

§ 622.3

§ 622.3 Relationship to the Pub. L. 78-534 Program.

(a) *General.* The purposes and objectives of the programs under Pub. L. 83-566 and Pub. L. 78-534 are the same in most cases. Planning criteria, economic justification, local sponsorship, agency participation, financial assistance, eligible measures, operation and maintenance arrangements for the Pub. L. 78-534 program are consistent with those of the Pub. L. 83-566 program. The differences with the Pub. L. 78-534 program are outlined below.

(b) *Initiation.* Flood prevention projects are individually authorized by Federal legislation. The state conservationist and the sponsors agree on a plan of action and notify interested parties to solicit their participation. The sponsors keep the public informed and solicit their views and comments.

(c) *Subwatershed plans.* These plans are administratively approved by the state conservationist. If the plan involves purposes other than flood prevention, clearance must be obtained from the Office of Management and Budget before approval. Financial assistance available differs only in that program funds may be used for the purchase of land rights for single-purpose flood prevention structures and installing land treatment on Federal lands.

(d) *Installation.* NRCS shall award and administer contracts for the installation of project measures unless the sponsors agree to perform the work. Project agreements between the sponsors and NRCS are not required if the work consists of flood prevention structures built and funded by NRCS.

§ 622.4 Relationship to other agencies.

NRCS will coordinate responsibilities with other water and land resource development agencies on projects that may come under the jurisdictions of various authorities. This will include any land management agencies which may have land which would be affected by project measures. Coordination with the U.S. Department of the Interior's Fish and Wildlife Service will be in accordance with section 12 of Pub. L. 83-566 (as amended).

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§ 622.5 Guidelines.

Guidelines for carrying out programs authorized under Pub. L. 83-566 and Pub. L. 78-534 are contained in miscellaneous instructions, manuals, and handbooks issued by the Natural Resources Conservation Service, Regulations for Implementing NEPA (40 CFR Parts 1500-1508) issued by the Council on Environmental Quality, and in Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies issued by the Water Resources Council. Watershed projects are to be planned and carried out in a way that will conform to conditions mandated by the above and other applicable laws, Executive orders, and codified rules.

§ 622.6 Equal opportunity.

The Pub. L. 83-566 and Pub. L. 78-534 programs will be conducted in compliance with all requirements respecting nondiscrimination as contained in the Civil Rights Act of 1964, as amended, and in the regulations of the Secretary of Agriculture (7 CFR Part 15), which provide that no person in the United States shall, on the grounds of race, color, national origin, sex, age, handicap, or religion be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted or assisted by the Department of Agriculture.

§ 622.7 Notification under Executive Order 12372.

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs" and 7 CFR Part 3015, Subpart V, "Intergovernmental Review of the Department of Agriculture Programs and Activities." State processes or directly affected State, areawide, regional and local officials and entities have 60 days for comment starting from the date of submission of the application to the State Single Point of Contact.

Subpart B—Qualifications

§ 622.10 Sponsors.

(a) Watershed projects are sponsored by one or more local organizations

qualifying as sponsors. All watershed plans shall be sponsored by entities legally organized under State law or by any Indian tribe or tribal organization having the authority to carry out, operate and maintain works of improvement. Those plans that incorporate the use of nonstructural or structural measures shall be sponsored by organizations that, individually or collectively, have:

- (1) The power of eminent domain,
- (2) The authority to levy taxes or use other adequate funding sources, including state, regional, or local appropriations, to finance their share of the project cost and all operation and maintenance costs.

(b) To receive Federal assistance for project installation, sponsors must commit themselves to use their powers and authority to carry out and maintain the project as planned.

§ 622.11 Eligible watershed projects.

(a) To be eligible for Federal assistance, a watershed project must:

- (1) Meet the definition of a watershed area as defined in NRCS's National Watersheds Manual.
- (2) Not exceed 250,000 acres in size.
- (3) Not include any single structure that provides more than 12,500 acre-feet of floodwater detention capacity nor more than 25,000 acre-feet of total capacity.
- (4) Have significant land or water management problems that can be solved or alleviated by measures for watershed protection, flood prevention, drainage, irrigation, recreation, fish and wildlife, municipal or industrial water supply, or other water management.
- (5) Produce substantial benefits to the general public, to communities, and to groups of landowners.
- (6) Cannot be installed by individual or collective landowners under alternative cost-sharing assistance.
- (7) Have strong local citizen and sponsor support through agreement to obtain land rights, contribute the local cost of construction, and carry out operation and maintenance.

(b) Works and improvement that may be included in a watershed project are those that:

- (1) Contribute to reducing flood-water, erosion, and sediment damages.
- (2) Further the conservation, development, utilization, and disposal of water and the conservation and proper utilization of land.
- (3) Have the greatest net national economic benefits consistent with protecting the Nation's environment (for structural water resource projects) relative to alternative works, unless an exception is granted by the Secretary.

Subpart C—Application Procedure

§ 622.20 Application.

Sponsors shall follow State developed procedures (based on Executive Order 12372) for coordination of proposed Federal financial assistance and also USDA's 7 CFR part 3015 in applying for Pub. L. 83-566 assistance. Standard forms for Federal assistance or other approved forms may be obtained from NRCS State, area, or field offices. These forms should be submitted to the Single Point of Contact in accordance with the State developed procedures.

§ 622.21 State agency approval.

The governor or designated State agency will approve or disapprove the application. If disapproved, no further action is required of NRCS. If approved or not disapproved within 45 days, the application shall be sent to the NRCS state conservationist. After the state conservationist has determined that the application is legally valid, he will notify the sponsor of receipt of the application. If found not legally valid, the state conservationist will return it to the originator with an opinion.

Subpart D—Planning

§ 622.30 General.

- (a) Watershed projects are to be planned and carried out in a way that will (1) minimize all adverse impacts, and (2) mitigate unavoidable losses to the maximum practicable degree. Projects must comply with the requirements of the National Environmental Policy Act of 1969 (Pub. L. 91-190, 83 Stat. 852) (42 U.S.C. 4321 et seq.).
- (b) Fish and Wildlife enhancement measures proposed by Federal or State