by the Soil Conservation District (or comparable district) or, for farms or ranches not located in a Soil Conservation District (or comparable district), by an appropriate State Official or the Soil Conservation Service, as applicable.

(c) The long-term agreement will provide that the farmer or rancher will carry out those measures in the conservation plan of operations which are determined to be essential to meeting the basic conservation needs of the farm or ranch, or portion thereof, whether or not cost-sharing is approved for such measures.

(d) The owner of the farm or ranch will be required to be a signatory to a long-term agreement, whether or not that person contributes to the cost of approved practices thereon.

(e) Any signatory to a long-term agreement who is not an owner of the farm or ranch must provide assurance of control of the land for the duration of the period of the agreement.

(f) The level of cost-sharing, as provided in § 701.13, in effect for practices in all years of a long-term agreement shall be the level in effect for the beginning year of the agreement. The rate of cost-sharing for payment purposes for such practice will be based on the average cost of performing the practice at the time the practice is performed.

(g) A long-term agreement may be cancelled for failure to comply with the terms of the agreement if, after consulting with the Soil Conservation District (or comparable district) board or, if none exists, with a representative of the Soil Conservation Service, the county committee and State committee find that the seriousness of the irregularities warrant such action. If the agreement is cancelled, the signatories to the agreement are jointly and severally responsible for refunding all cost-shares paid and will forfeit all rights to further payments under the

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agreement. In such a case, no other refund or forfeiture provisions of these regulations apply.

(h) A long-term agreement may be revised in accordance with instructions issued by the Deputy Administrator, State and County Operations, by mutual agreement between the signatories to the agreement and the county committee based on approved changes in the Conservation plan of operations for the farm or ranch.

(i) An eligible person who acquires control of land under an approved agreement may elect to become a successor in interest under such agreement.

(j) An agreement will be terminated with respect to land for which loss of control has occurred and where the person acquiring control of such land elects not to become a successor in interest under the agreement. If the loss of control is for reasons beyond the control of the signatories to the agreement, the county committee will determine whether or not any cost-shares previously paid shall be refunded, but in no event shall the refund be greater than would be required in cases where loss of control is voluntary. If the loss of control is voluntary on the part of the signatories to the agreement, the signatories will be jointly and severally responsible for refunding all cost-shares paid and will forfeit all rights to further payments, with respect to the land for which control is lost. However, a refund will not be required for cost-shares where, the county committee and the State committee determine, after consulting with a representative of the Soil Conservation Service, that failure to perform the remaining practices in the agreement will not impair the effectiveness of the practices which have been performed and that the completed practices have provided conservation benefits consistent with the cost-shares which have been paid.

(k) An agreement may be terminated by the county committee, after considering the recommendation of the Soil Conservation District (or comparable district) board or, if none exists, with a representative of the Soil Conservation Service, if such action is in the public interest. The county committee will

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determine the amount of cost-shares previously paid that shall be refunded.

(l) An agreement may be terminated by the county committee upon the written request of the participant(s) to an agreement where no cost-shares have been paid for any of the scheduled practices and where the participant(s) does(do) not intend to perform any of the scheduled practices.

### §701.17 Replacement, enlargement, or restoration.

The establishment or installation of a practice, for the purposes of the program shall be deemed to include the replacement, enlargement, or restoration of a practice for which cost-sharing has been allowed if the practice has served for its normal lifespan, or if all of the following conditions exist:

(a) Replacement, enlargement, or restoration of the practice is needed to solve the problem.

(b) The failure of the original practice was not due to the lack of proper maintenance by the current operator.

(c) The county committee believes that the replacement, enlargement or restoration of the practice merits consideration under the program to an equal extent with other practices.

### §701.18 Pooling agreements.

Farmers, ranchers, or eligible landowners in any local area may agree in writing, with the approval of the county committee, to perform designated practices which, by conserving or improving resources of the community, will solve a mutual conservation, pollution, or other environmental problem on the land of the participants. For purposes of eligibility for cost-sharing, practices carried out under such an approved written agreement shall be regarded as having been carried out on the land of the persons who performed the practices.

### §701.19 Special provisions for low-income farmers and ranchers.

(a) Except as otherwise provided in §701.13(c), the county committee may approve, in the case of low-income farmers and ranchers as defined in this section, level of cost-sharing of up to 80 percent of the average cost of performing practices.