

§ 654.16

to produce revenues required to amortize the sponsor(s)' share of installation costs and to provide adequate O&M for that portion of the project measures pertaining to public recreation and/or fish and wildlife facility. Sponsor(s)' admission or user fee charges require prior NRCS approval throughout the life of the O&M agreement.

(f) Accordance with the schedule for withdrawal of water in water impounding structures as specified in the watershed or RC&D measure plan or other legal documents.

(g) A manner consistent with the project objectives.

§ 654.16 Property management.

Sponsor(s) are to:

(a) Use real property acquired in whole or in part with Federal funds as long as needed for the purpose for which it was acquired and in accordance with the O&M agreement. If real property acquired in whole or in part with Federal funds is no longer needed for the purpose for which it was acquired, the sponsor(s) shall obtain NRCS approval for future use or disposition.

(b) Use nonexpendable personal property acquired in whole or in part with Federal funds as long as needed for the purpose for which it was acquired in accordance with the rules governing Federal grant property (34 CFR part 256).

(c) Establish, adopt, and comply with a property management system which meets the standards governing Federal grant property.

§ 654.17 Inspection.

(a) Sponsor(s) are to make periodic and special inspections of installed project measures as provided in the plan of O&M. For structural measures, inspections are to be made at least annually and after each major storm or occurrence of any unusual condition that might adversely affect the project measures. At the discretion of the State Conservationist, NRCS may assist sponsor(s) with their inspections. NRCS or land-administering agencies may make independent inspections at any time during the period covered by the O&M agreement.

7 CFR Ch. VI (1-1-03 Edition)

(b) Sponsor(s) are to maintain a written record of each inspection and furnish NRCS and land-administering agencies a copy of that record. The record should identify items inspected, O&M work that may be needed, a time frame to do the work, and the date of the inspection. The NRCS and land-administering agencies will provide the sponsor(s) a copy of a similar record of independent inspections.

(c) The sponsor(s) shall perform the O&M work listed as needed in the inspection reports within the time frame established for each item of work. Failure to perform O&M work will be considered a violation of the O&M agreement and will be handled in accordance with § 654.20.

(d) Sponsor(s) are to maintain a written record of work performed which is listed in the inspection report and a record of other significant O&M activity. The record will identify the measure, item of work, cost of performance, and date completed.

(e) Sponsor(s)' records relative to the project shall be made available to NRCS for examination.

§ 654.18 Natural Resources Conservation Service responsibility.

The Natural Resources Conservation Service will assist the sponsor(s) in developing a watershed or RC&D measure plan which includes a description of O&M work and estimated cost, assist in the preparation of O&M agreements and plans of O&M, enter into O&M agreements with the sponsor(s), and notify the sponsor(s) of observed failures to comply with the O&M agreement.

§ 654.19 Plan of operation and maintenance.

(a) The plan for O&M shall be incorporated into and made a part of the O&M agreement. A separate plan of O&M shall be prepared for each project measure that is expected to have a unique O&M need. Two or more measures with similar O&M needs may be included in a single plan for O&M.

(b) The plan of O&M shall include the known and anticipated items of O&M, an explanation of how the O&M activities may be carried out, a general time frame for making O&M inspections and

for completing the needed O&M work, and the records and reports deemed appropriate by the sponsor(s) and NRCS.

§ 654.20 Violations of operation and maintenance agreement.

(a) The State Conservationist shall investigate alleged sponsor violations of the O&M agreement. If the State Conservationist determines that a violation has occurred that may prevent the project measure from functioning as intended, create a health or safety hazard, or prevent the accrual of project benefits, he shall provide sponsor(s) written notification.

(b) If the sponsor(s) fail to comply with the O&M agreement or fail to take corrective action, NRCS may notify authorities having appropriate jurisdiction, withhold further assistance to the project, require the sponsor(s) to reimburse the government for the NRCS share of the cost of the project, and/or pursue other action authorized by the O&M agreement or law.

Subpart C—Conservation Operations

§ 654.30 Responsibility for operation and maintenance.

The land user is responsible for O&M of soil and water conservation measures installed with NRCS assistance provided through soil, water, and other conservation districts.

§ 654.31 Performing operation and maintenance.

The method of performing O&M is to be at the option of the land user. The NRCS, working through districts, will furnish information and technical assistance as needed and requested to the extent NRCS resources permit.

Subpart D—Emergency Watershed Protection

§ 654.40 Responsibility for operation and maintenance.

(a) *Non-Federal lands.* The need for an O&M agreement will be determined by the State Conservationist. Where an O&M agreement is necessary, the sponsor(s) will provide the O&M and adopt standards for Federal grant property (34 CFR part 256). Where no O&M agree-

ment is necessary, other arrangements will be made for complying with Federal property management.

(b) *Federal lands.* The Federal agency administering the Federal land is responsible for operating and maintaining emergency measures installed on Federal land.

§ 654.41 Performance of operation and maintenance.

(a) *Arrangement.* O&M is a prerequisite for approval of Federal emergency assistance when:

(1) The emergency measure needs to be operated and maintained in order to serve its intended purpose, or

(2) The emergency measure needs to be operated and maintained to insure that it will not become hazardous.

(b) *Time of operation and maintenance.* The sponsor(s)' obligations for O&M begin when the measure is installed and extend for the duration of the time required for the emergency measure to serve the purpose for which it is installed.

(c) *Performance.* Operation and maintenance is to be performed in a manner that will protect the environment and otherwise comply with NRCS, State, and local requirements. The method of performing O&M is at the option of the sponsor(s).

Subpart E—Great Plains Conservation Program

§ 654.50 Responsibility for operation and maintenance.

Responsibility for practices under the Great Plains Conservation Program are contained in § 631.10 of this chapter.

PART 655 [RESERVED]

PART 656—PROCEDURES FOR THE PROTECTION OF ARCHEOLOGICAL AND HISTORICAL PROPERTIES ENCOUNTERED IN NRCS-ASSISTED PROGRAMS

Sec.

656.1 Purpose.

656.2 Archeological and historical laws and Executive orders applicable to NRCS-assisted programs.

656.3 Policy.