

United States
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Soil
Conservation
Service



National Watershed Manual



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On the cover:

Upper Savannah land treatment watershed project, South Carolina
(photographer unknown)

Lake Robinson, Greenville County, South Carolina, recreation
(photo by Ann Rose, public affairs specialist, SCS, Columbia, SC)

Romney No. 2, Jackson Lake Mitigation Project, Wyoming (photo by
Duane D. Klamm, state conservation engineer, SCS, Casper, WY)

**Lake Robinson, Greenville County, South Carolina, floodwater
retarding structure** (photo by John Case, district conservationist, SCS,
Greenville County, SC)

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The National Watersheds Manual was prepared under the direction of **John W. Peterson**, director, and **Karl F. Otte**, assistant director for planning, Watershed Projects Division (WPD), Soil Conservation Service (SCS), Washington, DC.

The authors who made major contributions to rewriting and reorganizing this manual are:

Walter E. Sykes, soil conservationist, Watershed Planning Staff, SCS, Davis, CA.

Ivan R. Wilkinson, water resource specialist, Midwest National Technical Center, SCS, Lincoln, NE.

J.M. (Mike) Woodson, water resource specialist, South National Technical Center, SCS, Fort Worth, TX.

Others who made significant contributions to rewriting this manual are:

Carl E. Bouchard, assistant director, Basin and Area Planning Division, SCS, Washington, DC.

W. Wayne Killgore, water resource specialist, West National Technical Center, SCS, Portland, OR.

Frank E. Resides, water resource specialist, Northeast National Technical Center, SCS, Chester, PA.

Margaret Theurer, program assistant, WPD, SCS, Washington, DC.

Donald R. Vandersypen, assistant state conservationist, SCS, Stillwater, OK.

Ronald L. Ward, national watershed planning coordinator, WPD, SCS, Washington, DC.

Thomas H. Wehri, assistant director for operations, WPD, SCS, Washington, DC.

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**National
Watershed
Manual**

Part 500

Program Criteria

Part 500

Program Criteria

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Subpart 500A General**500.00 Purpose and scope**

Part 500 sets forth the minimum requirements for administering the Watershed Protection and Flood Prevention Act (Public Law 83-566). It relates the main parts of the law as well as other pertinent laws, executive orders, secretarial memoranda, and regulations that affect administration and application of the Act. The requirements given in this part generally cannot be changed unilaterally by the Soil Conservation Service (SCS).

500.01 The Act

The Watershed Protection and Flood Prevention Act, Public Law 83-566, Stat. 666, (see exhibit 500-1) authorizes the Secretary of Agriculture to cooperate with State and local agencies in planning and carrying out works of improvement for soil conservation and for other purposes. It provides for technical, financial, and credit assistance by the United States Department of Agriculture (USDA) to local organizations representing the people living in small watersheds. It also provides for needed additional treatment and protection of federally owned lands within such watersheds.

Unlike other national conservation programs, the Watershed Protection and Flood Prevention Program requires the development of a physically, environmentally, socially, and economically sound plan of improvements scheduled for implementation over a period of years. It uses a project-type approach to accomplish this. Firm commitments are required from local organizations (including States). They must:

- Share the costs of installation,
- Assume operation and maintenance responsibilities (with certain exceptions on Federal land), and
- Meet other requirements as a condition for Public Law 83-566 assistance in carrying out the improvements.

The Congress made it clear that the authority provided under the Act should be used to "supplement both our present agricultural soil and water conservation programs and our programs for development and flood protection of major river valleys. It will bridge the gap between these two types of programs and greatly enhance the ultimate benefits of both." (See House of Representatives Report No. 1140, 83d Congress, 2d Session.)

"Federal help under the Act is available only to assist local organizations to plan and install needed water management and flood prevention measures that cannot feasibly be installed under other current Federal conservation programs." (See Committee Print, H.R. Committee on Agriculture, August 25, 1954, 83d Congress, 2d Session, Watershed Conservation and Flood Prevention, answer to question 4.)

Interpretation of the Act by the Office of the President is in Executive Order 10584, Exhibit 500-2.

Subpart 500B Assistance available under the Act

500.10 Eligible purposes

(a) General purposes

Section 1 of the Act sets forth its three general purposes:

- Preventing damage from erosion, floodwater, and sediment.
- Furthering the conservation, development, utilization, and disposal of water.
- Furthering the conservation and proper utilization of land.

To achieve these purposes, the Act authorizes the Secretary of Agriculture to assist local organizations in preparing and carrying out plans for works of improvement. It defines works of improvement to include structural and land treatment measures. Other legislation (Public Laws 93-251 and 99-662) provides for the inclusion of nonstructural flood protection measures in project plans.

(b) Specific purposes

Section 4 of the Act lists the following specific purposes as eligible for cost sharing:

- Flood prevention
- The agricultural phases of the conservation, development, utilization, and disposal of water (referred to in this manual as agricultural water management)
- Fish and wildlife development
- Recreational development
- Ground water recharge
- Water quality management (defined in the Act as primarily water storage in reservoirs for regulation of streamflow)
- Conservation and proper utilization of land
- Municipal and industrial water supply

For a detailed description of eligible purposes, refer to part 502 of this manual.

500.11 Cost sharing

Cost-share rates depend on the type of measure (land treatment, nonstructural, or structural) and, for structural measures, the purpose to which the cost is allocated. Table 500-1 summarizes the cost-sharing provisions.

(a) Land treatment measures

The Act provides that Federal assistance for land treatment measures shall not exceed the rate of assistance for similar practices under existing national programs. This limitation applies to total Federal assistance, not just Public Law 83-566 funds. The Act authorizes the use of long-term contracts with land users for installing measures needed to develop and conserve the soil, water, woodland, wildlife, energy, and recreation resources of the land, and to enhance water quality. Land treatment for flood prevention is also eligible for assistance. Public Law 83-566 funds may also be used to provide technical assistance for planning and applying project land treatment measures.

(b) Nonstructural measures

The cost sharing rate for nonstructural flood protection measures is set forth in Public Law 99-662. Federal funds will pay 75 percent of the total cost of nonstructural flood protection measures.

The Act authorizes the use of USDA funds to assist Sponsoring Local Organizations (SLO) in acquiring perpetual wetland or flood plain conservation easements to perpetuate, restore, and enhance the natural capability of wetlands and flood plains to retain excessive floodwaters, improve water quality and quantity, and provide fish and wildlife habitat. Where such assistance is provided, the project SLO are required to provide up to 50 percent of the cost of acquiring such easements.

(c) Structural measures

The Act authorizes Federal assistance and sets forth required local contributions for various project purposes and cost categories. The cost categories are real property rights, engineering, and construction.

(1) Property rights for public fish and wildlife or recreation developments—The Act authorizes the use of Public Law 83-566 funds to pay up to 50 percent of the cost of real property rights for public fish and wildlife or recreation developments. Local

organizations must furnish the rest of the real property rights costs for these purposes and all real property rights for all other purposes. The Act does not prohibit the use of other Federal funds for that part that is not Public Law 83-566 share. The Act also authorizes the use of Public Law 83-566 funds to pay up to 50 percent of the cost of real property rights acquired by local organizations for mitigation of fish and wildlife habitat losses.

(2) Basic facilities for fish and wildlife or recreation developments—The Act authorizes the use of Public Law 83-566 funds to pay up to 50 percent of the cost of minimum basic facilities needed for public use of fish and wildlife or recreation developments. This is interpreted to mean construction and engineering costs.

(3) Construction and engineering costs for flood prevention—The Act states that Public Law 83-566 funds shall pay all construction and engineering costs applicable to flood prevention.

(4) Construction and engineering costs for other uses—The Act authorizes the use of Public Law 83-566 funds to pay all engineering costs and an equitable share of the construction costs allocated to

- Agricultural water management,
- Fish and wildlife development,
- Recreational development,
- Ground water recharge,
- Water quality management, and
- Conservation and proper utilization of land.

The Act calls for the Secretary of Agriculture to determine the equitable share for each of these purposes. Public Law 83-566 funds are currently authorized to pay up to 50 percent of the construction cost for agricultural water management, fish and wildlife development, recreational development, and ground water recharge. Cost sharing policy has not been developed for reservoir storage for water quality management. Measures for conservation and proper utilization of land generally will be installed under the land treatment provisions of the Act.

(5) Storage of municipal and industrial water—The Act authorizes the use of USDA funds to pay for storage of municipal and industrial water in reservoirs built with Public Law 83-566 funds. Storage may be provided for present and future demands. Local organizations are to pay at least 50 percent of the cost of storage for present demands and to reimburse the USDA for the cost of storage for future demands. Implementation of this provision is not presently allowed.

(6) Relocation payments—If relocation payments are to be made, the Public Law 83-566 share of the relocation payments will be the same percentage as the Public Law 83-566 share of the total project cost. These payments are authorized by Public Law 91-646.

(7) Public Law 93-291—The Archeological and Historic Preservation Act of 1974 (Public Law 93-291) authorizes the expenditure of up to 1 percent of appropriated project monies to preserve, protect, or recover archeological material that might be lost or destroyed as a result of a project. Additional monies may be expended with Congressional approval.

Table 500-1 Statutory cost-sharing provisions (N/A=Not Applicable, ES=Equitable Share, ≤ means less than or equal to, ≥ means more than or equal to)

Purpose	---- Land treatment ----		----- Nonstructural -----		----- Structural measures -----		
	Tech. asst.	Installation	Real property rights	Other costs	Real property rights ^{1/}	Engineering	Construction
Flood prevention							
Wetland & flood plain cons. easement	N/A	N/A	≥ 50%	0	N/A	N/A	N/A
All other measures	100%	^{2/}	75% ^{3/}	75% ^{3/}	0	100% ^{4/}	100% ^{4/}
Agricultural water management (IR, DR, WQ, rural water supply)							
Wetland & flood plain cons. easement	N/A	N/A	≥ 50%	0	N/A	N/A	N/A
All other measures	100%	^{2/}	0	0	0	100%	ES ^{5/}
Public fish & wildlife dev.							
Water resource improvement	100%	^{2/}	0	0	≤ 50%	100%	ES ^{5/}
Minimum basic facilities	100%	^{2/}	0	0	≤ 50%	≤ 50%	≤ 50%
Wetland & flood plain cons. easement	N/A	N/A	≥ 50%	0	N/A	N/A	N/A
Public Recreational Dev.							
Water resource improvement	100%	^{2/}	0	0	≤ 50%	100%	ES ^{5/}
Minimum basic facilities	100%	^{2/}	0	0	≤ 50%	≤ 50%	≤ 50%
Ground water recharge	100%	^{2/}	0	0	0	100%	ES ^{6/}
Water quality management							
Reservoir storage ^{7/}	N/A	N/A	0	0	0	100%	ES ^{6/}
Conservation & proper utilization of land (watershed protection)	100%	^{2/}	0	0	0	100%	ES ^{6/}
Municipal & industrial water supply ^{8/}	100%	^{2/}	0	0	0	0	≤ 50% of storage cost for present demand

^{1/} Cost-sharing on real property rights for mitigation of fish and wildlife habitat losses is authorized up to 50 percent.

^{2/} Cost-sharing for land treatment is not to exceed the level of other existing national programs.

^{3/} 75 percent of composite cost, including installation, technical or engineering assistance, real property rights, administration, and overhead.

^{4/} Structural measures for flood prevention include land stabilization.

^{5/} USDA policy sets Public Law 83-566 share at up to 50 percent.

^{6/} Rate to be set at the discretion of the Secretary.

^{7/} Plans must be approved by the Environmental Protection Agency.

^{8/} Authorized by the Act, but Federal cost-sharing on structural measures is not presently allowed.

Subpart 500C Requirements of the Act

500.20 Project criteria

A watershed or subwatershed area is not to exceed 250,000 acres. A number of such subwatersheds, where they are component parts of a larger watershed, may be planned together if the SLO so desire. However, no single plan can be submitted for a watershed or subwatershed area exceeding 250,000 acres.

No structure providing more than 12,500 acre-feet of floodwater detention capacity or more than 25,000 acre-feet of total capacity may be included in the plan. Total capacity as used in the Act is construed to mean the total volume of space available for water and sediment upstream from a dam below the elevation at which discharge begins in the primary emergency spillway.

Each project must contain benefits directly related to agriculture, including rural communities, that account for at least 20 percent of the total benefits of the project.

Local organizations shall acquire, or provide assurances satisfactory to the Secretary that they will acquire, such real property rights as will be needed in connection with works of improvement installed with Public Law 83-566 assistance.

Need must be demonstrated taking into account the anticipated day-use of the projected recreational development and considering the availability within the region of existing water-based outdoor recreational developments.

The number of recreation developments within a watershed shall be limited by the size of the watershed; one development in a watershed project of less than 75,000 acres, two developments in a project between 75,000 and 150,000 acres, or three developments (the maximum number allowed) in a project of more than 150,000 acres.

Works of improvement for water quality management that consist of water storage capacity in reservoirs for regulation of streamflow shall not be provided as a substitute for adequate treatment. The Act requires that works of improvement for water quality management be consistent with standards and regulations adopted by the Water Resources Council on Federal cost sharing for water quality management. Because the Water Resources Council no longer exists, solutions will be consistent with State water quality standards developed in accordance with sections 208 and 319 of Public Law 92-500, as amended.

The SLO must be willing to carry out all phases of project installation, operation, and maintenance, and must have the financial ability or be able to make adequate financial arrangements for carrying out their full responsibilities with relation to the project.

The SLO shall acquire or provide other evidence that landowners or water users have acquired such water rights pursuant to State law as may be needed in the installation and operation of the works of improvement.

The SLO shall obtain agreements to carry out recommended soil conservation measures and proper conservation plans from owners of not less than 50 percent of the lands situated in the drainage area above each retention reservoir to be installed with Public Law 83-566 funds.

The SLO shall submit a plan of repayment satisfactory to the Secretary for any loan or advancement made.

Project benefits must exceed costs. Effects of alternative plans will be displayed in accordance with the four accounts established in the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (P&G), March 10, 1983. These accounts are

- National Economic Development (NED)
- Environmental Quality (EQ)
- Regional Economic Development (RED)
- Other Social Effects (OSE)

Benefits and costs may be expressed in monetary and nonmonetary terms.

500.21 Watershed plan approval authority

Approval authority is based on the total Public Law 83-566 construction cost, including financial assistance for land treatment, and the capacity of water-impounding structures included in the plan. Table 500-2 summarizes approval authorities. All plans sent to congressional committees must be approved of the SCS Chief and by the Secretary of Agriculture.

Delegation of administrative approval authority is discussed in part 505.

Subpart 500D Related public laws

500.30 General

In addition to the Act, several laws are directly related to the administration of the Act. This subpart contains only a partial listing of general laws, executive orders, and Secretary's memorandums that apply to all projects. All work undertaken and performed under the Act is to be in harmony with all applicable Federal, State, and local laws, orders, and related work of other Federal agencies.

500.31 Public Law 78-534—Flood Control Act of 1944

The Flood Control Act of 1944 as amended, gives the USDA responsibility in 11 selected watersheds for watershed investigations and for planning and installing measures to reduce runoff and erosion and slow down streamflow. The SCS and the Forest Service carry out this responsibility with assistance from other agencies within and outside the USDA.

Table 500-2 Watershed plan approval authorities (< means less than; > means more than)

Public Law 83-566 construction cost	Total capacity of any single structure	Approval required
< \$5 million, and	< 2,500 ac. ft.	Administratively
\$5 million or more, and	< 4,000 ac. ft.	Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives
Any amount, and	> 2,500 ac. ft., but < 4,000 ac. ft.	Committee on Agriculture Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives
Any amount, and	> 4,000 ac. ft.	Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives

The 11 watersheds are Buffalo Creek, New York; Coosa River, Georgia and Tennessee; Little Sioux River, Iowa and Minnesota; Little Tallahatchie River, Mississippi; Los Angeles River, California; Middle Colorado River, Texas; Potomac River, Virginia, West Virginia, Maryland, and Pennsylvania; Santa Ynez River, California; Trinity River, Texas; Washita River, Oklahoma and Texas; and Yazoo River, Mississippi. They cover 30 million acres.

This manual also applies to all Public Law 78-534 watersheds, except as noted.

500.32 Public Law 86-523— Reservoir Salvage Act of 1960 (as amended)

This law relates to the preservation of historical and archeological materials or data, including relics and specimens that might otherwise be lost or destroyed as a result of any Federal or federally assisted or licensed project, activity, or program.

The state conservationist is to notify the Secretary of the Interior whenever a plan includes a dam that creates a permanent reservoir larger than 40 surface acres or a floodwater-retarding dam providing more than 5,000 acre-feet of detention capacity. For smaller structures, if SCS finds or is presented with evidence that historical or archeological materials exist or may be present in the proposed reservoir area, it will advise the Secretary of the Interior. If any such materials are found during construction, the law requires similar notification.

500.33 Public Law 89-665— National Historic Pres- ervation Act of 1966 (as amended)

This law provides for the preservation of certain properties including historic districts, sites, buildings, structures, and objects that are significant in American history, architecture, archeology, and culture. SCS, before it undertakes any work, must take into account the effect of that work on any historic district, site, building, structure, or objects eligible for or listed in the National Register of Historic Places. No Federal funds may be expended on work affecting a historic

property until the Advisory Council on Historic Preservation has had a reasonable opportunity to comment. Where historic sites, places, structures, or objects are encountered, the state conservationist will proceed in accordance with 420 GM 401.

In addition to historic sites, structures, or objects listed in the National Register, various other cultural features may have State or local significance. This law does not cover these specifically, but notes that it is appropriate for the Federal Government to assist State and local governments to expand and accelerate their historic preservation programs and activities.

500.34 Public Law 91-190— National Environmental Policy Act of 1969

Through this Act, the Congress declared its national policy to encourage productive and enjoyable harmony between man and his environment; to promote efforts to prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; and to enrich the understanding of the ecological systems and natural resources important to the Nation.

This Act calls for environmental evaluations and impact analysis of all planned actions for disclosure of the decisionmaking process and for measures to be taken to mitigate adverse environmental impacts. It also established the Council on Environmental Quality (CEQ).

The CEQ's regulation for implementing the National Environmental Policy Act (NEPA) (40 CFR 1500-1508) prescribes document format, coordination among agencies, scoping of evaluations, tiering of evaluations of impacts, and minimizing adverse impacts.

The general procedures for SCS programs for compliance with NEPA are in 7 CFR 650. Secretary's Memorandum 1695 (as supplemented), Protecting and Improving the Quality of the Environment, and 7 CFR 3100 further implement the provisions of Public Law 91-190.

500.35 Public Law 93-251—Water Resource Development Act of 1974

Federal assistance in projects is authorized for the installation of nonstructural measures for flood protection by section 73 of this Act dated March 7, 1974. An excerpt from the text of the Act follows:

"In the survey, planning, or design by any Federal agency of any project involving flood protection, consideration shall be given to nonstructural alternatives to prevent or reduce flood damages including, but not limited to, flood proofing of structures; flood plain regulation; acquisition of flood plain lands for recreational, fish and wildlife, and other public purposes; and relocation with a view toward formulating the most economically, socially, and environmentally acceptable means of reducing or preventing flood damages."

500.36 Public Law 93-291—Archeological and Historic Preservation Act of 1974

This Act amends the Reservoir Salvage Act of 1960 and authorizes the Secretary of the Interior or the Federal agency itself to undertake recovery, protection, and preservation of historic and archeological data that would otherwise be lost as a result of Federal or federally assisted activities. SCS procedures for the protection of archeological and historical properties encountered in SCS-assisted programs are published in the General Manual (420-401).

500.37 Public Law 90-542—Wild and Scenic Rivers Act of 1968

This Act permits certain select rivers that, with their immediate environments, have outstanding, scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values to be preserved in free-flowing condition, and that they and their immediate environment shall be protected. Components may be added to the system from time to time.

The Act specifically states that no department or agency shall recommend authorization of any water resources project that would have a direct and adverse effect on the values of one of the designated rivers. Issuance of permits and licenses is prohibited in these cases.

500.38 Public Law 92-500—Amendments to the Federal Water Pollution Control Act of 1972

This Act (which, with amendments, is often referred to as the "Clean Water Act") requires a 404 permit from the Department of the Army, Corps of Engineers for placing dredged or fill material into or adjacent to navigable water. It also requires the development of water quality management plans for each State and authorizes 5- to 10-year contracts to install best management practices to control nonpoint source pollution and improve water quality. Other parts of the Act address point sources and permits for discharges of pollutants. The Act as amended is in 33 USC 1251, et seq.

500.39 Public Law 93-205—Endangered Species Act of 1973 (as amended)

This Act declares that, as policy, all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall exercise authority to further the purposes of this Act. The Secretary of the Interior determines which species are covered and regulates the program for their protection. Extensive cooperation with States is called for to ensure maximum compliance with the program.

Section 7(a)(2) of the Act requires that Federal agencies, in consultation with and assistance of the Secretary of the Interior, ensure that their actions are not likely to jeopardize the continued existence of endangered or threatened species or destroy or modify the critical habitat of such species.

500.40 Public Law 97-98—Farm-land Protection Policy Act of 1981

This Act states Federal policy in regard to protecting prime and unique farmlands by minimizing the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses. It states that Federal programs will be administered in a manner that, to the extent practicable, will be compatible with State, local, and private programs and policies to protect farmland.

500.41 Public Law 99-198—Food Security Act of 1985

This act sets forth the terms and conditions under which a person, who, after December 23, 1985, produces an agricultural commodity on highly erodible land or converted wetland, shall be determined to be ineligible for certain benefits provided by the USDA and agencies and instrumentalities of the Department. It also removes certain incentives for persons to produce agricultural commodities on highly erodible land or converted wetland and to thereby

- reduce soil loss caused by wind and water erosion,
- protect the Nation's long-term capability to produce food and fiber,
- reduce sedimentation and improve water quality,
- assist in preserving the Nation's wetlands, and
- curb the production of surplus commodities.

500.42 Public Law 99-662—Water Resources Development Act of 1986

(a) Section 103(b)

This section changed the cost-share rate for nonstructural measures to require the non-Federal share to be 25 percent of the costs of such measures.

(b) Section 402

This section requires that, before construction of any project for local flood protection, the non-Federal interests agree to participate in and comply with applicable Federal flood plain management and flood insurance programs.

(c) Section 928

This section gives the requirements for reports on the projects that have recreational benefits that are submitted to the Committee on Public Works and Transportation of the House of Representatives. It states that the reports must describe the usage of other similar public recreational facilities in the area and the anticipated impacts of the proposed project on the use of such existing recreational facilities.

(d) Section 1201(b)

This section modifies Public Law 92-367 by authorizing the establishment of a National Dam Safety Review Board. This board shall be responsible for reviewing and monitoring State implementation of the Dam Safety Act. It will consist of seven members selected for their expertise in dam safety, to represent the Department of the Army, the Department of the Interior, the Tennessee Valley Authority, the Federal Emergency Management Agency, and the Department of Agriculture, plus two members, selected by the President, from employees of officials of States having an approved program under section 8 of this Act.

(e) Section 1202

This section requires that reports submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or the Secretary of Agriculture acting under Public Law 83-566, as amended, which propose construction of a water impoundment facility, shall include information on the consequences of failure and geologic or design factors that could contribute to the possible failure of such facility.

500.43 Public Law 101-624

The Food, Agriculture, Conservation, and Trade Act of 1990

- adds Public Law 83-566 cost-sharing payments to the list of USDA program benefits that are contingent on the recipient's compliance with the provisions of the Food Security Act of 1985,
- provides for cost-sharing assistance to acquire perpetual wetland or flood plain conservation easements,
- provides for enhancement of water quality as a project purpose,

- requires that 20 percent of the benefits for all projects be agriculturally related, including rural communities, and
- requires that data will be collected and maintained on a State and National basis.

500.44 Other laws

(a) Public Law 89-80

Water Resources Planning Act of 1965, section 103, requires the establishment of principles, standards, and procedures that would be followed for all Federal water and related land projects.

(b) Public Law 90-480

This law requires accessibility to public buildings by the physically handicapped.

(c) Public Law 91-224

The Environmental Quality Improvement Act of 1970 requires Federal departments and agencies to implement environmental policies.

(d) Public Law 91-646

The Uniform Relocation Assistance and Real Property Acquisitions Policies Act sets forth the requirements for the acquisition of real property and the assistance available for persons who are relocated as a result of implementing a project.

(e) Public Law 96-597

Authorization, Appropriations—United States Insular Areas, 48 USC 1469(d)(c), section 9, extends all SCS programs to trust territories. The U.S. Department of Interior and the Public Works and Agricultural Committees of Congress need to be advised 60 days before assistance is extended and a memorandum of understanding needs to be signed with the territory.

(f) Public Law 85-624

The Fish and Wildlife Coordination Act sets forth Federal requirements regarding conservation of wildlife resources. This Act amended Public Law 83-566 by adding section 12, which specifies the requirements related to the small watershed program.

(g) Laws related to nondiscrimination

These laws include the Civil Rights Act of 1964, as amended; Civil Rights Restoration Act of 1987; Rehabilitation Act of 1973; Education Amendments of 1972; and Age Discrimination Act of 1975. These acts, together with related USDA regulations (7 CFR 15), prohibit discrimination on the grounds of race, color, national origin, age, sex, religion, marital status, or handicap in USDA programs and activities.

Subpart 500E Related executive orders

500.50 General

Executive orders are issued by the President of the United States to further clarify the Administration's position on various subjects. These orders provide direction to Federal agencies. Following are some of the more pertinent orders related to Public Law 83-566.

500.51 Executive Order 10584—Rules and Regulations Relating to the Administration of the Watershed Protection and Flood Prevention Act as amended and supplemented by Executive Order 10913

These two executive orders prescribe rules and regulations relating to the administration of the Act (see exhibit 500-2). Because programs of the Departments of the Interior, Army, and Agriculture, and other Federal agencies often affect one another, close cooperation and coordination are mandated. Before planning is started, the Secretary of Agriculture shall obtain the views of these other agencies, river basin authorities and commissions, and others.

The Secretary is responsible for administering the Act, approving or disapproving applications, establishing criteria for formulation and justification, establishing engineering and economic standards and objectives, planning and installing works of improvement, coordinating reviews of the plans for works of improvement, and giving full consideration to recommendations concerning the conservation and development of fish and wildlife resources.

Only those plans shall be submitted to the Secretary that constitute needed and harmonious elements in the comprehensive development of the river subbasin or river basin involved. All plans submitted must properly reflect respective contributions of upstream and downstream improvements, provide best use and control of water resources at minimum cost, and give

preference to the least costly combination of measures where benefits are about the same.

500.52 Executive Order 11514 (as amended)—Protection and Enhancement of Environmental Quality

This order reaffirms national environmental goals and describes the responsibilities of Federal agencies and the CEQ. It requires the monitoring, evaluation, and control of agency activities so as to protect and enhance the quality of the environment. It also requires that the public be given timely information through public hearings, if necessary, to ensure a full understanding of Federal plans and programs. This order was revised by Executive Order 11991, dated May 24, 1977, which provided for other agency involvement in issuing regulations for implementation of NEPA.

500.53 Executive Order 11988—Flood Plain Management

This executive order of May 24, 1977, directed Federal agencies to refrain from supporting development in flood plains. It revoked and replaced Executive Order 11296 issued August 10, 1966. It prescribes that alternatives be considered to avoid adverse effects and incompatible development in the flood plains. In addition, the Water Resources Council (WRC) has prepared Flood Plain Management Guidelines for implementing Executive Order 11988. They were published in the Federal Register (43 FR 6030) on February 10, 1978.

Watershed projects will be developed in full compliance with SCS rules and regulations for flood plain management, 7 CFR 650.25.

500.54 Executive Order 11990—Protection of Wetlands

The executive order of May 24, 1977, directed Federal agencies to avoid, to the extent possible, the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative.

Watershed projects will be developed in full compliance with SCS rules and regulations for Protection of Wetlands, 7 CFR 650.26.

500.55 Other executive orders

(a) **Executive Order 11593—Protection and Enhancement of the Cultural Environment**

This ensures that Federal plans and programs will contribute to the preservation and enhancement of nonfederally owned sites, structures, and objects of historical, architectural, and archeological significance.

(b) **Executive Order 12322—Water Resource Projects**

This requires that water resources projects be reviewed for technical adequacy by the Office of Management and Budget before they are submitted to Congress.

(c) **Executive Order 12372—Intergovernmental Review of Federal Programs**

This requires intergovernmental consultation with State and local officials.

Subpart 500F USDA regulations

500.60 USDA Regulation 9400-1—Rural Development

This regulation states the Department's policy of conducting programs that result in rural development with aggressive leadership and assistance to meet the following national rural development goals:

- Improve rural income levels and increase rural employment opportunities.
- Improve rural residents' access to adequate housing and essential community facilities and services.
- Provide a more equitable distribution of opportunities through targeting efforts on distressed areas, communities, and people.
- Create and implement a process for involving the private sector and local, State, and Federal agencies in establishing policies and programs that affect rural areas.
- Strengthen the planning, management, and decisionmaking capability of public and private institutions concerned with economic opportunity and quality of life in rural America.

500.61 USDA Regulation 9500-3—Land Use Policy

Departmental policy is to promote land use objectives responsive to current and long-term economic, social, and environmental needs. This policy recognizes the rights and responsibilities of State and local governments for regulating the uses of land under their jurisdiction. It also reflects the Department's responsibility to

- Assure that the United States retains a farm, range, and forest land base sufficient to produce adequate supplies, at reasonable production costs, of high-quality food, fiber, wood, and other agricultural products that may be needed.

- Assist individual landholders and State and local governments in defining and meeting needs for growth and development in such ways that the most productive farm, range, and forest lands are protected from unwarranted conversion to other uses.
- Assure appropriate levels of environmental quality.

500.62 USDA Regulation 9500-4— Fish and Wildlife Policy

The policy of the Department is to assure that the values of fish and wildlife are recognized and that their habitats, both terrestrial and aquatic, including wetlands, are recognized and enhanced, where possible, as the Department carries out its overall mission.

The Department will support research and management programs that respond to the economic, ecological, educational, recreational, scientific, and aesthetic values of fish and wildlife. A goal of the Department is to improve, where needed, fish and wildlife habitats and to ensure the presence of diverse, native and desired non-native populations of wildlife, fish, and plant species, while fully considering other Department missions, resources, and services.

Subpart 500G Codified rules and guidelines

500.70 Soil Conservation Service rules

SCS rules outline procedures for carrying out water resource activities. The rules that specifically cover the watershed protection and flood prevention programs are in 7 CFR 622 (exhibit 500-3). These rules are supported by this manual. Together they provide the policy for the implementation of the Public Law 83-566 and Public Law 78-534 programs.

Other topical manuals provide details for rules concerning real property rights, water rights, and construction permits (7 CFR 651); relocation assistance (7 CFR 652); technical standards (7 CFR 653); and operation and maintenance (7 CFR 654). The SCS General Manual provides details for rules concerning long-term contracting (7 CFR 630) and protection of cultural resources (420 GM 401). Rules that cover compliance with NEPA (7 CFR 650) are complete within themselves; they also appear in the General Manual. Procedures for project installation are detailed in the National Contracts, Grants, and Cooperative Agreements Manual.

500.71 Consistency policy

In May 1978 the Water Resources Council (WRC) adopted a policy that directed departments and agencies to ensure that projects that receive Federal funding are consistent with the appropriate regional water resource management plans (river basin plans).

500.72 Economic and environmental principles and guidelines for water and related land resources implementation studies (P&G) of March 10, 1983

(a) General

Principles and guidelines have been established as rules in accordance with the Water Resources Planning Act of 1965 (Public Law 89-80), as amended (42

U.S.C. 1962a-z). These guidelines establish uniform requirements to be followed by Federal agencies in formulating and evaluating alternative plans for Level C Implementation Studies. SCS water resources project plans are specifically mentioned for inclusion under these principles and guidelines.

(b) Principles

The principles are the basic concepts from which the guidelines are developed. They are intended to ensure proper and consistent planning by Federal agencies in the formulation and evaluation of water and related land resources implementation studies.

(c) Guidelines (procedures)

The guidelines establish the procedures for use in water resource planning and implement the principles discussed above. They are chapter I of the P&G.

(d) National Economic Development (NED) procedures

These WRC-developed procedures ensure that benefits and costs are estimated by using the best current techniques and are calculated accurately, consistently, and in compliance with P&G and other economic evaluation requirements. The NED procedures are chapter II of the P&G.

(e) Environmental Quality evaluation (EQ) procedures

These procedures (chapter III of the P&G) establish the process for identification and evaluation of EQ problems and the development of a plan. They require that effects be designated as adverse or beneficial and that the overall effect of the project be specified as either beneficial or adverse. The procedures are intended to aid in complying with NEPA requirements and to provide a basic analytical framework for focusing the concurrent integration of other related review, coordination, and consultation requirements into the planning process.

500.73 Channel modification guidelines

These guidelines were developed jointly by the USDA's SCS and the Fish and Wildlife Service of the U.S. Department of Interior (190-GM-410.27). They provide guidance on considering alternatives in channel modification to minimize environmental damage.



Subpart 500H Exhibits

Exhibit 500-1 Public Law 83-566 (as amended)—Watershed Protection and Flood Prevention Act, 1954**WATERSHED PROTECTION AND FLOOD
PREVENTION ACT, as amended*
AN ACT**

To authorize the Secretary of Agriculture to cooperate with States and local agencies in the planning and carrying out of works of improvement for soil conservation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That erosion, floodwater, and sediment damages in the watersheds of the rivers and streams of the United States, causing loss of life and damage to property, constitute a menace to the national welfare; and that it is the sense of Congress that the Federal Government should cooperate with States and their political subdivisions, soil or water conservation districts, flood prevention or control districts, and other local public agencies for the purpose of preventing such damages, of furthering the conservation, development, utilization, and disposal of water, and the conservation and utilization of land and thereby of preserving, protecting, and improving the Nation's land and water resources and the quality of the environment.

SEC. 2. For the purposes of this Act, the following terms shall mean:

The "Secretary"—the Secretary of Agriculture of the United States.

"Works of improvement"—any undertaking for—

- (1) flood prevention (including structural and land-treatment measures),
- (2) the conservation, development, utilization, and disposal of water, or

(3) the conservation and proper utilization of land in watershed or subwatershed areas not exceeding two hundred and fifty thousand acres and not including any single structure which provides more than twelve thousand five hundred acre-feet of floodwater detention capacity, and more than twenty-five thousand acre-feet of total capacity. No appropriation shall be made for any plan involving an estimated Federal contribution to construction costs in excess of \$5,000,000 or which includes any structure which provides more than twenty-five hundred acre-feet of total capacity unless such plan has been approved by resolutions adopted by the appropriate committees of the Senate and House of Representatives: Provided, That in the case of any plan involving no single structure providing more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Agriculture and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and in the case of any plan involving any single structure of more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Public Works of the Senate and the Committee on Public Works of the House of Representatives, respectively. A number of such subwatersheds when they are component parts of a larger watershed may be planned together when the local sponsoring organizations so desire. Each project must contain benefits directly related to agriculture, including rural communities, that account for at least 20 percent of the total benefits of the project.

Exhibit 500-1 Public Law 83-566 (as amended)—Watershed Protection and Flood Prevention Act, 1954—Continued

“Local organization”—any State, political subdivision thereof, soil or water conservation district, flood prevention or control district, or combinations thereof, or any other agency having authority under State law to carry out, maintain and operate the works of improvement; or any irrigation or reservoir company, water users’ association, or similar organization having such authority and not being operated for profit that may be approved by the Secretary; or any Indian tribe or tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), having authority under Federal, State, or Indian tribal law to carry out, maintain, and operate works of improvement.

SEC. 3. In order to assist local organizations in preparing and carrying out plans for works of improvement, the Secretary is authorized, upon application of local organizations if such application has been submitted to, and not disapproved within 45 days by, the State agency having supervisory responsibility over programs provided for in this Act, or by the Governor if there is no State agency having such responsibility-

- (1) to conduct such investigations and surveys as may be necessary to prepare plans for works of improvement;
- (2) to prepare plans and estimates required for adequate engineering evaluation;
- (3) to make allocations of costs to the various purposes to show the basis of such allocations and to determine whether benefits exceed costs;
- (4) to cooperate and enter into agreements with and to furnish financial and other assistance to local organizations: Provided: That, for the land-treatment measures, the Federal assistance shall not exceed the rate of assistance for similar practices under existing national programs;
- (5) to obtain the cooperation and assistance of other Federal agencies in carrying out the purposes of this section;
- (6) to enter into agreements with landowners, operators, and occupiers, individually or collectively, based on conservation plans of such landowners, cooperators, and occupiers which are developed in cooperation with and approved by the soil and water conservation district in which the land described in the agreement is situated, to be carried out on such land during a period of not to exceed ten years, providing for changes in cropping systems and land uses and for the installation of soil and water conservation practices and measures needed to conserve and develop the soil, water, woodland, wildlife, energy, and recreation resources of, and enhance the water quality of, lands within the area included in plans for works of improvement, as provided for in such plans, including watershed or subwatershed work plans in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented. Applications for assistance in developing such conservation plans shall be made in writing to the soil and water conservation district involved, and the proposed agreement shall be reviewed by such district. In return for such agreements by landowners, operators, and occupiers the Secretary shall agree to share the costs of carrying out those practices and measures set forth in the agreement for which he determines that cost sharing is appropriate and in the public interest. The portion of such costs, including labor, to be shared shall be that part which the Secretary determines is appropriate and in the public interest for the carrying out of the practices and measures

Exhibit 500-1 Public Law 83-566 (as amended)—Watershed Protection and Flood Prevention Act, 1954—Continued

set forth in the agreement, except that the Federal assistance shall not exceed the rate of assistance for similar practices and measures under existing national programs. The Secretary may terminate any agreement with a landowner, operator, or occupier by mutual agreement if the Secretary determines that such termination would be in the public interest, and may agree to such modifications of agreements, previously entered into hereunder, as he deems desirable to carry out the purposes of this paragraph or to facilitate the practical administration of the agreements provided for herein. Notwithstanding any other provision of law, the Secretary, to the extent he deems it desirable to carry out the purposes of this paragraph, may provide in any agreement hereunder for (a) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of any crop; or (b) surrender of any such history and allotments.

SEC. 3A. Cost-share assistance

(1) Easements—The Secretary may provide cost share assistance to project sponsors to enable such sponsors to acquire perpetual wetland or flood plain conservation easements to perpetuate, restore and enhance the natural capability of wetlands and flood plains to retain excessive floodwaters, improve water quality and quantity, and provide habitat for fish and wildlife.

(2) Amount—The Secretary shall require that project sponsors of watershed projects provide up to 50 percent of the cost of acquiring easements under subsection (1).

SEC. 4. The Secretary shall require as a condition to providing Federal assistance for the installation of works of improvement that local organizations shall—

(1) acquire, or with respect to interests in land to be acquired by condemnation provide assurances satisfactory to the Secretary that they will acquire, without cost to the Federal Government from funds appropriated for the purposes of this Act, such land, easements, or rights-of-way as will be needed in connection with works of improvement installed with Federal assistance: Provided, That when a local organization agrees to operate and maintain any reservoir or other area included in a plan for public fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the local organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: Provided further, That the Secretary shall be authorized to participate in recreational development in any watershed project only to the extent that the need therefor is demonstrated in accordance with standards established by him, taking into account the anticipated man-days of use of the projected recreational development and giving consideration to the availability within the region of existing water-based outdoor recreational developments: Provided further, That the Secretary shall be authorized to participate in not more than one recreational development in a watershed project containing less than seventy-five thousand acres, or two such developments in a project containing between seventy-five thousand and one hundred and fifty thousand acres, or three such developments in projects exceeding one hundred and fifty thousand acres: Provided further, That

Exhibit 500-1 Public Law 83-566 (as amended)—Watershed Protection and Flood Prevention Act, 1954—Continued

when the Secretary and a local organization have agreed that the immediate acquisition by the local organization of land, easements, or rights-of-way is advisable for the preservation of sites for works of improvement included in a plan from encroachment by residential, commercial, industrial, or other development, the Secretary shall be authorized to advance to the local organization from funds appropriated for construction of works of improvement the amounts required for the acquisition of such land, easements or rights-of-way; and, except where such costs are to be borne by the Secretary, such advance shall be repaid by the local organization, with interest, prior to construction of the works of improvement, for credit to such construction funds: Provided further, That the Secretary shall be authorized to bear an amount not to exceed one-half of the costs of the land, easements, or rights-of-way acquired or to be acquired by the local organization for mitigation of fish and wildlife habitat losses, and that such acquisition is not limited to the confines of the watershed project boundaries;

(2) assume (a) such proportionate share, as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purpose under other Federal programs, of the costs of installing any works of improvement, involving Federal assistance (excluding engineering costs), which is applicable to the agricultural phases of the conservation, development, utilization, and disposal of water or for fish and wildlife development, recreational development, ground water recharge, water quality management, or the conservation and proper utilization of land: Provided, That works of improvement for water quality management shall consist primarily of water storage capacity in reservoirs for regulation of streamflow, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source, and shall be consistent with standards and regulations adopted by the Water Resources Council on Federal cost sharing for water quality management, and (b) all of the cost of installing any portion of such works applicable to other purposes except that any part of the construction cost (including engineering costs) applicable to flood prevention and features relating thereto shall be borne by the Federal Government and paid for by the Secretary out of funds appropriated for the purpose of this Act: Provided, That, in addition to and without limitation on the authority of Secretary to make loans or advancements under section 8, the Secretary may pay for any storage of water for present or anticipated future demands or needs for municipal or industrial water included in any reservoir structure constructed or modified under the provisions of this Act as hereinafter provided: Provided further, That the cost of water storage to meet future demands may not exceed 30 per centum of the total estimated cost of such reservoir structure and the local organization shall give reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment within the life of the reservoir structure of the cost of such storage: Provided further, That the Secretary shall determine prior to initiation of construction or modification of any reservoir structure including such water supply storage that there are adequate assurances by the local organization or by an agency of the State having authority to give such assurances, that the Secretary will be reimbursed the cost of water supply storage for anticipated future demands, and that the local organization will pay not less than 50 per centum of the cost of storage for present water supply demands: And provided further, That the cost to be borne by the local organization for anticipated future demands may be repaid within the life of the reservoir structure but in no event to exceed fifty years after the reservoir structure is first used for the storage of water for anticipated future water supply demands, except that

(a) no reimbursement of the cost of such water supply storage for anticipated future demands need be made until such supply is first used, and

Exhibit 500-1 Public Law 83-566 (as amended)—Watershed Protection and Flood Prevention Act, 1954—Continued

(b) no interest shall be charged on the cost of such water supply storage for anticipated future demands until such supply is first used but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be determined in accordance with the provisions of section 8.

(3) make arrangements satisfactory to the Secretary for defraying costs of operating and maintaining such works of improvement, in accordance with regulations presented by the Secretary of Agriculture.

(4) acquire, or provide assurance that landowners or water users have acquired, such water rights, pursuant to State law, as may be needed in the installation and operation of the work of improvement.

(5) obtain agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than 50 per centum of the lands situated in the drainage area above each retention reservoir to be installed with Federal assistance; and

(6) submit a plan of repayment satisfactory to the Secretary for any loan or advancement made under the provisions of section 8.

SEC. 5.

(1) At such time as the Secretary and the interested local organization have agreed on a plan for works of improvement, and the Secretary has determined that the benefits exceed the costs, and the local organization has met the requirements for participation in carrying out the works of improvement as set forth in Section 4, the local organization may secure engineering and other services, including the design, preparation of contracts and specifications, awarding of contracts, and supervision of construction, in connection with such works of improvement, by retaining or employing a professional engineer or engineers satisfactory to the Secretary or may request the Secretary to provide such services: Provided, That if the local organization elects to employ a professional engineer or engineers, the Secretary shall reimburse the local organization for the costs of such engineering and other services secured by the local organization as are properly chargeable to such works of improvement in an amount not to exceed the amount agreed upon in the plan for works of improvement of or any modification thereof: Provided further, That the Secretary may advance such amounts as may be necessary to pay for such services, but such advances with respect to any works of improvement shall not exceed 5 per centum of the estimated installation cost of such works.

(2) Except as to the installation of works of improvement on Federal lands, the Secretary shall not construct or enter into any contract for the construction of any structure: Provided, That if requested to do so by the local organization, the Secretary may enter into contracts for the construction of structures.

(3) Whenever the estimated Federal contribution to the construction cost of works of improvement in the plan for any watershed or subwatershed area shall exceed \$5,000,000 or the works of improvement include any structure having a total capacity in excess of twenty-five hundred acre-feet, the Secretary shall transmit a copy of the plan and the justification therefor to the Congress through the President.

Exhibit 500-1 Public Law 83-566 (as amended)—Watershed Protection and Flood Prevention Act, 1954—Continued

(4) Any plan for works of improvement involving an estimated Federal contribution to construction costs in excess of \$5,000,000 or including any structure having a total capacity in excess of twenty-five hundred acre-feet

(a) which includes works of improvement for reclamation or irrigation, or which affects public or other lands or wildlife under the jurisdiction of the Secretary of the Interior,

(b) which includes Federal assistance for floodwater detention structures,

(c) which includes features which may affect the public health, or

(d) which includes measures for control or abatement of water pollution, shall be submitted to the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, or the Administrator of the Environmental Protection Agency, respectively, for his views and recommendations at least thirty days prior to transmission of the plan to the Congress through the President. The views and recommendations of the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency, if received by the Secretary prior to the expiration of the above thirty-day period, shall accompany the plan transmitted by the Secretary to the Congress through the President.

(5) Prior to any Federal participation in the works of improvement under this Act, the President shall issue such rules and regulations as he deems necessary or desirable to carry out the purposes of this Act, and to assure the coordination of the work authorized under this Act and related work of other agencies, including the Department of the Interior and the Department of the Army.

SEC. 6. The Secretary is authorized in cooperation with other Federal and with States and local agencies to make investigations and surveys of the watersheds of rivers and other waterways as a basis for the development of coordinated programs. In areas where the programs of the Secretary of Agriculture may affect public or other lands under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior is authorized to cooperate with the Secretary of Agriculture in the planning and development of works or programs for such lands.

SEC. 7. The provisions of the Act of June 22, 1936 (49 Stat. 1570), as amended and supplemented, conferring authority upon the Department of Agriculture under the direction of the Secretary of Agriculture to make preliminary examinations and surveys and to prosecute works of improvement for runoff and waterflow retardation and soil erosion prevention in the watersheds of rivers and other waterways are hereby repealed: Provided, That (a) the authority of that Department of Agriculture, under the direction of the Secretary, to prosecute the works of improvement for runoff and waterflow retardation and soil erosion prevention authorization to be carried out by the Department by the Act of December 22, 1944 (58 Stat. 887), as amended, and (b) the authority of the Secretary of Agriculture to undertake emergency measures for runoff retardation and soil erosion prevention authorized to be carried out by section 7 of the Act of June 28, 1938 (52 Stat. 1215), as amended by section 216 of the Act of May 17, 1950 (64 Stat. 163), shall not be affected by the provisions of this section: Provided further, That in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887),

Exhibit 500-1 Public Law 83-566 (as amended)—Watershed Protection and Flood Prevention Act, 1954—Continued

as amended and supplemented, the Secretary of Agriculture is authorized to prosecute additional works of improvement for the conservation, development, utilization, and disposal of water in accordance with the provisions of section 4 of this Act or any amendments hereafter made thereto.

SEC. 8. The Secretary is authorized to make loans or advancements (a) to local organizations to finance the local share of costs of carrying out works of improvement provided for in this Act, and (b) to State and local agencies to finance the local share of carrying out works of improvement (as defined in section 2 of this Act) in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented: Provided, That the works of improvement in connection with said eleven watershed improvement programs shall be integral parts of watershed or subwatershed work plans agreed upon by the Secretary of Agriculture and concerned State and local agencies. Such loans or advancements shall be made under contracts or agreements which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than fifty years from the date when the principal benefits of the works of improvement first become available, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which the loan or advancement is made, which are neither due nor callable for redemption for fifteen years from date of issue. With respect to any single plan for works of improvement, the amount of any such loan or advancement shall not exceed \$10,000,000.

SEC. 9. The provisions of this Act shall be applicable to Hawaii, Alaska, Puerto Rico, and the Virgin Islands.

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, such sums to remain available until expended. No appropriation hereafter available for assisting local organizations in preparing and carrying out plans for works of improvement under the provisions of section 3 or clause (a) of section 8 of this Act shall be available for any works of improvement pursuant to this Act or otherwise in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented, or for making loans or advancements to State and local agencies as authorized by clause (b) of section 8.

SEC. 11. This Act may be cited as the "Watershed Protection and Flood Prevention Act".

SEC. 12. When the Secretary approves the furnishing of assistance to a local organization in preparing a plan for works of improvement as provided for in section 3:

(1) The Secretary shall so notify the Secretary of the Interior in order that the latter, as he desires, may make surveys and investigations and prepare a report with recommendations concerning the conservation and development of wildlife resources and participate, under arrangements satisfactory to the Secretary of Agriculture, in the preparation of a plan for works of improvement that is acceptable to the local organization and the Secretary of Agriculture.

(2) Full consideration shall be given to the recommendations contained in any such report of the Secretary of the Interior as he may submit to the Secretary of Agriculture prior to the time the local organization and the Secretary of Agriculture have agreed on a plan for works of improvement. The plan shall

Exhibit 500-1 Public Law 83-566 (as amended)—Watershed Protection and Flood Prevention Act, 1954—Continued

include such of the technically and economically feasible works of improvement for wildlife purposes recommended in the report by the Secretary of the Interior as are acceptable to, and agreed to, by the local organization and the Secretary of Agriculture, and such report of the Secretary of the Interior shall, if requested by the Secretary of the Interior, accompany the plan for works of improvement when it is submitted to the Secretary of Agriculture for approval or transmitted to the Congress through the President.

(3) The cost of making surveys and investigations and of preparing reports concerning the conservation and development of wildlife resources shall be borne by the Secretary of the Interior out of funds appropriated to his Department.

SEC. 13. DATA. The Secretary shall collect and maintain data on a national and State by State basis concerning -

(1) expenditures for the individual flood control and conservation measures for which assistance is provided under this Act; and

(2) the expected flood control or environmental (including soil erosion) benefits that will result from the implementation of such measures.

As amended November 1990 (Includes provisions of the 1990 Farm Bill)

* (Public Law 83-566, 83d Cong., 68 Stat. 666; Public Law 84-1018, 84th Cong., 70 Stat. 1088; Public Law 85-624, 85th Cong., 72 Stat. 563; Public Law 85-865, 85th Cong., 72 Stat. 1605; Public Law 86-468, 86th Cong., 74 Stat. 131, 132; Public Law 86-545, 86th Cong., 74 Stat. 254; Public Law 87-170, 87th Cong., 75 Stat. 408; Public Law 87-703, 87th Cong., 76 Stat. 608; Public Law 89-337, 89th Cong., 79 Stat. 1300; Public Law 90-361, 90th Cong., 82 Stat. 250; Public Law 92-419, 92d Cong., 86 Stat. 667; Public Law 95-113, 95th Cong., 91 Stat. 913; Public Law 97-98, 97th Cong., 95 Stat. 1213; Public Law 99-662, 99th Cong., 100 Stat. 4196; Public Law 101-624, 101st Cong., 104 Stat. 3359.)

Exhibit 500-2 Executive Order 10584, as supplemented

**TEXT OF EXECUTIVE ORDER NO. 10584 OF
DECEMBER 18, 1954, PRESCRIBING RULES AND
REGULATIONS RELATING TO THE ADMINISTRATION OF
THE WATERSHED PROTECTION AND FLOOD PREVENTION
ACT AS AMENDED AND SUPPLEMENTED BY EXECUTIVE
ORDER NO. 10913 of JANUARY 18, 1961**

By virtue of the authority vested in me by the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001 et seq.), and as President of the United States, it is ordered that Executive Order No. 10584 of December 18, 1954, be, and it is hereby, amended by deleting sections 1, 2, 3, and 4 thereof, by renumbering sections 5 and 6 thereof as sections 6 and 7, respectively, and by substituting the following new sections:

“Section 1. Scope of order. This order shall apply (a) to the planning, construction, operation, and maintenance of all works of improvement under the authority of the Watershed Protection and Flood Prevention Act (Public Law 83-566, approved August 4, 1954, as amended; 16 U.S.C. 1001 et seq.), hereinafter referred to as the Act, and (b) to other programs and projects of the Department of Agriculture, and to programs and projects of the Department of the Interior, the Department of the Army, and other Federal agencies to the extent that such programs or projects affect, or are affected significantly by, works of improvement provided for in the Act.

“Sec. 2. General administration. The Secretary of Agriculture shall have the following-described responsibilities under the Act:

“(a) Approval or disapproval of applications for Federal assistance in preparing plans for works of improvement, and the assignment of priorities for the provision of such assistance.

“(b) Establishing criteria for the formulation and justification of plans for works of improvement and criteria for the sharing of the cost of both structural and land-treatment measures which conform with the provisions of the Act and with policies established by or at the direction of the President for watershed protection, flood prevention, irrigation, drainage, water supply, and related water-resources development purposes.

“(c) Establishing engineering and economic standards and objectives, including standards as to degrees of flood protection, for works of improvement planned and carried out under the authority of the Act.

“(d) Determination and definition of (1) those land-treatment measures and structural improvements for flood prevention and measures for the agricultural phases of conservation, development, use and disposal of water or for fish and wildlife development which are eligible for assistance under the Act, and (2) the nature and extent of such assistance and the conditions under which such assistance shall be rendered.

Exhibit 500-2 Executive Order 10584, as supplemented—Continued

“(e) Planning and installing works of improvement on lands under his jurisdiction, and arranging for the participation of other Federal agencies in the planning and installation of works of improvement on lands under their jurisdiction. Recommendations of the heads of other Federal agencies for necessary works of improvement on lands under their jurisdiction shall be submitted as an integral part of the plans of the Department of Agriculture for works of improvement. Arrangements for construction, operation, and maintenance of works of improvement on such lands shall be mutually satisfactory to the Secretary of Agriculture and the head of the Federal agency concerned.

“(f) Submitting plans for works of improvement to the State Governor or Governors concerned and to the Federal agencies concerned for review and comment when the Secretary and the interested local organization have agreed on such plans; and, when and as required by the Act, submitting such plans to the Secretary of the Interior and the Secretary of the Army for their review and comment prior to transmission of the plans to the Congress through the President.

“(g) Giving full consideration to the recommendations concerning the conservation and development of fish and wildlife resources contained in any report of the Secretary of the Interior which is submitted to him, in accordance with section 12 of the Act and section 5 of this order, prior to the time he and the local organization have agreed on a plan for works of improvement, and including in the plan such works of improvement for fish and wildlife purposes recommended in the report as are acceptable to him and the local organization.

“(h) Holding public hearings at suitable times and places when he determines that such action will further the purposes of the Act.

“Sec. 3. Notification

(a) The Secretary of Agriculture shall:

“(1) Notify in writing the State Governor or Governors concerned, the Secretary of the Interior, the Secretary of the Army, and other Federal agencies concerned of his decision to initiate any survey or field investigation involving water-resources development work, and furnish them with appropriate information regarding the scope, nature, status, and results of such survey or investigation.

“(2) Notify the following, severally, in writing of all approvals or disapprovals of applications for planning assistance: the sponsoring organization, the State Governor or Governors concerned, the Secretary of the Interior, the Secretary of the Army, and other Federal agencies concerned.

“(b) The Secretary of the Interior shall notify in writing the State Governor or Governors concerned, the Secretary of Agriculture, the Secretary of the Army, and other Federal agencies concerned of his decision to initiate any survey or field investigation involving water-resources development work, and furnish them with appropriate information regarding the scope, nature, status, and results of such survey or investigation.

Exhibit 500-2 Executive Order 10584, as supplemented—Continued

“(c) The Secretary of the Army shall notify in writing the State Governor or Governors concerned, the Secretary of Agriculture, the Secretary of the Interior, and other Federal agencies concerned of his decision to initiate any survey or field investigation involving water-resources development work, and furnish them with appropriate information regarding the scope, nature, status, and results of such survey or investigation.

“Sec. 4. Coordination. In order to assure the coordination of work authorized under the Act and the related work of other agencies, so that the proper use, conservation, and development of water and related land resources through Federal programs and financial assistance may be achieved in the most orderly, economical, and effective manner.

“(a) The Secretary of Agriculture, before authorizing planning assistance in response to an application from a local organization for assistance under the Act, shall:

“(1) When an application applies to a watershed located in one of the seventeen western reclamation States or Hawaii and it appears that a major objective is the agricultural phase of the conservation, development, utilization, and disposal of water for irrigation purposes, request the views of the Secretary of the Interior concerning the feasibility of achieving equivalent irrigation benefits by means of works of improvement constructed pursuant to the Reclamation Act of June 17, 1902 (43 U.S.C. 391), and acts ambulatory or supplementary thereto, or by means of assistance furnished pursuant to the Small Reclamation Projects Act of 1956, as amended (43 U.S.C. 422a-422k), and authorize planning assistance under the Act only after carefully considering whether works of improvement under the Act would be a more appropriate method of achieving that objective.

“(2) When it appears that a major objective of an application is the reduction of flood damages in urban areas (as defined in the most recent census), request the views of the Secretary of the Army concerning the feasibility of achieving equivalent urban flood protection benefits by means of works of improvement constructed pursuant to the Flood Control Act of March 1, 1917 (39 Stat. 948), the Flood Control Act of May 15, 1928, 45 Stat. 534), the Flood Control Act of June 22, 1936 (49 Stat. 1570), or acts ambulatory or supplementary thereto, and authorize planning assistance under the Act only after carefully considering whether works of improvement under the Act would be a more appropriate method of achieving that objective.

“(3) When an application applies to a watershed located in the Tennessee River drainage basin, request the views of the Board of Directors of the Tennessee Valley Authority concerning the feasibility of achieving the objectives of the application by means of works of improvement for flood control or watershed protection constructed under the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831 et seq.), and authorize planning assistance under the Act only after carefully considering whether works of improvement under the Act would be a more appropriate method of achieving such objectives; and when such planning assistance is authorized, consult with the Tennessee Valley Authority throughout all phases of project development concerning the relationship of works of improvement under the Act to the unified development and regulation of the Tennessee River system.

“(b) The Secretary of the Interior shall, prior to undertaking any survey or field investigation under the Reclamation Act of June 17, 1902 (43 U.S.C. 391), and acts ambulatory or supplementary thereto, or

Exhibit 500-2 Executive Order 10584, as supplemented—Continued

prior to initiating investigations after receipt of a Notice of Intent to apply for a loan under the Small Reclamation Projects Act of 1956, as amended (43 U.S.C. 422a-422k), relating to works of improvement wholly within a watershed or subwatershed area of not more than 250,000 acres, request the views of the Secretary of Agriculture concerning the feasibility of achieving the major objectives of the project proposal by means of Federal assistance furnished pursuant to the Act, and submit a report on such a survey or field investigation or approve such application for assistance only after carefully considering whether works of improvement under his authorities would be a more appropriate method of achieving such objectives.

“(c) The Secretary of the Army shall, prior to undertaking any survey or field investigation pursuant to the Flood Control Act of March 1, 1917 (39 Stat. 948), the Flood Control Act of May 15, 1928 (45 Stat. 534), the Flood Control Act of June 22, 1936 (49 Stat. 1570), and acts ambulatory or supplementary thereto, relating to works of improvement wholly within a watershed or subwatershed area of not more than 250,000 acres, request the views of the Secretary of Agriculture concerning the feasibility of achieving the major objectives of the project proposal by means of Federal assistance furnished pursuant to the Act, and submit a report on such survey or field investigation only after carefully considering whether works of improvement under his authorities would be a more appropriate method of achieving such objectives.

“(d) The Board of Directors of the Tennessee Valley Authority shall, prior to undertaking any survey or field investigation under the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831 et seq.), relating to works of improvement for flood control or watershed protection to be installed wholly within a watershed or subwatershed area of not more than 250,000 acres, request the views of the Secretary of Agriculture concerning the feasibility of achieving the major objectives of the works of improvement for flood control or watershed protection by means of works of improvement constructed under the Act, and proceed with such survey or investigation only after carefully considering whether works of improvement under the Tennessee Valley Authority Act would be a more appropriate method of achieving such objectives.

“(e) Whenever the foregoing provisions of this section require an agency head to request the views of another agency head, such request shall be effected prior to the making of any commitment to local interests, and local interests shall be informed at the outset of negotiations that any plan resulting therefrom is subject to coordination as required by this section.

“(f) When any agency having responsibilities for water resources development is considering the initiation of surveys or field investigations in a watershed or subwatershed area of not more than 250,000 acres and it appears that the purposes to be served by the project under investigation could more advantageously be met by means of a combination of works of improvement under the statutory authority available to that and other agencies, the appropriate agency head shall consider with the other agency heads concerned and the cooperating local interests the feasibility of preparing a jointly developed plan for coordinated action under available statutory authority.

“Sec. 5. Fish and wildlife development. Upon receipt of the notice required by section 12 of the Act and section 3(a)(l) of this order, the Secretary of the Interior, as he desires, may make surveys and investigations and prepare a report with recommendations concerning the conservation and development of fish and wildlife resources and participate, under arrangements satisfactory to the Secretary of Agriculture, in the preparation of a plan for works of improvement which will be acceptable to the local organization and the Secretary of Agriculture.”

Exhibit 500-2 Executive Order 10584, as supplemented—Continued

Sec. 6. Relationship to comprehensive development

(a) The Secretary of Agriculture shall submit plans for installation of works of improvement under the Act to the Congress through the President only if the Secretary is satisfied that such works constitute needed and harmonious elements in the comprehensive development of the river subbasin or river basin involved.

(b) Federal agencies having responsibilities for water resource developments shall, in the design and justification of works of improvement, take cognizance of all upstream and downstream works in place and in operation, or soon to be brought into operation. The guiding principle shall be to adjust the nature, capacity, and operating characteristics of works of improvement in a manner that (1) reflects the respective contributions of upstream and downstream works to flood protection and to the conservation, development, use, and disposal of water, and (2) provides the best use and control of water resources at minimum cost: Whenever approximately equivalent benefits can be obtained from alternative works of improvement or combinations of improvements, with approximately the same cost, the alternative or combination least costly to the Federal Government shall be given preferential consideration. In case benefits are produced jointly by more than one work of improvement, or in case complementary relationships exist between the projects and plans of the several agencies, the benefits claimed in justification of a system of improvements shall not include any duplication or compounding of benefits.

Sec. 7. Basic data. In the utilization of existing basic physical and economic data, and in the acquisition of additional basic data required for planning, design, construction, operation and evaluation of works of improvement authorized under the Act, the Department of Agriculture shall be assisted by the principal basic-data collection agencies, including the Geological Survey in the Department of the Interior and the Weather Bureau in the Department of Commerce. The basic-data collection agencies shall assist and cooperate with the Department of Agriculture with respect to the following:

- (a) Provision of pertinent information in the preliminary planning of works of improvement.
- (b) Collaboration in planning programs of hydrologic-data collection in project areas, in the selection of station sites and installation of equipment for collecting hydrologic data, and in the collection of such data.
- (c) Collaboration in the analysis and interpretation of hydrologic data collected specifically for projects initiated under the Act, and of relevant data which may contribute to an analysis of the effects of such projects.

Exhibit 500-3 Codified Rule—7 CFR 622 Watershed Projects

(As published in the Federal Register, Volume 49, No. 34, Friday, February 17, 1984, Rules and Regulations.)

**Soil Conservation Service
7 CFR Parts 620, 622, 623
Water Resources; Watershed Projects
Action: Final rule**

Summary: This rule prescribes the general procedures for implementation of the Watershed Protection and Flood Prevention Program under the authority of Public Law 83-566 and those under the authority of Public Law 78-534. 7 CFR Parts 620 and 623 are being removed and reserved, as the information contained in these parts is now included in 7 CFR Part 622. Incorporating the material in 7 CFR simplifies and clarifies the rule by eliminating unnecessary detail and repetitious wording. These changes will result in a more accurate and usable regulation. The need for separate rules no longer exists

Effective Date: March 19, 1984.

For further information contact:

Edgar H. Nelson, Director, Basin and Area Planning Division,
Soil Conservation Service, USDA, P.O. Box 2890,
Washington, D.C. 20013.

Supplementary Information:

I. General

Public Law 83-566 and Public Law 78-534 authorize the Secretary of Agriculture to cooperate with State and local agencies in the planning and carrying out of works of improvement for flood prevention; for the conservation, development, utilization and disposal of water; and for the conservation and proper utilization of land in watershed or subwatershed areas. Under Public Law 83-566, these areas shall not exceed 250,000 acres; there is no limitation on acres for Public Law 78-534. The Secretary of Agriculture has delegated authority for administration of the Act to the Chief of the Soil Conservation Service (SCS) with two exceptions: (a) The Administrator of Farmers Home Administration (FmHA) has responsibility for administering Sec. 8 of the Act and those functions with respect to repayment obligations under section 4 and (b) The Chief of the FS administers the forestry aspects of the Act under such general program criteria and procedures as may be established by the Chief of SCS.

This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 to implement Executive Order 12291 and has been classified "nonmajor."

It will not affect the national economy by \$100 million or more, nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions. It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Peter C. Myers, Chief, Soil Conservation Service has deter-

Exhibit 500-3 Codified Rule—7 CFR 622 Watershed Projects—Continued

mined that this action will not have a significant economic impact on a substantial number of small entities.

There will be no major increase in cost or prices for consumers, individuals, industries, Federal, State or local government agencies, or geographic regions.

The rule will govern a program of technical and financial assistance in which participation is voluntary. Thus, it will not impose an unnecessary regulatory, information or compliance burden on small businesses, organizations, or governmental jurisdictions as defined in the Regulatory Flexibility Act Public Law 96-354 (5 U.S.C. 601).

II. Discussion of Comments

On April 19, 1983, SCS published a proposed rule (48 FR 16691) to revise its regulations for the watershed programs. This rule also covered the cancellation of 7 CFR Part 620 and 7 CFR Part 623 since this information is covered in 7 CFR Part 622. At that time, SCS solicited written comments from interested persons regarding the proposed revisions. The public comment period ended on June 20, 1983. Comments were received from three state environmental agencies, one regional environmental agency, four environmental advocacy organizations, and one Federal agency. A summary of the comments and SCS responses are as follows:

Comment 1: The most universal comment received from environmental organizations was concern over the loss of the environmental objective as a coequal objective in planning. The primary concern is that environmental concerns will not receive equal treatment during planning.

Response: It is not the intent of this rule to change the method of planning to exclude consideration of the environment. This regulation provides several mechanisms for the consideration of environmental concerns during the planning effort.

The Economic and Environmental Principles and Guidelines for Water and Related Resources Implementation Studies (P&G) issued by the Water Resources Council set the policy for planning watershed projects. SCS is committed to following the P&G along with regulations issued by the Council on Environmental Quality for complying with Public Law 91-190 National Environmental Policy Act (NEPA). By using both sets of guidelines, watershed plans will be developed which reasonably maximizes net national economic benefits while at the same time minimize adverse environmental impacts. This is consistent with the Federal objective of water and related land resources planning which "is to contribute to national economic development consistent with protecting the Nation's environment, pursuant to national environmental statutes, applicable executive orders and other Federal planning requirements."

These guidelines also make it clear that any alternative plans (including the NED plan) will "include appropriate mitigation of adverse environmental effects." Using the environmental quality account and the impacts section, environmental effects will be accounted for in the analysis and the plan. Another key point is covered under the State and local concerns of the Principles and Guidelines. Alternative plans can be developed to address State and local concerns when their concerns are not fully addressed by the NED plan. In this regard, environmental concerns can be raised and thus examined in the planning effort.

Exhibit 500-3 Codified Rule—7 CFR 622 Watershed Projects—Continued

Comment 2: Several comments were received which took exception to the deletion of Section 622.2(c) and (d) which addressed planning with environmental considerations and the input of other agencies.

Response: The two paragraphs of concern have been reincorporated in the rule as part of a new subpart: Subpart D—Planning.

Comment 3: Many comments were received indicating the new rule eliminates planning guidance and the new Section 622.4 does not convey any substantial information. Suggestions were made to go back to the existing rule or at least be more explicit.

Response: Section 622.4 was incorporated into the rule to cover all planning procedures which are to be followed in the watershed program. By including all references, the need for repeating information available from other sources is eliminated. The SCS intends to continue complying with all rules, regulations, and legislative mandates which affect the program. The last sentence of Section 622.4 has been changed to more clearly convey this intent.

Comment 4: One of those commenting disagreed with the decision that this is a nonmajor action and therefore, should have a program environmental impact statement.

Response: A major Federal action is defined as a change in the regulations which will result in an effect on the national economy of \$100 million or more. Although the watershed program is funded on the average of more than \$100 million, these proposed rule changes will not cause any change in the funding or any change which would have more than a \$100 million impact (see Supplementary Information at the beginning of this rule.) Therefore, under USDA procedures established in Secretary's Memorandum 1512-1 which implement Executive order 12291, this change has been classified as "nonmajor."

Comment 5: Most of those commenting were concerned over the change in the rule which states that projects must reasonably maximize "net national economic benefits" rather than just have benefits which are greater than the costs as in the former rule.

Response: The rule has been changed to indicate that net national economic benefits would be the criteria because of the changes put into effect with the approval of the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (P&G). The Principles state that "A plan recommending Federal action is to be the alternative plan with the greatest net economic benefit consistent with protecting the Nation's environment (the NED plan) is to be selected unless the Secretary of a department or head of an independent agency grants an exception . . ." The SCS has no choice but to follow the P&G. However, Public Law 83-566 requires that the benefits be greater than the costs, and therefore, a benefit-cost ratio will normally be developed for each water resource project plan.

Comment 6: There also were concerns over the elimination of the detail and protective language (planning procedures, environmental concerns, etc.) in the existing rule. Many of those who commented felt that substantive parts of the existing rule should be retained.

Response: This simplification of the rule was carried out in accordance with Executive Order 12291 and Departmental and Office of Management and Budget guidelines. Detailed policy and procedural matters

Exhibit 500-3 Codified Rule—7 CFR 622 Watershed Projects—Continued

are reserved for departmental and agency directives and manuals. The SCS will continue to utilize the most up-to-date planning and implementation procedures that have evolved from experiences over the years in the soil and water resource arena.

Comment 7: Several sections dealing with the priority of considering measures have been eliminated. It has been suggested that the consideration of land treatment should be first and channel work the last measure considered. This concept should be retained in the proposed rule.

Response: According to the procedures outlined in the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, all possible solutions shall be considered to determine the one which maximizes net NED benefits. This is interpreted to mean that all measures must be considered in order to formulate the National Economic Development Plan.

Comment 8: Several comments indicate that the rule seems to imply that other agencies will be left out of the planning process.

Response: As a result of the comments received, Section 622.3 has been changed to clarify this point. Section 12 of Public Law 83-566, which requires coordination with the Fish and Wildlife Service and specifically refers to coordination with land management agencies when Federal lands are involved, is now cited in the rule.

Comment 9: The rule appears to require SCS to do all the design work for municipal and industrial (M&I) water supply structures.

Response: SCS's requirements for design of M&I water supply structures have not been changed by this proposed rule. Design work for an M&I structure will continue to be done by private consultants or the sponsor's own engineers.

Comment 10: Several reviewers suggested Subpart D— Planning and Approval be retained in the rule.

Response: As a result of this and other similar comments. Subpart D—Planning has been added to the proposed rule. The step-by-step procedures dropped from the old rule are now replaced with an overview of the planning and review process.

Comment 11: The proposed rule states that 7 CFR 623 is being cancelled but there is nothing in the rule that indicates the differences between the watershed program (Public Law 83-566) and the flood prevention program (Public Law 78-534).

Response: Section 622.3 has been added to the rule to summarize the differences between the programs.

Comment 12: The rule does not state that the programs will be operated so as not to be discriminatory.

Response: Section 622.6 on equal opportunity has been added to the rule.

Exhibit 500-3 Codified Rule—7 CFR 622 Watershed Projects—Continued

LIST OF SUBJECTS**7 CFR Part 620**

Soil conservation. Water resources.

7 CFR Part 622

Watersheds. Flood Prevention. Technical assistance. Soil conservation. Grant programs-natural resources. Loan programs-natural resources.

7 CFR Part 623

Flood assistance.

Dated January 11, 1984.

Peter C. Myers

Chief, Soil Conservation Service

Accordingly, Chapter VI of Title 7 is amended by removing and reserving Parts 620 and 623 and by revising Part 622 to read as follows:

PART 620—(RESERVED)**PART 622—WATERSHED PROJECTS****Subpart A—General**

Sec.

622.1 Purpose.

622.2 Scope.

622.3 Relationship to the Public Law 78-534 Program.

622.4 Relationship to other agencies.

622.5 Guidelines.

622.6 Equal opportunity.

622.7 Notification under Executive Order 12372.

Subpart B—Qualifications

622.10 Sponsors.

622.11 Eligible watershed projects.

Subpart C—Application Procedure

622.20 Application.

622.21 State agency approval.

Exhibit 500-3 Codified Rule—7 CFR 622 Watershed Projects—Continued**Subpart D—Planning**

622.30 General

622.31 Basic planning efforts

622.32 Reviews and approvals

Authority: Public Law 83-566, 68 Stat. 666 as amended (16 U.S.C. 1001 et seq.); Public Law 78-534, 58 Stat. 889, (33 U.S.C. 701b-1.)

Subpart A—General**622.1 Purpose**

This part sets forth the general policies for planning and carrying out watershed projects under Public Law 83-566 68 Stat. 666 (16 U.S.C. 1001 et seq.) and flood prevention projects under Public Law 78-534 (33 U.S.C. 701b-1).

622.2 Scope

(a) To assist sponsors in preparing and carrying out watershed plans the Soil Conservation Service (SCS) shall conduct investigations and surveys with the cooperation and assistance of other Federal agencies to:

(1) Determine the extent of watershed problems and needs and

(2) Set forth viable alternative solutions consistent with local, regional, and national objectives, including an alternative solution which makes the greatest net contribution to national economic development.

(b) Alternatives will consist of either land treatment, nonstructural or structural measures or combinations thereof that will help accomplish one or more of the authorized project purposes.

(c) Authorized project purposes are watershed protection, conservation and proper utilization of land, flood prevention, agricultural water management including irrigation and drainage, public recreation, public fish and wildlife, municipal and industrial water supply, hydropower, water quality management, ground water supply, agricultural pollution control, and other water management.

(d) After a final plan for works of improvement is agreed upon between SCS and the sponsors and the approval processes are completed, SCS will provide technical and financial assistance to install the project subject to the availability of funds and the budgeting and fiscal policies of the President.

622.3 Relationship to the Public Law 78-534 Program

(a) *General.* The purposes and objectives of the program under Public Law 83-566 and Public Law 78-534 are the same in most cases. Planning criteria, economic justification, local sponsorship, agency partici-

Exhibit 500-3 Codified Rule—7 CFR 622 Watershed Projects—Continued

pation, financial assistance, eligible measures, operation and maintenance arrangements for the Public Law 78-534 program are consistent with those of the Public Law 83-566 program. The differences with the Public Law 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 real property rights for single-purpose flood prevention structures and installing land treatment on Federal lands.

(d) *Installation.* SCS 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 SCS are not required if the work consists of flood prevention structures built and funded by SCS

622.4 Relationship to other agencies

SCS 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 Interior's Fish and Wildlife Service will be in accordance with section 12 of Public Law 83-566 (as amended).

622.5 Guidelines

Guidelines for carrying out programs authorized under Public Law 83-566 and Public Law 78-534 are contained in miscellaneous instructions, manuals and handbooks issued by the Soil 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 Public Law 83-566 and Public Law 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 otherwise subjected to discrimination under any program or activity conducted or assisted by the Department of Agriculture.

Exhibit 500-3 Codified Rule—7 CFR 622 Watershed Projects—Continued**622.7 Notification under Executive Order 12372**

This program is carried out 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, area, 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 SCS’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.

Exhibit 500-3 Codified Rule—7 CFR 622 Watershed Projects—Continued

(7) Have strong local citizen and sponsor support through agreement to obtain real property 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 floodwater, 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 Public Law 83-566 assistance. Standard forms for Federal assistance or other approved forms may be obtained from SCS 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 SCS. If approved or not disapproved within 45 days, the application shall be sent to the SCS 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 (Public Law 91-190, 83 Stat. 852) (42 U.S.C. 4321 et seq.).

(b) Fish and wildlife enhancement measures proposed by Federal or State fish and wildlife agencies will be included if they are technically and economically feasible and are acceptable to the sponsors and the SCS. If additional sponsors are needed to carry out the recommended fish and wildlife measures, SCS will assist fish and wildlife agencies in attempting to obtain such sponsors.

Exhibit 500-3 Codified Rule—7 CFR 622 Watershed Projects—Continued

(c) All planning efforts by SCS and the sponsors must include well publicized public meetings to obtain public input and views on the project.

622.31 Basic planning efforts

Upon receipt of an application, the SCS will make any necessary field studies and develop a report to justify the need for planning effort. Once planning is authorized by the Chief of SCS, a watershed plan-environmental impact statement (plan-EIS) or a watershed plan-environmental assessment (plan-EA) will be prepared by SCS to request funding. This effort must be coordinated with other State and Federal agencies.

622.32 Reviews and approvals

(a) The watershed plan-environmental impact statement (or assessment) will be subject to internal technical reviews, sponsor and local party review, interagency review by other Federal, State, and concerned groups, and a final review as stated in SCS's National Watershed Manual.

(b) After thorough review by SCS and other agencies, the SCS and the sponsors shall accept the plan-EIS or plan-EA by signing the watershed agreement. The watershed plan must be approved by the Committees of Congress or the Chief of SCS. Funding for installation can then be granted by the Chief of SCS.

623—(RESERVED)

United States
Department of
Agriculture

**Soil
Conservation
Service**

**National
Watershed
Manual**

Part 501

Program Administration

Part 501

Program Administration

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Subpart 501A Introduction**501.00 General**

This manual is written primarily in terms of Public Law 83-566, but applies to Public Law 78-534 projects as well. Where procedures differ for Public Law 78-534 projects, special instructions are given.

Watershed projects should be formulated to accomplish one or more of the purposes stated in the preamble of the Act. Overall guidance in the formulation process is provided by the Water Resources Council's "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies." Watershed projects are to be formulated and evaluated in full recognition of the National Environmental Policy Act (NEPA) of 1969 (Public Law 91-190).

Program activities will be conducted in accordance with the Secretary's equal opportunity initiatives. This assures elimination of any program practices that result in inequitable treatment of groups protected by the Civil Rights Act and equal access to the benefits of the small watersheds program.

Most documents prepared to request funding will be a combination watershed plan-Environmental Assessment (plan-EA) or plan-Environmental Impact Statement (plan-EIS), hereinafter referred to as a watershed plan. The watershed plan contains all elements required for authorization by Congress and NEPA. If a Finding of No Significant Impact (FONSI) is filed, an EIS is not required. References to the watershed plan should be considered to mean only the plan-Environmental Assessment in these cases.

The Sponsoring Local Organizations (SLO) should understand that the Soil Conservation Service (SCS), in administering the provisions of the Act, will give high priority to watersheds in which local people are willing to include provisions for all the land and water management needs. Such projects generally will be multiple purpose and should include watershed protection and flood plain management. SCS recognizes

five resources to be considered in planning and implementing conservation management systems. These resources—soil, water, air, plants, and animals—are described in detail in 450-GM 401.03(b)(3)(iii).

Public participation throughout the planning process is required on all projects. This is a significant item both in time and cost of watershed plan development. A reviewable record of public participation must be available for all plans. SCS policy on public participation is stated in the General Manual, Title 400.

Some plans will be prepared to provide guidance for local implementation without Public Law 83-566 cost-sharing assistance. An Environmental Assessment will be prepared for these projects. Planning will be conducted in accordance with the rules and guidelines of the implementing authority.

Procedures outlined in the "Channel Modification Guidelines," developed and agreed upon by the Secretaries of Agriculture and the Interior, are to be used as a guide for projects likely to contain channel modification (Federal Register, V-44, No. 248, December 26, 1979; 190-GM-410).

Subpart 501B Agency responsibilities

501.10 Soil Conservation Service

(a) Public Law 83-566 assistance

SCS will provide information on the potential and type of assistance available through the Public Law 83-566 program. When a local organization becomes aware of a problem, SCS will provide guidance in making preliminary evaluations to determine if assistance is warranted and help in preparing the necessary applications.

(b) Preparation of watershed plan

SCS will assist the SLO in preparing a watershed plan with the cooperation and assistance of State, local, and other Federal agencies. Investigations and surveys will be made by SCS to determine the extent of watershed problems and needs and to set forth viable alternative solutions consistent with local, regional, and national objectives. Alternatives will consist of land treatment practices, nonstructural measures, and structural measures, or a combination of these measures that will benefit one or more of the authorized project purposes. Alternatives should not be limited to those eligible under Public Law 83-566, but should also include those available from USDA and other Federal, State, and local sources.

(c) Implementation assistance

SCS will provide technical or financial assistance, or both, to install all measures for projects that include Public Law 83-566 implementation assistance.

(d) Property rights work maps

Real property rights work maps will be provided to the SLO for Public Law 83-566 assisted projects.

(e) O&M assistance

SCS will provide technical assistance to the SLO in the operation and maintenance of Public Law 83-566 assisted projects and replacement of installed measures as defined in the Operation and Maintenance (O&M) Agreement.

501.11 Land administering agencies

Land administering agencies generally are responsible for the installation, operation, and maintenance of works of improvement on lands they administer. Federal funds appropriated for Public Law 83-566 work may not be used to install, operate, or maintain land treatment measures on Federal lands. Other works of improvement on Federal lands will be cost shared as provided in the plan.

501.12 Forest Service

The USDA Forest Service (FS) is responsible for administering the forestry aspects of the program on the National Forest System and rangelands within National Forest boundaries, on adjacent rangelands administered under formal agreement, and on other forest lands (7 CFR subtitles A, 2.60(a)(8)(ii)(iii)). Specific actions for program development, funding, and reporting are to be coordinated annually between the SCS state conservationist and the FS regional foresters and area directors. Program responsibilities are covered in a memorandum of understanding between SCS and the FS (exhibit 501-1).

501.13 Rural Development Administration

The USDA Rural Development Administration (RDA) is responsible for administering the watershed loan and advance provision of Public Law 83-566. These responsibilities have been transferred from the Farmers Home Administration. The memorandum of understanding that outlines coordination procedures between SCS and FmHA is in exhibit 501-2. Information on applying for watershed loans and advances is available from the regional offices of the RDA.

501.14 Department of the Army, Corps of Engineers

Close coordination with the Corps is necessary to avoid overlap of activities. The Corps may have information and expertise that can be used in planning and evaluating projects. As part of their responsibilities under Public Law 92-500, Amendments to the Federal Water Pollution Control Act of 1972, the Corps issues "404 Permits" needed before most project construction can begin.

501.15 U.S. Department of Interior, Fish and Wildlife Service

Authority for Fish and Wildlife Service participation in watershed planning is in Section 12 of Public Law 83-566. They are to make surveys and investigations and provide a report with recommendations for conservation and development of wildlife resources. Where channel modification may be used as a technique for implementing water and related land resource projects, the Fish and Wildlife Service will participate in accordance with procedures described in the Channel Modification Guidelines (190-GM 410.27).

501.16 Other agencies

Other Federal and State agencies will provide technical and financial assistance in the planning and installation of watershed projects under their authorities. Special agreements that are outlined for projects in the Delaware River Basin Commission area and the Tennessee Valley Authority area are shown in exhibits 501-3 and 501-4, respectively.

Subpart 501C Sponsor responsibilities

501.20 General responsibilities

Watershed projects are sponsored by one or more local organizations qualifying as the SLO. At least one SLO that can carry out each planned purpose of the project must be included. The SLO of projects that include nonstructural or structural measures, or both, must, individually or collectively, have the power of eminent domain so that they may acquire real property and water rights needed for the project. They must also have authority to levy taxes or another adequate means of financing their share of the cost of the project as well as operation and maintenance expenses. To receive Federal assistance for project installation, the SLO must assure SCS that they will use their powers and authority to ensure the installation, operation, and maintenance of the project as planned. Each local conservation district in the watershed area should be encouraged to be a sponsor.

501.21 Request for assistance

(a) Application for assistance

The SLO must notify in writing the State's Single Point of Contact for Federal Assistance of their intent to submit an application for assistance. This will be followed by the preparation and submission of a formal application through the appropriate designated State agency to the state conservationist. The SLO should use, to the extent practicable, county rural development committees to aid them in identifying all needs that should be considered in preparation of the application.

(b) Planning assistance only

In cases where the SLO is requesting only planning assistance, section 501.21(a) does not apply. Their request will be in the form of a letter to the state conservationist. An information copy of the request will be furnished to the State planning agency.

501.22 Public participation

The SLO will arrange for and carry out activities, including meetings, that encourage the public to participate in the watershed planning process. The public is to be asked to provide data for problem identification and an environmental, social, and economic impacts study and to provide suggestions and comments throughout the planning process.

501.23 Real property rights

The SLO will acquire needed real property rights, permits, and licenses in accordance with State and Federal laws. Acquisition procedures shall conform to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Also, the SLO will acquire or provide evidence that landowners or water users have acquired necessary water rights in accordance with State law.

Where U.S. Forest Service lands are involved, the special use permit granting construction and occupancy rights must be requested at least a year before the planned construction. If cost-sharing with a National Forest on a multiple-purpose structure is involved, a minimum of 3 years' lead time should be allowed to meet the normal requirements of the FS budgetary process.

501.24 Financial

The SLO will finance their share of the installation cost and install or implement planned structural and nonstructural measures on nonfederal land. All activities must comply with applicable local, State, and Federal statutes and regulations.

A satisfactory repayment plan must be submitted by the SLO for repaying advances or loans obtained under the provisions of sections 4 or 8 of the Act.

The SLO must agree to provide relocation assistance in conformance with Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

501.25 Watershed management

To protect the integrity of project measures and assure that the project will function as planned, the SLO should implement needed watershed management features, such as permitting, zoning, land use regulations, and upstream watershed protection, to prevent deterioration of the watershed to the point that the project would be jeopardized.

Before construction of any project for local flood protection, the SLO shall agree to participate in and comply with applicable Federal flood plain management and flood insurance programs.

The SLO will agree to prohibit construction of any facility or the alteration of any works of improvement that would interfere with a planned measure functioning as designed or serving the purpose for which it was installed. They will also obtain necessary permissions and permits for making investigations and surveys needed during the planning phase.

Landowners and others participating in planning, installing, and maintaining the works of improvement will be informed by the SLO of their responsibilities for compliance with applicable local, State, and Federal laws.

501.26 Operation and maintenance

The SLO will carry out all activities related to the operation and maintenance of installed measures. The operation and maintenance (O&M) agreement and plan as described in the National Operation and Maintenance Manual, 180-500, shall define the requirements, responsibilities, and reporting for all installed measures.

They must provide assurance that planned measures will be operated, maintained, and replaced in accordance with State and Federal laws and as provided in the O&M agreement entered into with SCS.

501.27 Land treatment

The SLO will obtain agreements with land users to carry out recommended land treatment measures based on proper conservation plans. Projects that include land treatment practices shall, as a minimum, include an SLO that has soil and water conservation responsibilities organized under State law.

501.28 Municipal and industrial water

If municipal and industrial water are included in the plan, the SLO must employ or retain professional engineers or other specialists to provide technical services needed for planning and installing measures needed for that special purpose. These services will be provided, at no cost to SCS, to

- plan the measures relating to municipal and industrial water supply and
- prepare final plans and specifications for installation of these measures.

The SLO must provide satisfactory evidence that any proposed municipal and industrial water supply use will be acceptable in quantity and quality to meet the anticipated needs, evaluate the monetary benefits accruing thereto, and present satisfactory evidence to support its evaluation.

The SLO must also furnish a written statement for inclusion in the plan. This statement must show that they intend to use the water from the storage capacity provided for future use within the life of the reservoir, when applicable.

501.29 Storm and sanitary sewers

New storm and sanitary sewers, or relocations and changes to existing sewer facilities, in urban or built-up areas are the responsibility of the sponsor. No Public Law 83-566 cost share is available for these features. Storm sewers include facilities for the collection and conveyance of urban runoff to outlets in natural drainageways or channels. However, this restriction does not apply to measures to improve natural drainageways or channels to prevent significant flood damage to existing developed property. Such measures are not considered to be storm sewers and are, therefore, eligible for assistance.

Subpart 501D Watershed program management

501.30 General

A major objective of SCS is to manage the water resources program effectively to facilitate planning and installation of authorized projects. Technical and financial assistance is to be provided for viable high priority projects. A balanced program between new planning starts and authorized work is to be maintained through program management.

Each State is to develop and maintain a State program analysis and long-range water resources plan that identifies viable projects, sets operation schedules, and identifies the program resources needed to achieve and maintain a balanced program. This long-range plan will be the basis for requesting annual program budgets.

501.31 Responsibilities

(a) State responsibilities

The state conservationist is responsible for the overall management of the program and is to provide for the coordination, organization, and management of program activities to insure that all phases of the water resources program are carried out effectively and efficiently.

(b) National Technical Center responsibilities

The National Technical Center (NTC) is responsible for providing technical assistance to the States to facilitate project planning and implementation. Their responsibilities include quality assurance, technology transfer, and training.

(c) National Headquarters responsibilities

The Watershed Projects Division (WPD) is responsible for developing national policy, standards, and procedures for watershed project planning, installation, operation and maintenance, and allocation of program funds to maintain a balanced program. Direct assistance is provided to the NTC and states in program management. The WPD maintains coordination and liaison with appropriate Federal agencies and Congressional committees to administer the program.

501.32 State water resources long-range plan

A long-range plan is to be developed that identifies viable planning and operations workload, sets priorities, and establishes funding needs. The long-range plan, along with the plan of operations and management matrix, will serve as the fund integrity document. The plan is to be updated annually before the submission of annual budget requests. A copy of the updated long-range plan will be sent to the NTC, WPD, and Basin and Area Planning Division (BAPD).

The plan should identify those land and water resource problems, opportunities, and needs that require project-type action regardless of funding source. Projects must address one or more of the purposes described in the Act. As a minimum, the long-range plan should identify the anticipated projects, needed personnel, products to be produced, and funding needs for planning and operations for 3 to 5 years. The management matrix shall define annual outputs. Support data for operational projects shall include project status, remaining work, cost, and probability of installation as required in Subpart 507D, Reports.

The long-range plan should summarize the status of each operational project. Each project should be listed, followed by an identification of the remaining work, current estimated Federal cost, probability of installation, status of compliance with NEPA, and actions needed to accomplish the next increment(s) of work. Include only viable work in the total estimated cost of the remaining work to determine future obligations. Actions and resources needed to deal with the nonviable projects are to be included in the long-range plan.

Operations budget estimates for the current fiscal year, and at least the next two fiscal years of operations based on a detailed operations schedule, are to be included in the long-range plan. Staff-years and technical and financial assistance needs should be shown. The current annual budget estimates and remaining future obligations are to be submitted to the National Headquarters as specified in part 507 of this manual.

The long-range plan should be maintained in such a manner that annual updates can be made easily.



Subpart 501E Exhibits

Exhibit 501-1 Memorandum of Understanding between SCS and FS

**Memorandum of Understanding
Between
The Soil Conservation Service and the Forest Service
Pertaining to:
The Watershed Protection and Flood Prevention Program
The Emergency Watershed Protection Program**

Purpose

The purpose of this agreement is to describe policies and procedures between the Soil Conservation Service (SCS) and the Forest Service (FS) to assure continued effectiveness of the watershed programs. This agreement builds on the general principles of cooperation, coordination, and communication which exist between the two agencies.

Authorities

The Secretary of Agriculture is authorized by Public Law 566, 83rd Congress, 68 Stat. 666 (Public Law 83-566), as amended, and the 1944 Omnibus Flood Control Acts (Sec. 13, 58 Stat. 905), to cooperate with State and local governments and with other Federal agencies, to make investigations and surveys of watersheds as a basis for the development of coordinated programs and to carry out works of improvement for soil and water conservation and other purposes.

The Watershed Plans which lead to Federally funded structures are guided by the principles in the "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies" established by the Water Resources Council as authorized by the Water Resources Planning Act of 1965 (Public Law 89-80), approved by the President on February 3, 1983, and published on March 10, 1983.

Activities for emergency assistance in the Emergency Watershed Protection (EWP) program are authorized by Section 216, Public Law 81-516 and Section 403 of Title IV of the Agricultural Credit Act of 1978 Public Law 95-334.

Delegations of Authority

The Secretary of Agriculture has delegated authority to the Assistant Secretary of Natural Resources and Environment and hence to the Chief of the Soil Conservation Service. The Forest Service is responsible for the forest and Federal range aspects of these programs as outlined in this agreement.

Exhibit 501-1 Memorandum of Understanding between the SCS and FS—
Continued

Major Responsibilities of Participating Agencies**Soil Conservation Service agrees:****At the National Level**

To provide general administration and guidance for all U.S. Department of Agriculture activities related to the watershed programs.

To transfer funds for Forest Service participation.

To represent the U.S. Department of Agriculture on interagency committees relating to the watershed programs.

To involve the Forest Service in program planning and development.

To approve the release of funds for the forestry related EWP projects.

At the State Conservationists Level

To notify the Forest Service of proposals for new plans as they are received.

To inform and involve the Forest Service in the selection and scheduling of projects.

To consider the Forest Service as a member of the planning team when addressing planning issues.

To request funding for Forest Service participation in the small watershed and flood prevention planning and operation programs during the annual budget planning process.

To compile, edit, and prepare watershed reports.

To incorporate Forest Service needs into EWP requests.

Forest Service agrees:

To be responsible for the forestry aspects of the watershed program on all Federal and non-Federal woodlands, forest lands, and rangelands which are administered in conjunction with National Forest System lands.

To participate with State planning teams in the scoping process to determine watershed problems and to assist in the development of information which meets sponsors needs.

Exhibit 501-1 Memorandum of Understanding between the SCS and FS—
Continued

To identify and propose forestry solutions to watershed problems on both forested and non-forested lands.

To coordinate and encourage the involvement of State forestry organizations and the National Forest System in the watershed projects.

To review project proposals for impacts on other Forest Service activities.

To conduct assessments and implement approved EWP measures on public and private lands as mutually agreed to with the State Conservationist.

To submit financial information on obligations by small watershed project within each State for small watershed planning and operations, and for each flood prevention project.

Duration

This Memorandum of Understanding shall become effective as of the date of approval and shall continue in effect until modified or terminated by mutual agreement of the parties hereto. The Memorandum of Understanding on this subject entered into in 1977 is hereby cancelled.

/s/ Allan J. West (for)

F. Dale Robertson
Chief, Forest Service

June 30, 1992

/s/ Galen S. Bridge (for)

William Richards
Chief, Soil Conservation Service

July 10, 1992

Exhibit 501-2 Memorandum of Understanding between SCS and FmHA

MEMORANDUM OF UNDERSTANDING
Between the
SOIL CONSERVATION SERVICE
and the
FARMERS HOME ADMINISTRATION
Relating to the Making of WS Loans and WS Advances
Under the
Watershed Protection and Flood Prevention Act

(1) **Purpose:** This memorandum is to coordinate general agency responsibilities and functions of the Farmers Home Administration (FmHA) and the Soil Conservation Service (SCS) in connection with loans and advances made to sponsoring local organizations under the provisions of the Watershed Protection and Flood Prevention Act (68 Stat. 666), as amended.

(2) **General agency responsibilities:** The general assignments to the SCS and the FmHA for the administration of the Watershed Protection and Flood Prevention Act are contained in the Secretary's Policy Statement dated October 19, 1962. Each agency will establish policy and procedures and take such other action as required to carry out its responsibility.

(i) The FmHA is responsible for making and servicing WS loans or advancements under Section 8 and obligations for repayment of WS advances made by the SCS under Section 4 of the Act.

(ii) The SCS is responsible for administration of all authority under the Act, except making and servicing WS loans made under Section 8, and for servicing obligations for repayment of WS advances made by the SCS under Section 4 of the Act.

(iii) The SCS and the FmHA will cooperate in developing and carrying out their respective policies, procedures, and requirements, as they relate to WS loans and WS advances made under the Act.

(3) **Receipt and processing of applications for loans and advances:**

(i) A works of improvement must be included in an approved watershed plan before a loan or advance for it is made under the Act. During the development of a Watershed Plan, the State Conservationist of SCS will afford the State Director of FmHA an opportunity to gain an understanding of watershed problems and needs, and the proposed plans for works of improvement. When a sponsoring local organization indicates a desire for a WS loan or WS advance the SCS State Conservationist will consult with the FmHA State Director on matters such as organizational arrangements, specific local or State requirements and other problems related to the plan for financing, installing, operating and maintaining the planned works of improvement being considered.

(ii) The SCS State Conservationist will furnish the FmHA State Director a copy of each Watershed Plan. The Administrator of SCS will furnish the Administrator of FmHA a copy of each approved WS Plan.

Exhibit 501-2 Memorandum of Understanding between SCS and FmHA—
Continued

(iii) A Watershed Plan and the related executed watershed plan agreement will not obligate FmHA to make a WS loan or obligate the SCS to make a WS advance to sponsoring local organizations.

(4) Coordination of assistance for design, construction and maintenance. The following principals are to be used as a guide for the design, construction, operation and maintenance of works of improvement when a WS loan or WS advance is involved.

(i) The SCS will furnish or assume the cost of engineering services required to plan and install the portion of the works of improvement allocated to flood prevention, agricultural phases of the conservation, development, utilization, and disposal of water, fish and wildlife, and recreational development, and not more than 50 percent of the costs of engineering services for minimum basic facilities. Sponsoring local organizations are expected to furnish and assume the cost of other engineering services required. The SCS will give such engineering advice and guidance to the sponsoring local organization as required to insure that plans, specifications and cost estimates furnished by them meet the design and construction standards and criteria established for the project and that the works are properly coordinated with any other works to be installed under Watershed Plan. The SCS State Conservationist will consult with and keep the FmHA State Director informed during the development and construction plans and the construction of works of improvement. This will include an engineering review and a statement by the SCS of the adequacy and appropriateness of cost estimates, designs, plans, and specifications prepared by private engineers.

(ii) Engineering plans, including specifications, drawings and cost estimates for works of improvement involving WS loans or advances will be approved by the SCS State Conservationist and the FmHA State Director.

(iii) The SCS State Conservationist will consult with the FmHA State Director as to terms and conditions to be included in invitations to bids and contracts for construction or purchase of supplies and materials in connection with works of improvement to be installed with loans or advances. The SCS will provide technical assistance advice needed by the sponsoring local organizations for the preparation of these documents and in analyzing bids and selecting the lowest responsible bidder. The contracts shall be acceptable to the FmHA State Director and the SCS State Conservationist before execution by the sponsoring local organization receiving a loan or advance.

(iv) The sponsoring local organization will not be permitted to accept a bid which would require additional loan funds or make changes in plans or specifications in order to obtain a bid within the estimated cost without the concurrence of the FmHA State Director. Should the sponsoring local organization desire to reject bids or to not call for bids and undertake construction of works of improvement by force account, the concurrence of the FmHA State Director shall be obtained.

(v) The SCS will provide technical assistance including periodic inspections during construction as necessary to protect the Government's interest and to assure that the works of improvement are being constructed in accordance with approved drawings and specifications. The SCS may approve minor changes during construction in the contract terms and conditions and the drawings and specifications which do not appreciably affect the design, cost or function of a structure without concurrence of the FmHA. Major changes or changes which affect the overall cost of the works of improvement will require the prior concurrence of the FmHA State Director.

Exhibit 501-2 Memorandum of Understanding between SCS and FmHA—
Continued

(vi) The SCS and FmHA will make annual joint inspections, for a period of three years after completion thereof or more frequently if necessary, to see that works of improvement are being operated and maintained according to agreements. The sponsoring local organizations will be required to make annual inspections throughout the life of the structure and report their findings to the SCS and FmHA offices. When SCS or FmHA determine that there are serious deficiencies in operation and maintenance, the FmHA State Director will collaborate with the SCS State Conservationist in arranging with the local sponsoring organization for the correction of such deficiencies. The FmHA or SCS may make other inspections as necessary to service the loan or advance account of the borrowing sponsoring local organization.

(vii) Responsibility rests with the local sponsoring organization to acquire any land, easements, or rights-of-way that will be needed for works of improvement. If a lien is to be taken on works of improvement and the land, easements, or rights-of-way, the FmHA will, after consultation with the SCS, approve the easements, deeds, and permits before they are executed. The FmHA will provide instructions to the local sponsoring organization pertaining to acknowledgement, title searches and examinations, obtaining consent of holders of liens outstanding against the land, and recording easements and deeds. The SCS will check land description in all real property rights instruments to the extent necessary to determine that the areas required for construction, operation and maintenance of works of improvement are included, except that the SCS will make property line surveys.

(viii) When loan payments will depend upon a right to use a specific quantity of water, the local sponsoring organization will furnish to FmHA satisfactory evidence of such rights, and any required additional information concerning the water supply. This evidence will include such documents and materials as affidavits, permits, title certificates, court decrees, stream gage records, rainfall records, well logs, records of pumping tests and water analysis. The SCS will examine information that is furnished together with other available information and give FmHA a written opinion of the adequacy of supply, including quality, to meet the requirements of the plan.

(5) **Disbursement of funds.** Proceeds of WS loans will be deposited in, and withdrawn from, bank accounts in the manner required by FmHA regulations. Checks on these bank accounts for payments to contractors and suppliers of materials will be based upon Form SCS 49a, "Contract Payment Estimate and Construction Progress Report." Form SCS 49a prepared by the local sponsoring organization for this purpose will be approved by the SCS. In giving his approval to Form SCS 49a, the SCS representative shall be certain that the items covered are for the purposes and in the amounts authorized in the project agreement.

(i) Advances for future water supply shall be made as provided in the project agreement. The maximum amount of such advance shall be shown in the project agreement.

(ii) Advances for site preservation will be handled in accordance with procedures mutually agreeable to the SCS and the FmHA, which will be developed on a case by case basis.

(6) **Starting construction:** The local sponsoring organization will not be authorized to start construction on works of improvement to be financed in whole or in part, with a WS loan or a WS advance until:

(i) The SCS has entered into a Project Agreement for Construction of Works of Improvement.

Exhibit 501-2 Memorandum of Understanding between SCS and FmHA—
Continued

(ii) The State Conservationist has notified the State Director that the local organization has complied with all SCS requirements for receiving PL 566 construction assistance and the State Conservationist has furnished the State Director with a schedule indicating the approximate times that construction work will begin on works of improvement to be installed with such funds.

(iii) The State Director has notified the State Conservationist and the borrower that the loan or advance has been properly closed.

(iv) Any contract entered into by the local organization for materials, labor, or the construction of works of improvement to be financed with loan funds has been found acceptable by the FmHA.

(v) The State Director has notified the State Conservationist that any advance for the preservation of sites has been repaid.

(vi) All engineering drawings and specifications for works of improvement to be financed in part by WS loans or advances have been approved by the FmHA and the SCS

(7) **FmHA contracts with local organizations:** Ordinarily, a WS loan or advance will be made to the local organization having primary interest in, and direct responsibility for, the operation and maintenance of works of improvement to be installed with loan or advance funds rather than to an organization that would have to contract with another organization for the operation and maintenance of works of improvement and the collection of revenues for repaying the loan or advance. When it is proposed to make a WS loan to an organization that would have to contract with another organization, the organization and the contractual arrangements will be mutually acceptable to the FmHA and the SCS. This determination will be made before the approval of the Project Agreement for Construction of the Works of Improvement.

(8) **Information activities:** The SCS will be responsible for the preparation, release, or other handling of the overall informational and educational material regarding the watershed protection program, including bulletins, press releases and other public announcements. The SCS will obtain the recommendations of the FmHA prior to releasing pamphlets and similar informational material which makes reference to loans. The FmHA may prepare and release informational material on the handling of loan applications. Such material will be reviewed with the SCS if it alludes to overall costs or benefits or to technical aspects for which SCS has responsibility. When desirable or necessary in particular watershed areas for SCS to arrange for community meetings to discuss and explain the program to interested local people, the FmHA will be invited to participate in such meetings if a loan or advance may be needed by a local organization to carry out planned works of improvement.

/s/ Victor H. Barry, Jr.
Acting Administrator
Soil Conservation Service

May 26, 1978

/s/Gordon Cavanaugh
Administrator
Farmers Home Administration

May 31, 1978

Exhibit 501-3 Administrative Agreement with Delaware River Basin Commission

DELAWARE RIVER BASIN COMMISSION

ADMINISTRATIVE AGREEMENT

Pursuant to Section 1.5 and Article 11 of the Delaware River Basin Compact and to Rule 2-3.3 of the Rules of Practice and Procedure of the Delaware River Basin Commission (Administrative Manual - Part 11), this Administrative Agreement is hereby entered into by and between the Delaware River Basin Commission and the Soil Conservation Service, U.S. Department of Agriculture, hereinafter referred to as SCS.

1. **Definitions.** For the purposes of this Agreement, unless otherwise required by the context:

(a) "SCS" shall mean the Soil Conservation Service.

(b) "DRBC" shall mean the Delaware River Basin Commission.

(c) "Compact" shall mean the Delaware River Basin Compact.

(d) "Facility" shall mean a facility as defined by the Compact, and within the planning jurisdiction of the SCS.

2. **Planning Consultation.** No less frequently than once a year the SCS and DRBC shall hold one or more joint staff conferences for review of future plans and consideration of new projects in which either agency may have an interest.

3. **Initiation of Project.** As to any watershed project, the SCS receives an application for assistance from the project sponsors and after due authorization for planning proceeds with helping the sponsors develop a plan. The DRBC will be consulted by the SCS during the preliminary investigation of the planning stage to determine any features of the project in which the DRBC may have an interest.

4. **Planning in Consultation.** Prior to the issuing of a Work Plan Draft, the SCS will consult with the DRBC in regard to those features of the plan in which the DRBC has expressed interest and the DRBC may assist the SCS in planning those features of the project.

5. **Informal Field Review.** Upon the completion of the Work Plan Draft by the SCS, the DRBC will be furnished with copies of the draft for review. The DRBC will participate in the informal Field Review.

6. **Work Plan Submission.** The SCS will prepare a Work Plan based on the Work Plan Draft and incorporating any changes resulting from the Informal Field Review. On behalf of the project sponsors, the Work Plan will be submitted by the SCS to the DRBC for inclusion by the DRBC in its Comprehensive Plan in accordance with the Rules of Practice and Procedure. Either concurrently or subsequently the Work Plan will be reviewed in whole or in part for inclusion in the Water Resources Program or for approval under Section 3.8 as the sponsors may elect. No further approval of individual structures constructed substantially in accordance with the Work Plan will be required.

Exhibit 501-3 Administrative Agreement with Delaware River Basin Commission

7. **Work Plan Amendments.** Amendments to the Work Plan resulting from significant changes in final design or for other reasons will be handled in accordance with paragraphs 4-6 above.

8. **Effective Date.** This Agreement shall take effect upon its execution by both parties.

IN WITNESS WHEREOF, the DRBC through its duly authorized Executive Director, and the SCS, through its Administrator, as authorized by the Compact and the laws of the signatory party, have executed this Agreement by affixing their respective signatures thereto this twenty-third day of December 1966.

SOIL CONSERVATION SERVICE
U.S. Department of Agriculture

ATTEST:

/s/ Frances C. Harris

By /s/ Gladwin Young
Acting Administrator

DELAWARE RIVER BASIN COMMISSION

ATTEST:

/s/ W. Bienton Whitall

By /s/ James F. Wright
Executive Director

Exhibit 501-4 Memorandum of Understanding between TVA and SCS

MEMORANDUM OF UNDERSTANDING
Between the
TENNESSEE VALLEY AUTHORITY
and the
UNITED STATES DEPARTMENT OF AGRICULTURE

RELATIVE TO: Coordinating activities of the Tennessee Valley Authority under the Tennessee Valley Authority Act of 1933, as amended (48 Stat. 58, 49 Stat. 1079), with those of the Soil Conservation Service under the Watershed Protection and Flood Prevention Act, as amended (68 Stat. 666, 70 Stat. 1088).

THIS AGREEMENT, made and entered into this 6th day of November 1958, by and between the Tennessee Valley Authority, hereinafter referred to as the "TVA" and the Soil Conservation Service of the United States Department of Agriculture, hereinafter referred to as the "SCS".

WITNESSETH

WHEREAS, the SCS is assigned responsibility for the administration of the Watershed Protection and Flood Prevention Act, as amended (68 Stat. 666, 70 Stat. 1088); and

WHEREAS, under the Tennessee Valley Authority Act of 1933, as amended (48 Stat. 58, 49 Stat. 1079), the TVA is concerned with and has statutory responsibilities relating to navigation and the control of flood waters in the Tennessee River and its tributaries; and

WHEREAS, it is the desire of the SCS and TVA to coordinate their mutual interests and activities in carrying out their assigned responsibilities in the Tennessee River Basin,

NOW THEREFORE, the SCS and the TVA agree on procedures to accomplish their desires as follows:

A. Preapplication Phase:

1. SCS and TVA will inform each other of local interest in watershed programs within the Tennessee River Basin as such interest comes to their attention.

2. At the time local interest in a specific watershed is first recognized, TVA also will advise SCS regarding any of TVA's active projects or plans which might significantly influence the feasibility of a small watershed project under the Watershed Protection and Flood Prevention Act.

B. Application Phase:

1. Upon receiving an application for planning assistance, SCS will forward a copy to TVA for review and comment.

Exhibit 501-4 Memorandum of Understanding between the TVA and
SCS—Continued

2. In response, TVA will indicate the nature of its interest in the Watershed, including reference to any identifiable TVA requirements for approval of structures under Section 26a of the Tennessee Valley Authority Act of 1933, as amended, in the affected area. This statement of interest will become a part of the application file for the watershed in question.

3. SCS will inform TVA of plans for a field examination or similar preliminary survey, will invite TVA to participate, and will furnish TVA a copy of the preliminary field report.

4. SCS will inform TVA of the action taken on the application by the Service.

5. SCS will inform TVA when planning assistance is authorized.

6. SCS will inform TVA of interest and needs expressed by local sponsoring organizations and will arrange to inform local sponsoring organizations of the nature of the interest of TVA in the watershed.

C. Work Plan Development Phase:

1. On apprising TVA of an approval and authorization for assistance in Watershed Work Plan development, SCS will send TVA a list of the types of data needed from TVA for planning.

2. TVA will furnish SCS such data and planning materials as are available and applicable under the generalized list supplied by SCS.

3. SCS will furnish TVA a copy of the Plan of Operations (work outline) for developing the Watershed Work Plan.

4. a. SCS will consult with TVA on the development of Watershed Work Plans, specifically with respect to proposed structural works of improvement, that TVA decides or has previously indicated would significantly affect TVA's interests. As appropriate, SCS will also discuss with TVA the interpretation and application of data submitted by TVA.

b. SCS will furnish TVA (a) a map showing the tentative location of contemplated structural works and (b) preliminary structure estimates of items usually listed in the standard "Structure Data Table" of Watershed Work Plans after preliminary agreement has been reached with the responsible local sponsoring organization.

c. TVA will examine this preliminary information, request of SCS any additional information, if needed, and advise SCS of any significant conflict between the proposed works and TVA's responsibilities for navigation, flood control, public lands, or other properties.

d. After any necessary consultation with SCS, TVA will advise SCS as to any structures requiring approval under Section 26a of the Tennessee Valley Authority Act of 1933, as amended. SCS will formulate and develop with the local sponsoring organization further plans and recommendations with respect to such structures on a basis which will enable them to meet the requirements of the TVA Act.

**Exhibit 501-4 Memorandum of Understanding between the TVA and
SCS—Continued**

5. SCS will inform TVA of the time and place of the informal review of the Work Plan draft with other agencies. In advance of this meeting, SCS will transmit to TVA copies of the Work Plan draft for information and office review. Following the informal review of the Work Plan draft, TVA will advise SCS of its views.

6. SCS will furnish TVA copies of the final Watershed Work Plan for review and comment. TVA will reply, identifying the structures, if any, requiring further review or approval under Section 26a of the Tennessee Valley Authority Act of 1933, as amended.

D. Installation Phase:

1. SCS will direct attention of the Sponsors of each watershed project to the requirements of Section 26a of the Tennessee Valley Authority Act of 1933, as amended. When the watershed goes into installation phase and when SCS has been advised that review and approval of the design of structures is required, the Sponsors will be informed by SCS of the requirement for Section 26a approval prior to construction.

E. General:

1. This agreement will be effective as of the date appearing in the first paragraph hereof. The agreement may be amended by mutual agreement. Either party may terminate the agreement upon 90 days' notice given in writing to the other party.

2. This agreement does not constitute a financial obligation to serve as a basis for expenditures.

IN WITNESS WHEREOF, the parties have executed this agreement on the day, month and year first above written

TENNESSEE VALLEY AUTHORITY

By /s/ A.J. Wagner
Title General Manager

APPROVED BY TVA
BOARD OF DIRECTORS

Nov. 6, 1958

/s/ Leona L. Malkemus
Assistant Secretary

UNITED STATES DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

By /s/ Gladwin Young
Title Acting Administrator

United States
Department of
Agriculture

**Soil
Conservation
Service**

**National
Watershed
Manual**

Part 502

**Project Purposes and
Measures**

Part 502

Project Purposes and Measures

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Subpart 502A General**502.00 Introduction**

This part provides detailed guidance on eligible project purposes, project measures, qualifications for assistance, and available cost sharing. The policy applies to watershed projects planned and implemented with Public Law 83-566 or Public Law 78-534 assistance. Policy differences will be noted as appropriate. Watershed projects may be developed for one or more of the purposes authorized by the Act. The purpose(s) for which a project is formulated determines its eligibility for and rate of assistance. Project measures include land treatment, nonstructural, and structural measures.

502.01 Descriptions of the eligible purposes**(a) Watershed protection**

Watershed protection is the onsite treatment of watershed areas for the primary purpose of reducing offsite soil and water related resource problems associated with floodwater, erosion, sediment, and agriculture related pollutants. It is the element that distinguishes the watershed program from other Federal or federally assisted programs for the conservation and development of water and related resources.

(b) Flood prevention

Flood prevention includes the measures installed to prevent or reduce damages caused by floodwater. Flood prevention is further defined as the control and disposal of surface water caused by abnormally high direct precipitation, stream overflow, or floods aggravated or caused by wind or tidal effects.

(c) Agricultural water management

Agricultural water management is defined as the agriculture-related phases of the conservation, development, utilization, and disposal of water. These phases are described in the following paragraphs.

(1) Irrigation—Measures installed to make more efficient use of water on cropland, grassland, and woodland and to obtain the maximum practical benefits for existing investments in irrigation.

(2) Drainage—Measures installed to increase the efficiency of land use on farms or ranches by the rehabilitation of existing drainage systems or the construction of new ones to lower the water level in areas where a naturally high water table, normal precipitation or normal tidal action, seepage, or excess irrigation water limits agricultural production.

(3) Rural water supply—Measures installed for the establishment of group water supplies primarily for agricultural use in rural areas. These measures can include all uses of water in rural areas to meet the needs of households, farmsteads, small firms, or community facilities. Rural areas are those areas where residents live on farms, in unincorporated settlements, or in incorporated villages or small towns and where agriculture (including woodland activities) and extractive industries (including seafood harvesting) provide the primary employment base. The service area for rural water supply shall not include any area in any city or town that has a population of over 10,000 inhabitants according to the latest decennial census of the United States.

(4) Water quality protection and improvement—Measures installed for the primary purpose of reducing water quality impairments by trapping or reducing pollutants primarily from agricultural sources.

(5) Water conservation—Measures installed to increase the efficiency of the use of agricultural water so that more is available for other uses.

(6) Other agricultural water management—Measures installed to provide group water supplies and distribution systems primarily for agricultural use in rural areas. Measures for salt water intrusion control, stabilization of annual streamflow, or other means for rural community use, livestock, orchard and crop spraying, and other similar agricultural purposes are also included under this purpose.

(d) Nonagricultural water management
Nonagricultural water management includes measures for fish and wildlife and for public recreation.

(1) Fish and wildlife—This includes the measures installed to improve the habitat or environment for the breeding, growth, and development of water-based fish and wildlife or to provide opportunities for public

use, or both. Restoration of wetlands to benefit fish and wildlife is included in this category.

(2) Public recreation—This includes the measures installed to provide opportunities for the general public to participate in water-based recreational activities.

(e) Ground water recharge

Ground water recharge includes the measures installed to recharge aquifers. Practices include storage of water in impoundments, recharge devices along natural watercourses by diversion, or other water-spreading techniques.

(f) Water quality management

Water quality management is primarily storage of water in reservoirs for release to regulate streamflow thereby reducing problems caused by impaired water quality.

(g) Municipal and industrial water supply

This includes the incorporation of additional storage in a reservoir to supply water for municipal and industrial use.

installed and operated and maintained with agreements with the land administering agency, project sponsors, and the SCS.

(c) Nonstructural practice

Conservation practices that reduce the susceptibility of properties to damages. They also include the acquisition of real property rights needed to perpetuate, restore, and enhance the natural capability of wetlands and flood plains to retain excessive floodwaters, improve water quality and quantity, and provide fish and wildlife habitat.

502.02 Description of project measures

(a) Land treatment practice

Installed conservation practices that are of the size, complexity, and cost that individuals or small groups of land users would normally include them in their conservation plans and install, operate, and maintain them through ongoing local or Federal programs or under Public Law 83-566 through long-term contracts.

(b) Structural practice

Conservation practices that are of a size, complexity, and cost that group action is required to plan, install, and operate and maintain them. An individual land user would not normally install the practice with assistance provided through other ongoing local or Federal programs. Structural practices are installed, operated, and maintained by project sponsors. The sponsors are responsible for acquiring the real property rights to install and maintain structural practices on private land. On Federal land, these practices are

Subpart 502B Watershed protection

502.10 Project measures

Project measures for watershed protection consist of land treatment practices installed by land users to reduce soil and water resource problems. They should be considered alone and in combination with structural and nonstructural measures in formulating watershed projects. Financial or technical assistance, or both, may be provided for planning and installing accelerated land treatment practices when funds from other USDA programs and State and local sources are not adequate to solve severe problems in a timely manner.

Accelerated technical and financial assistance may be used to address specific problems that warrant immediate action. Public Law 83-566 funds are to accelerate ongoing programs and are not to be used to replace funding from other programs or to compete with them.

502.11 Required land treatment

Land treatment required by Federal or State statutes or USDA regulations shall be considered an interdependent part of the structural or nonstructural measures.

(a) Above reservoirs

The Act requires that local organizations shall “obtain agreements to carry out recommended soil conservation measures and proper farm (conservation) plans from owners of not less than 50 percent of the lands situated in the drainage area above each retention reservoir to be installed with Federal assistance” (Sec. 4(5)). USDA policy requires installation of land treatment practices necessary to ensure that at least 50 percent of the land upstream from any retention reservoir is adequately protected before beginning construction of the dam.

“Proper farm plan” for non-Federal and Federal lands shall mean a conservation plan that provides for the essential treatment to protect the resource base to assure the proper functioning of the structural

measure. The plan will be developed in accordance with the Field Office Technical Guide.

The required acreage must be determined to meet the above requirements. The required acreage is the land within the structure’s drainage area not including the land under the structure site or its retention reservoir.

(b) Above channels

Plans are to provide for installation of land treatment necessary to ensure a stable channel without excessive sediment accumulation. Stream dynamics should be carefully considered in determining the amount of land treatment needed. Because of the delicate balance of the carrying capacity of a stream, the agronomic and geologic characteristics of the watershed should be taken into account. The amount of land treatment needed to ensure a stable channel should be considered an interdependent part of the channel work.

502.12 Associated land treatment

Associated land treatment includes those practices necessary to ensure realization of benefits used in the evaluation of structural measures. Onfarm practices installed during the project installation period with assistance from the ongoing program are considered as nonproject associated measures and will not be included. Onfarm practices installed with Public Law 83-566 program technical assistance are considered as project associated measures and will be shown in Table 1, Estimated Installation Cost, of the project plan (fig. 504-8).

502.13 Assistance available

The need for accelerated technical and/or financial assistance to install land treatment practices in watershed protection and water resource projects is to be determined on a project-by-project basis. Public Law 83-566 cost sharing should only be used when the ongoing programs fall significantly short of reducing severe problems and meeting the major land treatment needs within a reasonable time frame.

The system of practices established in the selected plan will serve as the basis for determining technical and financial assistance to be provided through Public

Law 83-566. Financial assistance to implement practices in the recommended plan will be limited to enduring practices. Non-cost-shared practices included in the recommended system will be included in the contract.

Any practice or combination of practices listed in the National Handbook of Conservation Practices may be considered for inclusion in the system(s) of practices included in the selected plan. The watershed plan must describe the system of practices included in the selected plan and designate those eligible for cost sharing.

Public Law 83-566 financial assistance (cost sharing) is limited to the installation of enduring land treatment practices planned for the primary purpose of addressing public (offsite) problems. Enduring practices are land treatment practices that, when properly installed and maintained, remain on the land and continue to function without reconstruction or reestablishment for a minimum of 5 years. They may need to be supplemented with management practices.

The treatment of critically eroding areas that significantly affect the design of structural measures is eligible for cost sharing if

- the erosion or sediment from the eroding areas significantly increases the cost of the structures,
- the treatment is the most cost-effective, and
- the land user cannot reasonably be expected to install the treatment without assistance.

Public Law 83-566 funds may be used to accelerate technical assistance for the planning and installing of land treatment practice(s) included in the selected plan, "associated" land treatment installed during the project installation period, and "required" land treatment.

The cost of installing, operating, and maintaining land treatment on Federal land will not be paid from Public Law 83-566 funds. (For flood prevention projects, this restriction does not apply to the use of Public Law 78-534 funds on National Forest System lands.). Any supplementary funds needed to install and maintain land treatment will be sought by the land-administering agency through its usual budgetary process.

502.14 Cost-sharing rates

Public Law 83-566 funds may be used to pay up to 65 percent of the construction cost of each enduring practice in the selected system of practices. Projects benefiting low income groups may be eligible for increased Federal cost sharing with prior approval from the Director, Watershed Projects Division. The Public Law 83-566 cost share rate cannot exceed the existing rate for ongoing national programs.

The average cost method (AC) should be used as a basis for payment for the installation of the selected system of practices. If special conditions exist, an appropriate alternative method may be used as defined in 120-GM-404.30.

Alternative systems of practices other than the system in the selected plan may be cost shared if the alternative system of practices will achieve the same or greater results. The Public Law 83-566 cost sharing will be limited by the lesser of (1) the cost sharing percentage established for the practices in the recommended plan, or (2) the cost-share amount that would have been received if the recommended system were installed.

No more than \$100,000 of cost-shared Public Law 83-566 funds may be paid to any one individual, family, corporation, or combination of these where the party has an interest in the land regardless of where the land is located.

Public Law 83-566 cost sharing on class VI through VIII croplands will be limited to permanent conversion to grass or trees. This does not apply to unique lands used to produce specialty crops that are not surplus and for which commodity payments are not available. However, significant offsite benefits must be present.

All practices needed to assure that the selected system of practices will function and produce the projected benefits must be included in the cost estimates and long-term contracts. This includes practices for which financial assistance to implement is not provided.

The cost of accelerated technical assistance needed to install the recommended system of practices may be provided by SCS without charge to the land user. Project administration costs will be borne by the party that incurs them.

502.15 Implementation

All financially assisted land treatment measures will be installed using long-term contracts between the landowners or operators and the SLO or SCS. All long-term contracts must be signed within the first 5 years of the installation period. Permission to extend the sign-up period must be approved by the Director, WPD. Long-term contracts cannot be entered into if the land involved is within a unit that is under another program using contracts for conservation land treatment. Part 507 provides more guidance on implementing land treatment.

Subpart 502C Flood prevention

502.20 Project measures

Project measures for flood prevention consist of land treatment, nonstructural, and structural measures that reduce or prevent floodwater damages by reducing runoff, erosion, and sediment; modifying the susceptibility of improvements in the flood plain to damage; or reducing the frequency, depth, and/or velocity of flooding. In addition, project measures for flood prevention include watershed management features that prevent encroachment into the flood plain.

Because watershed plans represent a total resource planning effort, the plan must contain provisions for flood plain zoning for present and future urban and built-up areas as a requirement for assistance. Section 402 of Public Law 99-662 requires that, before construction of any project for local flood protection, the non-Federal interests agree to participate in and comply with applicable Federal flood plain management and flood insurance programs.

502.21 Land treatment measures

Land treatment practices for flood prevention are those practices that protect the watershed. They reduce the rate and/or amount of runoff and erosion, thereby resulting in the reduction of downstream flood peaks, sedimentation, and the delivery of other damaging material carried by floodwater. Section 502.13 provides policy for land treatment practices for flood prevention.

502.22 Nonstructural measures

Nonstructural measures alleviate flood losses by modifying the susceptibility of land, people, and property to flood damage or by modifying the impact of flooding. Nonstructural measures include, but are not limited to, flood warning, flood proofing, acquisition, relocation, and dikes around individual properties. Nonstructural measures can also be used to acquire, perpetuate, restore, and enhance the natural capability

of wetlands and flood plains to retain excessive floodwaters, improve water quality and quantity, and provide fish and wildlife habitat.

(a) Relocation of existing flood plain properties

Relocation of residential, commercial, industrial, and farm buildings may be the most economically, socially, and environmentally acceptable means of reducing or preventing flood damages. Relocation of existing flood plain properties is intended to reposition buildings in flood-free areas of the landowner's property or on other flood-free land. Land that is evacuated for relocation must have some type of deed restriction to prohibit building on that land. Where State law prohibits building on flood plains, deed restrictions are not required. Actual repositioning and related costs shall be based on replacement in-kind and are eligible for cost sharing. This is an NED cost to be used in benefit-cost comparisons. Costs of measures taken to allow the relocated property to meet decent, safe, and sanitary requirements are eligible for cost-sharing at the relocation cost-share rate, but are not to be included as an NED cost. The cost of additional improvements beyond decent, safe, and sanitary requirements is a nonproject cost ineligible for assistance under the Act.

(b) Flood warning system

Wherever properties remain in a flood-prone area, a flood warning system may be used in conjunction with other measures to reduce flood damages. A flood warning system may include monitoring of weather or stream conditions coupled with a projection of anticipated flood depths. An alert or warning system may be included to notify flood plain occupants in time to protect property from damage, to evacuate the area, or both. An effective forecasting and warning system must be supported by an evacuation and emergency action plan. Federal cost-sharing assistance could include such items as design of the system, stream and rain gauges, the communications network, and the warning system. Costs of monitoring the flood warning system, training personnel, and testing are to be included as part of operation and maintenance. Cost sharing is not applicable to systems receiving assistance from another Federal agency.

(c) Flood proofing

This work is on individual buildings. It includes blocking off low-level entrances and windows, installing one-way valves in drains, strengthening walls and

foundations, installing protective walls, and elevating the building or contents to minimize flood losses. A dike protecting an individual property is considered a nonstructural measure.

(d) Flood plain and wetland acquisition

Flood-prone lands in developed areas may be acquired with program cost sharing assistance. Developed land is defined as areas that have existing residential development, commercial development, or both. Land that has been improved for urban use with existing streets, sewers, and waterlines, or where local authorities have granted permits for such improvements before applying for assistance under Public Law 83-566, is considered developed land. Flood plain lands developed after planning was authorized for a watershed are not eligible for cost sharing assistance.

Perpetual easements on flood plains and wetlands in undeveloped areas may be acquired with program cost sharing assistance to perpetuate, restore, and enhance the natural capability of wetlands and flood plains to retain excessive floodwaters.

Tracts of land acquired as a nonstructural measure may be used for public benefit, such as recreation and fish and wildlife habitat preservation. Such land should be acquired by fee title or perpetual easement. Facilities for public use on this land may be eligible for Federal cost sharing if they are consistent with existing program requirements. Land acquired as a nonstructural measure may also be used for other public purposes if the following conditions are met:

- The land is unsuitable for public recreation or fish and wildlife habitat, or additional public land for these purposes is not needed.
- The proposed use is compatible with remaining flood hazards and project purposes, and land use regulations will be adopted to maintain such use.
- Federal cost sharing is limited to the value of the development rights. This value is defined as the difference between the current appraised value and the value under restricted use.

502.23 Structural measures

(a) Structural measures

Structural measures for flood prevention reduce floodwater damages by controlling the floodwater and

associated erosion, sediment, and other damages. Structural measures for flood prevention include, but are not limited to floodwater retarding structures, channel work, levees and dikes, floodways, floodwater diversions, sediment basins, grade stabilization structures, and streambank stabilization.

(b) Land stabilization measures

Land stabilization measures are those used to stabilize critically eroding areas. They may be a grade stabilization structure or a vegetative measure. The measures are eligible for Public Law 83-566 cost sharing at the rate provided for structural measures for flood prevention. Beneficial effects must exceed the adverse effects.

Where vegetation is used, it will not be harvested except for management purposes for the estimated life of the project as specified in the operation and maintenance (O&M) agreement.

The SLO must obtain title to or easements on and access to the land to be treated, install the measures in accordance with the terms of a project agreement with SCS, and operate and maintain the works of improvement in accordance with the terms of the O&M agreement with SCS.

502.24 Assistance available

(a) Land treatment

Available cost sharing is discussed in subpart 502B.

(b) Nonstructural

In developed areas, the Public Law 83-566 share for the installation of nonstructural measures for flood protection will be 75 percent of the total installation costs, excluding relocation costs. Relocation payments will be computed in the same way as payments are computed for structural measures. In undeveloped areas Public Law 83-566 funds may pay up to 50 percent of the cost of acquiring perpetual easements on flood plains and wetlands that are needed to reduce or prevent downstream flood damages.

(c) Structural

Public Law 83-566 funds are used to pay 100 percent of the construction costs of structural measures allocated to flood prevention. In addition, Public Law 83-566 funds may be used to pay for engineering and project administration costs needed to design and inspect structural measures. These funds may also be used to pay a pro rata share of relocation payments. Public Law 83-566 funds may also be used to pay up to 50 percent of the cost for acquiring real property rights needed to mitigate damages to fish and wildlife habitat. Other than Public Law 83-566 funds must bear the entire cost of acquiring real property rights to install and operate structural measures for flood prevention.

Subpart 502D Agricultural water management

502.30 General

Agricultural water management includes irrigation, drainage, rural water supply, water quality protection and improvement, water conservation, and other water management methods. Measures installed for these purposes are installed on non-Federal land by responsible local organizations to serve groups of landowners. These measures ordinarily require group action for their installation and maintenance and always require group benefits for their justification. Measures on Federal land are installed and maintained in accordance with mutually satisfactory arrangements among the SLO, the land administering agency, and SCS.

502.31 Irrigation

(a) General

Irrigation projects include measures planned primarily to increase the efficiency of water use on cropland, grassland, and woodland and to obtain the maximum practical benefits for existing investments in irrigation. Such projects involve watershed or subwatershed areas composed partly or totally of lands irrigated or proposed to be irrigated. The area may be a water problem area whose boundaries may or may not coincide with surface drainage divides.

(b) Project measures

Land treatment practices are the practices needed to assure that the irrigation benefits are realized. They include those needed for onfarm irrigation (associated land treatment), to reduce erosion and sedimentation of structural measures, and channels installed to supply irrigation water (required land treatment).

Nonstructural measures do not normally apply to irrigation.

Structural measures for irrigation include, but are not limited to

- water supply reservoirs,
- diversion dams,

- pumping plants,
- sluices,
- canal headworks,
- canal and laterals,
- main distribution system pipelines to convey project water to each farm unit or noncontiguous tract within a farm unit,
- canal lining and lining or sealing storage reservoirs,
- appurtenant sediment control and stabilization measures,
- measuring devices, and
- other measures needed to conserve and efficiently use present and potential water supplies and to convey them to individual farms with the least practical loss.

502.32 Drainage

(a) General

Drainage projects include measures planned primarily to increase the efficiency of land use on farms or ranches by the rehabilitation and improvement of existing drainage systems or the construction of new drainage systems to serve cropland, woodland, and grassland. Drainage is accomplished by lowering the water level in areas where a naturally high water table, normal precipitation, normal tidal action, seepage, or excess irrigation water limit agricultural production. Drainage projects include measures planned for surface drainage, subsurface drainage, or both.

Surface drainage is the removal of excess water above the surface of the ground. Subsurface drainage is the removal of excess ground water below the surface. Such projects are in watershed or subwatershed areas composed in part or totally of lands that have been drained or proposed to be drained. The area may be a water problem area whose boundaries consist of artificial barriers that prevent the inflow of water originating outside of the area. Drainage facilities are primarily for rural areas.

(b) Project measures

Land treatment practices consist of those practices needed to assure that the drainage benefits are realized. They include practices needed for onfarm drainage (associated land treatment) and to reduce erosion and sedimentation of project channels (required land treatment).

Nonstructural measures do not normally apply to drainage.

Structural measures for drainage include, but are not limited to, the construction or rehabilitation of artificial channels (open drains) or covered (tile) drains and the rehabilitation and improvement of natural channels. The drains may have gravity outlets or may convey drainage water to pumping plants for disposal.

502.33 Rural water supply

Project measures normally consist of structural measures to provide a dependable water supply to meet existing needs. Normally land treatment and non-structural practices will not be included as part of a rural water supply project. Measures include providing storage capacity in surface reservoirs, intake structures, and associated diversion works and transmission lines to the treatment plant. Although treatment facilities and transmission lines from the treatment plant need to be considered in developing the proposal, they normally are considered as associated measures.

502.34 Water quality protection and improvement

(a) General

Project measures consist of land treatment, non-structural, and structural measures installed for the primary purpose of reducing water quality impairments caused by pollutants, including sediment, primarily from agricultural sources.

(b) Project measures

Land treatment practices are those practices used to reduce the movement of pollutants from agricultural land to offsite locations.

Nonstructural practices generally consist of the protection of flood plains and wetlands that contribute to the purpose of preventing or reducing water quality impairments caused by pollutants from agricultural land.

Structural practices include, but are not limited to, practices that trap those pollutants primarily from agricultural land so that water quality impairments are decreased.

502.35 Water conservation

(a) General

Water conservation measures include those planned primarily to increase the efficiency of the use of agricultural water so that more is available for other uses.

(b) Project measures

Land treatment practices consist of those practices needed to assure that water conservation benefits are realized. They include land leveling, gate structures, modern water conveyance techniques, and other measures.

Nonstructural and structural measures do not normally apply to water conservation.

502.36 Other water management

(a) General

Other agricultural water management may include group water supply and distribution systems used primarily for agriculture in rural areas, recharge of ground water aquifers, saltwater intrusion control, and stabilization of annual streamflow through phreatophyte control or other means for use by rural communities, livestock, orchard and crop spraying, and other similar agricultural purposes.

(b) Project measures

Land treatment practices for this purpose generally consist of those practices needed to assure the realization of the beneficial effects or to protect the structural measures.

Nonstructural practices generally do not apply to this purpose.

Structural measures for other water management include, but are not limited to

- water supply reservoirs,
- group distribution systems,
- measures for control of saline water intrusion,

- eradication of excessive water consuming plants,
- water spreading systems and other measures to recharge groundwater, and
- other measures needed to conserve and efficiently use present and potential water supplies for planned agricultural or nonagricultural purposes.

502.37 Assistance available

(a) Land treatment

Available assistance is discussed in subpart 502B, section 502.13.

(b) Nonstructural

Public Law 83-566 cost sharing is limited to providing technical assistance to install nonstructural measures for agricultural water management except for the acquisition of conservation easements on wetlands or flood plains acquired to reduce water quality impairment. Public Law 83-566 assistance can be used to pay up to 50 percent of the cost of acquiring easements on flood plains and wetlands for the purpose of water quality improvement.

(c) Structural measures

Public Law 83-566 funds can be used to pay up to 100 percent of the technical assistance costs and 50 percent of the construction cost. To be eligible for assistance, project measures must provide measurable benefits to two or more beneficiaries or to the general public. The SLO must pay 100 percent of the real property acquisition cost with other than Public Law 83-566 funds.

Public Law 83-566 financial assistance for construction of rural water supply is currently not allowed.

Subpart 502E Nonagricultural water management—Water-based recreation and fish and wildlife

502.40 General

Measures installed to provide recreational opportunities or to improve the habitat or the environment for the breeding, growth, and development of fish and wildlife can be included in watershed plans that are developed for the purposes of flood prevention, agricultural water management, or watershed protection.

502.41 Project measures

The project measures for recreation or fish and wildlife purposes that improve or create a water resource and the associated measures that facilitate the use of the resource can be included in a watershed plan. The measures can be associated with any water body including a lake or well defined reach of a perennial stream.

(a) Land treatment

Land treatment measures are those practices that contribute to the stated purposes of recreation or fish and wildlife improvement. Subpart 502B provides guidance on land treatment practices for these purposes.

(b) Nonstructural measures

Nonstructural measures include the acquisition of wetlands for the purposes of benefiting the fish and wildlife resources.

(c) Structural measures

Structural measures may include any practice that creates or improves a water resource for recreation or fish and wildlife improvement and the associated facilities necessary for the intended use of the water resource. Examples include:

- Storage capacity in reservoirs, water level control structures, fish ladders, and fish shelters.

- Stream channel work, such as sloping, riprapping, vegetative plantings, channel deepening, and water level control structures.
- Marsh and pit development to provide fish pools in marshes and breeding and nesting areas for migratory waterfowl and aquatic mammals.
- Recreational facilities needed to realize the recreational potential of the water area. Facilities will provide for use, enjoyment, and safety. Recreational facilities include picnic areas, sanitary facilities, fishing piers, shelters, grills, parking areas, swimming beaches, access roads, water, and trails. Also included are practices to provide needed access, water, and power.

502.42 Assistance available

(a) General

Technical and financial assistance are available to implement practices for the purpose of recreation or fish and wildlife when they are part of either a "water resource improvement" or a "water resource project development."

A **water resource improvement** creates or improves a water area for all forms of recreation associated with water or creates or improves a water area for the preservation, production, or harvest of fish and wildlife. Basic facilities are not included.

A **water resource development** applies either to recreation or fish and wildlife and consists of a "water resource improvement" and "basic facilities" necessary for the public to use the development.

The number of water resource improvements in a project is not limited; however, Public Law 83-566 limits the number of developments as outlined in section 500.20 of this manual.

Public Law 83-566 financial assistance for recreation and fish and wildlife in any project may not exceed 30 percent of the total estimated Public Law 83-566 installation cost.

Financial assistance for recreational facilities will be limited to the minimum basic facilities necessary for

its intended use. This would include parking, sanitary, and other facilities needed to accommodate the public.

(b) Land treatment assistance

Land treatment assistance is described in subpart 502B.

(c) Nonstructural measures

Public Law 83-566 funds can be used to pay up to 100 percent of the cost of technical assistance and 50 percent of the cost of acquiring perpetual easements on flood plains and wetlands for the purpose of fish and wildlife improvement.

(d) Structural measures

(1) Technical assistance—Public Law 83-566 funds can be used to pay up to 50 percent of the technical assistance and engineering costs associated with recreational facilities and 100 percent of the technical assistance and engineering costs of the other practices.

(2) Real property rights—Public Law 83-566 funds can be used to pay up to 50 percent of the cost of acquiring real property rights needed to install and operate the practices when they are part of a water resource improvement or a water resource development.

(3) Construction costs—Public Law 83-566 funds can be used to pay up to 50 percent of the construction costs of all eligible practices.

502.43 Limiting conditions

The improvement must be available to the general public (not limited to certain classes or organized groups) unless the improvement is for fish and wildlife propagation, preservation, or protection. This includes real property rights that guarantee public access to the entire reservoir area and access corridor(s) of adequate width and quality to safely accommodate public use of the site to one or more locations on the reservoir perimeter. It also includes real property rights to provide space for parking areas and sanitary or other facilities needed to accommodate the public.

Adequate sanitary facilities must be provided to serve the public use contemplated. If public use is not contemplated, adequate provisions should be made to

exclude the public, if necessary, to prevent the creation of unsanitary conditions. The provisions for water pollution control set forth in Executive Orders 11507 and 11514 must be satisfied. In the absence of adequate local standards, those recommended in the Department of Health and Human Service's Publication No. (HSM) 72-10009, "Environmental Health Practices in Recreational Areas," will be used as a guide for planning, design, operation, and maintenance.

Recreation facilities are eligible for Public Law 83-566 assistance if they are part of a project development. Only those facilities to be owned, operated, and maintained by the SLO are eligible for cost sharing. This includes parking areas and the sanitary or other facilities needed to accommodate the public. Landscaping and other vegetative treatment measures to preserve and protect the area of use by people or fish and wildlife also are eligible.

All recreation facilities for which Federal cost sharing is provided shall be designed and constructed to ensure accessibility and usability by physically handicapped people in accordance with Public Law 90-480. Guidelines are in 36 CFR 1190, "Minimum Guidelines and Requirements for Accessible Design." The facilities must comply with appropriate health standards.

Construction of private facilities within the minimum real property rights boundary is prohibited. The exception to this is for essential service facilities that are constructed or operated by private concessionaires on a controlled permit basis to serve the planned use of the improvement or development.

502.44 Private developments

If the SLO grants permission to any individual, group, corporation, or other interest to add storage capacity to a reservoir for which Public Law 83-566 financial or credit assistance was given for such purposes as private recreation or nonagricultural land value enhancement, the SLO must acquire the real property rights. This is necessary to

- Permit access to the entire reservoir,
- Provide adequate access corridors(s) to safely accommodate public use of the site at one or more locations on the reservoir perimeter, and

- Provide space for parking areas and sanitary and other facilities needed to accommodate the public.

In addition, the SLO must obtain water rights as required by State law for the planned use; provide public access without discrimination; provide an adequate parking area and boat launching ramp, where needed, to accommodate the public; and provide and maintain adequate public sanitary facilities in compliance with local and State safety and health regulations.

The SLO must be responsible for all costs for additional storage, facilities, and access. They must also limit admission charges and use fees to the amount necessary to amortize costs and provide adequate operation and maintenance; prohibit construction of private facilities on public use areas, and prohibit construction of any facility on the dam and appurtenances thereto. In addition, they must limit installation of private facilities on periphery of the reservoir to those meeting SCS criteria established to ensure proper functioning of the structure and to protect the environment.

502.45 Potential use

The SLO must protect the water quality and the health of individuals where incidental recreational use of project works of improvement may occur. The plan should indicate which sites, if any, have potential for incidental recreational use. Where this potential exists, sanitary facilities that meet State and local health requirements must be provided to protect the water quality. If there is no reasonable assurance of such protection, the SLO must agree to prohibit use.

Subpart 502F Ground water recharge

502.50 Project measures

Project measures consist of land treatment and structural measures. Eligible practices include reservoirs, terraces, diversions, or other recharge devices that will result in recharging an underground aquifer and reducing a problem associated with a shortage of water.

502.51 Assistance available

Public Law 83-566 funds for land treatment practices are discussed in subpart 502B. They can also be used to pay for the technical assistance and up to 50 percent of the construction cost of structural measures for ground water recharge.

Subpart 502G Water quality management

502.60 Project measures

Project measures consist primarily of reservoirs to store water for the purpose of reducing a water quality impairment by releasing sufficient water to meet established standards.

502.61 Preconditions

Storage of water in a reservoir for the purpose of reducing a downstream impairment shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source. Any solutions developed for water quality management shall be consistent with standards adopted by the Water Resources Council.

502.62 Assistance available

Public Law 83-566 funds may be used to pay for technical assistance and an equitable share of the construction costs allocated to water quality management if the plan has been approved by the Environmental Protection Agency. A cost share rate has not been established for this purpose by the Secretary of Agriculture.

Subpart 502H Municipal and industrial water supply

502.70 Project measures

(a) Land treatment

Land treatment practices that contribute to the purpose of municipal and industrial water supply generally consist of practices that protect the watershed area and reduce sediment and other pollutants being carried into a reservoir or stream. Guidance on land treatment is in subpart 502B.

(b) Nonstructural measures

Nonstructural measures include such practices as metering, leak detection and repair, regulations on use (plumbing codes), education programs, and drought contingency plans.

(c) Structural measures

Structural measures generally include providing additional storage capacity in a reservoir to increase the availability of water for present and future municipal and industrial use. Also, needed outlet works and pipelines to convey water from the reservoir or other water supply to the existing or proposed treatment facilities or water system are considered project measures. Wells should also be considered as a potential source of water when formulating the municipal and industrial aspects of a plan.

502.71 Assistance available

(a) Cost sharing

OMB has not authorized the Secretary to cost share on municipal or industrial water supplies.

(b) Loans

Public Law 83-566 watershed loans are available for municipal and industrial water supplies through the Rural Development Administration. Repayment of these loans must be within a 50-year time period.

(c) Advances

Public Law 83-566 funds may be advanced to the SLO to pay for storage capacity in reservoirs to meet anticipated future needs for municipal and/or industrial water supplies. The amount of the advance is limited to 30 percent of the total cost of the structure. The advance must be repaid in full with interest within 50 years after the retention reservoir is constructed, or a shorter period if required by law. Interest will not be charged until the water supply is first used or until 10 years after the date of the completion of the structure, whichever is earlier. Outlet works are eligible for advances when such works are a part of the structure.

(d) Ineligible works of improvement

Wells, water treatment plants, distribution systems, and electric generating, transmission, and distribution facilities are ineligible for assistance from Public Law 83-566 funds.

Subpart 502I Real property rights

502.80 Definition

Real property acquisition includes obtaining needed land, water, mineral, and other subsurface rights, and required Federal, State, and local permits or clearances for installation of the planned measures. Acquisition of rights may be obtained with the use of fee simple title, easements and rights of way, or by permits and clearances as required by applicable State regulations. Refer to 7 CFR, Part 651 (9/10/79) for specific guidance for acquisition of real property.

502.81 Responsibilities

Acquisition of real property is a major step in project implementation. It is one of the most important responsibilities of the SLO and requires firm scheduling, attention to details, and follow up.

The Act does not provide authority for land acquisition by the Federal Government. The SLO must acquire all rights needed for investigations, surveys, installation, operation, maintenance, and inspection of works of improvement to be installed with Federal financial assistance on non-Federal lands. No cost sharing will be provided for engineering, legal, or administrative costs incurred by the local organizations for acquiring real property rights. The exception is for real estate appraisals in connection with cost-shared real property rights acquisition, including direct costs associated with appearing as an expert witness in condemnation proceedings on the agency's behalf.

Water rights are the responsibility of the SLO. To fulfill their obligations, the SLO must present satisfactory evidence that water rights are held or can be obtained by landowners or their organizations or associations for the quantity, seasonal use, and storage of water, if required, to supply contemplated need. Before the project agreement is signed, the SLO must obtain the water rights necessary for the proposed measure to function effectively.

The SCS is responsible for providing real property acquisition maps showing the minimum area and rights needed for each project measure. Details are in the National Contracts, Grants and Cooperative Agreements Manual, section 511.10. These maps should not be distributed to the SLO until the plan has received all approvals.

State conservationists are to approve in writing all real property acquisition maps and all subsequent changes required by SCS. Changes are to be made only after consultation with the SLO.

502.82 Requirements

(a) Dams

The SLO should be made aware that during a storm of some frequency water may reach an elevation equal to or greater than the top of the dam. On privately owned lands, real property rights must be acquired for the structure, spillways, and reservoir area; areas adversely affected by changed water flow, including, but not limited to, areas for spillway discharge; areas for environmental and protective features; and areas needed for other activities. The other activities include design, operation and maintenance, construction, spoil disposal, borrow, entry and exit, and diversion of water. If the structure has an emergency spillway, the state conservationist will require real property rights upstream from the dam for at least all the area below the higher elevation of either (1) the crest of the primary emergency spillway, or (2) the maximum elevation of the water surface attained during passage of the 100-year, 24-hour storm flow through the structure. This elevation shall be known as the flowage line. If the dam does not have an emergency spillway, the state conservationist will require that real property rights be acquired up to an elevation at least equal to the top of the dam.

On publicly owned lands, the SLO must acquire special use or occupancy permits from the appropriate land managing agency before any planning or implementation of structural works of improvement are undertaken. The SLO must apply for permits with sufficient lead time to ensure an orderly installation of the project.

In determining real property rights needed for the structure, the state conservationist will consider all

pertinent circumstances including present and likely future land use and the extent of potential damage from flooding. The state conservationist shall not authorize Public Law 83-566 construction assistance for the structure if it could endanger human life by flooding a residence or public roads.

Fee simple title or term easements (evaluated life of the project) are required for the dam, spillways, ingress/egress routes, and pool areas. Flowage easements in lieu of fee simple title may be obtained for the flood pool (temporary water storage) only. Temporary easements in lieu of permanent rights-of-way may be obtained where needed to install measures to mitigate unavoidable adverse landscape resource effects.

Additional criteria for dams are in section 502.82(c) of this manual. These criteria must be met before installing any structure where the installation could result in flooding of railroads, highways, public roads, dwellings, buildings, water sources, public utilities, burial sites, and historic sites or monuments .

(b) Channels

(1) Real property rights—The state conservationist will ensure that the minimum area for real property rights acquired for the channel work will include:

- areas within the channel's designed top width and berm width necessary on each channel bank to ensure stability of the channel, channel banks, and side slopes;
- areas needed for installation, inspection, design, operation and maintenance, ingress and egress, and disposal and diversion of water;
- areas needed for environmental protection features; and
- other areas adversely affected by changed streamflow characteristics or induced flooding.

Fee simple title or term easements are to be acquired for the channel itself; appurtenances; any needed diversions; and areas needed for ingress, egress, and travelways to allow for operation and maintenance of the works of improvement. In addition, fee title or easements are needed for any additional areas, including downstream areas, that may be subjected to adverse effects by changed streamflow characteristics, such as extended flooding of low-water crossings and more than negligible flood damage to property.

(2) Term easements for construction performance—Term easements are to be acquired for areas in addition to those covered above as needed for construction performance. These areas include those for construction ingress and egress, equipment staging, and parking lots.

(3) Permit or term easements for other areas—Permit or term easements are to be acquired for areas in addition to those covered in (1) and (2) above as needed for surveys and investigations and for one-time operations, such as spoil spreading areas.

(c) Induced flooding

(1) Flooding of roads and railroads—Highways and public roads may not be flooded below the elevation of the flowage line except when the highway or public road is closed for a brief period and an alternate all-weather route can be used with a minimum of inconvenience. A written right or permission to flood the highway or public road must be obtained from the State, county, or agency having jurisdiction over the highway or public road. The written right or permission may be an easement, court order, or, if those cannot legally be given, a permit. The written right or permission must be accompanied by a citation of the applicable State statute or a written opinion of the State attorney general stating that the State, county, or agency granting the permission has legal authority to allow the road to be closed by flooding.

Dwellings affected by the temporary closing of the flooded road must be accessible by an all-weather road that will not flood more frequently than it did under preconstruction conditions. If a road providing the only access to a dwelling is at a lower elevation than that of the flowage line, a historical record of preconstruction flooding is to be developed and documented in the case file.

In exceptional cases, public roads may be located at the same elevation as the flowage line (such as in the case of a road located in or across the emergency spillways of dams) if

- Because of the nature of the terrain adjacent to the dam area (such as in mountainous areas), the road must be located so that one or more points of the road crown is at or near the flowage line.

- Natural flooding of one or more points along the road above or below the project area would make the road impassable before any flooding caused by the structure would take effect, and State law permits flooding of roads under those conditions.
- Flow through the emergency spillway is at a lesser frequency than that at which the road flooded before construction of the structure.

Railroads that are to remain in use may not be flooded.

(2) Flooding of buildings—The state conservationist may not allow dwellings, including basements, or any other buildings that contain valuable property or that may be used as permanent or seasonal living quarters, to remain in the area requiring flowage rights unless they are flood proofed or otherwise protected from damage by the storm event used to establish the flowage right elevation. Before financial assistance is made available to the SLO, the dwelling or building must be demolished, relocated, raised, or protected by a flood wall. This must be done so that drainage is adequate and ponding of water is not unreasonable.

If requested by the SLO and approved by the state conservationist, other buildings, such as barns and garages, may remain in the flowage easement area. Approval for flooding buildings of this type generally is not granted if the building is used for the storage of feed, regulated chemicals, perishables, supplies, equipment, or other items that would be substantially damaged by flooding. This also applies to any building used for other purposes if flooding would cause an interruption or delay of operations carried on in the building or if a death or damage to the building's contents could occur.

(3) Flooding of water sources—Flooding of water sources, such as springs, wells, or stream diversions, or the interruption of delivery, conveyance, and disposal systems will not be allowed until the SLO have complied with State laws, ordinances, and regulations relating to water sources.

(4) Flooding of utilities—Public or private utilities may not be flooded unless the utility company or owner has determined that the function of the facility will not be affected adversely and a subordination agreement has been obtained.

(5) Flooding of burial and historical sites—Burial sites, such as cemeteries and private family plots, may not be flooded unless disinterment and reburial has been accomplished in accordance with State law.

Historical sites or monuments may not be flooded until compliance with procedures for such property has been completed. The state conservationist is to assist the SLO in obtaining permission to survey for or recover archeological or historical resources in accordance with the General Manual 420-401.

(d) Recreation and fish and wildlife improvements and developments

Fee simple title is required for all privately owned land acquired for recreation and fish and wildlife purposes in a water resource improvement or a project development when Public Law 83-566 cost sharing assistance is provided. Fee simple title is preferred for all non-Federal public land needed; however, if it is not feasible to obtain this title, the granting of a perpetual easement generally will suffice. An acceptable permit from the agency administering the land will be sufficient for real property rights required on Federal land.

Real property rights required for developments include the dam site, emergency spillway and its flow area, and land in the reservoir area up to at least the crest of the emergency spillway, maximum water elevation reached during passage of a 100-year frequency storm or 100 feet horizontally from the perimeter of the designed permanent pool, whichever is greater. Acquisition by fee title, however, may be terminated 200 feet upstream from the head of the beneficial pool in each arm of the reservoir. Additional real property rights may need to be acquired to install recreational facilities.

At least one access road must be provided to all principal recreation areas. Rights-of-way required for public utilities, such as power lines and pipelines needed to service recreation or fish and wildlife developments, must be acquired by at least a perpetual easement.

(e) Wetland or flood plain conservation easements

Cost sharing assistance may be provided to enable sponsors to acquire perpetual wetland or flood plain conservation easements to perpetuate, restore, and enhance the natural capability of wetlands and flood

plains to retain excessive floodwaters, improve water quality and quantity, and provide habitat for fish and wildlife.

(1) Wetland easements—Land eligible for cost sharing for perpetual wetland conservation easement will be identified during the formulation of the plan. The land to be included in the permanent easements will be the wetland area and a buffer not to exceed 100 feet from the defined wetland. The minimum wetland size to receive cost share assistance is 4 acres.

In cases where structures are used to restore drained wetlands, the provisions described in Section 502.82(d), Recreation and fish and wildlife improvements and developments, will be used to determine minimum requirements.

(2) Flood plain easements—Flood plains eligible for conservation easements are those areas within the 100-year flood plain limit where no development has occurred.

Cost sharing is not allowed in areas within the flood pool of planned or existing structures built by Public Law 83-566 or others. Provisions for those areas are described in Section 502.82(a), Requirements for dams.

Double payment is not allowed in cases where wetlands exist on flood plains.

Subpart 502J Costs and provisions for financing

502.90 Definition of costs

(a) Program cost

Program cost includes all expenditures from appropriations made under authority of Public Law 83-566.

(b) Planning cost

The cost of planning services includes all expenditures from Public Law 83-566 and other funds for surveys and investigations and preparation of plans prior to authorization of assistance for the installation of works of improvement.

(c) Project installation cost

Project installation cost includes all Public Law 83-566 and other costs for installing the works of improvement to be incurred after the project is authorized for installation. Included are the costs of work required to comply with mandatory Federal and State laws or regulations.

(d) Technical assistance

The cost of technical assistance includes all Public Law 83-566 costs and other costs for personnel and contracted services for soil surveys and for planning and applying land treatment measures on non-Federal land needed to achieve the objectives of the project.

(e) Engineering services

The cost of engineering services includes the direct cost of engineers and other technicians for surveys, investigations, designs, and preparation of plans and specifications for structural and nonstructural measures including the vegetative work associated therewith, and preparation of operation and maintenance plans. Also included as engineering services are costs related to the review of engineering plans and specifications prepared by others and necessary quality assurance during construction to ensure that measures are installed in accordance with the plans and specifications. It does not include the cost of similar services for real property rights, obtaining permits, or contract administration for the project.

(f) Water rights

The cost of water rights includes the actual cost or the value of water rights (based on appraisals) acquired by local interests for carrying out, operating, and maintaining the project.

(g) Real property

The cost of real property includes all costs for the following items, including elements of works involving planning, design, acquisition, construction, mitigation for fish and wildlife habitat losses, and administrative services directly associated with real property.

- All expenditures made in acquiring needed real property rights and other interests in land in accordance with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et. seq., as implemented by 70 CFR 21).
- Removal of buildings, improvements, or timber for salvage or relocation, or the construction of dikes or other protective works in lieu thereof.
- Salvaging, moving, or reconstruction of fences not needed for the proper operation, maintenance, public safety, or inspection of the works of improvement.
- Changes of existing telephone, power, gas, water, and sewer lines, or other utilities, but not including changes to existing irrigation or drainage facilities made necessary by the works of improvement.
- All new roads and changes of existing public roads or private roads, or railroad bridges, culverts, and other crossings, including approaches, except reinforcing, underpinning or reconstructing existing bridge piers and abutments of public roads and railroads necessitated by modification of the channel. This does not include cost for the excavation and installation of a closed conduit crossing of a public road or railroad when it is an integral part of an overall closed conduit structural measure.
- All modifications and changes of roads and railroads that are to remain serviceable after project installation.
- Premiums for construction liability insurance when someone other than the construction contractor is made the principal.

(h) Relocation costs

These costs are the Public Law 83-566 costs and other costs associated with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646). Relocation payments include moving and related expenses for a displaced person, business, or farm operation as well as financial assistance for replacement housing for a displaced person who qualifies and whose dwelling is acquired because of the project. Items eligible for inclusion in relocation payments are detailed in the SCS Property Management Regulations 104I - 71.503.3. Costs over and above replacement in kind are treated as nonproject costs.

(i) Construction cost

Construction costs are those of constructing structural and nonstructural measures. They include any or all of the following:

- Reinforcing, underpinning, or reconstructing existing railroad and public road bridge piers and abutments necessitated by modification of the channel or the replacement of a closed conduit crossing of a public road or railroad that is an integral part of a closed conduit system. These costs are limited to those required to provide a facility comparable in quality and performance to the existing bridge or culvert.
- Clearing of sites for project purposes including the cost of removing buildings, bridges, fences, or other improvements that the local organization desires to abandon.
- Construction of pumping plants and pressure conduits, gates, or other structures to carry interior drainage through dikes or flood walls.
- Construction of diversion dikes and practices for conducting surface water to project outlets or pumping plants for interior discharge.
- Construction of necessary structures to provide controlled inlets for drainage from adjacent fields and internal ditches into the project measure.
- Flaggers and protective devices, such as barriers or lights, required to protect workers or the public during construction.
- Alteration, modification, or reconstruction of existing irrigation or drainage facilities made necessary by project works of improvement.

- Providing needed maintenance access, including necessary culverts and fords.
- Borrow material obtained from land purchased by the SLO for the specific purpose of obtaining borrow material. The cost may not exceed the difference in land value before and after borrow removal or the actual cost of acquiring the borrow materials (without purchasing the land) whichever is the least cost.
- Construction of catwalks, handrails, fences, gates, and other such features needed for the proper functioning of the structural measures and for the operator's and public's safety. This also includes any safety features needed for public recreation or fish and wildlife in a project.
- The disposal of waste spoil in accordance with sound engineering and environmental principles, giving consideration to (1) customary practices in the area; (2) width and planned land use of flood plain; (3) wildlife and environmental values of contiguous oxbows and vegetation; and (4) wetlands, cultural resources, and threatened and endangered species. Agreement on the specifics of spoil disposal will be reached in the planning stage.
- Premiums for construction liability insurance when the construction contractor is made the principal.
- Provision for fire prevention and suppression made necessary by project construction activities.
- Establishment of vegetation or other protective cover on all construction sites and in areas disturbed during construction to prevent erosion, improve stability, and restore or maintain wildlife habitat and the landscape quality. Such establishment includes herbaceous and woody plantings for erosion control, wildlife food and shelter, walkways, and screening or improving the appearance of structural measures.
- Identification signs and plaques, if desired by the SLO, as long as there is reasonable assurance that these signs will not be vandalized.
- Any of the above features adopted to mitigate losses attributed to structural measures.

(j) Land treatment financial assistance costs

The cost of installing land treatment practices other than technical assistance, engineering services, and project administration.

(k) Project administration

These are the Public Law 83-566 and other administrative costs associated with the installation of financially assisted measures including the cost of contract administration, government representatives, any permits needed to install the works of improvements, relocation assistance advisory services, and administrative functions connected with relocation payments.

(l) Operation and maintenance costs

These costs are for the materials, equipment, services, and facilities needed to operate the project and make repairs and replacements necessary to maintain structural measures in sound operating condition during the evaluated life of the project. Included are the cost of repairs, replacements, or additions and an appropriate charge for inspection, engineering, supervision, custodial service, and general overhead.

(m) Associated costs

These costs are for the measures needed over and above project measures to achieve the benefits claimed during the analysis period. An example is the cost of irrigation water supply laterals and onfarm irrigation and drainage systems required to produce the increased outputs on which the benefits were computed.

(n) Other direct costs

These costs are for the resources directly required for a project or plan for which no financial outlays are made.

(o) External diseconomies

These costs are uncompensated economic losses caused by the installation, operation, maintenance, or replacement of project measures. An example is increased downstream flood damages caused by channel modifications or dikes.

(p) Nonproject installation costs

These include costs that will be incurred at the time of project installation for features not required for project purposes. These costs are not eligible for assistance under the Act. They are not included in cost tabulations or accounts, nor are they considered a part

of the local organizations' contribution to the installation cost of a project, but should be incorporated into tables 1 through 6 in the plan (figs. 504–8 through 504–18).

502.91 Allocation of costs

The Act provides that costs be allocated to the various purposes and that the basis of such allocations be shown. Where a single work of improvement is planned to serve more than one purpose, costs shall be allocated so that each of the purposes share equitably in any resulting savings. The method or basis of such allocations shall be described in the plan. Guidance in allocating costs to purpose are in section IX of "Economic and Environmental Principles and Guidelines for Water and Related Resources Implementation Studies" (P&G).

(a) Multipurpose sites

Paragraph 1.9.2(a) of the P&G indicates that the separable costs are the differences between the cost of the multipurpose structure and the cost of a structure with that purpose omitted. Separable costs must be determined in accordance with this paragraph to conform with the P&G. Consistency must be established in the treatment of constituent costs. In the Separable Cost-Use of Facilities Method, the percentage use of each purpose must be uniformly applied to the allocated joint cost for each constituent.

The P&G [1.9.3(b)] states that "Joint cost may be allocated in proportion to the use of facilities, provided that the sum of the allocated joint cost and separable cost for any purpose does not exceed the lesser of the benefit or the alternative cost for the purpose." This is interpreted to mean the total cost for that purpose and not to each constituent cost.

Sediment storage in a multipurpose structure will be considered a joint use storage when allocating joint costs by the use of facilities option stated in paragraph 1.9.3(b) of the P&G. The designated storage capacity for a specific purpose will be used to determine its proportional use of the facility.

Mitigation costs will be separated into the cost of the feature and the cost of land components. The cost of the land will be a real property rights cost, while all other costs will be construction costs. This will be

done when determining the cost of the multipurpose structure, the cost of the structures used to estimate separable costs, and the cost of the single-purpose measure used to determine alternative cost estimates.

The single-purpose measure used to determine the alternative cost for a purpose does not need to be physically located at the site of the multipurpose structure.

Instances where a structure with high construction costs relative to O&M costs displaces an alternative method with low installation costs relative to O&M costs for achieving the same or equivalent benefits will occur. These situations will be handled on a case-by-case basis with combined input of the NTC and the NHQ.

(b) Multipurpose channels

For multiple-purpose flood prevention-drainage channels, the cost allocation will be 50-50 in all instances (P&G 2.3.8(c)).

United States
Department of
Agriculture

**Soil
Conservation
Service**

**National
Watershed
Manual**

Part 503

**Development
of the Project Plan**

Part 503

Development of the Project Plan

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Subpart 503A Introduction**503.00 Introduction**

Part 503 gives guidance for the development of project plans. Subparts 503A and 503B apply to all planning assistance furnished under the authority of section 3 of Public Law 83-566. Subparts 503C, 503D, and 503E apply to projects that will receive Public Law 83-566 assistance for installation.

503.01 Public Law 83-566 Planning

Public Law 83-566 authorizes SCS to prepare water and land resource plans in response to requests from the Sponsoring Local Organizations (SLO). Each resource plan will fall into one of the following categories.

(a) Locally Implemented (LI) plans

These projects will be installed by local organizations without any further Public Law 83-566 assistance.

(b) Technical Assistance (TA) plans

These are projects where Public Law 83-566 installation funds will be used to provide technical assistance only. TA plans can include either technical assistance for land treatment or engineering services for structural and nonstructural measures (as defined in section 502.90 of this manual).

(c) Technical and Financial Assistance (TA/FA) plans

These are projects where Public Law 83-566 installation funds will be used to provide both technical and financial assistance.

As used in this manual, the term “watershed plan” includes both TA and TA/FA plans, but not LI plans. Development of a watershed plan will be accomplished in two phases: preauthorization planning and plan development.

503.02 Planning standards and criteria**(a) SCS National Planning Manual**

The SCS National Planning Manual provides policy and guidance in the planning aspects of SCS technical assistance for all programs. Public Law 83-566 planning assistance will be consistent with the procedures described in the National Planning Manual.

(b) Principles and guidelines

SCS water resource planning activities are to conform to the “Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies” (P&G). Among the items included in the P&G are planning principles and standards, guidelines for economic and environmental evaluations, and a requirement that any plan recommending Federal action is to be the alternative with the greatest net economic benefit consistent with protecting the Nation’s environment (the NED plan), unless an exception is granted (NED requirement).

TA and TA/FA water resource projects shall conform to all requirements of the P&G. Projects that include only land treatment measures will be planned in accordance with the procedures of the P&G, but identification of the NED plan is not required. Formulation criteria for land treatment plans are discussed further in section 503.46 in this part of the manual. All TA and TA/FA plans must have identified beneficial effects (monetary and nonmonetary) that exceed adverse effects. LI plans may be planned in accordance with the National Planning Manual and the rules and guidelines of the implementing authority.

(c) National Environmental Policy Act

All planning activity must comply fully with the National Environmental Policy Act (NEPA) procedures. For TA or TA/FA plans, the state conservationist will either prepare and file an Environmental Impact Statement (EIS) or prepare an Environmental Assessment (EA) and publish a Finding of No Significant Impact (FONSI). LI plans do not involve SCS assistance for installation. SCS will conduct an environmental evaluation and prepare an environmental assessment for LI plans. The assessment will be furnished to the SLO. Further processing of environmental documents in accordance with applicable laws will be the responsibility of the implementing authority.

(d) Cultural resources

SCS procedures for protecting cultural resources (420 GM 401) distinguish between “nonproject” and “project” undertakings. The procedures also provide for treating project assistance for nonstructural or accelerated land treatment measures as nonproject undertakings, while TA/FA plans for structural measures are project undertakings. TA plans for structural measures and LI plans are not addressed in the procedures; they will be treated as nonproject undertakings.

(e) Threatened and endangered species

Section 7 of the Endangered Species Act requires Federal agencies to consult with the Departments of Interior or Commerce whenever an agency’s action may affect a listed species or critical habitat. Regulations governing this consultation are in 50 CFR 402. These regulations apply to all actions in which there is discretionary Federal involvement or control (50 CFR 402.03).

SCS procedures for complying with the Endangered Species Act are set forth in 7 CFR 650.22 and reproduced in 190 GM 410.22. These procedures distinguish between “project” and “nonproject” activities. For project activities, SCS is to initiate formal consultation if the activity may affect a listed species or critical habitat. If a nonproject activity will have such an effect, SCS will initiate formal consultation if the landowner requests it.

All TA and TA/FA plans are to meet the requirements for project activities. LI plans will not have SCS involvement in their installation, so the section 7 requirements do not apply to them. However, other parts of the Endangered Species Act may be applicable. If the EA indicates that an LI plan may affect threatened or endangered species, the SLO must be advised of their responsibilities.

(f) Channel modification guidelines

The Channel Modification Guidelines set forth SCS-Fish and Wildlife Service coordination requirements for each step in the planning process (190 GM 410.28). All steps apply to TA and TA/FA plans. For LI plans, the coordination requirements that the guidelines prescribe for the preapplication phase are the only ones that must be met.

(g) Protection of wetlands

SCS policy for protection of wetlands is given in 7 CFR 650.26 and 190 GM 410.26, which prescribe procedures for implementing Executive Order 11990. Section (d)(5) of these procedures calls for SCS to provide assistance only if the selected plan avoids altering wetlands or if adequate mitigation is agreed to by the SLO. For TA and TA/FA plans, SCS participation in the installation will assure that this requirement is met. This will also be true for LI plans if SCS participates in the installation under other programs. For LI plans where SCS does not participate in the installation, the plan shall clearly identify any needed mitigation. Although SCS does not have any mechanism for ensuring that such mitigation is carried out, the permit programs administered by other agencies should provide the necessary followup in all but the most insignificant cases.

(h) Flood plain management

SCS procedures for implementing Executive Order 11988 (Flood Plain Management) are given in 7 CFR 650.25 and 190 GM 410.26. These procedures apply to all SCS planning. Section (c) of the procedures gives step-by-step requirements for nonproject actions and for project actions. LI, TA, and TA/FA plans will all be planned using the procedures for project actions.

LI plans that include alternatives that leave a risk of loss of life during a 100-year or 500-year flood should also include a thorough description of the remaining flood hazard in the benefit area. TA and TA/FA plans must meet the formulation and reporting criteria set forth in 503.46(f).

(i) Executive Order 12372, Intergovernmental Review

Executive Order 12372, which requires consultation with State and local officials, specifically applies only to proposed Federal financial assistance and direct Federal development. Thus, LI and TA plans are not within the scope of the Executive Order, while TA/FA plans must comply, as provided for in 503.21 and 503.24.

(j) Executive Order 10584, Administration of Public Law 83-566

Executive Order 10584 (as supplemented by EO 10913) is reproduced in exhibit 500-1 in part 500 of this manual. Section 3(a) of the order sets forth notification requirements that must be carried out

whenever any survey or field investigation involving water resources development work is initiated. These requirements apply to all three (LI, TA, TA/FA) plan categories. Section 4(a) of the order sets forth additional coordination requirements for applications for irrigation projects in the reclamation States, urban flood damage reduction projects, and projects in the Tennessee River drainage basin. These are post-application requirements and apply only to TA and TA/FA plans.

(k) Applicability of program criteria

Subpart C of Part 500 sets forth various program criteria. Table 503-1 shows the applicability of specific criteria to the three types of plans.

(l) Project purposes

Whenever possible, watershed projects should serve multiple purposes and satisfy a wide range of locally identified needs. Projects may be formulated to solve problems or satisfy opportunities associated with any of the authorized purposes. To be eligible for Public Law 83-566 assistance for implementation, a plan must include as a purpose watershed protection, flood prevention, or agricultural water management. TA and TA/FA plans will not be developed solely for any other purpose. LI plans may be developed for any of the purposes listed in section 500.10.

503.03 Notification for specially designated areas

Formal and informal agreements have been reached with officials in several designated areas to coordinate and keep them informed of progress during planning and operations. These areas are Appalachia, Delaware River Basin (exhibit 501-3), Susquehanna River Basin, and Tennessee Valley Authority (exhibit 501-4).

503.04 Public Law 78-534 projects

Flood prevention projects (described in 500.31) were individually authorized by Federal legislation (Public Law 78-534). Subparts 503B, 503C, and 503D are not applicable to Public Law 78-534 projects.

Table 503-1 Applicability of program criteria

	LI plans	TA plans	TA/FA plans
250,000-acre watershed size limit	Yes	Yes	Yes
25,000 AF total capacity limit	Yes	Yes	Yes
12,500 AF floodwater storage limit	Yes	Yes	Yes
One recreation development per 75,000 acres	No	No	Yes
20 percent agricultural benefits	No	Yes	Yes
Application submitted through Governor	No	Yes	Yes
Land treatment above structures	No	Yes	Yes

Subpart 503B Resource planning assistance

503.10 Introduction

This subpart applies to all planning assistance furnished with Public Law 83-566 funds before receipt of an application for assistance. If the SLO decide not to seek Public Law 83-566 assistance for installation, planning will lead to development of a resource plan for local implementation. If the SLO decide to seek Public Law 83-566 technical or financial assistance for installation, plan development will continue as described in subparts 503C through 503E.

503.11 Initial request

All Public Law 83-566 planning assistance is furnished in response to requests from the SLO. This may be in the form of a letter to the state conservationist. A copy of the request should be furnished to the designated State agency.

503.12 Preliminary investigation

As soon as substantive inquiries are received concerning a potential watershed project, a preliminary investigation should be conducted. As part of this, an environmental evaluation (7 CFR 650.5) should be initiated using an interdisciplinary team approach. The preliminary investigation can be a very brief study, using existing data to the extent possible. The purpose is to provide reasonable assurance that a feasible plan can be developed and that there are no obvious insurmountable obstacles.

If the state conservationist decides to provide further planning assistance, a plan of work is to be prepared and used to guide the planning process. It should show the tasks to be performed, the estimated time required, and a schedule for completing the resource plan.

503.13 Notification of planning assistance

Before providing further planning assistance, the state conservationist will notify the director of the Watershed Planning Division (WPD). This may be in the form of a letter describing the name, location, and size of the watershed, sponsors, anticipated project purposes, estimated installation cost, estimated completion date, and any other pertinent information from the preliminary investigation. A copy of the letter shall also be sent to the director of the NTC, along with a copy of the plan of work.

503.14 Resource plan

The next step is to develop a resource plan. This may be either (1) a plan to be given to the SLO to implement locally, or (2) a preauthorization report to support a request for authorization to develop a Public Law 83-566 plan.

All appropriate USDA agencies, the Departments of the Interior and Army, other concerned Federal agencies, the Governor or designated agency, concerned State agencies, and the public will be notified of the potential project. All locally identified rural development needs of the communities in the watershed should be considered. Coordination with other agencies and groups and other public participation shall be documented as it is carried out.

Information gathered in the resource plan phase should be useful to the local organizations in deciding whether to seek Public Law 83-566 assistance for installation.

(a) Public Law 83-566 implementation

If the SLO decide to apply for Public Law 83-566 assistance, a preauthorization report will be prepared. Content of the report will be as described in section 503.31. Once the SLO decide to seek Public Law 83-566 assistance, they may begin the application process immediately, following the procedures in subpart 503C of this part of the manual. They do not need to wait until a preauthorization report is completed before submitting an application.

(b) Local implementation

If the SLO will not seek Public Law 83-566 assistance for installation, a plan for local implementation should be prepared in accordance with the LI plan requirements in subpart 503A. Format and content should be whatever best meets the needs of the SLO. The state conservationist shall notify the director of WPD of the plan's completion and provide a copy of the plan. A copy of the notification and of the plan shall also be furnished to the NTC.

Subpart 503C Application for assistance**503.20 Introduction**

This subpart sets forth procedures for preparing and submitting an application when Public Law 83-566 assistance for installation is being sought.

503.21 Notification of intent to apply for Federal assistance

The SLO shall follow State developed procedures for coordination of proposed Federal financial assistance and must notify the State's Single Point of Contact for Federal Assistance of their intent to apply for assistance under Public Law 83-566. This requirement does not apply to TA plans where there will be no financial assistance.

503.22 Requirements of a valid application

A valid application must have adequate sponsorship by qualified local organizations, conform with Federal policies on nondiscrimination, comply with the acreage limitation under the Act, include documentation that appropriate clearinghouse procedures have been followed, and be approved by the State.

A watershed area comprises all land and water within the confines of a drainage divide and must follow hydrologic boundaries. In the case of irrigation or salinity projects, the watershed boundary may be based on the irrigation problem area or subsurface hydrologic area, respectively. A watershed area may comprise the land and water of two or more minor drainageways that are separate tributaries to a stream, artificial waterway, lake, or tidal area. Areas from which water is brought in by diversion may be excluded from the watershed if these sources of water have no significant effect on the flood prevention and water management problems of the watershed area. The watershed area must include all direct tributary drainageways and lands from which, after project installation, water and sediment could adversely affect

any proposed structural measure, such as an irrigation or drainage canal, floodway, or floodwater retarding structure, included in the plan. The types of watershed areas eligible for assistance under the Act are illustrated in exhibit 503-5.

If structural measures are considered as a potential solution, local organizations having the authority under State statutes to acquire land, raise money, and operate and maintain works of improvement should become the sponsors at the outset. If no such organizations exist, one must be formed before planning can be authorized. For watershed plans that include only land treatment measures, a soil and water conservation district organized under appropriate State law may qualify as an SLO.

503.23 Applications from two or more States

An application covering a watershed including non-Federal land in two or more States must be submitted to the designated State agencies and the Single Point of Contact for Federal Assistance of each State concerned. The application will be processed in accordance with arrangements mutually satisfactory to the concerned state conservationists and the designated State agencies.

503.24 Submission of application

The original and one copy of the application should be sent by the SLO to the designated State agency, one copy to the State Single Point of Contact for Federal Assistance, and one copy to the state conservationist. (The designated State agency is the agency having supervisory responsibility over programs provided for in the Act, or the Governor if no State agency has such responsibility.) The State Single Point of Contact may be omitted if only technical assistance is being sought. Application must be made on Form SF-424, "Federal Assistance" (exhibit 503-1).

An application must be approved by the designated State agency, who should then forward the original, signed application to the state conservationist along with a statement of the State's priority rating for the watershed. If the designated State agency disapproves an application, SCS will take no further action.

Upon receipt of an application for assistance, the state conservationist will assign a 9000 series number to the watershed. This number will be used throughout the planning process to monitor planning costs.

503.25 Acknowledging the application

The state conservationist will acknowledge receipt of the application by letter to the designated representative of the SLO after ascertaining that the application is valid. One copy of the letter of acknowledgment is to be sent to the Chief of the Soil Conservation Service. The state conservationist will provide the Forest Service (FS) area or regional office with a copy of the application and any subsequent amendments and will notify other concerned Federal agencies that a valid application has been received.

An information sheet containing a list of the SLO, county(ies), congressional district(s), Water Resources Council's region and subregion, assigned 9000 series code number, and watershed size along with a map are to be enclosed with the National Headquarters copies of the acknowledgment letter.

503.26 Amendment to an application

An amendment to the application should be submitted in the same manner as the original application. The SLO can be officially added or dropped by an amended application. This can also be accomplished when a watershed plan is prepared by a supplement thereto. Unless a change in SLO will affect a watershed's priority rating, there is generally no advantage to using an amended application to reflect only a change in sponsorship. Changes that only modify or supplement the information in the application can be handled by correspondence. Amendments are used primarily to change the size of the area considered by adding or deleting part of the watershed area. The SLO should send a letter to the state conservationist, through the designated State agency, stating what the change consists of and why it is needed.

503.27 Withdrawal of application

If prior to authorizing planning, the SCS and the SLO determine that there is no possibility to develop of a feasible or acceptable project, the SLO should be encouraged to withdraw their application. The SLO should indicate by letter to the state conservationist, through the designated State agency, that they wish to withdraw their application. Upon receipt of such request, the state conservationist will return the application to the designated State agency and notify the SCS Chief of the withdrawal.

In some cases an application may be considered invalid or infeasible, but the SLO may not wish to withdraw it. If this occurs, the application will be returned to the designated State agency with a letter explaining why it is being returned. The state conservationist will notify the Chief of this action.

A new application may be submitted if conditions change.

Subpart 503D Authorization to develop a Public Law 83-566 plan

503.30 Introduction

This subpart describes the process for obtaining an authorization to develop a plan that is to be installed with Public Law 83-566 assistance. At this stage projects will compete with one another based on funding levels and national priorities. Planning authorizations will be granted by the Chief and will specify the purposes that may be included in each plan. The following items are needed to support a request for a planning authorization:

- Valid application,
- Preauthorization report indicating project feasibility
- Plan of work for the plan development phase

503.31 Preauthorization report

The preauthorization report summarizes the results of planning done to date. The format and type of report are not specified. The report need not be lengthy, but it should adequately present the opportunities for solving watershed problems. It should briefly display such things as the problems, alternatives for solving or partly solving identified problems, the estimated cost, and any adverse and beneficial effects of proposed alternatives. Detail will be enough to show the potential for developing a watershed project and to allow the reader to determine the merits of the project. Quantification will be necessary. Any unresolved conflicts should be resolved in the plan development phase, and the report should show that this is possible.

To qualify for Public Law 83-566 assistance, sponsors of water resource plans will be advised that they must select the NED plan or have an adequate rationale to justify an exception. This requirement does not apply to plans that include only land treatment measures.

Enhanced cost sharing may be considered for purposes other than flood prevention. See section 505.35 for more information.

503.32 Plan of work

A plan of work will be prepared to use as a management tool during plan development. It will summarize the studies done to date and describe the remaining work needed. It will show the interdisciplinary technical procedures to be used in the plan development study and the time frame for accomplishing each task. It should include the scope, affected resources, planning detail, public participation, estimated cost, and schedule for completing the plan.

The plan of work will represent an agreement between the NTC Director and the state conservationist on the scope and detail of the study and the study time needed. It will also contain agreement on the minimum amount and kind of supporting data needed.

All the input of SCS (including NTC), the FS, other Federal and State agencies, and the local SLO should be included in the plan of work. FS field offices will provide forestry inputs to the state conservationist for inclusion. Technical procedures to be used must be spelled out. These should indicate compliance with NEPA, P&G, and other applicable laws and policies. Selection of technical procedures should be based on existing rules, regulations, and guidelines and on the nature of the watershed problems, project objectives, and the anticipated complexity of potential solutions and their effects as established by the scoping process. Procedures should be compatible from one discipline to another and should generally be similar in scope and detail.

503.33 Public participation

As the request for planning authorization is developed, the SLO is to hold at least one widely advertised public meeting to discuss alternative proposals.

503.34 NTC concurrence

The NTC is to review and concur in the technical adequacy of the preauthorization report (including supporting documentation) and the plan of work. A copy of the concurrence letter will be forwarded to the director, WPD. Requests for planning authorization will not be considered at the National Headquarters

without the NTC director's concurrence. Each NTC director will issue guidance to the States on the number of copies and the type of supporting data needed for review.

503.35 Request for planning authorization

Planning authorization should be requested only when the state conservationist is ready to fully commit technical resources in an intense planning effort. Before requesting planning authorization, enough detailed planning should have been conducted to ensure that a viable plan can be developed.

If the application fits one of the situations described in section 4(a) of Executive Order 10584 (see exhibit 500-2), the state conservationist shall coordinate as needed with the Bureau of Reclamation, Corps of Engineers, or Tennessee Valley Authority before requesting a planning authorization.

Requests for a planning authorization should include the following items:

- The designated State agency's current priority rating for the watershed application.
- An estimate of the additional funds that will be needed by the state conservationist for transfer to Federal agencies (other than the FS) for planning on lands under their jurisdiction.
- An estimate of the Public Law 83-566 cost of plan development that will be used in contracting for expertise outside of SCS.
- A copy of the preauthorization report and updated plan of work.
- A list of the SLO, the name and address of the current chairman, and the name of the person designated as the contact for all the SLO.
- Statements as to the SLO's understanding of the possible commitments, that they have made a self-evaluation of the depth and likely commitment of support for the project being planned, their authority and willingness to obtain real property rights, and their willingness to use their power of eminent domain.

- Evidence of public participation and coordination with other agencies and groups. If channel modification is proposed, the views of the Fish and Wildlife Service are specifically required (120 GM 410.28).
- Summary fact sheet as shown in exhibit 503-2.

Requests for planning authorization should be submitted to the director of the Watershed Projects Division.

One planning start will be authorized for each application, and only one plan may be prepared under each planning authorization.

503.36 Planning authorization

(a) National Headquarters responsibilities

The Chief of the Soil Conservation Service is responsible for authorizing assistance to develop a watershed plan. The authorization will specify the purposes that can be included in the plan. It will be limited to 5 years. If the plan is not in interagency review within this time, planning authorization is automatically cancelled.

The Chief will advise the state conservationist, the Forest Service, and heads of concerned Federal agencies of the planning authorization and of SCS plans to initiate the necessary surveys and investigations. When planning authorization involves more than one state, the Chief will designate one of the state conservationists as the responsible Federal official to take the leadership in plan development.

(b) State responsibilities

After planning has been authorized, the state conservationist will notify the SLO, the concerned U.S. Senators and Representatives, the State's Single Point of Contact for Federal Assistance (except for TA plans), Governor or designated agency, the concerned State agencies, field offices of the Forest Service, Interior Department, Corps of Engineers, and other Federal agencies, and others who have indicated a desire to participate. The state conservationist should also publish appropriate notices in newspapers and other news media.

503.37 Amending planning authorizations

State conservationists must have prior approval of the Director of WPD to amend a planning authorization in order to add or change a purpose. Requests for approval, along with the NTC director's concurrence, should include a revised preauthorization planning report which clearly identifies watershed problems, proposed alternatives, and the revised plan of work. There should also be an explanation of why the original proposal should be changed.

503.38 Termination of planning

When it becomes apparent at any stage of plan development that a feasible plan cannot be developed, the state conservationist will terminate planning assistance. This termination will be accomplished by notifying the SLO in writing that planning assistance is terminated and will specify the reasons for this action. Concurrently, the Chief, State's Single Point of Contact for Federal Assistance, FS, and other participating agencies will be notified that planning assistance has been terminated and will be provided with a copy of the letter to the SLO.

Once planning is terminated either by the state conservationist or the automatic provisions of 503.36(a), no further funds may be expended on the project and the project may not be reactivated. If conditions change and it becomes possible to develop a feasible plan, the SLO must start over and submit an amendment to the application, and a new planning authorization must be given by the Chief before work can be resumed.

After planning is authorized in a watershed, the application cannot be withdrawn. It will be retained to support the planning costs that were incurred even though planning may be subsequently terminated.

Subpart 503E Development of Public Law 83-566 plans

503.40 Introduction

This subpart provides general guidance for developing a watershed plan and associated environmental documents, beginning with receipt of planning authorization and continuing through to the preparation of the plan.

Plan development follows the 6-step planning process set forth in the P&G. The process is normally an iterative one in which alternatives are compared and the most promising ones chosen for further study in greater detail. This process may be repeated in successive stages of planning until conflicts are resolved and plan selection occurs.

In addition to providing a record of the planning process, the plan provides the basis for project authorization and guides its installation. The plan development phase includes refining the recommended plan in enough detail to accomplish this. Further details on one or more of the alternatives may also be needed at this stage to facilitate the identification of tradeoffs and the selection of a plan.

503.41 State procedures

The procedures in this part do not have all the necessary details for plan development and review through approvals of drafts. Requirements for input and review vary from State to State. Each state conservationist should develop supplemental instate procedures to ensure involvement of the entire state staff by providing early inputs and review of pre-draft documents. These procedures should also outline opportunities for participation by the general public, organized groups, individuals, NTC staff, and other agencies in the planning and review process. Procedures should be kept current and updated as the need arises. The state conservationist may request assistance from the NTC director for developing these procedures.

503.42 Plan development procedures

After planning authorization is granted, the state conservationist will take steps to provide planning assistance in accordance with the plan of work. For multistate staffs, the state conservationist of the state in which the watershed is located will provide the overall guidance. The approved plan of work is to be used throughout the plan development to schedule and coordinate planning activities and to monitor progress. If project objectives change, unforeseen problems or delays arise, or opportunities to accelerate completion of the process occur, the plan of work should be revised. NTC concurrence should be obtained for major changes in the scope and intensity of work items. Copies of the revised plan of work should be furnished to all participants, including the NTC.

Scoping is to be used early and throughout planning to ensure that all significant decisionmaking factors are addressed and that unnecessary and extraneous studies are not undertaken. It may be used to combine or narrow the number of problems, opportunities, measures, plans, or effects considered so that efficient analysis and choice among alternative plans can be made. The public and Federal, State, and local agencies having expertise in areas that may be affected should be involved in the scoping process.

The scope and intensity of plan development studies should be in sufficient detail to provide reliable estimates for the plan. Investigations should be detailed enough for firm determination of location, feasibility, and the general features of project measures. Structural measures in the recommended plan should be analyzed in enough detail to develop real property work maps. When a plan includes a number of grade stabilization structures or land treatment measures of similar size and nominal cost, separate site locations and feasibility studies need not be made. Before any data are collected and analyzed, the need for and probable use of such data should be critically considered.

All project measures will be planned using SCS standards and criteria. Project measures planned for installation on Federal lands shall also conform to the standards of the land-administering agency involved.

All data and write-ups should be reviewed and agreed on by the appropriate state staff members. Data developed by the FS will have state forester and internal clearance before submission to SCS.

503.43 Compliance with NEPA

Procedures for compliance with NEPA are set forth in regulations of the Council on Environmental Quality (CEQ) (40 CFR 1500-1508) and the SCS (7 CFR 650). All Public Law 83-566 plans are to include either an EIS or an EA.

If a plan-EIS is to be prepared, the state conservationist will publish in the Federal Register and local newspapers a Notice of Intent (NOI) to prepare an EIS. Exhibit 503-3 is a sample NOI. The NOI is to request the assistance of all interested agencies, groups, and persons in determining the scope of evaluations to be conducted. It must be published early enough to allow for meaningful participation in the process.

If a plan-EA is prepared, the state conservationist will prepare a FONSI and publish a notice of its availability in the Federal Register and local newspapers. Procedures for publicizing and distributing a FONSI are set forth in part 505.

503.44 Loan opportunities

As soon as it is evident that the sponsors may desire a loan under section 8 of the Act, the state conservationist is to invite the regional director of the Rural Development Administration (RDA) to provide assistance to the SLO. The SLO are to file a preliminary application for a loan as soon as possible; however, it must be filed before the plan is submitted for approval if credit assistance is to be sought from the RDA. Application for an advance under section 4 of the Act will be made by the SLO to the state conservationist. The state conservationist will advise the regional director of the RDA of this action and will furnish information on how the advance will be used and other pertinent justification.

503.45 Public and interagency participation

(a) Local participation

The state conservationist, in cooperation with the SLO, will ensure that interested or affected individuals, groups, or local governmental agencies have opportunities to participate in development of the plan. The SLO will be requested to announce these opportunities to the general public through local newspapers and other media. Sufficient information is to be provided so people may participate meaningfully.

(b) Forest Service

The Forest Service has planning responsibilities in the watershed program beginning with notification at the preliminary investigation stage and continuing through the preparation of the watershed plan. Responsibilities include providing information on forest and brush-covered wild lands and hydrologic surveys of forest lands, preparing forestry plans, participating in plan formulation, and contributing narrative material on forest resources for inclusion in the plan of work and the watershed plan.

(c) U.S. Fish and Wildlife Service

The regional director of the U.S. Fish and Wildlife Service (FWS) and the head of the State game and fish agency will be invited to participate with SCS in making inventories of fish and wildlife resources, formulating alternative plans, and identifying probable impacts on fish and wildlife. FWS will also be provided the opportunity to carry out provisions of section 12 of the Act.

503.46 Plan formulation requirements

(a) Water resource plans

Water resource plans are those that include structural or nonstructural measures. They may also include land treatment measures. They will be formulated in accordance with all requirements of the P&G. Formulation will be based on the problems or purposes for which planning was authorized. At least two alternatives are to be displayed in each plan: the no-action alternative and the alternative that reasonably maximizes net economic benefits (the NED plan).

(b) Land treatment measures

Formulation of land treatment measures will be based on the problems for which planning was authorized. Watershed protection plans (plans that include only land treatment measures) and land treatment components of water resource plans are to be formulated to address public (e.g., offsite) water and related land resource problems involving erosion and resulting sedimentation, agriculture-related pollution, or inefficient agricultural water use. Projects may be formulated to address ground water as well as surface water contamination.

At least two alternatives are to be displayed in each watershed protection plan: the no-action alternative and an alternative that achieves an acceptable reduction in the public problem that the plan is addressing.

Project land treatment measures will not be formulated to address onsite problems or opportunities, such as maintaining long-term productivity, reducing production costs, or increasing yields. However, onsite benefits should be included in the evaluation of the alternative plans.

Alternatives are to be formulated using a practical systematic procedure. The procedure used will be described in the plan.

The four P&G criteria (completeness, effectiveness, efficiency, and acceptability) should be considered as conservation options are developed.

Care must be taken to ensure that all practices, management and enduring, are included in each option so that it will function as planned and produce the effects intended. Interdependent practices should be treated as one practice.

Conservation options should be evaluated using average management levels in the area. The range of options studied should be limited to those considered to be acceptable for installation in the watershed. This does not mean that only those practices desired by land users will be considered. The determination is an equal responsibility of the SLO, the public, and SCS.

Each option does not necessarily need to eliminate all problems or reach a predetermined level of resource protection. Alternatives should be formulated to provide different levels of resource protection.

An estimate of the most likely rate of land user participation should be made for each alternative plan. These participation rates will be used to determine the total costs and benefits of the alternatives. The participation rates should be developed through the public participation process and documented in the plan.

The analysis should not consider significant changes in cropping sequence or land use conversion (except on Class VI through VIII cropland) unless it has been determined that the changes will take place. An evaluation of the onsite economic effects of land use conversion is not required, but may be included. The offsite economic effects should be evaluated and displayed in the plan.

The recommended plan should be the least costly, environmentally acceptable method of achieving the agreed-on level of resource protection. All costs, including operation, maintenance, and replacement, expected to be incurred over the evaluation period are to be included.

(c) Future-without-project conditions

The formulation and evaluation of alternatives is to be based on projected future-without-project conditions. The effects of other programs and compliance with existing laws are to be considered in projecting future-without-project conditions.

(d) Evaluation period

The evaluated life of the planned measures shall not exceed 100 years. Measures in a plan may have different life spans, depending on the design features and materials used in construction. Replacement costs must be included if the evaluation period (project life) exceeds the life of a measure. Where accrual of a beneficial effect depends on interrelated measures (e.g., onfarm drainage and channel work), the evaluation period should be the same for all interrelated works of improvement. The same evaluation period is to be used for all alternatives (P&G 2.1.2).

(e) Enhancement and mitigation of environmental values

(1) Enhancement—SCS will encourage the SLO to include features in watershed plans that will preserve, create, or enhance wetlands, fish and wildlife habitats, landscape resources, cultural resources, important farmland and forest land, and prime rangeland where feasible. These enhancement measures must have

appropriate justification and sponsorship. SCS will not pay for enhancement features that do not contribute to solving identified problems.

Fish and wildlife enhancement measures proposed by Federal or State fish and wildlife agencies will be included if they are technically feasible and are acceptable to the SLO and SCS. If additional SLO are needed to fund and carry out the recommended fish and wildlife measures, SCS will assist in obtaining their participation. Costs for fish and wildlife enhancement measures will be allocated to the fish and wildlife purpose.

(2) Mitigation—Mitigation measures to offset or reduce adverse environmental and social effects of alternatives should be determined in consultation with the appropriate Federal and State agencies. Appropriate mitigation should be included in the plan. Mitigation measures may be established outside the watershed if no other alternative exists. Costs for mitigation measures will be allocated to the purposes of the work that produces the need for mitigation.

Arrangements for carrying out, operating, and maintaining mitigation measures must be as explicit and as firm as for other measures. The state conservationist will take affirmative action to ensure that the planned mitigation measures are properly installed, operated, and maintained on schedule.

(f) Management of flood plains

All projects will be formulated in keeping with the intent of Executive Order 11988, Floodplain Management (7 CFR 650.25 and section 500.53 of this manual).

Urban and built-up areas, as used here, are considered as present or likely future (within the next 20 years) areas to be used for residences, industrial sites, commercial sites, construction sites, institutional sites, public administration sites, railroad yards, cemeteries, airports, golf courses, sanitary landfills, sewage treatment plants, and water control structures and spillways. This land should be in contiguous units of at least 40 acres. Generally, the density should average one or more residences or other structures per 1.5 acres. In strip developments, the density should be 20 or more residences or other structures per mile. The likelihood of future development can be determined

from existing land use plans, trends, and local, State, and Federal policy concerning land use and development needs.

Formulation to solve problems in urban and built-up areas should lead to the development of the NED plan without regard to apparent risk of loss of life. If a risk of loss of life remains after the development of the NED plan, consideration may be given to adding to the NED plan to reduce the risk. This would require an exception to the NED requirement, so there must be adequate rationale for adding increments to the NED plan. In determining the apparent risk of loss of life, consideration should be given to the structural and use characteristics of the improvement, the depth of flooding, and the velocity of flood flow in and immediately adjacent to the improvement.

If the recommended plan leaves a risk of loss of life from the 100-year flood, the plan shall include the following information:

- A thorough description of the remaining flood hazard in the benefit area for the 100-year and 500-year floods, including the approximate number, kinds, and location of properties subject to continued flooding and the depths and velocities of flooding.
- A map showing the urban areas expected to be flooded by the 100-year and 500-year floods with and without the project.

To keep land use compatible with the level of protection or remaining hazard, the SLO must agree to adopt (or see that the appropriate unit of government adopts), if not already done, land use regulations that meet the standards for the regular National Flood Insurance Program. This is a statutory prerequisite to financial assistance for flood prevention measures and is one of the provisions in the watershed agreement. These flood plain management features should be included as nonproject features of the plan.

503.47 Technical documentation of studies

The support file is a vital part of watershed projects and is used throughout the development, review, installation, and operation and maintenance phases. This file provides a comprehensive, reviewable record of pertinent facts, observations, computations, procedures, assumptions, expert opinion, and rationale used in reaching planning decisions. Inasmuch as the study of alternatives is an important determinant of project actions, these too should be documented in sufficient detail to reflect the adequacy of the evaluations undertaken and conclusions reached. Documentation is to discuss the interdisciplinary process used and show that public participation was adequate.

Support information should be organized in such a manner that it is readily usable by those whose disciplines are involved in plan development and that it is reviewable by others. It should be organized into distinctive sections for each principal discipline (agronomy, biology, cultural resources, economics, engineering, geology, hydrology, or recreation) and should be indexed for ease of reference. Within each section, the data, charts, maps, computations, and narrative material should be arranged in a sequence consistent with the steps of planning so that the documentation leads to a clear understanding of the study, the methodology used, and the conclusions reached.

Activities that are carried out but do not fit into a discipline file, such as public participation, should be documented in their own file so that the requirement for a reviewable record is met.



Subpart F Exhibits

Exhibit 503-1 Application form

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: <i>Application</i> <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction	<i>Preapplication</i> <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
5. APPLICANT INFORMATION			
Legal Name:		Organizational Unit:	
Address (give city, county, state, and zip code):		Name and telephone number of the person to be contacted on matters involving this application (give area code)	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): [] [] - [] [] [] [] [] [] [] [] [] []		7. TYPE OF APPLICANT: (enter appropriate letter in box) <input type="checkbox"/>	
8. TYPE OF APPLICATION: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____		A. State H. Independent School Dist. B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify): _____	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: [] [] [] [] [] [] [] [] [] []		9. NAME OF FEDERAL AGENCY:	
TITLE:		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:	
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):			
13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
a. Federal	\$.00	a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____	
b. Applicant	\$.00	b. NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372	
c. State	\$.00	<input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
d. Local	\$.00		
e. Other	\$.00		
f. Program Income	\$.00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?	
g. TOTAL	\$.00	<input type="checkbox"/> Yes If "Yes," attach an explanation. <input type="checkbox"/> No	
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED			
a. Typed Name of Authorized Representative		b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed	

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Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry: | Item: | Entry: |
|-------|--|-------|--|
| 1. | Self-explanatory. | 12. | List only the largest political entities affected (e.g., State, counties, cities). |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). | 13. | Self-explanatory. |
| 3. | State use only (if applicable). | 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. | 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <i>only</i> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. | 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. | 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 7. | Enter the appropriate letter in the space provided. | 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:
— "New" means a new assistance award.
— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. | | |
| 9. | Name of Federal agency from which assistance is being requested with this application. | | |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. | | |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. | | |

Name of Sponsor _____

By _____
(Type name below signature)

Title _____

Date _____

Address _____

Zip Code _____

The signing of this application was authorized by resolution of the governing body of the

(Name of Sponsor)

adopted at a meeting held on _____ (date).

(Type name below signature)
Secretary (or other title)

Address

Zip Code

Date _____

(Add additional signature blocks as necessary.)

Exhibit 503-2 Summary fact sheet request for planning authorization

<h1 style="font-size: 2em; margin: 0;">Fact Sheet</h1>	<h2 style="font-size: 1.5em; margin: 0;">Request for Planning Authorization</h2>	United States Department of Agriculture Soil Conservation Service	
Project:	Watershed Project No. (90XX)		
State:	County:		
Watershed Size: _____ ac.	Date of Request:		
Date of Application:	Date of NTC Concurrence:		
Magnitude of Problems	With-Project Effects		
Onsite:	Onsite:		
Offsite:	Offsite:		
Most Likely Recommended Plan:			
No. of Beneficiaries:	Acres Benefited		
Participation Rate:	Federal Costs:		
Cost Share Rate:	Local Cost:		
Approval Level	Annual Benefits:		
Exception to NED:(yes or no)	Annual Costs:		
(If yes, describe the EQ or social effects justifying the exception.)			
Name of Sponsors:			
Est. Starting Date:	Completion Date:		
SCS Planning Cost:			
Program Status:			
Projects in Operations:			
Projects in Planning (Include 9000 No.)	Estimated Cost	Auth. Date	Status
Congressional Districts and Representatives:			
Senators:			

Exhibit 503-3 Sample Notice of Intent to Prepare an EIS**BILLING CODE: 3210-16
DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE**

(Name) Watershed, (County), (State)

AGENCY: Soil Conservation Service

ACTION: Notice of Intent to Prepare an Environmental Impact Statement

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for (Name) Watershed, (County or Counties), (State).

FOR FURTHER INFORMATION CONTACT: (Name), State Conservationist, Soil Conservation Service, (Street Address), (City), (State), (Zip Code), telephone: (Area Code and Number).

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, (Name), State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns (List project purposes, i.e.; a plan for watershed protection, flood prevention). Alternatives under consideration to reach these objectives include (List alternatives, i.e., systems for conservation land treatment, channel improvement, earth dams).

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Meetings will be held at (List time and location of meeting, i.e. 2:00 p.m., Wednesday, October 10, 1979, in the courtroom of the (Name) County Courthouse, (City and State), to determine the scope of the evaluation of the proposed action. Further information on the proposed action or the scoping meeting may be obtained from (Name), State Conservationist, at the above address or telephone (Area Code and Number).

(Signature)

(Type name and title of signee)

Date:

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904 - Watershed Protection and Flood Prevention - and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Exhibit 503-4 Sample transmittal letter to the Federal Register



United States
Department of
Agriculture

Soil
Conservation
Service

xxxx Your Street, P.O. Box xxxx
Your City, Your State Your Zip

October 8, 1991

Office of the Federal Register
National Archives and Records Service
Washington, DC 20408

Dear Sir:

The enclosed Notice of Intent to Prepare an Environmental Impact Statement is submitted for publication in the Federal Register:

Significant Creek Watershed, Anystate

Sincerely,

JOHN Q. JONES
State Conservationist

Enclosure

cc w/enclosure:
Director, Administrative Services, SCS, Washington, DC
Director, Watershed Projects Division, SCS, Washington, DC
Director, National Technical Center, SCS, (location)

NOTE: Three manually signed copies of the notice are to be transmitted to the Federal Register. The typed name and title of the signee on the notice (not the transmittal letter) must be the name and title of the person who actually signed the notice. This applies to all Federal Register notices.



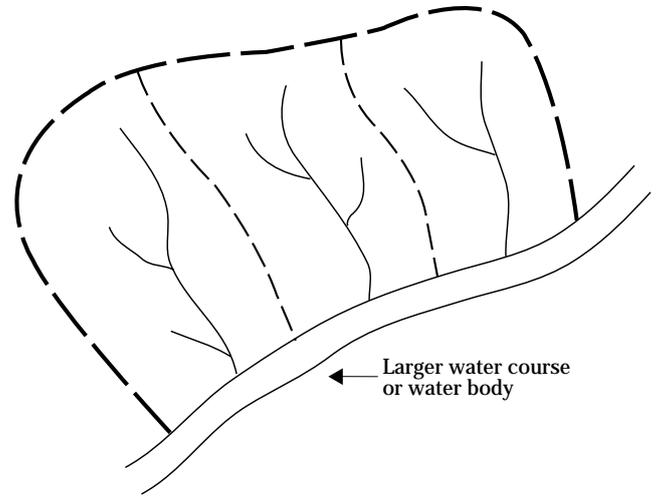
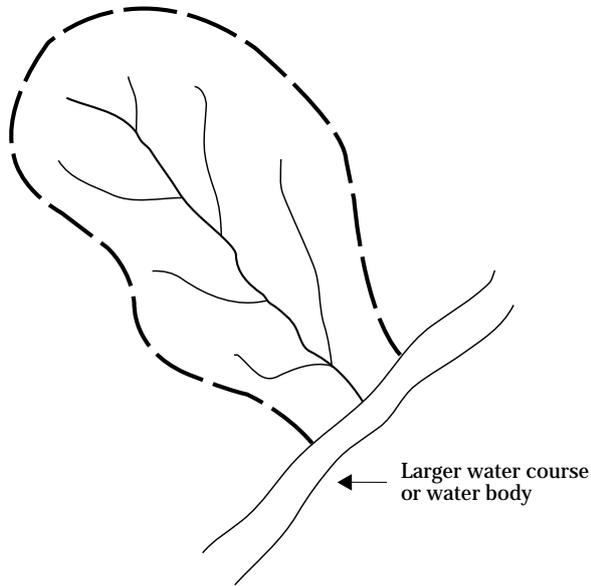
The Soil Conservation Service
is an agency of the
United States Department of Agriculture



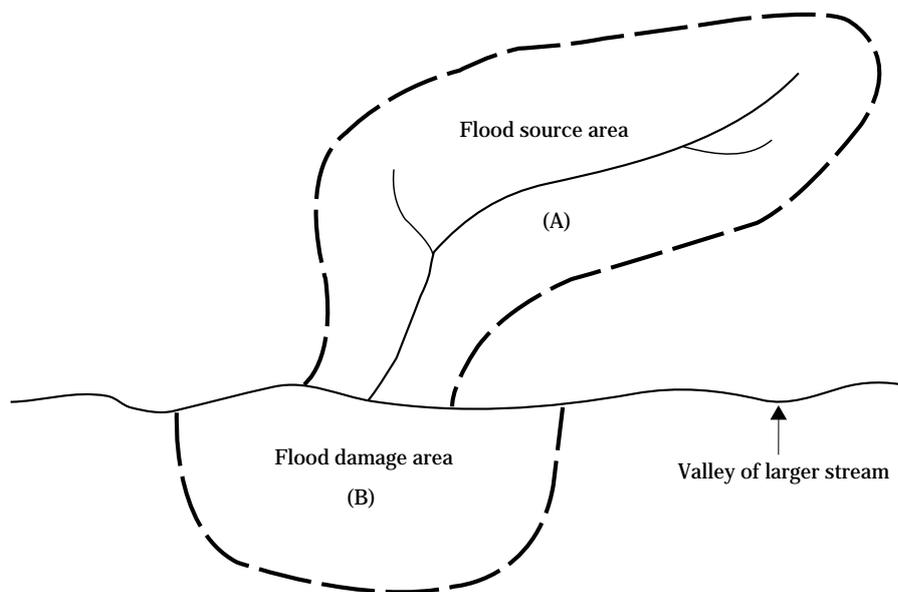
Exhibit 503-5 Watershed areas eligible for assistance under the Act

Main stream and tributaries (area less than 250,000 acres)

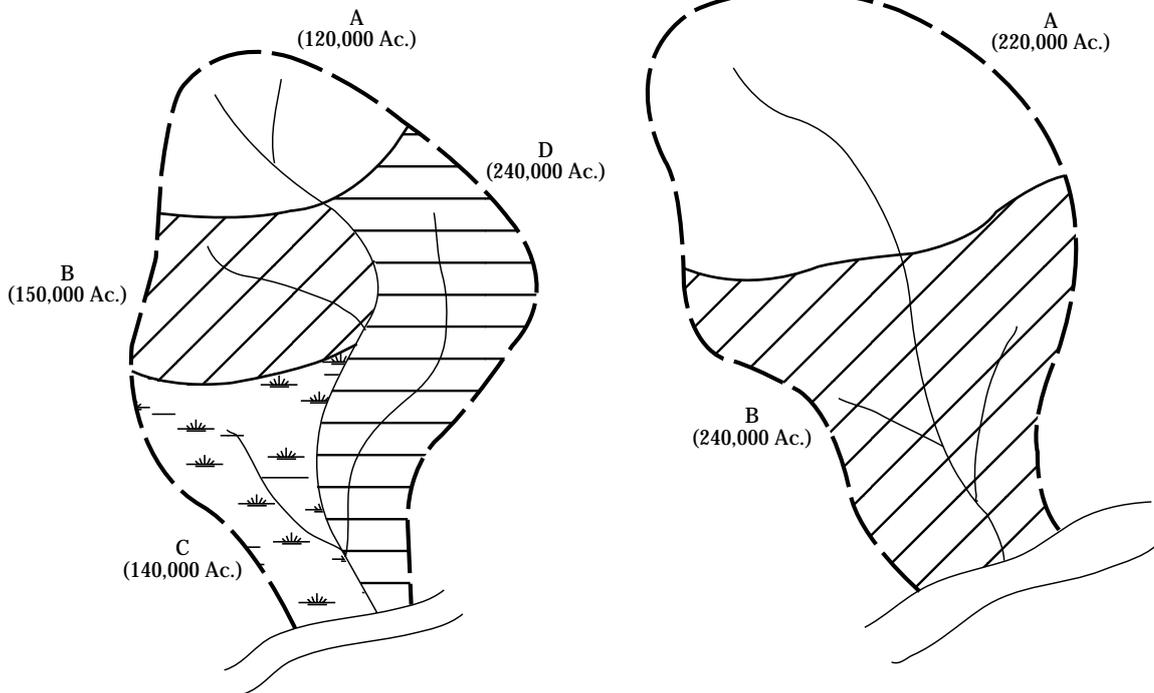
Separate tributaries—These may be planned as a single watershed as long as their total area is less than 250,000 acres



Separate flood source and damage areas (total area less than 250,000 acres)—Watershed includes flood source area (A) and flood damage area (B)

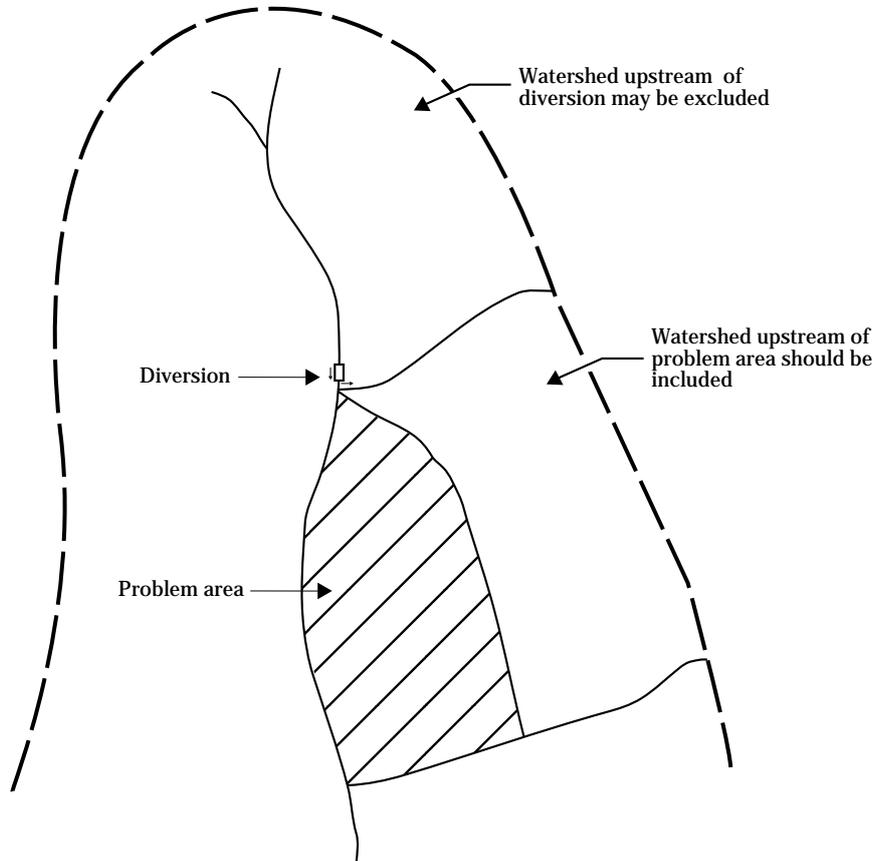


Multiple plans (combined area greater than 250,000 acres)



Watershed areas A, B, C, and D are each less than 250,000 acres. They may be planned together if requested by local organizations and provided separate applications and separate watershed plans are prepared for each area. Reservoirs or floodwater retarding structures may not be planned below the point of 250,000 acres. However, channel work may be planned along the main watercourse below the point of 250,000 acres of drainage provided the area above the locations of such work has been planned, is being planned concurrently, or it has been determined that works of improvement are not needed or not feasible. However, improvements along the main watercourse will not be installed until the work planned above the point of 250,000 acres of drainage has been constructed, or it has been determined that they are not needed or will have an insignificant effect on the main stem work, or prior installation of upstream measures is not practicable.

Water problem area (area less than 250,000 acres)

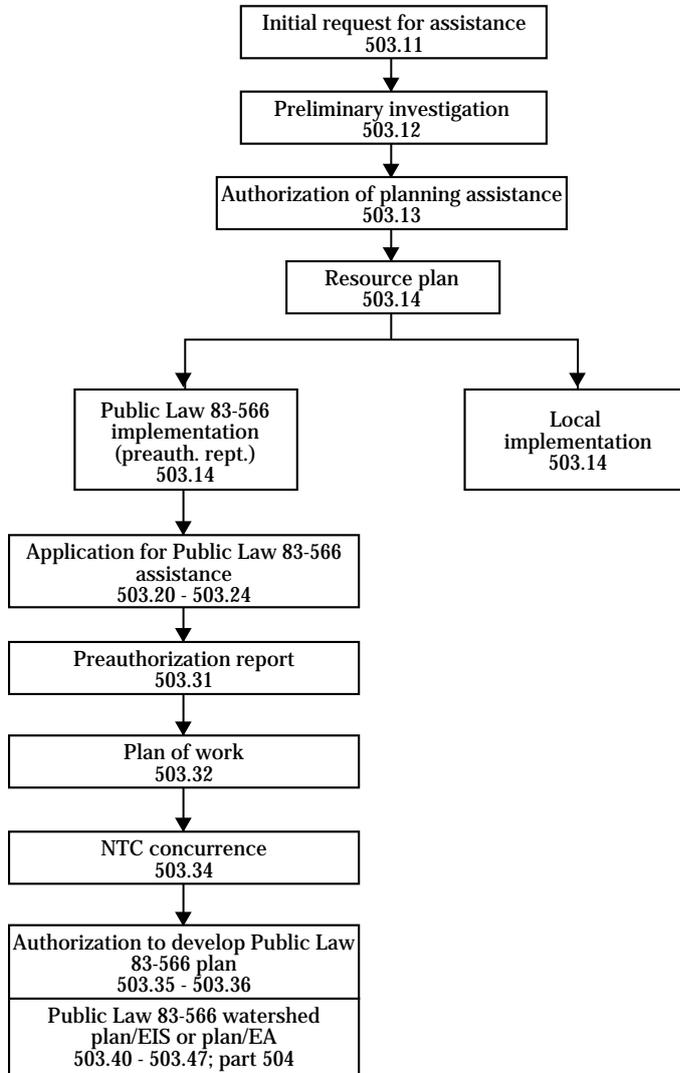


The watershed should normally include all surface drainage into the water problem area below the point of diversion. The area above the point of diversion may be excluded if

- the water supply is adequate in quantity, quality, and regulation, and
- the watershed conditions are not adverse to the successful installation, operation, and maintenance of the proposed project.

If the side tributary drainage areas cause the watershed size to exceed 250,000 acres, they may be excluded if runoff from them will not adversely affect the project.

Exhibit 503-6 Flow chart for major planning steps



United States
Department of
Agriculture

**Soil
Conservation
Service**

**National
Watershed
Manual**

Part 504

**Plan Format and
Content**

Part 504

Plan Format and Content

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Subpart 504A General**504.00 Introduction**

This part sets forth format and content requirements for watershed agreements, watershed plan-environmental impact statements (plan-EIS's), and watershed plan-environmental assessments (plan-EA's). Separate, though similar, agreement formats are included for water resource plans (those with structural or non-structural measures) and watershed protection plans (those with land treatment only). Except where it is necessary to distinguish between a plan-EIS and a plan-EA, the term "plan" will be used to refer to both.

504.01 Responsibilities**(a) Preparation of the plan**

Preparation of the plan is the responsibility of the Sponsoring Local Organizations (SLO). The Soil Conservation Service (SCS) has leadership responsibility for providing technical assistance to the SLO. As part of this responsibility, SCS coordinates input of other agencies and groups in the formulation of the plan. The U.S. Forest Service (FS) has coordination responsibility for the forest land part of the plan.

(b) Compliance with NEPA

Compliance with NEPA is the responsibility of SCS. The state conservationist is the responsible Federal official who ensures that the watershed plan-EIS or plan-EA complies with NEPA.

504.02 Watershed agreement

A watershed agreement is the legal document that records the responsibilities that the SLO and SCS will bear for installing the plan. The plan is annexed to and becomes part of the watershed agreement. This annexation permits a detailed description of duties and responsibilities of SCS and each local organization sponsoring the watershed project.

The watershed agreement is placed immediately behind the fly sheet of the plan. Because this is a legal document or contract, wording should be copied directly from subpart 504B or 504C.

504.03 Watershed plan

The watershed plan is the basic document in which the SLO's decisions are recorded. It provides the basis for project authorization and guides the implementation of the plan. The plan describes the work to be installed, the responsibilities of each participant, cost sharing, arrangements for financing, and provisions for operation and maintenance. It should also show the relationship between beneficial and adverse effects of the proposed project.

504.04 Environmental impact statement

An Environmental Impact Statement (EIS) is a decisionmaking document and a record of the planning process. It provides a record of compliance with NEPA and related rules, orders, and laws. It should clearly enumerate and describe the significant problems, needs, opportunities, alternatives, and the direct, indirect, and cumulative effects of the alternatives. The minimum requirements for an EIS are set forth in the Council on Environmental Quality (CEQ) and SCS regulations (40 CFR 1500-1508 and 7 CFR 650). SCS policy is to combine the watershed plan and EIS into a single document, the plan-EIS.

504.05 Environmental assessment and FONSI

An environmental assessment (EA) is a document for a project for which a Finding of No Significant Impact (FONSI) is prepared (7 CFR 650.4(l) and 650.12(c)(3)) instead of an EIS. SCS policy is to combine the watershed plan and EA into a single document (plan-EA). It shall include appropriate data needed to provide an understanding of the plan and its economic, environmental, and social impacts. An EA consists of essentially the same type of information that is required of an EIS. The main difference is in the review procedures for the plan.

A sample FONSI is shown in exhibit 505-1

504.06 Pre-NEPA plans

Some plans approved before the passage of NEPA may include work that has not yet been installed and for which an EIS or FONSI (or negative declaration) has not been filed. Environmental evaluations will be conducted for all the remaining works of improvement to be installed on such projects. Either an environmental assessment and FONSI or an EIS, as appropriate, will be prepared.

If a pre-NEPA plan is revised, the EIS and revised plan would be one document. Otherwise, the EIS must stand on its own and should be prepared in sufficient detail to clearly describe the alternatives; direct, indirect, and cumulative effects; and public participation activities. Supplements will be kept separate from the EIS and handled according to procedures outlined in part 506 of this manual.

504.07 Status

Only two official status designations of watershed plan-EIS's are recognized—draft and final.

(a) Draft

A **draft** comes into being when the plan-EIS is made available to the general public and is distributed for interagency review. Working copies developed during the planning process for internal use and informal review by others should be clearly labeled as **Preliminary—Subject to revision** and dated for ease in identification. The copy of the plan-EIS that is submitted for NTC concurrence before the draft comes into being is referred to as the Technical Review Plan-EIS.

(b) Final

A **final** plan-EIS results from the consideration of all comments received on the **draft** during the interagency review.

(c) Designations of watershed plan-EA

NEPA rules do not recognize a formal draft EA or FONSI. However SCS will identify draft and final plan-EA's using the same conventions as for plan-EIS's.

Subpart 504B Agreement format for water resource plans

504.10 Water resource plan agreement

The prescribed format for a watershed agreement for a water resource plan is shown in figure 504–1. All paragraphs are included in this example. Explanatory notes are included in boxes following the paragraph.

Figure 504-1 Watershed agreement for water resources plans

Watershed agreement
between the
David Creek Soil and Water Conservation District
David Creek Watershed District
list all sponsors as appropriate
(Referred to herein as sponsors)
State of Anystate
and the
Soil Conservation Service
United States Department of Agriculture
(Referred to herein as SCS)

Whereas, application has heretofore been made to the Secretary of Agriculture by the sponsors for assistance in preparing a plan for works of improvement for the David Creek Watershed, State of Anystate, under the authority of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001-1008); and

Whereas, the responsibility for administration of the Watershed Protection and Flood Prevention Act, as amended, has been assigned by the Secretary of Agriculture to SCS; and

Whereas, there has been developed through the cooperative efforts of the sponsors and SCS a plan for works of improvement for the David Creek Watershed, State of Anystate, hereinafter referred to as the watershed plan-Environmental Impact Statement, which plan is annexed to and made a part of this agreement;

Now, therefore, in view of the foregoing considerations, the Secretary of Agriculture, through SCS, and the sponsors hereby agree on this plan and that the works of improvement for this project will be installed, operated, and maintained in accordance with the terms, conditions, and stipulations provided for in this watershed plan and including the following:

Introductory paragraphs explanatory note:

Where it would facilitate carrying out the plan, the specific responsibilities of individual sponsors may be described in appropriate numbered paragraphs of the agreement. Where specific responsibilities are divided among several sponsors, the names of each need not be inserted in the agreement if they are defined elsewhere in the plan.

Figure 504-1 Watershed agreement for water resources plans—Continued

1. The sponsors will acquire with other than Public Law 83-566 funds, such real property as will be needed in connection with the works of improvement. (Estimated Cost \$_____.)

Real property explanatory notes:

(1) Modification of this paragraph is necessary when Public Law 83-566 funds are to be used to acquire real property (nonstructural measures or real property associated with recreation and or fish and wildlife). The following paragraph may be used:

“The sponsors will acquire such real property as will be needed in connection with the works of improvement. The percentages of the real property acquisition costs to be borne by the Sponsors and SCS are as follows:

Works of improvement	Sponsors (or name of sponsor) %	SCS %	Estimated real property acquisition costs \$
Multiple-purpose Str. No. _____ Payment to land owners for about 100 acres			
Cost of alterations or improvements			
Wetland acquisition Payment to land owners for about 200 acres			
Nonstructural measures Payment to land owners for about 100 acres			
Real estate appraisal fees			
Legal fees, survey costs, flowage easements			
All other structural measures			

*Including necessary engineering services, construction, and additional land costs.

Figure 504-1 Watershed agreement for water resources plans—Continued

(2) When land is acquired or improved with Public Law 83-566 financial or credit assistance, the following paragraph must be included:

The sponsors (or name of sponsor) agree that all land acquired or improved with Public Law 83-566 financial or credit assistance will not be sold or otherwise disposed of for the evaluated life of the project except to a public agency which will continue to maintain and operate the development in accordance with the Operation and Maintenance Agreement.

2. The sponsors (or name of sponsor) hereby agree that they (it) will comply with all of the policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601 et. seq. as implemented by 7 C.F.R. Part 21) when acquiring real property interests for this federally assisted project. If the sponsor is legally unable to comply with the real property acquisition requirements of the Act, it agrees that, before any Federal financial assistance is furnished, it will provide a statement to that effect, supported by an opinion of the chief legal officer of the state containing a full discussion of the facts and law involved. This statement may be accepted as constituting compliance. In any event, the sponsor agrees that it will reimburse owners for necessary expenses as specified in 7 C.F.R. 21.1006(c) and 21.1007.

The cost of relocation payments in connection with the displacements under the Uniform Act will be shared by the sponsors and SCS as follows:

	Sponsors (or name of sponsor) %	SCS %	Estimated relocation payment costs \$
Relocation payments	_____	_____	_____

Relocation payments and assurances explanatory notes

(1) Enter the total estimated relocation assistance payment from Table 1. Percentages for cost sharing will be based upon the ratio of Public Law 83-566 and other funds to the "Total Project" line item of Table 1, excluding relocation payment costs. The relocation assistance advisory services cost is to be included when computing the cost-sharing percentages. These percentages are to be used for the life of the project regardless of future changes or supplements.

(2) If the planned project measures will not cause the displacement of any person, business, or farm operation under present conditions, include paragraph No. 2 in the agreement, show cost-sharing percentages, place \$0 1/ in "Estimated Relocation Payment Costs," and footnote the column as follows:

^{1/} Investigation of the watershed project area indicates that no displacements will be involved under present conditions. However, in the event that displacement becomes necessary at a later date, the cost of relocation assistance and payments will be cost shared in accordance with the percentages shown.

Figure 504-1 Watershed agreement for water resources plans—Continued

3. The sponsors (or name of sponsor) will acquire or provide assurance that landowners or water users have acquired such water rights pursuant to State law as may be needed in the installation and operation of the works of improvement.

4. The sponsors will obtain all necessary Federal, State, and local permits required by law, ordinance, or regulation for installation of the works of improvement.

5. The percentages of construction costs to be paid by the sponsors and by SCS are as follows:

Works of improvement	Sponsors (or name of sponsor) %	SCS %	Estimated construction costs \$

Construction costs explanatory notes

(1) List each multiple-purpose measure separately. Specific cost items and joint costs of multiple-purpose measures will be shown as separate line item entries. Single-purpose measures may be grouped by kind if the rate of assistance is the same for each measure or group.

(2) Where the costs for land treatment will be shared, explain the cost sharing by adding separate paragraphs similar to those shown in Subpart C for financial and technical assistance costs (504.31 and 504.32) and adjust the numbered items accordingly.

6. The percentages of the engineering services costs to be borne by the sponsors and SCS are as follows:

Works of improvement	Sponsors (or name of sponsor) %	SCS %	Estimated engineering service costs \$

Engineering services costs explanatory notes

(1) List each multiple-purpose measure separately. Specific cost items and joint costs of multiple-purpose measures will be shown as separate line item entries. Single-purpose measures may be grouped by kind when the rate of assistance is the same for each measure or group. Engineering costs to be shown here do not include engineering costs for bridge and utility modifications or other real property acquisition items.

(2) Construction inspection costs should be listed as a separate line item without giving any percentages. A footnote should be added to the estimated cost figure to indicate "The sponsors and the SCS will bear the cost of construction inspection that each incurs, estimated to be \$_____ and \$_____, respectively."

Figure 504-1 Watershed agreement for water resources plans—Continued

(3) Correct cost sharing of engineering costs for public recreation facilities eligible for Public Law 83-566 assistance may be demonstrated in one of the following ways:

(i) Where the plan provides for an A&E firm to perform all engineering services, show as a single-line item the percentage rate of sharing for engineering services to be obtained by contract.

(ii) Where the sponsors are to provide engineering services in addition to those obtained from an A&E firm, use two line items, one showing the percentage rate of sharing the costs of the engineering services contract and the other line item showing that the sponsors will pay 100 percent of all other costs for engineering services.

(iii) Where SCS is to provide engineering services in addition to those obtained by contract, use a single line item showing the percentage rate of sharing these combined costs.

(iv) Where all engineering services are to be furnished by the sponsors, they will be listed as a separate line item at 100 percent sponsors' cost.

(v) Where SCS and the sponsors are to provide all engineering services through their staff employees, show a separate line item for the services each party will provide. Services of the sponsors will be at 100 percent sponsors' cost. The cost of those services provided by SCS will be shared 50-50, except that SCS may bear 100 percent, upon prior approval of the Chief, in those instances where the actual cost cannot conceivably exceed that provided by the sponsors.

7. The percentages of implementation costs (including as appropriate, construction, engineering, administration and overhead) of nonstructural costs to be paid by the sponsors and SCS are as follows:

Nonstructural works of improvement	Sponsors	SCS	Estimated costs
	%	%	\$

Nonstructural costs explanatory notes

(1) List each nonstructural work separately by item, i.e., flood proofing, relocation, etc.

(2) A footnote should be added to the sponsors and SCS column if appropriate. The following wording should be used:

An amount up to the percentage rate specified may be satisfied by the sponsors or by SCS accepting total responsibility for the cost of an element such as engineering, real property acquisition, or construction. The decision to, and arrangements for, such action will be negotiated between the sponsors and SCS and will be included in a project agreement executed immediately before implementation.

Figure 504-1 Watershed agreement for water resources plans—Continued

8. The sponsors and SCS will each bear the costs of project administration that each incurs, estimated to be \$ _____ and \$ _____, respectively.

9. The sponsors will obtain agreements from owners of not less than 50 percent of the land above each multiple-purpose and floodwater-retarding structure. These agreements state that the owners will carry out conservation farm or ranch plans on their land. The sponsors will ensure that 50 percent of the land upstream of any retention reservoir site is adequately protected before construction of the dam.

10. The sponsors will provide assistance to landowners and operators to ensure the installation of the land treatment measures shown in the watershed plan.

11. The sponsors will encourage land owners and operators to operate and maintain the land treatment measures for the protection and improvement of the watershed.

12. The sponsors agree to participate in and comply with applicable Federal flood plain management and flood insurance programs before construction starts. (for flood prevention projects only)

13. The sponsors will be responsible for the operation, maintenance, and any needed replacement of the works of improvement by actually performing the work or arranging for such work, in accordance with agreements to be entered into before issuing invitations to bid for construction work.

14. The costs shown in this plan are preliminary estimates. Final costs to be borne by the parties hereto, will be the actual costs incurred in the installation of works of improvement.

15. This agreement is not a fund-obligating document. Financial and other assistance to be furnished by SCS in carrying out the plan is contingent upon the fulfillment of applicable laws and regulations and the availability of appropriations for this purpose.

16. A separate agreement will be entered into between SCS and sponsors before either party initiates work involving funds of the other party. Such agreements will set forth in detail the financial and working arrangements and other conditions that are applicable to the specific works of improvement.

17. This plan may be amended or revised only by mutual agreement of the parties hereto, except that SCS may deauthorize or terminate funding at any time it determines that the sponsor has failed to comply with the conditions of this agreement. In this case, SCS shall promptly notify the sponsor in writing of the determination and the reasons for the deauthorization of project funding, together with the effective date. Payments made to the sponsor or recoveries by SCS shall be in accord with the legal rights and liabilities of the parties when project funding has been deauthorized. An amendment to incorporate changes affecting a specific measure may be made by mutual agreement between SCS and the sponsor(s) having specific responsibilities for the measure involved.

18. No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this plan, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

Figure 504-1 Watershed agreement for water resources plans—Continued

19. The program conducted will be in compliance with the nondiscrimination provisions as contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 100-259) and other nondiscrimination statutes, namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and in accordance with regulations of the Secretary of Agriculture (7 C.F.R. 15, Subparts A & B), which provide that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Agriculture or any agency thereof.

20. Certification Regarding Drug-Free Workplace Requirements (7 CFR 3017, Subpart F).

By signing this watershed agreement, the sponsors are providing the certification set out below. If it is later determined that the sponsors knowingly rendered a false certification, or otherwise violated the requirements of the Drug-Free Workplace Act, the SCS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacturing, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) all direct charge employees; (ii) all indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantees' payroll; or employees of subrecipients or subcontractors in covered workplaces).

Figure 504-1 Watershed agreement for water resources plans—Continued**Certification:**

A. The sponsors certify that they will or will continue to provide a drug-free workplace by:

(1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(2) Establishing an ongoing drug-free awareness program to inform employees about -

(a) The danger of drug abuse in the workplace;

(b) The grantee's policy of maintaining a drug-free workplace;

(c) Any available drug counseling, rehabilitation, and employee assistance programs; and

(d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(3) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (1);

(4) Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the grant, the employee will —

(a) Abide by the terms of the statement; and

(b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(5) Notifying the SCS in writing, within ten calendar days after receiving notice under paragraph (4) (b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(6) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (4) (b), with respect to any employee who is so convicted—

(a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

Figure 504-1 Watershed agreement for water resources plans—Continued

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5), and (6)

B. The sponsors may provide a list of the site(s) for the performance of work done in connection with a specific project or other agreement.

C. Agencies shall keep the original of all disclosure reports in the official files of the agency.

21. Certification Regarding Lobbying (7 CFR 3018) (applicable if this agreement exceeds \$100,000).

(1) The sponsors certify to the best of their knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the sponsors, to any person for influencing or attempting to influence an officer or employee of an agency, Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The sponsors shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

(2) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Figure 504-1 Watershed agreement for water resources plans—Continued**22. Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions (7 CFR 3017).**

(1) The sponsors certify to the best of their knowledge and belief, that they and their principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the primary sponsors are unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.

_____ (Name of Sponsor) By _____
(Type name below signature)
Title _____
Address _____ Zip Code _____ Date _____

The signing of this plan was authorized by a resolution of the (Name of sponsor) governing body of the adopted at a meeting held on _____ .

_____ (Type name below signature
Secretary (or other title) Address _____ Zip Code _____
Date _____

(Add additional signature blocks as necessary.)

Figure 504-1 Watershed agreement for water resources plans—Continued

Soil Conservation Service
United States Department of Agriculture

Approved by:

(Type name below signature.)
State Conservationist

Date: _____



Subpart 504C Agreement format for watershed protection plans

504.20 Watershed protection plan agreement

The prescribed format for a watershed protection plan is shown in figure 504-2. All paragraphs are included in this example. Explanatory notes are included in boxes following the paragraph.

Figure 504-2 Watershed agreement for watershed protection plans

Watershed agreement
between the
David Creek Soil and Water Conservation District
David Creek Watershed District
list all sponsors as appropriate
(referred to herein as sponsors)
State of Anystate
and the
Soil Conservation Service
United States Department of Agriculture
(Referred to herein as SCS)

Whereas, application has heretofore been made to the Secretary of Agriculture by the sponsors for assistance in preparing a plan for works of improvement for the David Creek Watershed, State of Anystate, under the authority of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001-1008); and

Whereas, the responsibility for administration of the Watershed Protection and Flood Prevention Act, as amended, has been assigned by the Secretary of Agriculture to SCS; and

Whereas, there has been developed through the cooperative efforts of the sponsors and SCS a plan for works of improvement for the David Creek Watershed, State of Anystate, hereinafter referred to as the watershed plan-Environmental Impact Statement, which plan is annexed to and made a part of this agreement;

Now, therefore, in view of the foregoing considerations, the Secretary of Agriculture, through SCS, and the sponsors hereby agree on this plan and that the works of improvement for this project will be installed, operated, and maintained in accordance with the terms, conditions, and stipulations provided for in this watershed plan and including the following:

1. Cost-sharing rate for the establishment of enduring land treatment practices is ___ percent of the average cost of installing the enduring practices in the selected plan for the evaluation unit. The estimated total financial assistance cost for enduring practices is \$_____.

Financial Assistance Costs Explanatory Note

The cost-share rate in this item should be that rate that has been agreed to by SCS and the sponsors. If the rate varies by practice, each practice should be listed and the rate for each stated.

Figure 504-2 Watershed agreement for watershed protection plans—Continued

2. The SCS will assist the sponsors in providing technical assistance to landowners or operators to plan and install land treatment practices shown in the plan. Percentages of technical assistance costs to be borne by the sponsors and SCS are as follows:

Works of improvement	Sponsors (%)	SCS (%)	Estimated technical assistance costs (\$)
Land treatment practices	0	100	
Other (list)			

Technical assistance explanatory note

Because technical assistance for practices normally is all paid by SCS, it can be lumped together. Should the plan call for the State or other agency to provide technical assistance, in addition to SCS's share, enter the correct percentages for each. If water quality monitoring or other such assistance is involved, list these items separately.

3. The sponsors will obtain applications from owners of not less than ___ percent of the land in the problem area, indicating that they will carry out the planned land treatment measures. These applications will be obtained before the first long-term land treatment contract is executed.

Initial participation requirements explanatory note

The state conservationist will set an initial level of participation considered necessary as an indication that enough work will be installed to justify project action. No long-term land treatment contracts will be signed until the applications received reach this initial level of participation.

4. The sponsors will obtain agreements with landowners or operators to operate and maintain the land treatment practices for the protection and improvement of the watershed.

5. The sponsors and SCS will each bear the cost of project administration that each incurs, estimated to be \$ ___ and \$ ___, respectively.

6. The sponsors will acquire, or will ensure that land users or operators have acquired, with other than Public Law 83-566 funds, such real property as will be needed in connection with the works of improvement. (Estimated Cost \$___.)

Figure 504-2 Watershed agreement for watershed protection plans—Continued

Real property acquisition explanatory note

Included only when appropriate.

7. The sponsors (or name of sponsor) hereby agree that they (it) will comply with all of the policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C.. 4601 et. seq.. as implemented by 7 CFR Part 21) when acquiring real property interests for this federally assisted project. If the sponsor is legally unable to comply with the real property acquisition requirements of the Act, it agrees that, before any Federal financial assistance is furnished, it will provide a statement to that effect, supported by an opinion of the chief legal officer of the state containing a full discussion of the facts and law involved. This statement may be accepted as constituting compliance. In any event, the sponsor agrees that it will reimburse owners for necessary expenses as specified in 7 CFR 21.1006(c) and 21.1007.

The cost of relocation payments in connection with the displacements under the Uniform Act will be shared by the sponsors and SCS as follows:

	Sponsor or name of sponsor %	SCS %	Estimated relocation payment costs \$
Relocation payments	_____	_____	_____

Relocation payments and assurances explanatory notes

(1) Included only when appropriate.

(2) Enter the total estimated relocation assistance payment from Table 1. Percentages for cost sharing will be based upon the ratio of Public Law 83-566 and other funds to the “Total Project” line item of Table 1, excluding relocation payment costs. The relocation assistance advisory services cost is to be included when computing the cost-sharing percentages. These percentages are to be used for the life of the project regardless of future changes or supplements.

(3) If the planned project measures will not cause the displacement of any person, business, or farm operation under present conditions, include paragraph no. 2 in the agreement, show cost-sharing percentages, place \$0^{1/} in “Estimated Relocation Payment Costs,” and footnote the column as follows:

^{1/} Investigation of the watershed project area indicates that no displacements will be involved under present conditions. However, in the event that displacement becomes necessary at a later date, the cost of relocation assistance and payments will be cost shared in accordance with the percentages shown.

Figure 504-2 Watershed agreement for watershed protection plans—Continued

8. The sponsors (or name of sponsor) will acquire, or ensure that the landowners or water users have acquired, such water rights pursuant to State law as may be needed for the installation and operation of the works of improvement.

Water rights explanatory note

This information should be included when appropriate.

9. The costs shown in this plan are preliminary estimates. Final costs to be borne by the parties hereto, will be the average costs incurred in the installation of works of improvement or an approved variation.

10. This agreement is not a fund-obligating document. Financial and other assistance to be furnished by SCS in carrying out the plan is contingent upon the fulfillment of applicable laws and regulations and the availability of appropriations for this purpose.

11. A separate agreement will be entered into between SCS and sponsors before either party initiates work involving funds of the other party. Such agreements will set forth in detail the financial and working arrangements and other conditions that are applicable to the specific works of improvement.

12. This plan may be amended or revised only by mutual agreement of the parties hereto, except that SCS may deauthorize or terminate funding at any time it determines that the sponsor has failed to comply with the conditions of this agreement. In this case, SCS shall promptly notify the sponsor in writing of the determination and the reasons for the deauthorization of project funding, together with the effective date. Payments made to the sponsor or recoveries by SCS shall be in accord with the legal rights and liabilities of the parties when project funding has been deauthorized. An amendment to incorporate changes affecting a specific measure may be made by mutual agreement between SCS and the sponsor(s) having specific responsibilities for the measure involved.

13. No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this plan, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

14. The program conducted will be in compliance with the nondiscrimination provisions as contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 100-259) and other nondiscrimination statutes, namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and in accordance with regulations of the Secretary of Agriculture (7 CFR. 15, Subparts A & B), which provide that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Agriculture or any agency thereof.

Figure 504-2 Watershed agreement for watershed protection plans—Continued**15. Certification Regarding Drug-Free Workplace Requirements (7 CFR 3017. Subpart F.**

By signing this watershed agreement, the sponsors are providing the certification set out below. If it is later determined that the sponsors knowingly rendered a false certification, or otherwise violated the requirements of the Drug-Free Workplace Act, the SCS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacturing, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) all direct charge employees; (ii) all indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantees' payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification:

A. The sponsors certify that they will or will continue to provide a drug-free workplace by:

(1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(2) Establishing an ongoing drug-free awareness program to inform employees about —
(a) The danger of drug abuse in the workplace;
(b) The grantee's policy of maintaining a drug-free workplace;
(c) Any available drug counseling, rehabilitation, and employee assistance programs; and
(d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace

(3) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (1);

(4) Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the grant, the employee will —
(a) Abide by the terms of the statement; and

Figure 504-2 Watershed agreement for watershed protection plans—Continued

(b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(5) Notifying the SCS in writing, within ten calendar days after receiving notice under paragraph (4) (b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(6) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (4) (b), with respect to any employee who is so convicted—

(a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5), and (6)

B. The sponsors may provide a list of the site(s) for the performance of work done in connection with a specific project or other agreement.

C. Agencies shall keep the original of all disclosure reports in the official files of the agency.

16. Certification Regarding Lobbying (7 CFR 3018) (applicable if this agreement exceeds \$100,000).

(1) The sponsors certify to the best of their knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the sponsors, to any person for influencing or attempting to influence an officer or employee of an agency, Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The sponsors shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Figure 504-2 Watershed agreement for watershed protection plans—Continued

(2) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

17. Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions (7 CFR 3017).

(1) The sponsors certify to the best of their knowledge and belief, that they and their principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (l) (b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the primary sponsors are unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.

(Name of Sponsor) By _____
(Type name below signature)
Title _____
Date _____
Address _____ Zip Code _____

The signing of this plan was authorized by a resolution of the governing body of the (name of sponsor) adopted at a meeting held on _____.

(Type name below signature)
Secretary (or other title) Address _____ Zip Code _____
Date: _____

(Add additional signature blocks as necessary.)

Figure 504-2 Watershed agreement for watershed protection plans—Continued

Soil Conservation Service
United States Department of Agriculture

Approved by:

(Type name below signature)
State Conservationist

Date: _____

Subpart 504D Format and content of plan-EIS or plan-EA

504.30 General

The format for the watershed plan-EIS (and plan-EA) is outlined in this subpart. This format shall be followed in all cases. Guidance on content is provided, although detailed checklists are avoided. References are included to call attention to the Council on Environmental Quality (CEQ) and SCS regulations, P&G, and other requirements for a plan, but the details of other documents are not reproduced here.

The format combines the plan and EIS or EA into a single document. The EIS (or EA) portion of the document contains the information needed to comply with NEPA, and treats all alternatives (including no action and the recommended plan) in substantially similar detail. An additional section on the recommended plan contains the information needed to design and install the plan, including the responsibilities of the various parties for installation, financing, and operation and maintenance. Appendixes contain additional details that are not needed for all alternatives.

Watershed plans do not fall under the categories outlined in USDA's Visual Management Manual, volume I, graphic design. However, those States wishing to use the manual may do so if they so desire.

The documents should be brief, concise, and written in nontechnical language. Unusual terms should be defined or explained as needed to give the reader a clear understanding of their meaning.

Numbers of various units (acres, dollars, farms) in a plan should be rounded to the nearest 10, 100, or 1,000 depending on the amount of precision used in developing the data. Certain figures in Table 3 (fig. 504-12), however, may be an exception. The NTC staff can provide guidance in this matter.

Appropriate drawings, tables, and maps should be included to provide a clear understanding of the measures and how they will function. Information in tables, maps, and other graphics should be referenced

and not repeated in the narrative. However, the highlights of a table should be in the narrative.

Maps other than those required in 504.43 may be included if appropriate. Some examples are a flood plain strip map, general soils map, general geologic map, general land use map, gross erosion map, sediment yield map (for specific locations), water supply distribution map, condensed profiles, wetlands map, and wildlife mitigation map.

Graphics could include drawings for a typical reservoir showing plan view, area-capacity-discharge curves, typical zoned fill section, section through outlet works, centerline profile of dam, and emergency spillway profile; typical channel cross sections showing spoil disposal, special environmental considerations, and other features; and perspective drawing(s) illustrating the appearance of project measures from one or more significant views.

The recommended plan should be described in sufficient detail to

- provide a basis for authorization,
- guide the implementation and operation and maintenance, and
- convey to the reader the relationship of the plan to the problems, the opportunities, and the effects.

Each element should be clearly described to enable the reader to gain a clear picture of what is to be constructed. Noncritical features of individual measures should be described in a manner that will permit alternative solutions during final design, providing that neither the overall performance of the measures nor environmental impacts are affected.

Normally, methodologies used in the plan formulation will be described in the Inventory and Analysis section. Sources of data shall be referenced in the document.

504.31 Price base and discount rate

When a draft plan is distributed for interagency review, the date shown in the plan (including all tables) should be no more than a few months old, the price base should not be more than 1 year old, and the

discount rate should be current for the date shown in the tables. Also, the price base should be for the same year as that shown in the tables if possible. When a final plan is approved (signed by the state conservationist), it must reflect the current discount rate and a current price base. If an update is necessary, it may be made as follows:

(a) Administratively approved

For a plan that is to be approved administratively, the update may be made by a 1-page addendum.

(b) Congress approved

For a plan that is to be submitted to Congress, the update may also be made by a 1-page addendum if the price base and discount rate are no more than 18 months old when the final plan is submitted to the National Office. If this time requirement is not met, the addendum should include updated Tables 1, 2, 2a, 4, 5, and 6 (figs. 504-8, 504-9, 504-10, 504-15, 504-16, 504-18), plus additional details. The state conservationist should contact the NTC director for specific requirements of this expanded addendum.

504.32 Opening pages

(a) Cover

A suitable heavyweight material should be used for the front and back covers to provide protection and enhance the appearance of the final plan. A photographic background or art design may be used. No specific format is required; however, at a minimum, the front cover should identify the document as shown.

Watershed Plan-Environmental Impact Statement
for
David Creek Watershed
Middlestate
Month and Year
(may be stamped)

Draft copies of the plan should be identified as DRAFT. This may be done by using a stamp to avoid a subsequent reproduction. Working copies developed during the planning process for internal use and informal review by others should be appropriately labeled as **Preliminary—Subject to revision** and dated for ease in identification.

(b) Title page

A title page may be used if desired. The minimum information would be the same as that required for the cover. Additional information may include the county in which the watershed is located, the names of the SLO, and the names of SCS and any other agencies providing assistance.

(c) Fly sheet

The sheet shall not exceed one page. It shall include

- A list of responsible agencies and any cooperating agencies,
- Title of the proposed action,
- State(s) and county(ies) in which action is located,
- Name, address, and telephone number of the person who can supply further information,
- Designation of the plan as a draft or final, and
- The date by which comments must be received (reference 40 CFR 1502.11).

A one paragraph abstract of the plan shall be included (40 CFR 1502.11(e)).

The following nondiscrimination statement should appear on either the title page or the fly sheet:

All programs and services of the U.S. Department of Agriculture, Soil Conservation Service, are offered on a nondiscriminatory basis, without regard to race, color, national origin, sex, age, religion, marital status, or handicap.

(d) Addendum

An addendum is used in a final plan only when it is necessary to update the plan because of a change in the discount rate, price base, or both. Other minor changes can be incorporated in an addendum. It should contain the new total project costs (plus a breakdown between Public Law 83-566 and other), average annual project costs and benefits, and the benefit-cost ratio. Normally the addendum will be less than one page long.

(e) Watershed agreement

The watershed agreement shall follow the fly sheet or addendum and will be in the format shown in subparts 504B or 504C.

(f) Contents

Major (first order) and secondary headings should be listed in the contents. Third order headings may be used if desired. Tables, figures, and appendixes should also be listed. Small Roman numerals should be used for all pages up to and including the contents. Each side of a sheet is one page. Begin page (i) with the title

page or fly sheet and page I with the summary. (Note that the page number is never typed on the first page.) Appendixes should be numbered with the letter of the appendix followed by the page number, i.e., A-1, A-2. Each appendix should start with page 1. Figure 504-3 illustrates an example contents page.

Figure 504-3 Contents page for a watershed plan

Watershed Plan—Environmental Impact Statement for David Creek Watershed, Middlestate	
Contents:	
Watershed agreement	ii
Summary	1
Introduction	3
Project setting	4
Watershed problems and opportunities	4
Scope of the EIS or EA	4
Formulation and comparison of alternatives	5
Formulation process	5
Description of alternative plans	6
Effects of alternative plans	6
Comparison of alternative plans	7
Risk and uncertainty	7
Rationale for plan selection	7
Consultation and public participation	8
Recommended plan	10
Purpose and summary	11
Measures to be installed	12
Permits and compliance	12
Costs	13
Installation and financing	14
Operation, maintenance, and replacement	14
References	15
List of preparers	16
Index	17
Tables:	
No. Title	12
Figures:	
No Title	3
Appendixes:	
Appendix A—Letters and oral comments on draft Plan-EIS	21
Appendix B—Support maps	25
Appendix C—Investigation and analysis report	31
Appendix D—Supporting information	33
Appendix E—Project map	35

504.33 Summary

The summary is a brief version of the plan. Nothing should be included that is not described in the body of the plan. To ensure that adequate information is presented, the form illustrated in figure 504-4 is used. Much of this information is required by Congressional Committees and others in judging the merit of the project. This format also provides a quickly reproducible document for use at meetings and other events.

504.34 Introduction

The introduction explains the purposes served by the watershed plan document and the role of the SLO and SCS in preparing the document. Any unique items pertinent to a particular watershed should also be given here. The idea is to help the reader understand the rationale for project action. An overview of the organization of the document and a reference to the supporting documentation can also be included here.

504.35 Project setting

This section should describe pertinent physical, social, and economic information for the watershed. Some conditions will be constant throughout the evaluated life of the project, while others will be subject to change because of social, economic, and political influences. The two factors critical to natural resource evaluation within a watershed are land use changes and management activities. Long-range trends for social and economic conditions affecting land use and management must be predicted. The information must be adequate to forecast the most likely conditions expected to exist in the future with and without the plan.

The following types of information are desired in the project setting. Use of tabular data is encouraged wherever it reduces the need for narrative.

- Describe the physical conditions, such as size and location, stream systems, climatology geology, soils, and topography. These are expected to be constant throughout the project's evaluation period.

- Describe the social and economic conditions within the watershed and discuss the major socio-political factors that may influence major changes in land use or management of the soil, water, air, plant, or animal resources. Include only those items that would, if realized, affect the various alternatives being considered. If none are anticipated, it should be stated. A discussion of population centers and transportation infrastructure should be included.
- Describe the present and future general land cover and uses (using the categories given in the National Planning Manual) based on the predicted socio-political factors described previously.

504.36 Watershed problems and opportunities

This section should clearly demonstrate the need for project action. It provides the basis for USDA involvement. From the information presented, the reader should know which problems need to be solved as well as the opportunities for enhancing the quality of life in the project area, based on public concerns and desires.

The introductory paragraph should summarize the contents of this section. Then each problem or opportunity should be quantified and its extent and magnitude clearly explained. Questions that should be answered in this writeup include:

- What is being damaged?
- How much damage is occurring?
- Where does the damage occur?
- How frequent is the damage?

The problems and opportunities should be stated for both present and future conditions. These should be consistent with the conditions described in the "Project setting" section. Desired conditions for the future should also be explicitly stated.

Data on the magnitude of the problems should normally be shown here in aggregate or summary form. Detailed breakdowns, such as damages by evaluation unit or projections by time frames, should be shown later as part of the analysis of alternatives.

Figure 504-4 Summary of watershed plan

<p>Watershed Plan—Environmental Impact Statement</p> <p>for</p> <p>David Creek Watershed</p> <p>Middlestate</p> <p>Summary of Watershed Plan</p>		
Project name:	County:	State:
Sponsors:		
Description of recommended plan:		
Resource Information:		
Size of watershed (acres)		
Land cover - Total cropland (acres)		
Grassland (acres)		
Forest land (acres)		
Miscellaneous (acres)		
Land ownership-Private(%)	State-Local(%)	Federal(%)
Number of farms-	Average farm size-	
Prime and important farmland (acres)		
Number of minority farmers		
Number of limited resource farmers		
Project beneficiary profile (socio-economic information, such as income levels, home values, and ages as compared to those of the State and Nation)		
Wetlands (acres by class)		
Flood plains (acres by land use)		
Highly erodible cropland (acres)		
Endangered species (name or none)		
Cultural resources (description or none known)		
Problem identification: Describe problems in terms of erosion and sedimentation (downstream damage, loss of productivity), flood damage (agricultural, urban), water quality impairment (in terms of beneficial uses), and others.		

Figure 504-4 Summary of watershed plan—Continued

Alternative plans considered: Briefly describe the components of each alternative.

Project purpose(s): Describe purpose for which project is planned (flood prevention, watershed protection, agricultural water management). Show which of the identified problems the project will address.

Principal project measures: For structural and nonstructural projects, describe the number and kinds of project measures. For land treatment include an estimate of the number of long-term contracts, acres to be treated, number of waste management systems, and other such information.

Project costs:	PL 83-566 funds		Other funds		Total	
	\$	%	\$	%	\$	%
Land treatment measures						
Nonstructural measures						
Structural measures						
Flood prevention						
Agricultural water management						
Irrigation						
Drainage						
Water quality protection						
Rural water supply						
Fish and wildlife						
Recreation						
Municipal & industrial water						
Technical assistance						
Other						

Project benefits: Describe monetary benefits in terms of categories shown in Tables 5, 5a, and 6. Describe other beneficial effects in physical terms.

Other impacts:

Land use changes (acres): Describe conversions of cropland, grassland, and forest land.

Environmental values changed or lost:

Wooded flood plain (acres) -	Wildlife Habitat (acres) -
Wetlands (acres) -	Fisheries (acres or miles) -
Cultural Resources (no. & type)	Prime farmland (acres) -

Also briefly describe any compensatory mitigation included in the plan.

Major conclusions: (final statements)

Areas of controversy: (final statements)

Issues to be resolved: (final statements)

Other:

Water quality problems should be discussed in terms of designated beneficial uses, impairment of those uses, and pollutants or parameters that exceed standards. Future water quality conditions without project action should be forecasted by key substance(s) for the evaluation period of the project. These forecasts should be based on the projections of future land use and management activities that were discussed in the "Project setting" section.

Some problems identified during the public participation process may prove to be insignificant or irrelevant to the project. These problems should be identified in this section even though they may have not been thoroughly investigated, evaluated, or addressed in the planning. If it is obvious that nothing can be done toward solving a problem, it should be explained in this section.

Opportunities for improving the quality of life and enhancing environmental values should also be discussed. These opportunities must reflect specific effects desired by concerned groups and individuals.

504.37 Scope of the EIS or EA

An important part of the planning process is scoping, the results of which are documented in this section (P&G and 40 CFR 1501.7). The Council on Environ-

mental Quality (CEQ) defines scope as the range of actions, alternatives, and impacts to be considered in an EIS (40 CFR 1508.25). The issues significant in defining the problems and formulating and evaluating alternative solutions are to be identified here.

This section also provides a record of the issues that were considered, but found not to require detailed discussion in the plan. The relative insignificance of these issues should be agreed upon by all agencies involved in the scoping process. If many such issues occur, it may be helpful to put them in an appendix, explaining why further discussion is unnecessary. This would allow the main text to focus on the important items.

Certain items are always of concern and would be expected to be identified in this section. These items include cultural resources, endangered and threatened species, fish habitat, human health and safety, important agricultural land, highly erodible cropland, water quality, wetlands, and wildlife habitat, as well as the identified problems and opportunities.

The purpose of this section is to show the results of the scoping process. The process itself will be described later in the Consultation and public participation section. The table illustrated in figure 504-5 can be used to summarize the results of the process:

Figure 504-5 Table used to list identified concerns

Table __
Identified concerns

Economic, social, environmental, and cultural concerns	Degree of concern	Degree of significance to the decisionmaking	Remarks
T&E species	High	Low	None exist in watershed

Note: The number of concerns listed is not limited. All those brought up in the scoping process would normally be in order. The items should be grouped in a way that provides a logical framework for problem definition and the analysis and comparison of alternatives later in the report. Significance can be rated as high, moderate, low, or none. The discussion should explain the basis for the significance ratings.

504.38 Formulation and comparison of alternatives

(a) General

This part should help the reader follow the rationale of plan formulation from the development and comparison of alternatives to the selection of the recommended plan.

(b) Formulation process

This section will describe the basis for selecting combinations of measures to include in alternatives. The measures considered in developing alternatives should be described. Water conservation is to be fully considered in plan formulation whenever water management is a project purpose.

Include the measures or methods considered but not developed into complete alternative plans and the procedure or criteria used to screen them. For example, initial studies may identify potential sites for 40 floodwater-retarding structures, but further studies may eliminate 25 sites from detailed consideration because of size, costs, or adverse environmental impacts.

Studies made to establish various combinations of measures (land treatment, structural, and nonstructural) should be included. Such items as how the evaluation units were established and the incremental analysis made to determine the alternative that reasonably maximizes net contributions to NED should also be shown in this section. If maximizing NED benefits is not the governing criterion, the plan should clearly state what the goals are.

In the formulation of alternative plans, include only increments that provide combined beneficial effects outweighing combined adverse effects. All alternatives are to be formulated considering the four criteria of the P&G: completeness, effectiveness, efficiency, and acceptability. Reasonable alternatives that were considered but found not feasible should be included and the reasons for discarding them explained.

Every identified problem should be addressed either by a remedial measure in at least one alternative plan or by an explanation as to why the problem could not be solved.

(c) Description of alternative plans

This section will describe the alternative plans, including the recommended plan, that were developed to solve the identified problems. The alternatives will be described in substantially equal detail. Each alternative plan, including any mitigation, should be clearly described to show what it consists of, how it will function, and how much it will cost. A map showing the location of the plan elements for each alternative plan should be included. Land treatment measure locations need not be shown, but the general area to be treated should be shown on the map or described in this section.

The following alternative plans shall be included:

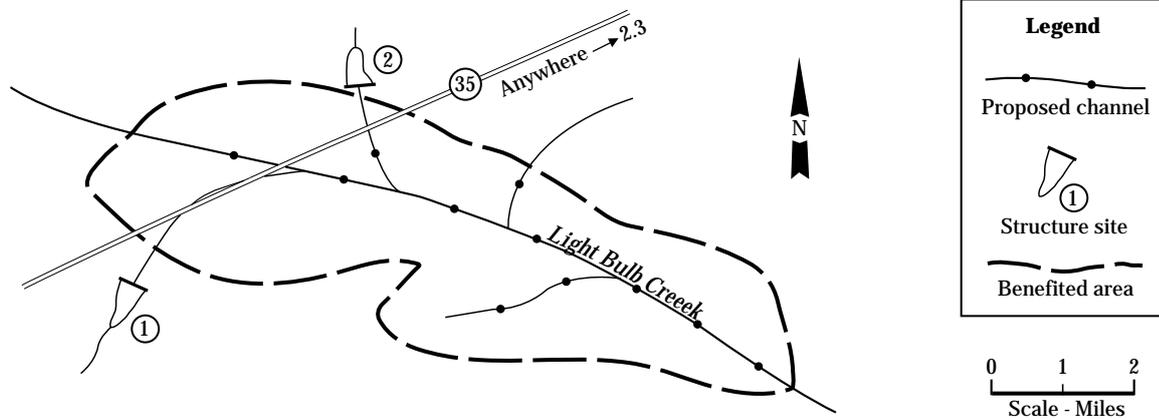
- No action (without-project conditions).
- The NED alternative in water resource plans or an alternative that achieves an acceptable reduction in the offsite or public problem being addressed in watershed protection plans.

Normally other alternative plans showing various levels of tradeoffs between objectives should be considered for inclusion. Reasonable alternatives not within the jurisdiction of USDA should be included.

Figure 504–6 is an example writeup of an alternative plan.

Figure 504-6 Example writeup of alternative plans

Alternative 2—Dams and channel



Alternative 2 consists of accelerating land treatment on 1,230 acres of cropland, constructing 2 floodwater retarding structures, and widening and deepening 15.7 miles of channel.

Land treatment would consist of terraces, waterways, conservation tillage, and crop residue management on 430 acres of upland cropland as well as conservation tillage on 800 acres of cropland above the dam sites.

Floodwater-retarding structure number 1 would be located about a mile above State Highway 35 on stream C-1A. It would be about 25 feet high, store 1,420 acre-feet of floodwater, and have a 23-acre sediment pool.

Structure number 2, located 4,000 feet upstream from Highway 35 on channel C-4, would be 32 feet high, store 1,860 acre-feet of floodwater, and have a 16-acre sediment pool.

The main channel (10.2 miles) would be enlarged to a width of 38 feet and a depth of 2 feet. Side streams (5.5 miles) would be widened to 20 feet and deepened to 2.0 feet. Trees would be planted along 3.7 miles of the streams to offset losses due to construction.

Estimated installation cost is \$2,420,000. Average annual cost would be \$280,000, including \$40,000 for operation and maintenance.

(d) Effects of alternative plans

This section will describe the economic, environmental, and social effects of each alternative. The results of the scoping process should be used to determine which factors should be addressed and the amount of detail in which each factor is addressed. The type and kind of information depend on the location, type, scope, and complexity of the planned action. The intent of this section is to provide the analytical basis for the comparisons of effects presented in the next section (40 CFR 1502.16). All alternatives including no action (future without project) should be treated in substantially equal detail.

The description of impacts should be by resource or environmental concern. The reader will be helped if the items listed are the same as those used in the “identified concerns” table. All highly and moderately significant concerns should be addressed. Some examples of pertinent items are

- floodwater and sediment damage,
- soil, water, air, plant, and animal resources,
- agricultural production (crop types, yields, acres by type, etc.),
- wetlands, (size, type, significance),
- rare, threatened, and endangered species,
- state and nationally significant archeological and historical resources,
- fish and wildlife (quality and quantity of habitat), and
- prime land.

Special attention should be given to jurisdictional wetlands that may be affected by project activity and to highly erodible land where applicable.

The discussion for each concern should begin with a description of existing conditions. This should be followed by future-without-project (FWOP) conditions, and then by the impacts of each alternative plan. A sample outline would begin as follows:

Floodwater Damage
Existing conditions
Future without project
Alternative 1
Alternative 2

Wetlands

Existing conditions
Future without project
Alternative 1
Alternative 2

This is an outline for the discussion, not a summary table. The discussion should continue in similar fashion for all the concerns on the list.

The discussion of existing resources should give the reader a general knowledge of those resources in the area that will be affected significantly by the various alternative plans. Problems or opportunities should be described by evaluation unit. Give as much detail as needed to explain the existence of a problem or the effect of each alternative on a resource. Avoid repeating information given in the “Project setting” or “Watershed problems and opportunities” sections.

The FWOP discussion should present the most likely future conditions. The basis for forecasting must be stated. The effects of the conservation compliance and conservation reserve provisions of the Food Security Act should be included in the projections. If erosion and sediment problems have been identified or if cost-shared land treatment is proposed, the ongoing land treatment program should be discussed here. Indicate how long the ongoing program would take to complete the job.

In cases where a project is addressing resource deterioration (as opposed to, for example, recurring flood damage to existing land uses), the FWOP discussion should describe that aspect of the problem. Evaluation units and time frames should be used where appropriate.

Impacts should be described for each alternative. Direct, indirect, and cumulative effects should be identified.

The narrative should present data in summary form, using tables, drawings, maps, and other graphics. If an extensive listing of data needs to be included, it should be shown in an appendix.

The effects of alternative plans section should fully explain the degree or extent to which each problem or opportunity is satisfied. For example, if flooding is a problem, any damages and flood hazards expected after the project is installed should be clearly de-

scribed.

Laws and regulations protecting cultural resources and threatened and endangered species include specific consultation requirements. If either of these consultation processes has not been completed before the plan is prepared, then the plan should describe its status.

If the project has recreation benefits and must go to the Public Works Committee, describe the usage of other similar public recreational facilities within the general area of the project and the anticipated impact of the alternatives on the usage of such existing recreational facilities (Public Law 99-662).

The effects section should include the probable beneficial or adverse effects on identified wetlands and how these effects relate to the wetland conversion provisions of the Food Security Act. This may include a statement that a determination has been made in consultation with the U.S. Fish and Wildlife Service that the project will have minimal (or no) effect on wetlands.

Describe the relationship of the alternatives to local and regional comprehensive plans and land and water use plans, policies, and controls. Mention Executive Orders 11988 and 11990, when appropriate. Also include the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources that would be caused by the installation of an alternative. These items are probably best handled in separate subsections after all the items from the "Identified concerns" table have been addressed.

(e) Comparison of alternative plans

This section should summarize the alternative plans in a comparative form, in substantially equal detail. It should normally include a "Comparison of alternative plans" table. It is important to include major items used in the decision-making process. Those items shown as high or moderate in the table "Identified concerns" (fig. 504-5) should be included as a minimum in this section. Significant differences between the alternative plans should be shown. The without-project conditions should be included to allow a

complete comparison.

Estimated costs and cost sharing should also be included. This allows the reader to see what the Public Law 83-566 contribution to each alternative would be.

The comparison of alternatives is the heart of the EIS. It should be as complete as possible, but focused on the important concerns ("analytic rather than encyclopedic," according to 40 CFR 1502.2). The four accounts of the P&G will be used as a framework for the comparison. Items that might be shown include the following:

NED account

- Reduced crop damage from flooding, erosion, or sedimentation
- Land voiding and depreciation
- Onsite savings in water
- Maintaining productivity for the evaluation period
- Maintaining productivity for future generations
- Offsite sediment damage reduction
- Increased values of offsite properties
- Reduced treatment costs for M&I water
- Increased recreation use
- Increased fish and wildlife values
- Offsite savings in water

EQ account

- Degree to which State standards are met
- Fish and wildlife improvements
- Scenic/aesthetic improvements
- Rare, threatened, and endangered species habitat improvement
- Other favorable downstream effects

(See P&G and the Environmental Assessment Manual for additional items. The P&G subdivide the EQ account into ecological, cultural, and aesthetic attributes. It may be helpful to further subdivide the ecological attributes into the five resources addressed by the Field Office Technical Guide (FOTG): soil, water, air, plants, and animals.)

OSE account

- Impact on disadvantaged persons
- Impact on rural development
- Nuisance/safety effects

- Health effects
- Social well-being
- Social indicators, including numbers of disadvantaged, length of time in farming, land tenure, planning horizons, educational level, ethnic groupings
- Risk of loss of life
- Social effects of maintaining productivity

RED account

- Effects on employment
- Effects on income
- Effects on other economic activity
- Miscellaneous effects on rural development

A sample table for comparing alternative plans is shown in figure 504–7.

(f) Risk and uncertainty

Plans and their effects should be examined to determine the uncertainty inherent in the data or various assumptions of future economic, demographic, social, attitudinal, environmental, and technological trends. Methods for making these determinations are described in P&G 1.4.13. This section should discuss the areas of sensitivity in each of the alternative plans. Risk and uncertainty may involve increased costs or reduced benefits through adjustments in design. These facts should be clearly described to enable the reader to fully understand these effects on each plan. This section does not eliminate the need for discussing risk and uncertainty in other parts of the plan where appropriate.

(g) Rationale for plan selection

This section should state which of the alternatives is the recommended plan and provide enough information for the reader to understand the rationale for selection. If the NED plan is selected, the rationale need not be extensive because the primary objective is to maximize net economic benefits. Key factors that influenced the decision should be described.

If the NED plan is not selected, an exception to the P&G rule will be required for water resource plans. This section is where the information is included to justify the request for an exception. The following information should be provided:

- A description of the NED plan.
- A description of the added increment.

- All beneficial effects, including economic benefits, of the added increment.
- All adverse effects, including the cost, of the added increment.
- The economic benefit-cost ratio of the added increment.
- The economic benefits foregone by including the added increment. This represents the economic cost of obtaining the noneconomic benefits of the added increment.
- A description of the other Federal, State, or local concerns being addressed and the degree to which they are satisfied by the added increment.

The information should be presented objectively, but the discussion should make clear why the SLO are asking for an exception and why the cost of the added increment is a reasonable expenditure of Federal funds.

Figure 504-7 Sample table of summary and comparison of candidate plans

Summary and Comparison of Candidate Plans

Effects	Without project	Alternative 1 (NED)	Alternative 2	Alternative 3	Alternative 4 (recommended) *
Measures	---	1 multi-purpose flood, recreation & M&I structure.	365 acres of evt. corridor, 988 ac. wildlife habitat, LT, 4 grade stab. structures.	Repair leak in M&I delivery pipe.	1 multi-purpose flood, recreation & M&I structure, 4 grade stab. structures, LT.
Project invest.	\$0	\$11,433,969	\$1,280,000	\$1,000,000	\$12,389,000
National Econ. Devel. Acct.					
Beneficial annual	---	1,207,180	5,370	90,000	1,213,175
Adverse, annual	---	\$1,005,470	\$11,669	\$87,937	\$1,071,139
Net beneficial	---	201,710	-6,299	2,063	142,036
Environmental Quality Acct.					
(Report impacts in the EQ units for which the analyses were made.)	Shortage of 2,560 ac. of warm water fishing lakes.	Create 1,000 ac. warm water fishing & 25 mi. of shoreline	Create 20 acres for warm water fishing & 1 mile of shoreline	No effect.	Create 1,021 ac. for warm water fishing and 26 mi. of shoreline.
		Reclassify 400 ac. of bottom land as prime agric. land.	No effect.	No effect.	Same as alternative 1.
	Water quality poor because of high PO ₄ levels.	No effect.	Reduce PO ₄ level to meet state water quality standard.	No effect.	Same as alternative 2.
	Habitat is decreasing each year.	No effect.	Increase wild-life production by 10,000 H.U.	No effect.	Same as alternative 2.

See footnote at end of table.

Figure 504-7 Sample table of summary and comparison of candidate plans—Continued

Summary and Comparison of Candidate Plans

Effects	Without project	Alternative 1 (NED)	Alternative 2	Alternative 3	Alternative 4 (recommended) *
Environmental Quality Acct. (cont.)		Introduce permanent water body as a unique feature in the landscape.	Introduce 4 permanent water bodies & maintain or improve 1,353 ac. of distinctive visual resource as environmental corridor & wildlife habitat.	No effect.	Introduce permanent water bodies as unique feature in this landscape.
		Close 4 mi. of public roads.	No effect.	No effect.	Close 4 mi. of public roads.
		Inundate 5.9 mi. of natural intermittent stream channel & associated ecosystem.	Inundate 0.4 mi. of natural intermittent stream channel & associated ecosystem.	No effect.	Inundate 6.3 mi. of natural intermittent stream channel & associated ecosystem.
	Land use in watershed—55,680 ac. cropland, 5,650 ac. pasture, 53,100 ac. forest land.	Permanently alter 1,075 ac. of cropland, pasture, forest land.	Permanently alter 28 ac. of cropland, pasture, & forest land.	No effect.	Permanently alter 1,103 ac. of cropland, pasture, & forest land.
	15,620 ac. prime agric. land in watershed.	Convert 710 ac. of prime agric. land to structural measures.	Convert 10 ac. of prime agric. land to structural measures.	No effect.	Convert 720 ac. of prime agric. land to structural measures.
	1,460 ac. of wetlands in watershed.	No effect.	No effect.	Dry up 3 ac. of class 3 wetlands.	No effect.
		Introduce highly visible manmade structure as a permanent feature in the landscape.	Introduce 1 highly visible & 2 moderately visible manmade structures as permanent features in landscape.	No effect.	Introduce 2 highly visible & 2 moderately visible manmade structures as permanent features in landscape.

See footnote at end of table.

Figure 504-7 Sample table of summary and comparison of candidate plans—Continued

Summary and Comparison of Candidate Plans

Effects	Without project	Alternative 1 (NED)	Alternative 2	Alternative 3	Alternative 4 (recommended) *
Other Social Effects Acct.	22,570 ac. damaged by moderately severe erosion.	No effect.	Adequately protect 17,466 ac. from accelerated erosion.	No effect.	Adequately protect 19,415 ac. from accelerated erosion.
	Region has insufficient opportunities for recreation—shortage 750,000 recreation visits.	Produce 398,800 recreation visits annually.	No effect.	No effect.	Produce 398,800 recreation visits annually.
	About 1,200 homes in need of water because of unreliable supplies.	Provide adequate water for 1,200 households.	No effect.	Provide adequate water for 1,000 households (90% of need).	Provide adequate water for 1,200 households.
	Agric. flood damage occurs on 3,000 ac., amounts to \$643,500.	Reduce flood damages by 45% on 2,540 ac.	No effect.	No effect.	Reduce flood damages by 45% on 2,540 ac.
Regional Economic Development Acct.					
Beneficial effect					
Annualized					
Region		\$1,207,810	\$5,370	\$90,000	\$1,213,175
Rest of Nation		0	0	0	0
Adverse effect					
Annualized					
Region		\$921,190	\$1,700	\$87,937	\$922,890
Rest of Nation		84,280	9,969	0	148,249

* This example would require a Secretarial exception before approval.

Notes: In this example:

Interest rates—All alternatives evaluated at 7 5/8 percent interest.

Period of analysis—All plans evaluated over 100 years.

Price levels—Current 1980 price levels except current normalized (Oct. 1980, WRC) used for crop and pasture.

504.39 Consultation and public participation

The purpose of this section is to document the opportunities provided for the public's participation throughout the process from the initial request for SCS assistance to preparation of the final plan. This is to include the date, type, and purpose of the activity and the names of participating organizations. Special note should be made of the coordination with the State Historic Preservation Officer regarding cultural resources and the Fish and Wildlife Service regarding threatened and endangered species.

Where a project will affect wetlands that could be converted to a commodity crop, this section should show that the SLO and land users have been informed and are aware of the potential effect of the wetland conversion provisions and of the actions needed to avoid loss of program benefits.

This section should be expanded in the final plan–EIS to summarize and provide responses to significant written comments. Similar comments may be grouped. The response should indicate where revisions were made in the document. For a plan–EA, a brief summary of the comments received and actions taken are normally sufficient.

504.40 Recommended plan

(a) Purpose and summary

The first paragraph of this section should summarize the content of the plan. Describe the purposes to be served by the plan in terms consistent with Public Law 83-566 (e.g., watershed protection, flood prevention, or agricultural water management). For plans with numerous plan elements, include a brief summary of the works of improvement and how long it will take to install them.

(b) Measures to be installed

(1) Land treatment practices—In this part, the relationship of the ongoing program to the accelerated program is described. Make it clear that the ongoing program will be implemented without project action and that the accelerated program will supplement the ongoing program. Emphasize that participation in the program is voluntary and that the land user makes the final decision on land use and practices to be installed.

If the plan includes cost sharing for land treatment, provide an estimate of the participation rate.

The types and amounts of assistance (technical and financial) that will be provided should also be described in this part. Differentiate among the categories shown in Table 1 (fig. 504–8). Describe technical assistance in terms of person-years and category (e.g., soil surveys, conservation planning, or practice application) and financial assistance in terms of the types and amounts of practices, or interdependent practices, for which assistance will be provided. Separate discussions are needed for each evaluation unit. State the amount of erosion, condition of the impaired use, remaining sediment damage that will remain after installation of the practices. Explain that alternative practices which provide equal or greater benefits are permitted, but the cost-share amount is limited to the amount that would have been paid for the practices in the selected plan.

Discuss the location where the assistance will be provided in sufficient detail to guide the implementation of the plan (e.g., critical areas, class IV(e) cropland, or roadsides). Problem areas for which assistance is to be provided should be identified on maps as much as possible, but it is not intended that every acre be identified. Describe any specific criteria to be used to make a final determination of eligibility during implementation.

Describe the practices, or interdependent practices, expected to be used to solve identified problems and achieve identified objectives. Also, provide an estimate of the acres by land use for which technical and financial assistance will be provided.

Clearly state that there are limitations on technical and financial assistance. For example, assistance will be provided only when it contributes to identified project objectives and does not result in significant adverse impacts.

For Federal land, clearly describe the conservation land treatment measures jointly agreed upon by SCS, the land administering agency, and the SLO.

Give any other pertinent information that would clarify the work to be done.

(2) Nonstructural measures—

(i) Flood plain acquisition. Describe the location and amount of land, the type of rights to be acquired, and the planned land use. Include a map. It should be evident that the rights to be acquired are needed to provide a floodway and that elements are included to provide for any changed land use.

(ii) Floodproofing. Identify locations of buildings and the type of floodproofing. The plan should include sufficient details concerning the existing buildings to show that they are suitable for floodproofing. If a flood warning system is to be provided, describe its type and location and include sufficient details concerning its operation to show that the system will function.

(iii) Relocation of existing flood plain properties. Describe the type, number, and location of improvements. Make it clear that the proposed relocation site is outside the flood plain.

(iv) Wetland or flood plain conservation easements. Describe the location and amount of land to be acquired. Include a map.

(3) Structural measures—Describe reservoir-type structures in detail to include such items as:

- foundation conditions,
- kind of principal spillway (including the type of inlet and outlet),
- kind of emergency spillway (i.e., rock, earth, structural, other),
- frequency of storm controlled by the principal spillway and retarding storage,
- type of fill material,
- type and extent of clearing to be performed,
- design life of structures and portion of sediment capacity that will initially store water,
- borrow (type, location, relation to geology, and land rights), and
- provisions for safeguarding public health, water quality, sanitation, and safety.

Reference should be made to Table 3 or 3a (fig. 504–12 or 504–13). Similar structures may be grouped for discussion purposes.

Describe the potential hazard induced by risk of failure of a dam. Point out that although a dam failure is not expected, there is always some remote possibility of failure and that failure, if it were to occur, would

endanger any development in the breach inundation area. Also include information on the geologic or design factors that could contribute to the possible failure of a dam, and design features that have been included to reduce the risk. Refer to the breach inundation map in appendix B of the plan.

Explain the rationale for determining the dam classification. Explain that class “a” and “b” dams are designed for less than the probable maximum flood; therefore, overtopping and subsequent failure are a possibility. Include precautions against future development within the breach inundation area of class “a” and “b” dams that could result in a changed classification. For class “c” dams, explain that an emergency action plan needs to be developed by the SLO and other local groups before initiating construction.

Describe channel characteristics by reaches along the path of the proposed channel work, including the materials through which channels will be constructed. The nature of the planned construction, operation, and maintenance by reaches should be further subdivided as follows:

- Establishment of new channel including necessary stabilization measures.
- Enlargement or alignment of existing channel or stream.
- Clean out of natural or manmade channel (includes bar removal, removal of loose debris, and major clearing and snagging).
- Stabilization as the primary purpose by continuous treatment or treatment of localized problem areas—present capacity adequate.
- Measures or means provided to prevent private landowners from using federally cost-shared channels as outlets for private onfarm drainage of wetlands or bottom land hardwood habitat.
- Presence of rock or other material that will significantly affect the design of the channel. Reference should be made to Table 3b (fig. 504–14).

Write narrative on public recreation facilities to include information on:

- land and water areas made available for recreational use by project action,
- kind and nature of recreational facilities to be installed (in sufficient detail to indicate their quality,

- relationship between the components of the development—water resource improvement(s) and associated facilities, and
- provisions for public access, health, sanitation, safety, and the physically handicapped.

Reference should be made to Table 2b (fig. 504–11).

The following information for each measure should be included:

- minimum land rights (acres) by proposed use and availability for public use;
- approximate planned amount of each plan element;
- planned appurtenances;
- alteration, modification, or change in existing improvements;
- number and kind of relocations that will result from acquisition of real property rights including number of persons or families affected;
- action to be taken to minimize soil erosion, and water, air, and noise pollution during construction;
- type of action to be taken relating to preservation of historical and archeological data, sites, and specimens; and
- non-project features—steps to be taken to minimize the project effects on these values.

Indicate that before construction of any project for local flood protection, the SLO shall agree to participate in and comply with applicable Federal flood plain management and flood insurance programs (Public Law 99-662).

(4) Mitigation features—Features or provisions to mitigate losses and other adverse effects should be discussed. Whatever the feature is mitigating should be clear (40 CFR 1502.16(h)). If the project does not have mitigation features, this section may be omitted.

(c) Permits and compliance

A list of all Federal permits and other entitlements that must be obtained and consultation that must be completed to implement the recommended plan should be included. If none are required, include a sentence so stating (40 CFR 1502.25). If the plan will also be used in its present form to obtain a permit, that should be noted here with all supporting information included in the appendix. If a “404” permit will be required, show compliance with EPA’s 404(b)(1) guidelines.

If additional cultural resources or endangered species consultation will be required before project installation, explain that here.

(d) Costs

This section should explain the costs shown on Tables 1, 2, 2a, 2b, and 4 (figs. 504–8, 504–9, 504–10, 504–11, and 504–15). Make reference to the appropriate table. Avoid repeating the figures in the tables. Refer to the agreement for cost-sharing arrangements. The explanation of the costs should be in enough detail to assure that the SLO have a full understanding of their obligations.

The narrative should describe each cost category (e.g., land treatment, construction, engineering, real property acquisition, project administration, relocation payments, operation and maintenance, and nonproject). It should explain what each category consists of and should highlight any significant cost items not shown separately on the tables. Cost estimates for major subitems not listed in the tables should be described and included in the narrative. For example, project administration costs include relocation assistance advisory services and other items. It should be clear that all significant cost items have been included in the estimates. Joint costs and specific costs for multiple-purpose structures should be described.

If costs are allocated to purposes, this section should explain the method of cost allocation. It should also show any allocated costs that are not included in the tables.

If the plan includes cost-shared land treatment, this section should identify the eligible measures and the cost-share rates.

(e) Installation and financing

(1) Framework for carrying out plan—This section should explicitly describe the framework for carrying out the plan. It should describe the planned sequence of installation, along with the responsibilities of the SLO, SCS, and other cooperating agencies for installing and financing the project. Where cost-shared land treatment is involved, the responsibilities of the individual participants should also be explained. Also, any preconditions for installing the project should be discussed.

(2) *Planned sequence of installation*—Show the sequence in which the project measures will be installed. If certain parts of the work must be installed or completed before others, this should be explained.

The plan should specify any mitigation measures that must be installed and their relationship to the construction schedule. It should describe the real property that must be acquired and the land treatment that must be installed before installing structural or nonstructural measures.

In plans with structural measures, Public Law 83-566 assistance for the first unit of construction may be provided before all necessary real property for the entire project is obtained. However, the plan must show that the SLO have sufficient funds and agree to use their power of eminent domain to acquire the needed rights. Including a schedule for real property acquisition in the plan is a good practice. Generally, acquisition of all real property for the project in the first 2 or 3 years of the installation period is desirable.

(3) *Responsibilities*—Specific responsibilities of each SLO and the SCS should be listed. The plan must show that the SLO have the needed authorities and have agreed to exercise those authorities to implement the plan. Items that should be covered for each planned measure include acquisition of real property and water rights; permits, licenses, and other entitlements; contracting; engineering; project administration; relocation advisory services; financing; and installation.

(4) *Contracting*—The writeup should indicate the method of contracting used for installing the planned measures and name the SLO responsible for dealing with SCS during installation. This applies to land treatment as well as structural and nonstructural measures.

The plan should state clearly, as appropriate, that the SLO intend to do the contracting, or SCS is formally requested to do a specific part or all of the contracting.

If long-term contracts (LTC's) for cost-shared land treatment are to be used, describe whether the plan involves SCS-participant LTC's or an SCS-SLO project agreement with SLO-participant LTC's. Show that each LTC will be based on a plan/schedule of operations developed by the participant and approved by SCS.

Also show the expected range of durations of the LTC's and explain that all required conservation treatment (cost-shared and non-cost-shared if applicable) will be installed at least 2 years before the end of the contract. Note that no LTC's will be signed until the initial participation requirements are met (fig. 504-2) and that all LTC's must be signed within 5 years of the date on which the plan is approved (see 502.15). If the plan includes required conservation treatment that will not be cost-shared, this should be made clear, as should any other conditions attached to the cost sharing. Other information to help clarify the contracting process and identify the responsibilities of the various parties may also be included.

The plan should make clear that LTC's cannot be entered into if the land involved is within a unit that is under contract for conservation land treatment under another program.

If a "performance of work" or a "division of work" arrangement is to be used, see paragraphs 507.03(f) and (g). Where a "division of work" is involved, this section should include a statement that the value of the work SCS is to perform does not exceed cost-sharing rates for such practices applicable under other cost-sharing programs. Describe the responsibilities of each party.

If the SLO intend to do the contracting or will otherwise receive Public Law 83-566 funds, show that they understand their responsibilities as outlined in OMB-102 and implemented by SCS according to the procedures in the National Contracts Grants and Cooperative Agreements Manual.

(5) *Real property and relocations*—Describe the real property needed and the number and kind of relocations that will result from the proposed action. Identify the SLO and their responsibilities, and indicate that they will follow standard SCS procedures as outlined in Property Management Regulations in conformance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646).

(6) *Other agencies*—Describe the responsibilities of and types of assistance to be made available by each Federal agency in accomplishing the plan. Specifically indicate concurrence of any land managing agency with its part in carrying out the plan, except for

the FS, which is a USDA agency with responsibilities in plan development and implementation.

When the plan includes works of improvement to be installed on Federal land, the plan should show how Public Law 83-566 funds will be used in combination with funds available from regular program sources.

Appropriate explanatory statements should set forth the opportunities for Federal assistance from other programs, including cost-sharing programs of USDA and community development block grants from the Department of Housing and Urban Development.

(7) Cultural resources—If protection, preservation, recovery, or other mitigation of impacts to cultural resources are anticipated, this section should contain a brief summary of the plans involved. The summary should include responsibilities for financing and carrying out such plans and the timing with respect to implementation.

This section should state that if cultural values are discovered during construction, construction will be halted and the procedures of the SCS General Manual (420 GM 401) will be followed.

(8) Financing—The plan should show how the SLO and the Federal Government will finance installation and operation and maintenance costs. It should be clearly indicated that the SLO have analyzed their financial needs in relation to the scheduled installation and the operation, and maintenance requirements for the works of improvement, and that they have arranged for funds to be available when needed through donations, cash reserves, tax or assessment levies, or credit. The plan should include an estimate of the out-of-pocket costs to be borne by the SLO and should show that projected revenues are adequate.

If loans are contemplated, show that sources of credit have been contacted with favorable results. If a watershed loan from the RDA is contemplated, indicate that negotiations are underway with the regional director of the RDA, including the filing of a preapplication.

Describe the extent to which donations, such as land, easements, labor, material, equipment, services, or money, will be used to finance the costs other than those payable with Public Law 83-566 funds. Where applicable, indicate that the SLO may receive credit

for such contributions toward their required cost sharing under conditions to be agreed upon in advance of their performance (507.12 and 507.13).

Costs not eligible for Public Law 83-566 financial or credit assistance should be identified. The means of financing such costs should be described.

When an advance of Public Law 83-566 funds for future municipal or industrial (M&I) water supply is involved, this section of the plan should show

- the estimated amount of the advance, the type of cost for which it will be used, and that the cost will not exceed 30 percent of the total estimated installation cost of the structure involved;
- that the SLO will enter into an agreement, approved by the RDA for repayment of the advance before the execution of the SCS fund-obligating agreement;
- that the SLO intends to use the water from the storage capacity provided for future municipal use within the evaluation period of the structure; and
- that the regional director of the RDA has tentatively concurred in the proposed advance.

(9) Conditions for providing assistance—The plan should describe the conditions under which Public Law 83-566 assistance will be made available to the SLO and should show that financial and other assistance to be furnished by SCS for carrying out the project is contingent on the appropriation of funds for this purpose. Items to consider include requirements for land treatment, real property acquisition, and permits.

(f) Operation, maintenance, and replacement Operation, maintenance, and replacement responsibilities should be described in the same detail as those for installation. All project features should be described including land treatment, nonstructural and structural measures. The SLO will be responsible for operating, maintaining, and replacing (when needed) each planned measure. This responsibility includes the financing of these actions.

This section should clearly indicate how the SLO will encourage landowners and operators to operate and maintain the land treatment measures on their farms for the protection and improvement of the watershed.

Where cost-shared land treatment is involved, the evaluated life span of the practices and any replacement costs that have been included should be indicated.

The plan should identify the responsibilities for operating the nonstructural measures to ensure their effectiveness throughout the evaluation.

The responsibilities for operating structures should be identified. They include the use of water in regulated storage capacity; operation of any control works such as tide gates; the legal steps required to establish operating authority; and other significant O&M items.

If the plan includes components that have an expected life span that is less than the evaluation period, discuss the need and arrangements for their replacement.

The kinds of inspections to be made and their frequency should be described. If National Forest land is included, specify that the inspection team will include a FS member.

Sufficient detail should be included to ensure that the requirements and costs for adequate operation and maintenance are fully understood and that arrangements have been made or can be made to satisfy these requirements. This matter is particularly significant for recreational developments because the operation and maintenance of even a modest recreation development may be a significant part of the total operation and maintenance responsibility for the entire project. Because recreation facilities generally require periodic replacement during the project evaluation period, the plan should show the extent to which replacement costs have been included. Custodial, policing, sanitation, safety, and other operational services and the manner of financing operation and maintenance costs should be described fully. If admission or use charges are contemplated, the plan should indicate the basis that will be used for establishing fees.

Specific reference should be made to the provisions and responsibilities for operation and maintenance of fish and wildlife features or measures, fish and wildlife mitigation features, needed sanitary facilities, provisions for public access at any of the project measures, and any unusual operational needs and major maintenance work that may be anticipated. Include provisions for monitoring when appropriate.

Provisions should be included to ensure that installa-

tion and operation and maintenance of the planned features meet the requirements of appropriate State and local public health agencies. This point is especially important if recreation or municipal water supply, or both, are involved. Identify the agencies involved.

Include a statement that a specific operation and maintenance agreement will be entered into before a project agreement is signed. (This includes project agreements for installing land treatment with SLO/participant long-term contracts.) This O&M agreement is to include, in addition to specific sponsor responsibilities for the project measures, specific provisions for retention, use, and disposal of property acquired or improved with Public Law 83-566 assistance. The plan should also state that the O&M agreement will be based on the National Operation and Maintenance Manual and that an operation and maintenance plan will be prepared for each structural, nonstructural, and land treatment measure. Indicate, where appropriate, that an Emergency Action Plan will be developed.

(g) Tables

The tables in this part are designed to meet as many conditions in a watershed as can be readily anticipated to exist. Show those items or measures applicable to the specific watershed plan. Tables 1 through 6 (figs. 504-8 through 504-18) should use the format shown to facilitate review and summary purposes. Items not applicable to a particular plan may be omitted.

Prime-numbered tables generally are necessary in all plans. Use A and B tables only if applicable. Watershed protection plans should include Tables 1 and 4 (figs. 504-8 and 504-15) as a minimum. For ready reference, reproduce tables on colored paper. Date all tables with the month and year; the date must be reasonably current. Round all dollar figures shown in the tables to a practical level of significance.

Instructions for Table 1, Estimated Installed Cost

All measures and items with their total estimated costs should be shown in Table 1 (fig. 504–8) by Federal agency and land ownership category. This table will be the basis for providing technical, cost-sharing, and credit assistance from funds made available under the Act.

1. Land treatment is to be listed in three categories:

Required land treatment. This is the treatment that must be installed upstream of dams to comply with the USDA policy that requires 50 percent of the drainage area to be adequately protected. Required land treatment also includes any treatment needed upstream of channels to comply with the SCS policy given in 502.11.

Accelerated land treatment. This is land treatment being installed to address public (off-site) water and land-related resource problems. Accelerated land treatment will be the only category shown in watershed protection projects. Water resource projects may include treatment in all three categories.

Associated land treatment. This is the land treatment needed to ensure realization of benefits used in the economic justification of structural measures for irrigation or drainage.

2. All land treatment should be listed by land use and evaluation unit. Evaluation units for required and associated land treatment will be the same as those for the related structural measures. Evaluation units for accelerated land treatment should be based on such factors as land capability class, soil type, or erosion-rate categories used to delineate the problem area. They should correspond to the information in the watershed agreement. For associated land treatment, only the onfarm practices to be installed with Public Law 83-566 program assistance (technical or financial) are to be included.

3. List nonstructural measures by types, such as flood plain acquisition, flood warning system, or flood proofing.

4. List structural measures by major types, such as floodwater-retarding structures, multiple-purpose structures, irrigation structures, or channel work. Miles will be used as the unit of measure for channel work. Do not designate purposes or group such measures under a purpose designation.

5. If Federal agencies other than the SCS and FS participate in the installation of works of improvement, add columns so that their participation may be shown in the same manner as that for SCS and FS. Columns that do not have entries (e.g., if the FS is not participating) may be omitted.

6. The estimated number of units and the estimated cost in dollars to be paid from Public Law 83-566 funds and from other sources for measures to be installed on Federal and non-Federal land should be shown in the body of the table. The estimated costs should include any accelerated help that may be provided by other programs for cost-sharing and technical assistance on non-Federal land and works of improvement on Federal lands.

7. Direct project funds for each agency for engineering services and project administration should be sufficient to cover all costs that will eventually be charged to the project. These funds should include allowances for assistance by the State, National Technical Center, and National Headquarters. All costs for the project should be included as part of the cost for the category rather than as a separate line item.

Figure 504-8 Table 1—Estimated Installation Cost

Table 1, Estimated Installation Cost
(Name of Watershed), (State)
(Dollars) ^{1/}

Installation cost item	Unit	----- Number -----			----- Estimated cost (dollars) ^{1/} -----								
					---- Public Law 83-566 funds ----			----- Other funds -----			Total		
		Federal land	Non-Fed. land	Total	Federal land SCS ^{2/}	Non-Fed. land SCS ^{2/}	Total	Federal land	Non-Fed. land	Total			
Land treatment-Required													
Evaluation unit													
A													
B													
Technical assistance													
Subtotal—Required													
Land treatment-Accelerated													
Evaluation unit													
D													
E													
Technical assistance													
Subtotal—Accelerated													
Land treatment-Associated													
Technical assistance													
Subtotal—Associated													
Subtotal—Land treatment													
Nonstructural measures													
Preservation easements													
Flood proofing													
Land acquisition													
Flood warning system													
Relocation													
Subtotal—Nonstructural													
Structural measures													
Floodwater retarding structures													
Multiple purpose structures													
Channel work													
Subtotal—Structural													
Total project													

^{1/} Price base.

^{2/} Federal agency responsible for assisting in installation of works of improvement.

Month/year

Instructions for Table 2, Estimated Cost Distribution

Table 2 (fig. 504–9) is used to show the various items of installation cost for individual structural and non-structural measures. It will be the basis for determining the percentages of costs to be shared by the SLO and SCS for each measure or group of measures. The following instructions will help in the preparation of the table.

1. Under “Item” list each measure for which a separate cost estimate is available. The same number or name used on the project map should be used in this table. Grade stabilization structures may be grouped when a separate estimate for each structure in a system has not been developed.
2. Care should be taken to ensure that individual measures will not be grouped with other measures for which cost sharing is not the same. For example, specific cost items and recreation facilities should be included as separate line item entries.
3. The estimated construction cost should include costs expected to be incurred during the installation period, including those costs for cultural resource protection and other mitigation, plus a realistic contingency allowance in accordance with good estimating practices.
4. The estimated real property acquisition cost should consist of all costs, including those needed for cultural resource protection and other mitigation, for purchasing the needed real property.

5. For those measures that incorporate nonproject features, the nonproject cost will be shown in parenthesis in the line below the project cost in the appropriate columns. The grand total cost should include only project costs.

6. The estimated cost for project administration will be incorporated as part of each item listed. The project administration part of the installation cost to be borne by the sponsors may include the cost of administering construction contracts and for relocation assistance advisory services.

7. When applicable, footnotes should be included to identify such items as:

- Legal fees, survey costs, or flowage easements and their values.
- Engineering service contract costs to be borne by Public Law 83-566 funds and others.
- Nonproject cost items.
- Kind and value of modifications or alterations included with the real property costs.
- The cost of cultural resource protection and mitigation.
- The cost of other environmental or social mitigation measures.
- Non-NED project costs for nonstructural measures (as described in section 502.22(a)).

Figure 504-9 Table 2—Estimated Cost Distribution — Structural and nonstructural measures

Table 2, Estimated Cost Distribution — Structural and nonstructural measures

(Name of watershed), (State)
(Dollars) ^{1/}

	----- Installation cost—Public Law 83-566 -----			----- Installation cost—Other funds -----			Total installation cost
	Construction	Engineering	Real prop. rights	Relocation payments	Project admin.	2/ other	
Structural measures							
Floodwater retard. struc. No. 1							
Multiple purpose struc. No. 2	4/	7/	5/				
Recreational facilities							
No. 3 Water supply							
Water intake tower							
Channel work							
Main A							
10+00-40+00 (M)							
Lateral A							
10+00-20+00 (O)							
Subtotal—Structural							
Nonstructural measures							
Relocation of properties							
Floodproofing							
Flood plain acquisition							
Flood warning system							
Subtotal—Nonstructural							
Grand total							

1/ Price base _____
 2/ Includes \$ _____ for relocation assistance advisory service.
 3/ Includes \$ _____ for moving three pipelines and \$ _____ for weighting one AT&T cable.
 4/ Includes \$ _____ of Public Law 83-566 funds and \$ _____ of other funds for cultural resource protection and mitigation measures.
 5/ Includes \$ _____ of real property cost for mitigation.
 6/ Includes \$ _____ for surveys, legal fees, other costs.
 7/ Engineering services contract cost to be borne: \$ _____ by Public Law 83-566 funds and \$ _____ by other funds.
 8/ Nonproject cost for rerouting State Route 281 across top of dam.

Month/year

Instructions for Table 2a, Cost Allocation and Cost-sharing Summary

Table 2a (fig. 504-10) shows the installation costs allocated to flood prevention, drainage, irrigation, municipal and industrial water supply, recreation, fish and wildlife, and other such purposes, as well as the sharing of costs allocated to each purpose. Relocation payments should be included in the same manner as those for construction, real property rights, and engineering costs. Use as many columns as necessary to show each project purpose.

1. Each of the individual purposes served by project measures should be entered as a subcolumn heading under the column heading "Purpose."

2. All single-purpose measures serving the same purpose may be grouped by purpose under "Item." Each multiple-purpose structure and specific cost items should be listed separately in the same manner as shown in Table 2. List the items of installation cost (as in Table 2) under each measure or group of measures.

3. In the cost-sharing section of the table, distribute the total cost allocated to each purpose to Public Law 83-566 funds and other funds in accordance with applicable cost-sharing policy.

4. When relocation costs are involved, it may be necessary to show Public Law 83-566 costs for municipal water supply. In such an instance, this should be identified by a footnote.

Figure 504-10 Table 2a—Cost Allocation and Cost-sharing Summary—Structural and nonstructural measures

Table 2a, Cost Allocation and Cost-sharing Summary—Structural and nonstructural measures
(Name of Watershed), (State)
(Dollars) ^{1/}

	----- Cost allocation -----				----- Cost sharing -----							
	----- Purpose -----				----- Public Law 83-566 -----				----- Other -----			
	Flood prevention	Recreation	M&I water supply	Total	Flood prevention	Recreation	M&I water supply	Total	Flood prevention	Recreation	M&I water supply	Total
Grade stabilization struc.												
Construction												
Engineering												
Relocation												
Real prop rights												
Project admin.												
Subtotal												
Multiple purpose												
Structure No.												
Construction												
Engineering												
Relocation												
Real prop rights												
Acquisition												
Legal fees												
Easements												
Road & utility modification												
Project admin.												
Subtotal												
Recreation facilities												
Construction												
Engineering												
Real prop rights												
Acquisition												
Legal fees												
Project admin.												
Subtotal												
Total												

^{1/} Price base _____.

Instructions for Table 2b, Recreational Facilities, Estimated Construction Costs

Table 2b (fig. 504-11) shows the number, estimated unit construction cost, and total cost for each individual type of recreational facility. This table should be included in all plans that have recreational development as an integral part of the plan and if recreational benefits for a planned development are evaluated monetarily, regardless of whether Public Law 83-566 funds will share any of the cost for facilities.

1. Where more than one development is involved, identify the facilities to be installed at each development. Types of facilities may include access roads, parking lots, water supply, sanitary facilities, beach development, boat docks, picnic tables, or fireplaces. Where possible, include descriptive terms, such as blacktop road—16 feet wide, flush toilet, and concrete picnic table.
2. Under “Number” show the number of units of each type of facility planned. Include a footnote to indicate those items that are estimated and subject to minor variation.

Figure 504-11 Table 2b—Recreational Facilities — Estimated Construction Costs

Table 2b, Recreational Facilities — Estimated Construction Costs
(Name of Watershed), (State)
(Dollars) ^{1/}

Item	Number	Estimated unit cost	Total construction cost
	(Indicate quantities that are estimated. ^{2/})		
Total			

^{1/} Price base _____.

^{2/} Estimated quantity, subject to minor variation at time of detailed planning.

Month/year

Instructions for Table 3, Structural Data—Dams With Planned Storage Capacity

Most of the items in Table 3 (fig. 504–13) are self-explanatory. Some additional clarification includes:

1. Class of structure should be indicated as a, b, or c, as defined in the National Engineering Manual, 210-520.21(e).
2. Total drainage area should include the controlled and uncontrolled drainage area above the planned structure. If two or more structures are in series, the drainage area above the upstream structure(s) is the “controlled” drainage area, and the area between the upstream structure and the structure being listed is the “uncontrolled” drainage area.
3. The emergency spillway type refers to the type of material, such as vegetated, rock, earth, or concrete.
4. The 1-day runoff curve number used for design of the structure(s) should be indicated. Any deviation from the use of an antecedent moisture condition II runoff curve number should be appropriately noted.
5. The floodwater-retarding pool is the reservoir space allotted for the temporary impoundment of floodwater and aerated sediment. Its upper limit is the elevation of the crest of the lowest emergency spillway. Floodwater-retarding capacity is the volume in the floodwater-retarding pool less the aerated sediment. The surface area of the floodwater retarding pool is the area at the crest elevation of the lowest emergency spillway.
6. The submerged sediment capacity should account for all of the reservoir space allotted to the accumulation of submerged sediment during the life of the structure. Sediment aerated is the volume of sediment that deposits above the lowest ungated outlet.
7. The surface area for the sediment pool is the area of the reservoir at the elevation of the anticipated sediment accumulation at the dam. If the lowest ungated outlet is below the sediment pool elevation, the area to initially store water should be shown by footnote, or by adding another line. The sediment pool area is shown in parenthesis if the reservoir contains beneficial storage or the sediment capacity will not store water.
8. Beneficial use storage should be shown separately for each applicable purpose, including the capacity needed for losses.
9. In listing the surface area for the beneficial use pool, identify the use of recreation or fish and wildlife pools, when applicable. Water storage for either of these purposes normally is considered the first increment above the sediment pool. Where other beneficial uses are included in a reservoir, the maximum water surface area is shown for all beneficial uses.
10. Table 3 should also be used for joint-use storage structures. Joint-use storage is reservoir storage capacity partly allocated to flood prevention, but also used for conservation or beneficial storage during seasons when floods normally do not occur. The operation of joint-use storage is based on water supply forecasts and continuous inflow and outflow measurements or on a fixed time schedule. The table headings should be modified as appropriate to show capacities for separate storage purposes and capacities for beneficial use storage shared with floodwater-retarding capacity.
11. The principal spillway is the lowest ungated spillway designated to convey the water from the floodwater-retarding pool. Type of conduit refers to the material used, such as R/C pipe, R/C box, or CMP.
12. The emergency spillway system of a dam is the spillway system designed to convey water in excess of that impounded for flood prevention or other beneficial purposes.
13. The exit channel of an earth, vegetated, or rock emergency spillway is that part of the channel downstream from the control section which safely conducts the water to a point where it may be released without jeopardizing the integrity of the structure. V_e is the maximum velocity of flow in the exit channel for the emergency spillway hydrograph.
14. The emergency spillway hydrograph (ESH) is used to establish the minimum design dimensions of the earth or rock emergency spillway.
15. The freeboard hydrograph (FH) is used to establish the minimum elevation of the top of the dam.
16. Elevations should be referenced to mean sea level.
17. All flow capacities should be shown as maximum or peak.

Figure 504-12 Table 3—Structural Data—Dams with planned storage capacity**Table 3, Structural Data — Dams with planned storage capacity**
(Name of watershed), (State)

Item	Unit	Structure no. (1, 2, 3, 4, ...)	Total
Class of structure			
Seismic zone			
Uncontrolled drainage area	mi ²		XXX
Controlled drainage area	mi ²		XXX
Total drainage area	mi ²		XXX
Runoff curve No. (1-day) (AMC II)			XXX
Time of concentration (T _c)	hrs		XXX
Elevation top dam	ft		XXX
Elevation crest emergency spillway	ft		XXX
Elevation crest high stage inlet	ft		XXX
Elevation crest low stage inlet	ft		XXX
Emergency spillway type			
Emergency spillway bottom width	ft		XXX
Emergency spillway exit slope	%		XXX
Maximum height of dam	ft		XXX
Volume of fill	yd ³		XXX
Total capacity ^{1/}	acre ft		
Sediment submerged	acre ft		
Sediment aerated	acre ft		
Beneficial use (identify use)	acre ft		
Floodwater retarding	acre ft		
Between high and low stage	acre ft		
Surface area			
Sediment pool ^{2/}	acres		
Beneficial use pool (identify use)	acres		
Floodwater retarding pool ^{1/}	acres		
Principal spillway design			
Rainfall volume (1-day)	in		XXX
Rainfall volume (10-day)	in		XXX
Runoff volume (10-day)	in		XXX
Capacity of low stage (max.)	ft ³ /s		XXX
Capacity of high stage (max.)	ft ³ /s		XXX
Dimensions of conduit	ft/in		XXX
Type of conduit			
Frequency operation-emerg. spillway	% chance		XXX
Emergency spillway hydrograph			
Rainfall volume	in		XXX
Runoff volume	in		XXX
Storm duration	hrs		XXX
Velocity of flow (V _e)	ft/s		XXX
Max. reservoir water surface elev.	ft		XXX
Freeboard hydrograph			
Rainfall volume	in		XXX
Runoff volume	in		XXX
Storm duration	hrs		XXX
Max. reservoir water surface elev.	ft		XXX
Discharge per ft of width (O _e /b)	acre ft		XXX
Bulk length	ft		XXX
Capacity equivalents			
Sediment volume	in		XXX
Floodwater retarding volume	in		XXX
Beneficial volume (identify use)	in		XXX

^{1/} Crest of emergency spillway.

Month/year

^{2/} If reservoir contains beneficial storage or if sediment capacity will not store water, show area in parenthesis and footnote accordingly.

Instructions for Table 3a, Structural Data—Dikes

Table 3a (fig. 504-13) shows each dike separately. Data in each column to the right of the stationing should be entered on the same line as the station location.

Figure 504-13 Table 3a—Structural Data — Dikes

Table 3a, Structural Data — Dikes ^{1/}
(Name of Watershed), (State)

Dike	Stationing	Top width (ft)	Average side slope	Average height of dike (ft)	100-year frequency velocity (ft/s)	Dike protection	Volume of earth fill (yd ³)

^{1/} Dikes are Class ____ (reference SCS Engineering Standard No. 356)

Year/month

Instructions for Table 3b, Structural Data—Channel Work

Table 3b (fig. 504-14) should be used for flood channels, irrigation canals, and drainage channels.

1. The data in each column to the right of station should be entered on the same line as the station location it represents.
2. Data, such as hydraulic gradient, n value, and excavation volume, should be entered to represent values between the station given and the preceding station, or it should be entered on intervening lines.
3. Drainage area is the uncontrolled area at the station.

4. As-built and aged velocities entered in the table should be the velocities associated with the discharges used for stability analysis. If velocities are for other than design discharge, explain by footnote.

5. The information in footnotes may be shown by a separate legend sheet.
6. The totals for length of channel work and volume of excavation should be shown.
7. If design discharge includes overbank flow, this shall be indicated by an appropriate footnote.
8. If the design discharge cannot be expressed in meaningful terms by frequency, the basis for design (drainage curve, numbers, removal rate) should be shown.

Instructions for Table 4, Average Annual NED Costs

1. List measures, singly or in groups, as used for evaluation purposes. Use the same groupings of measures in Tables 4 and 6 (figs. 504–15 and 504–18). Each evaluation unit will include costs for all items in the evaluation unit whether or not benefits can be evaluated monetarily. Include all these costs in the total and in the annual cost column of Table 6. The rationale for including uneconomical or unevaluated increments will be included in the narrative.
2. Enter the appropriate annual costs for each of the evaluation units. The annual project administration cost will be included in each evaluation unit and in the grand total.
3. Show the current price base for the installation, operation, maintenance, and replacement cost estimates.
4. Because of its magnitude and importance, the operation, maintenance, and replacement cost for recreational or fish and wildlife developments should be identified by footnote.
5. Costs that have been deducted as associated costs are not normally included in this table. All Public Law 83-566 costs, including technical assistance for non-cost-shared measures, should be included in this table.
6. Non-NED project costs for nonstructural measures should not be included. If Table 2 (fig. 504–9) has such costs, Table 4 should include a footnote, such as “Non-NED project costs for upgrading housing have been excluded.”
7. Items that might be “other direct costs” are discussed in P&G 2.12.7.

Figure 504-15 Table 4—Estimated Average Annual NED Costs

Table 4, Estimated Average Annual NED Costs
(Name of Watershed), (State)
(Dollars) ^{1/}

Evaluation unit	----- Project outlays -----		Other direct costs	Total
	Amortization of installation cost	Operation, maintenance, and replacement cost		
Land treatment—Accelerated Evaluation unit 1 Evaluation unit 2 Reaches 1 to 6 Multi-purpose channel, dam, etc. Land treatment—Associated ^{2/} Land treatment—Required ^{3/} Reaches 7 and 8 Multi-purpose channel, etc.				
Grand total				

^{1/} Price base ____, amortized over ____ years at a discount rate of ____ percent. Month/year
^{2/} Costs for technical assistance to install associated measures and financially assisted accelerated land treatment in this evaluation unit are included. (Costs for installing associated onfarm measures are not included because they have been netted out of the analysis.)
^{3/} Includes \$____ for operation, maintenance, and replacement for recreation development.

Instructions for Table 5, Estimated Average Annual Flood Damage Reduction Benefits

1. In the "Item" column, enter the types of flood damage that have been evaluated and that will be affected by the structural and nonstructural measures included in the plan.
2. Gully erosion damage includes losses resulting from land voiding and any ephemeral gully damage, sheet and rill erosion damage, or impaired land use that is interrelated with gully erosion. Erosion not associated with flood damage reduction should not be included.
3. In the "With project" column, enter the average annual damage that will continue to be incurred after project installation.
4. Enter the difference between the average annual damage with and without project to show the project's total damage reduction benefits in the last column.
5. When the table indicates no remaining damage in a category, a footnote is needed to show that damages and benefits were not evaluated completely. Examples of appropriate footnotes might be "damages and benefits will accrue from floods of greater magnitude than the ____ frequency event, but these were not evaluated" or "this includes only the damages and benefits occurring from land voiding or deterioration that will be affected by the structural measures."
6. No distinction should be made between benefits accruing within or outside the watershed unless some unusual circumstances make it necessary or desirable.
7. The price base should be clear and specific, such as:
 - ^{1/} Price base: 1990 current normalized prices for cropland and pasture; 1991 prices for all others.
8. Agriculture-related damage should include damages occurring in rural communities with a population of about 10,000 or less.

Figure 504-16 Table 5—Estimated Average Annual Flood Damage Reduction Benefits

Table 5, Estimated Average Annual Flood Damage Reduction Benefits
(Name of Watershed), (State)
(Dollars) ^{1/}

Item	----- Estimated average annual damage -----				----- Damage reduction -----	
	----- Without project -----		----- With project -----		benefit ^{3/ 4/}	
	Agric. related ^{2/}	Nonagric. related	Agric. related ^{2/}	Nonagric. related	Agric. related ^{2/}	Nonagric. related
Floodwater						
Crop & pasture						
Other agricul.						
Residential						
Commercial						
Other						
Subtotal						
Sediment						
Overbank deposition						
Reservoirs						
Other (list important items)						
Subtotal						
Erosion						
Flood plain scour						
Streambank						
Gullies						
Subtotal						
Grand total						

^{1/} Price base _____.

^{2/} Agriculture-related damage includes damage to rural communities.

^{3/} Includes effects of required land treatment measures.

^{4/} Costs and benefits for associated onfarm land treatment have been netted out.

Month/year

Instructions for Table 5a, Estimated Average Annual Watershed Protection Damage Reduction Benefits

1. Onsite

- a. Crop stand damage—dollar value of benefits attributed to a reduction in crop stand damage caused by erosion or sedimentation.
- b. Land voiding and depreciation—dollar value of benefits attributed to a decrease in land voiding and depreciation.
- c. Water conservation—dollar value of benefits attributed to onsite savings in water.
- d. Maintaining productivity—dollar value of benefits attributed to maintaining productivity over the evaluation period.
- e. Other—dollar value of other types of onsite benefits.
- f. Onsite subtotal—total dollar value of onsite benefits in average annual values.

2. Offsite/public

- a. Maintaining productivity—dollar value of benefits attributed to maintaining productivity for future generations. This is that part of the maintaining-productivity benefits that occurs after the end of the evaluation period.
- b. Sediment damages—dollar value of benefits attributed to offsite sediment reduction.
- c. Property values—dollar values of benefits attributed to an increase in values of offsite properties. Care must be taken to avoid double-counting when such benefits are evaluated.
- d. Water treatment—dollar value of benefits attributed to a reduction in costs of treating M&I water.
- e. Recreation—dollar value of benefits attributed to an increase in recreation quality or quantity.
- f. Fish and wildlife—dollar value of benefits attributed to an increase in fish and wildlife values.
- g. Water conservation—dollar value of benefits attributed to offsite savings in water.
- h. Other—dollar value of other types of offsite benefits.
- i. Offsite subtotal—total dollar value of offsite or public benefits, or both, in average annual values.
- j. Grand total—total annual benefits in dollars (should equal the sum of onsite and offsite/public).

Figure 504-17 Table 5a—Estimated Average Annual Watershed Protection Damage Reduction Benefits

Table 5a, Estimated Average Annual Watershed Protection Damage Reduction Benefits
(Name of Watershed), (State)
(Dollars) ^{1/}

Item	----- Damage reduction benefit average annual -----	
	Agriculture-related	Nonagricultural-related
Onsite		
Crop stand damage		
Land voiding and depreciation		
Water conservation		
Maintaining productivity		
Other		
Subtotal		
Offsite/Public		
Maintaining productivity for future generations		
Sediment damages		
Property values		
Water treatment		
Recreation		
Fish and wildlife		
Water conservation		
Other		
Subtotal		
Grand total		

^{1/} Price base _____.

^{2/} Use other explanatory footnotes as needed.

Month/year

Instructions for Table 6, Comparison of NED Benefits and Costs

Table 6 (fig. 504–18) is used to show the estimated average annual benefits and costs and the benefit-cost ratios for project measures. The following instructions are provided for further clarification:

1. List measures, singly or in groups, as used for evaluation purposes. Use the same groupings of measures in Tables 4 and 6 (figs. 504–15 and 504–18).
2. Table 6 should show only NED benefits. Damage reduction benefits should agree with those in Tables 5 and 5a (figs. 504–16 and 504–17).
3. Enter the appropriate average annual benefit. All costs and benefits accruing to accelerated land treatment to protect the soil resource base for sustained productivity, to conserve water, to improve water quality, and to reduce sediment damage are to be shown for each evaluation unit for the land treatment part. The required land treatment costs and benefits upstream of dams and channel improvements are to be shown with the structural evaluation unit. If the associated land treatment benefits and costs have not been netted out of the analysis, they should also be shown with the structural evaluation unit. Both benefits and costs are to be on the same price base and evaluation period. Unemployed labor benefits will be those stemming from the use of unemployed and underemployed labor.
4. Include only the column headings necessary to show the project benefits. Include additional or substitute columns to show any other evaluated benefits that are not listed in the sample table. Such benefits must be consistent with the P&G. The nature of these benefits should be described in the narrative. All sustained production benefits and other watershed protection benefits from Table 5a should be reported under either the “Other economic effects” column or under the title of “Maintaining productivity” if that is the only category of benefits.
5. Enter the average annual cost for each evaluation unit. These figures should agree with those in Table 4.
6. Enter the relationship of benefits to costs, with costs as unity or 1. Express the ratio to the nearest tenth.
7. If a benefit-cost ratio is less than unity, add a footnote referring the reader to the rationale for plan selection.

Figure 504-18 Table 6—Comparison of NED Benefits and Costs

Table 6, Comparison of NED Benefits and Costs
(Name of Watershed), (State)
(Dollars) ^{1/}

Evaluation unit	Agriculture-related						Nonagricultural			Recreation	M&I water supply	Unemployed labor	Other econ. effects	Average annual benefits	Average annual costs ^{3/}	Benefit cost ratio
	Damage reduction			Intensification			Res.	Com.	Other							
	FP	Ir.	Dr. ^{2/}	FP	Ir.	Dr.										
Land treatment – acres																
Evaluation unit 1																
Evaluation unit 2																
Reaches 1 to 6																
Multi-purpose channel, dam, etc.																
Land treatment, req.																
Land treatment, assoc.																
Reaches 7 & 8																
Multi-purpose channel																
Total																x.x:1.0

^{1/} Price base _____.

^{2/} Amortized costs of \$_____ and benefits of \$_____ for onfarm associated measures are not included.

^{3/} From Table 4.

Month/year

504.41 List of preparers

The list of preparers will include the key SCS personnel on the planning staff, state staff, and the area and field office staffs who were directly responsible for significant input in preparing the watershed plan and environmental impact statement. In addition, consultants, individuals, and other agency personnel should be listed if they made significant input. In some cases it may be appropriate to list the agency or firm that provided the input rather than the individuals.

The list should include the person's name, present title, education, experience, employer, and other pertinent qualifications (publications, professional license) as shown in figure 504-19.

Include a brief description of the SCS state staff and NTC review process that was used. A sample description follows:

“The draft watershed plan and environmental impact statement was reviewed and concurred in by state staff specialists having responsibility for engineering, soils, agronomy, range conservation, biology, forestry, and geology. This review was followed by review of the document and supporting data by the SCS (North-east, Midwest, South, or West) National Technical Center. A similar review was also provided by U.S. Forest Service personnel.”

Figure 504-19 Example list of preparers

Name	Present title (time in job-yrs)	----- Education ----- degree	----- cont. educ.	Experience titles & time in job-yrs	Other (licenses, etc.)
SCS Water Resources					
Planning Staff					
John Black	Staff leader – 9	BS, Ag Eng	Wildlife mgmt Water res. eng Computer sci	Hydrologist – 9 Design eng – 2 Project eng – 2	PE registration
Larry Jones	Ag economist – 9	BS, MS Ag Econ	Computer sci	Dist Cons – 10 Soil Cons – 5	
SCS State Office Staff					
Mary Green	State biologist – 5	BS, MS, Biol	Wildlife mgmt	Area staff biol – 5 Soil Cons – 5	
FWS Area Office					
Bill Gray	Fisheries biol – 5	BS, Biol	Fisheries mgmt	Dist biol. – 5 MO DNR – 6	
State University Chemistry Dept.					
Bob Brown	Head of dept – 4	BS, Chem MS, Chem PhD, Org Ch	Water quality	Asst Prof – 8 Associate – 7	List of papers xxxx xx xxxx xxxx xx xxxx

The draft watershed plan and environment impact statement was reviewed and concurred in by state staff specialists having responsibility for engineering, soils, agronomy, range conservation, biology, forestry, and geology. This review was followed by review of the document and supporting data by the South National Technical Center. The NTC concurred in the technical aspects of the plan and EIS.

504.42 Closing pages

(a) References

This section should provide sources of information contained in the document along with numbers corresponding to appropriate reference numbers in the text. The SCS studies can be covered by one group reference early in the document. If supporting data are incorporated by reference, include information on how the reader can arrange to review it. Material based on proprietary data which is not available for review may not be incorporated by reference (40 CFR 1502.21).

(b) Index

This section should list key words, phrases, or sub-headings along with appropriate page numbers. Examples of listings include alternatives, archeological resources, installation costs, land treatment, mitigation, National Economic Development Plan, operation, maintenance, replacement, plan elements, sedimentation, and water quality.

504.43 Appendixes

(a) Appendix A

This appendix contains the letters and oral comments received on the draft plan. This item will be included in both the draft and final plans. However, add the following on the draft: "To be included in final environmental impact statement." Letters are not required to be included when an EA is prepared unless they include significant comments.

(b) Appendix B, Support maps (as appropriate)

(1) **Recreational development map**—If one or more recreational developments are planned as a project purpose, a map or sketch is included to show the general layout of each development. It should show such pertinent features as

- the boundaries of the development,
- purchase area boundaries,
- the dam and emergency spillway,
- the surface area of the recreational pool,
- the high water line of the reservoir, and
- the location and kind of principal use areas (picnicking, camping, bathing, parking, boat ramps) and the access roads.

An example of a recreation development map is shown at the end of this part of the manual.

(2) **Urban flood plain map**—Where existing or likely future urban or built-up areas are affected by the project measures, maps will be included to show those areas that will be flooded by a 100-year event and 500-year event, if significant, with and without the recommended plan. Other flood lines may be included as appropriate. A recent aerial photograph is preferred as the base. The map should be referenced in the discussion of effects. An example of this map is shown at the end of this part of the manual.

(3) **Breach inundation map**—This map is required for all SCS inventory dams and levees. For class "C" dams and class "I" dikes, detailed maps should be similar to the urban flood plain maps. If other dams and dikes are involved, they should be clearly described by the use of maps, by narrative description, or both. Information shown on the map should be the same as specified in the Emergency Action Plan outlined in the Operation and Maintenance Manual. A breach inundation map is shown at the end of this part of the manual.

(c) Appendix C, Investigations and analyses

The purpose of the Investigation and Analyses Report is to present information that supports the formulation, evaluation, and conclusions of the watershed plan. The report is required for all plans and is to be included as an appendix.

The report should be organized under appropriate headings, such as project formulation, cost allocation, engineering, biology, hydrology, geology, land use, water quality, economics, or cultural resources.

The procedures/techniques, assumptions, and the scope and intensity of the investigations for each subject should be described in sufficient detail so that a reader not familiar with the watershed or its problems can form an opinion on the adequacy of the plan. The information should supplement and not replace or duplicate information contained in the plan. Information of a routine nature, such as how surveys are made or the kind of maps used, is not necessary unless something unusual about the study requires their inclusion to support the decisions made. Likewise, methods, procedures, or criteria should be identified,

but need not be discussed if they are covered in national correspondence, handbooks, manuals, technical releases, or other such documents. A discussion of the intensity of study is desirable when it reflects the reliability of results or the extent that studies have been completed and will not have to be expanded upon during the operation stage.

A summary of the incremental analysis for each evaluation unit in the NED and recommended plans should be included. This should be displayed in a table such as that shown in figure 504–20.

The report should also discuss any significant physical, economic, or environmental interactions between the recommended plan and any existing or planned Federal or non-Federal projects. (If such interactions are a significant factor in choosing among alternatives, this discussion should go in the “Alternatives” section rather than here. In that case, the interactions of each alternative, not just the recommended plan, should be described.)

Include a note showing annualized benefits and costs over the entire period of analysis and the benefit-cost ratio.

Consideration should be given to displaying information concerning watershed protection in a Conservation Effects for Decisionmaking format. This could help accelerate implementation by providing a link with the Field Office Technical Guide.

Include a table, Effects of the Recommended Plan on Resources of National Recognition (fig. 504–21). This table is required by P&G 1.8.2 and is used to display

the effects of the plan on particular types of resources that are recognized by certain Federal policies. No other types of information are to be added. All the items shown should be included.

At times, State agencies, consultants employed by the SLO, or agencies from departments other than those of the Department of Agriculture conduct certain investigations, submit reports, and make recommendations. If this is done, the agency or consultant should be identified with the study. This is generally associated with the investigations for recreation, water quality, fish and wildlife, municipal and industrial water supply, or any other category.

(d) Other appendixes—supporting information

This section should be used rather than the body of the document if tabular or other supporting data are needed to make a point. However, extensive lists in any part of the plan are to be avoided whenever possible. They should be confined to the supporting documentation.

(e) Appendix, project map (last appendix)

A color project map will be prepared to show the location of important project measures and the location and extent of important watershed conditions that will be affected by the works of improvement to be installed. The map should show the location and kind of measures, watershed areas above structures that have floodwater retarding capacity, and benefited areas. An example is located at the end of this part of the manual.

Figure 504–20 Summary of incremental analysis for evaluation units

Alternative	Average annual benefits	Average annual cost	Average annual net benefits
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The project map should include, where appropriate, the boundaries of urban areas and public lands, such as State or National forests, grazing districts, or military reservations. Additional information, such as archeological and historic sites, important farmlands, and stream reaches, may also be included. Care should be taken so that the project map does not become cluttered and unclear. Additional maps may be used to show these or other features.

The project map should be large enough to show benefited areas and project features. Colors will be standard for all project maps. The map should be prepared so that it can be extended for easy reference while the plan is being reviewed.

Figure 504–21 Example table—Effects of the recommended plan on resources of National recognition

Effects of the Recommended Plan on Resources of National Recognition

Types of resources	Principal sources of National recognition	Measurement of effects
Air quality	Clean Air Act, as amended (42 U.S.C. 7401 et seq.)	Enter area, in square miles, where State air quality classifications would change for each affected classification.
Areas of particular concern within the coastal zone	Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.)	Enter gains & losses in appropriate units.
Endangered & threatened species critical habitat	Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)	Enter area of each critical habitat type gained & lost, in acres.
Fish & wildlife habitat	Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661 et seq.)	Enter area of each habitat type gained & lost, in acres.
Flood plains	Executive Order 11988, Flood Plain Management	Enter area gained & lost, in acres.
Historic & cultural properties	National Historic Preservation Act of 1966, as amended (16 U.S.C. Sec. 470 et seq.)	Enter number & type of National Register (listed or eligible) properties affected.
Prime & unique farmland	CEQ Memorandum of August 1, 1980: Analysis of Impacts on Prime or Unique Agricultural Lands in Implementing the National Environmental Policy Act, Farmland Protection Policy Act of 1981.	Enter area of each farmland type gained & lost, in acres.
Water quality	Clean Water Act of 1977 (33 U.S.C. 1251 et seq.)	Enter length in miles for water courses, and area in acres for water bodies, where State water classifications would change for each affected classification.
Wetlands	Executive Order 11990, Protection of Wetlands; Clean Water Act of 1977 (33 U.S.C. 1251, et seq.) Food Security Act of 1985.	Enter area of each wetland type gained & lost, in acres.
Wild & scenic rivers	Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271 et seq.)	Enter length of each river type gained & lost, in miles.

Note: If a type of resource is not present in the planning area, enter "Not present in planning area." If a type of resource is not affected, enter "No effect."

Subpart 504E Exhibits

Flood plain map—100-year and 500-year events

Recreational development map

Breach inundation map

Project map

Problem Location Map

Project map—Watershed protection project

United States
Department of
Agriculture

**Soil
Conservation
Service**

National Watershed Manual

Part 505

Reviews and Approvals

Part 505

Reviews and Approvals

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Subpart 505A Introduction**505.00 General**

This part describes procedures for review and approval of watershed plan-Environmental Assessments (plan-EA) and plan-Environmental Impact Statements (plan-EIS). Unless otherwise indicated, the term “plan” will be used to refer to both. Subpart 505B gives procedures for plans that do not require National Technical Center (NTC) concurrence. Subpart 505C gives procedures for administratively approved plans that require NTC concurrence. Subpart 505D gives procedures for plans that require Congressional committee approval. Subpart 505E gives additional steps that must be included in special designated areas. Each step or action in the following sections has a specific purpose. The flow charts (Exhibits 505-13 and 505-14) will aid in understanding the written procedures. Procedures shown in this part may be supplemented, as necessary, in each State and NTC.

The watershed program uses an interdisciplinary approach that includes consultation and review with agencies, groups, and individuals having expertise or interest in the particular project. The state conservationist is responsible for preparing the best plan possible. The review process should not be relied on to correct errors and improve quality.

Full public and appropriate governmental agency participation must be provided for in the planning and review process for successful planning. Reviews of preliminary working copies of the plan may be used to facilitate this participation. Assistance from the NTC should be requested as needed in the development of data and to familiarize the NTC with the project. Working with the Sponsoring Local Organizations (SLO), the state conservationist is to prepare the technical review plan giving full consideration to views expressed by Federal, State, and local agencies as well as those of the general public.

Representatives of State and Federal agencies must be in full agreement relative to carrying out features of the project on lands under their jurisdiction. This agreement should be reached at a local level before the technical review of the plan.

The state conservationist may initiate interagency review once any needed technical concurrence has been received on the technical review draft plan. If issues arise that cannot be resolved by the state conservationist and the NTC director, the Deputy Chief for Programs and the Deputy Chief for Technology will be advised. They will be provided with an explanation of the problem and jointly resolve the issue.

If an EIS is not needed for a project, a FONSI should be filed. Omit those steps that are obviously designed for an EIS review. The document that will be reviewed in those cases is the watershed plan-EA. NTC assistance for review of environmental assessments and FONSI's is available, if desired by the state conservationist.

505.01 Review plan criteria

For those plans where technical concurrence is required, the state conservationist and the director of the NTC must be assured that the technical review plan has met the following criteria:

- Appropriate project planning and evaluation procedures have been followed, and a plan has been formulated that addresses the SLOs' concerns and the national objectives with consideration of economic, environmental, and social impacts.
- Surveys, investigations, and analyses have been made in sufficient scope and intensity to adequately support the project.
- Public and interagency participation have been appropriate and are properly discussed and documented in the plan.
- The plan clearly and correctly reflects
 - watershed conditions and problems with and without the project;
 - the kind, nature, and estimated cost of measures to be installed;
 - the anticipated effect on the environment and on solving the problems, including the evaluation of benefits; and
 - the manner of financing installing, operating, and maintaining the project.

- The project, as formulated, meets the requirements of Public Law 83-566, SCS policy, Congressional criteria, Executive Orders, NEPA, P&G (for water resource projects), and other applicable laws and regulations.
- The plan conforms with the established standards and SCS requirements for technical quality.
- The state conservationist has prepared or is planning to prepare a notice of intent to prepare an EIS or file a notice of availability of a FONSI once the determination is made that an EIS is not required.

505.02 Approval and authorization authorities

(a) Plan approval

Plan approval consists of technical concurrence and final approval of the plan. Technical concurrence is arranged as needed between the state conservationist and the NTC director. Final approval of the plan follows technical concurrence and the interagency review process.

The state conservationist is the official who approves the plan by signing the watershed agreement on behalf of SCS and is also the responsible Federal official with regard to compliance with NEPA. Before signing a plan, the state conservationist must obtain authorization to do so. This authority flows from Congress to the Secretary of Agriculture to the Chief to the state conservationist. The level at which the approval authority for a particular plan resides depends on several factors, as discussed in the following paragraphs.

(b) Authorization and concurrence

Approval authority may be delegated in some cases. The delegated authority may sometimes be conditioned on NTC technical concurrence. The following paragraphs set forth the authorization and concurrence that must be obtained before the state conservationist signs a plan.

(1) Congressional approval—Congress has reserved approval authority for all plans that have over \$5 million in Federal financial assistance costs or that include a structure with more than 2,500 acre-feet of total storage capacity. All other plans may be approved administratively.

(2) Secretary of Agriculture—The Act gives the Secretary of Agriculture the authority to administer the program. The Secretary, in turn, has assigned this responsibility to the Chief of SCS, except for the loan provisions, which are administered by the RDA. Thus, the Chief has approval authority for all administratively approved plans.

(3) SCS Chief—The Chief may delegate approval authority to those state conservationist's whose staffs meet the criteria listed in 505.02(d). However, the Chief has reserved approval authority for exceptions to the NED plan requirement as established by the P&G.

(4) NTC director technical concurrence—For plans for which the state conservationist does not have delegated approval authority, the state conservationist must submit the plan to the Chief for authorization to approve it. Before doing so, the state conservationist must obtain technical concurrence in the plan from the NTC director

For plans for which the state conservationist does have delegated approval authority, the state conservationist must obtain the following NTC technical concurrences as applicable:

- For plans with Public Law 83-566 financial assistance costs in excess of \$2 million, concurrence in the plan.
- For plans with EIS's, concurrence in the EIS.
- For plans with Public Law 83-566 financial assistance costs of less than \$2 million, engineering concurrence in any planned engineering practices that exceed the state conservation engineer's job approval authority.

Table 505-1 summarizes the authorizations and concurrences that the state conservationist must obtain. It also shows which subparts to refer to for review procedures.

(c) Delegation of authority

The Chief may delegate to the state conservationist the approval authority for administratively approved plans that do not involve an exception to the NED requirement. However, state conservationists who have this authority must still obtain NTC concurrence before approving any plan with Federal financial assistance costs exceeding \$2 million or any plan with an EIS. State conservationists without delegated approval

authority may request reconsideration at any time. The Chief may also withdraw the authority from a State at any time by notifying the state conservationist by letter.

(d) Approval authority criteria

Delegation of authority will be based on recommendations from the Deputy Chief for Programs and will be made in consultation with the Deputy Chief for Technology and the appropriate Assistant Chief and NTC director. Criteria that will be used to determine if a state conservationist is to be granted plan approval authority will include:

- Availability of technical specialists needed to formulate and evaluate watershed protection and water resources projects.
- Demonstrated ability of the technical staff to meet technical requirements in the formulation and evaluation of a project.
- Past performance as measured by the quality of previously prepared plans compared with the standards set forth in Part 504 of the NWSM and in P&G.

(e) Fund authorization

Authorization to fund a project can only be made by the Chief. This is a separate step from plan approval.

Funds may not be expended on any project until authorized for funding by a letter from the Chief.

505.03 Review and approval of flood prevention (Public Law 78-534) projects

Review and approval for these subwatershed plans will be carried out in the same manner as for administratively approved Public Law 83-566 watershed projects except when financial or credit assistance for purposes other than flood prevention is proposed. In such cases, the Chief will transmit one information copy of the subwatershed plan to the Office of Management and Budget. The state conservationist will not sign the plan until authorized to do so by the Chief.

505.04 Public participation

At least one public informational meeting will be held before or during the interagency review. The meeting will be called by the SLO jointly with SCS or according to established State procedure. Anyone who may have an interest in the watershed should be invited to participate. The plan will be reviewed at the meeting.

Table 505-1 Authorizations and concurrences

Plan category	Authority to approve	NTC concurrence required	Subpart for review
Federal financial assistance over \$5 million or structure over 2,500 ac ft	Congress	Yes	D
All others administratively approved	^{1/}		
\$2 to \$5 million Federal financial assistance	STC if delegated ^{2/}	Yes	C
\$0 to \$2 million Federal financial assistance			
Plan-EIS	STC if delegated ^{2/}	Yes	C
Plan-EA	STC if delegated ^{2/}	No ^{3/}	B

^{1/} If an exception to the NED requirement is needed, the STC must obtain the approval of the Chief before signing the plan.

^{2/} If approval authority has not been delegated to the STC, the Chief will authorize approval of the individual plan after NTC concurrence is obtained.

^{3/} NTC concurrence on specific items, such as engineering job approvals, must be obtained when applicable.

Public notice of the informational meeting is to be mailed directly to owners and occupants of adjacent and affected properties at least 15 days before the meeting. It should specify that individuals and groups will be given the opportunity to prepare and submit written and oral comments concerning the project. Notice also will be published in appropriate statewide or local newspapers, or both, on at least three different days beginning at least 15 days before the meeting. Announcements should briefly describe the proposed project and include the date, time, and location of the meeting and where copies of the plan may be obtained. They should also invite comments on the plan and specify any deadlines. Other publicity methods also may be used. Copies of the plan should be made available at the meeting to satisfy a reasonable number of requests (40 CFR 1506.6).

A verbatim record of the informational meeting is not required by SCS if a summary reflecting the substance of the meeting and an attendance list is kept with the reviewable record. All written statements received should be made a part of the record of the meeting. Before the meeting is adjourned, it should be determined if additional meetings are warranted. Emphasize that written comments will be received for a specified time (at least 14 days) after the meeting is held.

505.05 Exceptions to the NED plan requirement

A plan recommending Federal action is to be the alternative plan with the greatest net economic benefits consistent with protecting the Nation's environment. Exceptions may be made if there are overriding reasons for recommending another plan, based on other Federal, State, local, and international concerns. These are referred to as exceptions to the NED plan requirement.

If an exception to the NED plan requirement will be needed, it should be obtained at the earliest possible stage in the process. In many cases, the need for an exception will be known at the time the planning authorization is requested.

For projects that must be approved by Congress, the Chief of SCS will make a recommendation to the Secretary to grant such exceptions before forwarding the project for review in the Office of Management and Budget (OMB).

The Chief may grant exceptions for qualifying plans that are approved administratively. To provide program benefits to disadvantaged communities and groups, flood prevention projects in urban areas without net NED benefits may be considered for an exception. To qualify, the following criteria must be met:

- Housing values in the benefited area are less than 75 percent of the State average values.
- The average per capita income for the last 3 years in the benefited area is less than 75 percent of the National average, or current unemployment in the project area is twice the National average over the past 3 years.
- The project benefit-cost ratio is greater than the ratio of the per capita income in the benefited area to the National 3-year average per capita income.

Subpart 505B Plan-EA \$0 to \$2 million

505.10 General

This subpart describes the review and approval procedures for plans where the state conservationist has delegated approval authority and NTC concurrence is not required.

If the state conservationist has not been delegated approval authority or if an EIS is required, the plan will be reviewed as outlined in subpart 505C.

505.11 Technical review

States should develop procedures for technical review of plan-EA's by appropriate State staff personnel to ensure that the problems, the alternatives considered, the selected plan, and the effects are adequately described and that the plans have been developed according to this manual. If the FS is involved in the plan, provisions should be made for its review and concurrence. Before distributing the plan for interagency review, the state conservationist will assure that it meets the criteria outlined in section 505.01. If NTC engineering concurrence is needed, it should be obtained before the interagency review.

505.12 Interagency review

Upon completion of the State technical and local reviews, the state conservationist will transmit the plan for interagency review to the following agencies and groups for a 45-day review and comment period. A copy of the transmittal letter should be sent to the director, WPD, and the NTC director.

- Governor or designated State agency
- State Single Point of Contact for Federal Assistance
- Environmental Protection Agency – Regional office
- Fish and Wildlife Service – Regional offices
- Army Corps of Engineers – District engineer's office (except for watershed protection plans)

- Agricultural Stabilization and Conservation Service (ASCS) – State office
- Forest Service – Regional (or area) office
- State Historic Preservation Officer
- Other agencies, groups, and individuals as determined by the state conservationist.

The FONSI is normally signed at the end of the interagency review. Copies are distributed to interested agencies and individuals. A notice of its availability is to be published in the Federal Register and in one or more newspapers serving the project area. Samples of a FONSI, a notice of availability of a FONSI, and a transmittal letter to the Federal Register are in exhibits 505-1, 505-2, and 505-3, respectively.

505.13 Resolution of interagency review comments

The state conservationist should discuss the significant comments on the draft with SLO and consider resolution of the issues raised. If comments are not received from the Departments of the Interior or Army, EPA, or the Governor by the end of the review period (or extension period if granted), the state conservationist should attempt to obtain these comments. If the comments still do not appear to be forthcoming, the state conservationist may proceed without delay.

The state conservationist should respond to all substantive comments by letters to the individual who commented. The comments and responses should be summarized in the consultation section of the final plan-EA. Assistance from the NTC is available upon request.

The state conservationist and the SLO should jointly consider having a public meeting to discuss comments received on the draft plan-EA. The final plan-EA should be prepared after appropriate consideration is given to all comments.

505.14 Final approval

Once the state conservationist is satisfied that all comments have been addressed and the plan is technically and administratively acceptable, the SLO and the state conservationist should sign the plan. The state

conservationist shall not sign until at least 30 days after the FONSI notice has been published in the Federal Register. The state conservationist will notify the SLO of the approval of the plan by transmitting a manually signed copy to each sponsor.

The state conservationist should send a manually signed copy of the plan-EA and, if desired, a request for authorization for funding to the Chief. Two conformed copies should also be sent to the WPD director and the NTC director.

505.15 Fund authorization

Upon receipt of the state conservationist's request for funding, the Chief will authorize funding as budget limitations allow. No charges are to be made to the project until the funding authorization letter has been received.

505.16 Notification of Funding Authorization.

(a) State responsibilities

Upon receiving funding approval from the Chief, the state conservationist notifies the Governor, SLO, State Single Point of Contact for Federal Assistance, the NTC, area (or regional) and field offices of the Forest Service (FS), ASCS, and appropriate local offices of Federal and State agencies. (An example transmittal letter is given in exhibit 505-12.) If the state conservationist determines that it is appropriate, a press release may be issued

(b) National Headquarters responsibilities

The Chief notifies the Congressional delegations, Office of Management and Budget, Office of the General Counsel, FS, ASCS, RDA, and SCS Administrative Services Division by copies of the letter to the state conservationist authorizing funding. For Public Law 78-534 projects, only the FS and SCS Administrative Services Division will be notified.

Subpart 505C Plan-EA \$2 to \$5 million and plan-EIS \$0 to \$5 Million

505.20 General

Subpart 505C describes procedures for administratively approved plans that require NTC technical concurrence.

If the state conservationist has not been delegated technical concurrence authority or approval authority for plan-EA's less than \$2.0 million, the plan will be reviewed and approved as outlined in this subpart.

505.21 Technical review

(a) State responsibilities

After review and concurrence by appropriate State staff personnel, the state conservationist should send 12 copies of the technical review plan, along with the supporting documentation, to the NTC director; two copies to the FS's regional or area offices; and an information copy to the Director of the WPD. FS field comments should be sent directly to the state conservationist with a copy to the FS National Office.

After receiving comments from the NTC director, the state conservationist and the SLO should review the comments received and make appropriate revisions. Any assistance needed in making revisions is available from the NTC. Because it is not always clear how comments were resolved, the state conservationist shall prepare a letter to the NTC director showing the disposition of each comment with reference to the appropriate paragraph in the revised document. A copy of the revised document with the changes highlighted should accompany the letter to the NTC director.

If an exception to the NED plan requirement is needed, it should be obtained before the interagency review.

(b) NTC responsibilities

The NTC review will be completed within 45 days. This review will be coordinated by the NTC water resource planning specialist.

The NTC water resource planning specialist will distribute copies of the technical review draft to appropriate NTC staff members for review and comment. Each is to review the plan to determine if it presents a reasonable, rational approach that meets current policy and technical criteria.

Comments will include appropriate recommendations for resolving policy, administrative, or technical deficiencies. Comments forwarded to the states will be limited to those of a positive nature and will meet the following criteria:

- Identify a specific error or omission of required data.
- Identify why it is an error.
- Provide a specific recommendation for correction.

Recommendations for improving the document also may be included, if labeled as not being required for technical concurrence.

The NTC director will provide a letter of technical concurrence and authorization to proceed with interagency review when the plan is acceptable or when only minimal revisions need to be made. An informational copy will be sent to the director, WPD. Where major problems exist, concurrence will not be granted. The nonconcurrence letter should outline the comments and inform the state conservationist that the plan should be revised and submitted again for technical review.

(c) National Headquarters responsibilities

National Headquarters will advise the state conservationist of the approval of any exceptions to the NED requirement.

505.22 Interagency review**(a) Plan-EA**

If an EIS is not required, the state conservationist will transmit the plan-EA for interagency review to the following agencies and groups for a 45-day review and comment period. A copy of the transmittal letter

should be sent to the WPD director and the NTC director.

- Governor or designated State agency
- State Single Point of Contact for Federal Assistance
- Environmental Protection Agency—Regional office
- Fish and Wildlife Service—Regional office
- Army Corps of Engineers—District engineers' office (except watershed protection plans)
- Agricultural Stabilization and Conservation Service—State office
- Forest Service—Regional (or area) office
- State Historic Preservation Officer
- Other agencies, groups, and individuals as determined by the state conservationist

The FONSI is normally signed at the end of the interagency review. Copies are to be distributed to interested agencies and individuals. A notice of its availability is to be published in the Federal Register and in one or more newspapers serving the project area. Samples of a FONSI, a notice of availability of a FONSI, and a transmittal letter to the Federal Register are in exhibits 505-1, 505-2, and 505-3, respectively.

(b) Plan-EIS

The state conservationist will send copies of the draft plan-EIS to the Environmental Protection Agency (EPA) (five copies to the Office of Federal Activities and five copies to the regional office) and other agencies, groups, and individuals (one copy each). EPA will publish the notice of availability in the Federal Register. Agencies and groups receiving the drafts should be listed in the Consultation and Public Participation section of the plan-EIS. A required list of recipients is shown in exhibit 505-4, and sample letters for requesting comments are in exhibits 505-5 through 505-7.

At least 45 days will be allowed for review, beginning on the date that the notice of availability of the draft is published in the Federal Register by EPA. It is important that all concerned people receive a notice.

Information copies (so indicated) should be sent to the SLO, director of WPD, NTC director, area (or regional) and field office of the FS, RDA regional office, Fish and Wildlife Service regional office, and other participating agencies. If National Forest lands are involved, two copies should be sent to the area (or regional)

office of the FS and one copy to the forest supervisor of the concerned National Forest.

The state conservationist should publicize the availability of and invite public comments on the draft plan-EIS. This can be done by appropriate public notices in newspapers and other media.

505.23 Resolution of interagency review comments

The state conservationist should discuss the significant comments on the draft with SLO and consider resolution of the issues raised. If comments are not received from the Departments of the Interior or Army, EPA, or the Governor by the end of the review period (or extension period if granted), the state conservationist should attempt to obtain these comments. If the comments still do not appear to be forthcoming, the state conservationist may proceed without delay.

If an EIS was prepared, the state conservationist should obtain the EPA rating on the draft. If an EC, EO, EU, or a 3 is in the rating and substantive comments are attached, efforts should be made to resolve the issues raised and to obtain a letter of concurrence or comment on the proposed final plan-EIS from the EPA regional director. Issues raised should be discussed in the Consultation and Public Participation section of the plan-EIS. The concurrence letter on the proposed final plan-EIS should be included in the appendix with EPA's letter of comments on the draft.

All substantive comments should be responded to either in the consultation section of the plan-EIS or in letters to the individual who commented from the state conservationist if an EIS is not prepared. The consultation section of a final plan-EA should summarize the comments and responses. Assistance from the NTC is available on request.

The state conservationist and the SLO should jointly consider having a public meeting to discuss comments received on the draft plan. The final plan should be prepared after appropriate consideration is given to all comments.

505.24 Final approvals

(a) State responsibilities—plan-EA

If substantive changes have been made in the plan-EA as a result of the interagency review, the state conservationist should consult with the NTC director to verify that technical concurrence is still granted.

Once the state conservationist is satisfied that all comments have been addressed and the plan is technically and administratively acceptable, the SLO and the state conservationist should sign the plan. State conservationists without delegated approval authority should not sign until authorized to do so by the Chief. The state conservationist shall not sign until at least 30 days after the FONSI notice has been published in the Federal Register. The state conservationist will notify the SLO of the approval of the plan by transmitting a manually signed copy to each sponsor.

The state conservationist should send a manually signed copy of the plan-EA and, if desired, a request for authorization for funding to the Chief. Two conformed copies should also be sent to the WPD director and the NTC director.

(b) State responsibilities—plan-EIS

If substantive changes have been made in the plan-EIS as a result of the interagency review, the state conservationist should consult with the NTC director to verify that technical concurrence is still granted. The state conservationist will then transmit

- Five copies of the final plan-EIS to the EPA Office of Federal Activities
- A copy to SLO, area (or regional) and field offices of the Forest Service, and appropriate local offices of other participating agencies
- Six copies to USDI for projects located east of the Mississippi River and nine copies for projects west of the Mississippi River.
- A copy to each agency, group, or individual providing substantive comments on the draft (see exhibits 505-8 and 505-9).

After the 30-day administrative action period initiated by EPA's publication of the Notice of Availability of the final plan-EIS in the Federal Register, a Record of Decision (ROD) (see exhibit 505-11) shall be prepared by the state conservationist and notice of its availability sent to the Federal Register (see exhibit 505-10). Copies of the notice and the ROD should be sent to the

WPD director and the NTC director. The Notice of Availability must clearly indicate what the decision is, such as, "Notification that a Record of Decision to proceed with the installation of the David Creek Watershed Project is available." The state conservationist should sign the ROD and send a copy to all who provided comments on the draft plan-EIS.

The SLO and the state conservationist then sign the plan. If approval authority is not delegated, the state conservationist should not sign the plan until authorized to do so by the Chief. The state conservationist will notify the SLO of the approval of the plan by transmitting a manually signed copy to each sponsor. A manually signed copy and, if desired, a request for fund authorization should be sent to the Chief. Two conformed copies should also be sent to the director of WPD and to the NTC director.

(c) NTC responsibilities

The NTC director should verify that technical concurrence is still granted when notified by the state conservationist that substantive changes were made as a result of the interagency review. The NTC director should also provide guidance for regaining technical concurrence should it have been affected.

(d) National Headquarters responsibilities

When necessary, National Headquarters will authorize the state conservationist to sign the plan.

For Public Law 78-534 subwatershed plan-EIS's that provide for Federal assistance for purposes other than flood prevention, the Chief will transmit a copy of the plan to OMB. Copies of the transmittal letter will be furnished to the NTC director and the state conservationist.

505.25 Fund authorization

Upon receipt of the request for funding, the Chief will authorize funding as budget limitations allow. No charges are to be made to the project until the funding authorization letter has been received.

505.26 Notifications of funding authorization

(a) State responsibilities

The state conservationist notifies the Governor, State Single Point of Contact for Federal Assistance, the NTC, area (or regional) office of the FS and the forest supervisor of the concerned National Forest, and appropriate local offices of Federal and State agencies. (An example transmittal letter is given in exhibit 505-12.) If the state conservationist determines it appropriate, a press release may be issued.

(b) National Headquarters responsibilities

The Chief will authorize funding for the project in a letter to the state conservationist. The Chief notifies the Congressional delegations, OMB, Office of the General Counsel, FS, ASCS, RDA, and SCS's Administrative Services Division. For Public Law 78-534 projects, only the FS and SCS Administrative Services Division will be notified.

Subpart 505D Plan-EIS for projects requiring congressional approval

505.30 General

Subpart 505D describes the review and approval requirements for plans that will require Congressional committee approval. Projects that require Congressional approval include those where Federal financial assistance costs are more than \$5 million and projects that have structures that have a total storage capacity exceeding 2,500 acre feet. An EIS is required for these plans.

Public Law 78-534 subwatershed plans should follow the procedures in subpart 505C, even if the project cost exceeds \$5 million.

505.31 Technical review

(a) State responsibilities

After review and concurrence by appropriate state staff personnel, the state conservationist should send 3 copies of the technical review plan-EIS to the director of WPD; 12 copies of the plan-EIS and a copy of all supporting documentation to the NTC director; and 2 copies of the plan-EIS to the FS's regional or area offices for review. FS field comments should be sent directly to the state conservationist with a copy to the FS National Office.

The state conservationist should review the comments received and make appropriate revisions. Assistance in making revisions is available from the NTC. Because the way in which comments were resolved is not always clear, the state conservationist shall prepare a letter to the NTC director showing the disposition of each comment with reference to the appropriate paragraph in the revised document. A copy of the revised document with the changes highlighted should accompany the letter to the NTC director.

The state conservationist should notify WPD of the need for an exception to the NED plan requirement before the interagency review.

(b) NTC responsibilities

The technical review will be completed within 45 days of receiving the documents in the NTC. This review will be coordinated by the NTC water resource planning specialist.

The NTC water resource planning specialist will distribute copies of the technical review draft plan-EIS to appropriate NTC staff members for review, comment, and concurrence on the technical adequacy of the document and support data. Each is to review the plan-EIS to determine if it presents a reasonable, rational approach that meets current policy and technical criteria.

Comments will include appropriate recommendations for resolving policy, administrative, or technical deficiencies. Comments forwarded to the states will be limited to those of a positive nature and will meet the following criteria:

- Identify a specific error or omission of required data.
- Identify why it is an error.
- Provide a specific recommendation for correction.

Recommendations for improving the document may also be included, if labeled as not being required for technical concurrence.

The NTC director will provide a letter of technical concurrence and authorization to proceed with interagency review when the plan-EIS is acceptable or when only minimal revisions need to be made. An informational copy will be sent to the WPD director. Where major problems exist, concurrence will not be granted. The nonconcurrence letter should outline the comments and inform the state conservationist that the plan-EIS should be revised and submitted again for technical review.

505.32 Interagency review

Upon notification of technical concurrence by the NTC director, the state conservationist should prepare the interagency review draft and send copies of the draft plan-EIS to the EPA (five copies each to the Office of Federal Activities and the regional office), and other agencies, groups, and individuals (one copy each). EPA will publish the Notice of Availability in

the Federal Register. Agencies and groups receiving the drafts are to be listed in the Consultation and Public Participation section of the plan-EIS. A required list of recipients is shown in exhibit 505-4, and sample letters for requesting comments are in exhibits 505-5 through 505-7.

At least 45 days will be allowed for public review. The time will begin on the date that the notice of availability of the draft is published in the Federal Register by EPA. All concerned people should receive a notice.

Information copies (so indicated) should be sent to the SLO, WPD director, NTC director, area (or regional) office of the FS, RDA regional office, regional office of the Fish and Wildlife Service, and other participating agencies. If National Forest lands are involved, two copies should be sent to the area (or regional) office of the FS and one copy to the forest supervisor of the concerned National Forest.

The state conservationist is to publicize the existence of and invite public comments on the draft plan-EIS. This can be done by appropriate public notices in newspapers and other media.

505.33 Resolution of interagency review comments

The state conservationist should discuss the significant comments with SLO and consider resolution of the issues raised. If comments are not received from the Department of Interior, Army, EPA, or the Governor by the end of the review period (or extension period if granted), the state conservationist should attempt to obtain these comments. If the comments still do not appear to be forthcoming, the state conservationist may proceed without delay.

The state conservationist also should obtain the EPA rating on the draft EIS. If the rating includes either an EC, EO, EU, or a 3 and substantive comments are attached, efforts should be made to resolve the issues raised and to obtain a letter of concurrence or comment on the proposed final plan-EIS from the EPA regional director. Issues raised should be discussed in the Consultation and Public Participation section of the plan-EIS. The concurrence letter on the proposed final plan-EIS should be included in the appendix with EPA's letter of comments on the draft.

All substantive comments should be responded to in the Consultation and Public Participation section the plan-EIS. Assistance from the NTC is available upon request.

The state conservationist and the SLO should jointly consider having a public meeting to discuss comments received on the draft plan-EIS. The final plan-EIS should be prepared after appropriate consideration is given to all comments.

505.34 Final USDA approvals

(a) State responsibilities

If substantive changes have been made in the plan-EIS as a result of the interagency review, the state conservationist should consult with the NTC director to verify that technical concurrence is still granted.

The state conservationist will then transmit

- Five copies of the final plan-EIS to the EPA Office of Federal Activities.
- A copy to the SLO, area (or regional) and field offices of the FS, appropriate local offices of other participating agencies.
- Six copies to USDI for projects located east of the Mississippi River and nine copies for projects located west of the Mississippi River.
- A copy to each agency, group, or individual providing substantive comments on the draft (see exhibits 505-8 and 505-9).

After the 30-day administrative action period initiated by the EPA's publication of the Notice of Availability of the final plan-EIS in the Federal Register, a Record of Decision (ROD) (see exhibit 505-11) shall be prepared by the state conservationist and notice of its availability sent to the Federal Register (see exhibit 505-10). Copies of the notice and the ROD should be sent to WPD and the NTC director. The Notice of Availability must clearly indicate what the decision is, such as: "Notification that a Record of Decision to proceed with installation of the David Creek Watershed Project is available." The state conservationist should sign the ROD and send a copy to all who provided comments on the draft plan-EIS.

The agreement in the plan-EIS should then be signed, first by the SLO and then by the state conservationist. The state conservationist should not sign until autho-

rized to do so by the Chief. This step confirms agreement by all parties involved and requests Congressional authorization of the project.

The state conservationist should send three manually signed and three conformed plan-EIS's to the director of WPD. The OMB Fact Sheet (see exhibit 505-13), ROD, and any letters of comment on the final plan-EIS received during the 30-day comment period should be included with the transmittal. One conformed copy of the plan-EIS, the OMB Fact Sheet, the ROD, and letters of comment should be sent to the NTC director.

(b) NTC responsibilities

The NTC director should verify that technical concurrence is still granted if notified by the state conservationist that substantive changes were made as a result of the interagency review. If changes have affected the concurrence, the NTC director should provide guidance for correcting the situation.

(c) National Headquarters responsibilities

National Headquarters will obtain a Secretarial Exception if necessary and forward the plan-EIS to OMB through the Department.

505.35 Office of Management and Budget fact sheet

The Office of Management and Budget (OMB) has requested that a fact sheet (see exhibit 505-13) be submitted along with any plan-EIS that it reviews. Along with the fact sheet, they have requested that the plan-EIS's be accompanied by a copy of the ROD, any letters of comment received on the final plan-EIS, and a copy of the Secretarial Exception if one was obtained. The information is of value to them in their review process. The following information provides guidance in filling out the form.

(a) Economic and financial data

These figures should be listed in dollars rounded off to an appropriate level of significance.

(1) Traditional cost share—These dollars are based on the standard cost-share rates—flood prevention, 100 percent; recreation, 50 percent; irrigation, 50 percent; M&I, 0 percent.

(2) Enhanced cost share—This is determined through negotiation with the SLO. The dollars listed are what the SLO are willing to pay. (They may be willing to pay more than would be the case using traditional cost sharing.) Flood prevention is the one exception because Public Law 83-566 must pay 100 percent.

(b) Benefit-cost ratios

These should be entered at each interest rate listed.

(1) Authorized rate—This interest rate is established when the plan-EIS is approved. On a new plan-EIS, the authorized rate will be the same as the current rate. On revised plans or supplements, it may be less than the current rate.

(2) Current rate—The prevailing interest rate at the time the fact sheet is prepared.

(c) Certification (last question)

Always check the "yes" block.

Fact sheets will be prepared after a new plan-EIS is signed by the SLO and SCS and any exceptions needed have been obtained.

505.36 Submission of final plan-EIS to Congress

(a) State responsibilities

The state conservationist should have the following material ready to transmit to the director of the WPD, upon request, for use by the Congressional committees:

- For plans to be considered by agricultural committees—15 conformed copies of the watershed plan-EIS and 25 project maps (folded to 8 1/2" x 11").
- For plans to be considered by public works committees—15 conformed copies of the watershed plan-EIS, 25 project maps (folded to 8 1/2" x 11").
- In either case, enough additional copies should be included for each Senator and Representative in whose district the project is located.

After Congressional approval, the state conservationist notifies the SLO, Governor, area (or regional) offices of the FS, other appropriate field offices of Federal

agencies, State agencies, State Single Point of Contact for Federal Assistance, and others who have indicated an interest. (An example transmittal letter is given in exhibit 505-12.)

After Congressional approval, the state conservationist can request funding.

(b) National Headquarters responsibilities

The Chief will transmit two conformed plan-EIS's through the Secretary of Agriculture to the Office of Management and Budget for forwarding to the appropriate Congressional committees.

The Chief, after project approval by Congressional committees, makes the appropriate notification that the Congressional committees have approved the plan-EIS and that installation is authorized. This notification should be sent to the concerned Senators and Congressmen; the involved state conservationists, assistant chiefs, and NTC's; Office of Management and Budget; Secretary of the Interior; U.S. Army Corps of Engineers; EPA; Office of the General Counsel; FS; RDA; ASCS; and SCS Administrative Services Division. Copies of the plan should accompany letters to FS and Administrative Services staffs.

If Congress does not approve the plan-EIS, the Chief will inform the state conservationist of the reasons and what needs to be done to make the document acceptable.

Subpart 505E Review and approval procedures for special designated areas

505.40 General

Instructions contained in this subpart apply in specific areas where special commissions have been established with statutory authority to coordinate resource planning and development activities. Having been established, the instructions contained in this subpart relating to the review and approval of watershed plans are to supplement the previous sections in this part.

505.41 Appalachia

The state conservationist will transmit the draft plan to the Appalachian Regional Commission with a request for review and comment in accordance with interagency review procedure.

The concerned state conservationist will

- Invite the Office of Appalachian Studies and the U.S. Army Corps of Engineers, Cincinnati, Ohio, to participate in the local review of each watershed plan.
- Send the Office of Appalachian Studies three information copies of the draft plan at the same time that copies are distributed for interagency review. The Office of Appalachian Studies should be requested to submit any comments it might have through the Office of the Chief of Engineers or the district engineer as appropriate.
- Furnish the Governor with an additional copy of the draft plan for the State member of the Water Development Coordinating Committee for Appalachia.

505.42 Delaware River Basin

The procedures for the coordination and review of watershed plans in the Delaware River Basin are set forth in an Administrative Agreement executed between the Delaware River Basin Commission and the Soil Conservation Service, December 23, 1966. The address of the Commission is 25 State Police Drive, P.O. Box 7360, West Trenton, New Jersey 08628 (Telephone: 609-883-9500).

505.43 Susquehanna River Basin

Watersheds located within the Susquehanna River Basin should follow the additional regulations and procedures for review as contained in 18 CFR 803.

505.44 Tennessee Valley Authority

Procedures for coordinating activities with the Tennessee Valley Authority are contained in a Memorandum of Understanding executed between the TVA and SCS November 6, 1958.



Subpart 505F Exhibits

Exhibit 505-1 Sample Finding Of No Significant Impact (FONSI)**Finding Of No Significant Impact
for
David Creek Watershed
Clarke County, Anywhere****Introduction**

The David Creek Watershed is a federally assisted action authorized for planning under Public Law 83-566, the Watershed Protection and Flood Prevention Act. An environmental assessment was undertaken in conjunction with the development of the watershed plan. This assessment was conducted in consultation with local, State, and Federal agencies as well as with interested organizations and individuals. Data developed during the assessment are available for public review at the following location:

U.S. Department of Agriculture
Soil Conservation Service
100 West 14th Street
Yourtown, Anystate 12345

Recommended action

Proposed is the development of about 41 conservation plans that will provide for land treatment measures to be applied on farms for reduction of sheet, rill, and streambank erosion; storage and management of animal waste; and improved hydrologic condition in the watershed. The proposed plan will stabilize 2,650 acres of excessively eroding cropland and grassland and 2,500 feet of streambank. Animal waste management facilities and application practices will be installed on about 30 farms in the watershed.

Effect of recommended action

The recommended action will protect the watershed hydrologically by improving the soil cover condition and reducing overland flow velocities. Streamflow will be stabilized to the extent that peak flood flow rates will be slightly reduced and flow will be attenuated.

The proposed action will have little or no effect on wetlands. With land treatment applied on 2,650 acres, rainfall infiltration on cropland will be increased from 15 to 35 percent. This will provide for a 1 or 2 percent overall increase in ground water recharge in the watershed, which will ensure maintenance of ground water at levels needed for sustaining the wetlands.

The proposed project will encourage and promote the agricultural enterprises in the watershed through improved efficiency. This action will tend to offset pressures to convert important farmland to other uses, such as residential development.

Exhibit 505-1 Sample Finding Of No Significant Impact (FONSI)
—Continued

An initial management summary of cultural resources as they relate to the planned components has been developed. The survey concludes that no significant adverse impacts will occur to cultural resources in the watershed should the plan be implemented. The SCS has consulted with the State Historic Preservation Office on the effects that planned measures will have on significant cultural resources. However, construction of manure storage units, riprapping, critical-area planting, and diversion channels do have the potential for seriously disrupting individual sites. Therefore, caution shall be exercised in planning and installing such measures to avoid serious disruption of areas having potential as individual cultural sites.

Significant cultural resources identified during implementation will be avoided or otherwise preserved in place to the fullest practical extent. If significant cultural resources cannot be avoided or preserved, pertinent information will be recovered before construction. If there is a significant cultural resource discovery during construction, appropriate notice will be made by SCS to the State Historic Preservation Officer and the National Park Service. Consultation and coordination have been and will continue to be used to ensure the provisions of Section 106 of Public Law 89-665 have been met and to include provisions of Public Law 89-523, as amended by Public Law 93-291. SCS will take action as prescribed in SCS GM 420, Part 401, to protect or recover any significant cultural resources discovered during construction.

No threatened or endangered species in the watershed will be affected by the project.

One of the primary objectives of the project is to improve water quality. About 80 percent of the cropland and animal waste pollutants will be controlled. Sediment influx to the Coalville Reservoir will be reduced by an estimated 3,900 tons annually. Nutrients attached to sediment will be retained on the land rather than delivered to receiving water. Land treatment practices will reduce loss of water and erodible nutrients to the stream system, thereby reducing stream enrichment and conserving the nutrients for plant production.

Fish and wildlife habitats may be temporarily disturbed in some part of the 2,650 acres of cropland and grassland during installation of land treatment practices, but they will be restored to at least their previous value within one growing season. The Coalville Reservoir and the David Creek stream system will be more suitable for species sensitive to sediment concentrations. More suitable cover will be provided for openland wildlife by land treatment measures, such as diversions, grassed waterways, and critical area plantings. The value of woodland habitat will not decline.

The 2,500 feet of streambank protection proposed will temporarily roil adjacent stream water during installation. About 40 percent of the streambank (1,000 feet) to be protected is well shaded. This shading will be lost for at least 3 years after installation. Adjacent water temperature is expected to rise no more than 1°C during this period of exposure.

No wilderness areas are in the watershed.

Scenic values will be complemented with the diversity added to the dairy farm landscape by conservation land treatment measures. During installation of the proposed measures, scenic values will be temporarily decreased at specific locations in the watershed.

No significant adverse environmental impacts will result from installations except for minor inconveniences to local residents during construction.

**Exhibit 505-1 Sample Finding Of No Significant Impact (FONSI)
—Continued****Alternatives**

The planned action is the most practical means of protecting the watershed, stabilizing the eroding lands, and controlling animal waste. Because no significant adverse environmental impacts will result from installation of the measures, no other alternatives, other than the no project one, were considered.

Consultation—Public participation

Formal agency consultation began with the initiation of the notification of the State Single Point of Contact for Federal Assistance in February 1981. The Governor and the Division of Planning were also notified of the application for Federal assistance. Agencies were again notified when planning was authorized in September 1981.

Scoping meetings were held in December 1981, June 1982, and August 1982, and interdisciplinary efforts were used in all cases. Four Federal agencies (FmHA, FS, F&WS, and EPA), three State agencies (Department of Fish and Game, Department of Cultural Resources, and Economic Development Commission), four county agencies, and several local groups were involved in part or all of the scoping and planning processes.

Specific consultation was conducted with the State Historic Preservation Officer and the county historical society concerning cultural resources in the watershed. Comments from the State Historic Preservation Officer were used in the development of this plan.

The environmental assessment was transmitted to all participating and interested agencies, groups, and individuals for review and comment in October 1982. Public meetings were held throughout the planning process to keep all interested parties informed of the study progress and to obtain public input to the plan and environmental evaluation.

Agency consultation and public participation to date have shown no unresolved conflicts with the implementation of the selected plan.

Conclusion

The Environmental Assessment summarized above indicates that this Federal action will not cause significant local, regional, or national impacts on the environment. Therefore, based on the above findings, I have determined that an environmental impact statement for the David Creek Watershed Plan is not required.

(signature)

(type in name)
State Conservationist

(Date)

Exhibit 505-2 Sample Notice of Availability of a FONSI

Billing Code: 3410-16
Department of Agriculture
Soil Conservation Service

_____ Watershed, _____, _____
 (Name) (County) (State)

Agency: Soil Conservation Service

Action: Notice of a Finding Of No Significant Impact

Summary: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Soil Conservation Service Regulations (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice than an environmental impact statement is not being prepared for the _____ Watershed, (County or Counties), (State).

For further information contact (Name), State Conservationist, Soil Conservation Service, (Street Address), (City), (State), (Zip Code), telephone (Area Code and Number).

Supplemental information: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, (Name), State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are (list measure purposes, i.e., a plan for flood control and watershed protection). The planned works of improvement include (list planned improvements, i.e., three floodwater retarding dams and accelerated technical assistance for land treatment).

The Notice of a Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting (Name).

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

 (Signature)

(Type name and title of signee)

(This activity is listed in the Catalog of Federal Domestic Assistance under NO. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Note: The reference to Executive Order 12372 is not necessary for TA-only plans.

Exhibit 505-3 Sample transmittal letter to the Federal Register



United States
Department of
Agriculture

Soil
Conservation
Service

xxxx Your Street, P.O. Box xxxx
Your City, Your State Your Zip

October 8, 1991

Office of the Federal Register
National Archives and Records Service
Washington, DC 20408

Dear Sir:

The enclosed Notice of Finding of No Significant Impact is submitted for publication in the Federal Register:

Significant Creek Watershed, Anystate

Sincerely,

John Q. Doe

JOHN Q. DOE
State Conservationist

Enclosure

cc w/enclosure:

Director, Administrative Services, SCS, Washington, DC
Director, Watershed Projects Division, SCS, Washington, DC
Director, National Technical Center, SCS, (location)

NOTE: Three manually signed copies of the notice are to be transmitted to the Federal Register. The typed name and title of the signee on the notice (not the transmittal letter) must be the name and title of the person who actually signed the notice. This applies to all Federal Register notices.



The Soil Conservation Service
is an agency of the
United States Department of Agriculture



Exhibit 505-4 Distribution list for draft plan-EIS

Agency	Number of copies	Agency	Number of copies
Environmental Protection Agency		Others	
Appropriate regional administrator	5	Director	1
Office of Federal Activities – A104 Environmental Protection Agency 401 M Street, SW Washington, DC 20460	5	Office of Advocacy and Enterprise Room 1322, South Building U.S. Department of Agriculture Washington, DC 20250	
Corps of Engineers		Executive Secretary	1
Appropriate district	2	Advisory Council on Historic Preservation 1100 Pennsylvania Avenue, NW Washington, DC 20004 (only if significant cultural values are affected)	
U.S. Department of the Interior		Governor of State (or State agency designated by governor)	1
Secretary of the Interior	1	State Single Point of Contact for Federal Assistance	1
U.S. Department of the Interior Washington, DC 20240		Area-wide Clearinghouse	1
Director		State Historic Preservation Officer	1
Office of Environmental Project Review		Special Designated Area (only if involved)	1
U.S. Department of the Interior Room 2024		Natural Resources Defense Council, Inc. 1350 New York Ave., NW, Suite 300 Washington, DC 20005	1
Washington, DC 20240		National Wildlife Federation	1
East of Mississippi River	12	1412 16th Street, NW Washington, DC 20036 Attn: Legislative Representative	
West of Mississippi River	18	Sierra Club	1
U.S. Department of Commerce		404 C Street, N Washington, DC 20002 (also send copy to local chapter)	
Director, Ecology and Conservation Office	4	National Audubon Society (appropriate local office)	1
Department of Commerce, NOAA		Other groups who have shown interest in the project	1
14th and Constitution Avenues, NW, Room 6222 Washington, DC 20230			
Department of Energy			
Department of Energy	1		
Forrestal Building			
1000 Independence Avenue, SW			
Washington, DC 20585			
(only when project has major energy-related consequences)			
U.S. Department of Housing and Urban Development			
Appropriate regional office	2		
Environmental Officer			
U.S. Department of Transportation			
Coordinator, Water Resources	4		
U.S. Coast Guard G-MPS1			
U.S. Department of Transportation			
2100 Second Street, SW			
Washington, DC 20590			

Exhibit 505-5 Sample transmittal letter to EPA for draft plan-EIS



United States
Department of
Agriculture

Soil
Conservation
Service

xxxx Your Street, P.O. Box xxxx
Your City, Your State Your Zip

Director
Office of Federal Activities
Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

January 15, 199_

Dear Sir:

Enclosed are five copies of the draft Watershed Plan-Environmental Impact Statement (plan-EIS) for the Any Creek Watershed, Any State, prepared under authority of the Watershed Protection and Flood Prevention Act (Public Law 83-566) and in accordance with Section 102.(2)(c) of the National Environmental Policy Act of 1969 (Public Law 91-190). Copies have also been sent for review and comment to other departments of the Federal government, Governor of Any State, and other interested parties.

Comments have been requested on or before March 22, 199_, and should be sent to this office.

Sincerely,

John Q. Doe

JOHN Q. DOE
State Conservationist

Enclosures



The Soil Conservation Service
is an agency of the
United States Department of Agriculture



Exhibit 505-6 Sample transmittal letter to Governor

United States
Department of
Agriculture

Soil
Conservation
Service

xxxx Your Street, P.O. Box xxxx
Your City, Your State Your Zip

Honorable
Governor of Any State
Any Town, Any State 00000

January 21, 199__

Dear Governor :

In accordance with section 2 of Executive Order 10913, and our responsibility as assigned by the Secretary of Agriculture, we are transmitting for your review and comment the draft Watershed Plan-Environmental Impact Statement (plan-EIS) for the Any Creek Watershed, Any State. This plan-EIS was prepared by the Valley Soil and Water Conservation District and the Dale Soil and Water Conservation District, with assistance by the Soil Conservation Service under authority of the Watershed Protection and Flood Prevention Act, (Public Law 83-566) and in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 (Public Law 91-190). The application for assistance in the preparation of the plan-EIS was approved by the State Soil Conservation Committee on June 29, 1984.

It is requested that comments be received by this office on or before March 22, 199__.

Sincerely,

John Q. Doe

JOHN Q. DOE
State Conservationist

Enclosures

Note: Make appropriate changes if the governor has designated a State agency to act on watershed matters.



The Soil Conservation Service
is an agency of the
United States Department of Agriculture



Exhibit 505-7 Sample transmittal letter for interagency review

United States
Department of
Agriculture

Soil
Conservation
Service

xxxx Your Street, P.O. Box xxxx
Your City, Your State Your Zip

Address

Date

(Omit salutation)

Enclosed is a copy of the draft Watershed Plan-Environmental Impact Statement (plan-EIS) for the Any Creek Watershed, Any State, prepared under authority of the Watershed Protection and Flood Prevention Act (Public Law 83-566) and in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 (Public Law 91-190). The plan-EIS will require final approval by the appropriate committees of the Senate and House of Representatives before Federal assistance is authorized.^{1/}

We are requesting that comments be received by this office on or before March 22, 199__, or such later date as may be needed to total 45 days after the Environmental Protection Agency (EPA) publishes its notice of availability in the Federal Register. If your comments are not received by the due date, we will assume you do not wish to comment.^{2/}

John Q. Doe

JOHN Q. DOE
State Conservationist

Enclosure

- ^{1/} For administratively approved plans, change this sentence to read, "The final plan-EIS may be approved administratively."
^{2/} The last sentence should be omitted on an EIS sent to the Departments of the Interior or Army, or to EPA.



The Soil Conservation Service
is an agency of the
United States Department of Agriculture



Exhibit 505-8 Sample transmittal letter for final plan-EIS



United States
Department of
Agriculture

Soil
Conservation
Service

xxxx Your Street, P.O. Box xxxx
Your City, Your State Your Zip

Address

Date

(Omit salutation)

Enclosed is a copy of the final Watershed Plan-Environmental Impact Statement (plan-EIS) for the Any Creek Watershed, Any State, prepared under authority of the Watershed Protection and Flood Prevention Act (Public Law 83-566) and in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969 (Public Law 91-190).

This plan-EIS reflects comments received on the draft sent out for comments on January 15, 199_. This plan-EIS will require final approval by the appropriate committees of the Senate and House of Representatives before Federal assistance is authorized.^{1/}

John Q. Doe

JOHN Q. DOE
State Conservationist

Enclosure

^{1/} For administratively approved plans, change this sentence to read, "The final plan-EIS may be approved administratively."



The Soil Conservation Service
is an agency of the
United States Department of Agriculture



Exhibit 505-9 Sample transmittal letter to EPA for final plan-EIS



United States
Department of
Agriculture

Soil
Conservation
Service

xxxx Your Street, P.O. Box xxxx
Your City, Your State Your Zip

Director
Office of Federal Activities
401 M Street, SW
Environmental Protection Agency
Washington, DC 20460

August 15, 199 _

Dear Sir:

Enclosed are five copies of the final Watershed Plan-Environmental Impact Statement (plan-EIS) for the Any Creek Watershed, Any State. This plan-EIS reflects comments received on the draft sent out for comments on January 15, 199_.

Sincerely,

John Q. Doe

JOHN Q. DOE
State Conservationist

Enclosures

cc:
Director, Watershed Projects Division, SCS, Washington, DC
Director, National Technical Center, SCS



The Soil Conservation Service
is an agency of the
United States Department of Agriculture



Exhibit 505-10 Sample notice of availability of record of decision

Billing Code: 3410-16
Department of Agriculture
Soil Conservation Service

_____ Watershed, _____, _____
 (Name) (County) (State)

Agency: Soil Conservation Service

Action: Notice of Availability of Record of Decision

Summary: (State Conservationist's name), responsible Federal official for projects administered under the provisions of Public Law 83-566, 16 U.S.C. 1001-1008, in the State of (Name), is hereby providing notification that a record of decision to proceed (or not to) with the installation of the (Name) Watershed project is available. Single copies of this record of decision may be obtained from (State Conservationist's name) at the address shown below.

For further information contact (Name), State Conservationist, Soil Conservation Service, (Street Address), (City), (State), (Zip Code), telephone (Area Code and Number).

 (Signature)

 (Type name and title of signee)

 (Date)

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Note: The reference to Executive Order 12372 is not necessary for TA-only plans.

Exhibit 505-11 Sample record of decision

**Record of Decision
Lake Creek Watershed
Oak and Day Counties, Anystate**

1. Purpose—As state conservationist for the Soil Conservation Service, I am the Responsible Federal Official (RFO) for all Soil Conservation Service projects in Anystate.

The recommended plan for the Lake Creek Watershed involves works of improvement to be installed under authorities administered by the Soil Conservation Service. This project includes the installation of six single-purpose flood prevention structures, one multiple-purpose flood prevention recreation structure, recreation facilities, and accelerated land treatment.

The Lake Creek Watershed plan was prepared under the authority of the Watershed Protection and Flood Prevention Act (Public Law 566, 83rd Congress, 68 Stat. 666, as amended) by the Oak and Day Soil and Water Conservation Districts and the City of Blackwell. The scoping meeting, held during November 1988, established the Soil Conservation Service (SCS), U.S. Department of Agriculture (USDA), as lead agency, and the Forest Service, USDA, and the Fish and Wildlife Service, United States Department of the Interior, as cooperating agencies.

2. Measures taken to comply with national environmental policies—The Lake Creek Watershed project has been planned in accordance with existing Federal legislation concerned with the preservation of environmental values. The following actions were taken to ensure that the Lake Creek Watershed plan is consistent with national goals and policies.

A preliminary environmental evaluation was completed by an interdisciplinary team under the direction of SCS in 1988 before the scoping meeting. It concluded that significant impacts on the human environment may occur because of the complexity and public interest of the proposed action. As RFO, I directed that a draft environmental impact statement (EIS) be prepared.

The interdisciplinary environmental evaluation of the Lake Creek Watershed project was conducted by the sponsoring local organizations, cooperating agencies, and the Soil Conservation Service. Information was obtained from many groups and agencies. An inventory and evaluation of environmental and socioeconomic conditions were prepared by Mobley-Andrews Consultants under a contract with SCS. Reviews were held with the Environmental Protection Agency, Fish and Wildlife Service, Anystate Department of Natural Resources, State Historic Preservation Officer, and the State Archeologist. Inputs from these reviews were included in the EIS.

Public meetings were held on April 5, 1990, and December 16, 1990, to solicit public participation in the environmental evaluation, to assure that all interested parties had sufficient information to understand how their concerns are affected by water resource problems, to afford local interests the opportunity to express their views regarding the plans that can best solve these problems, and to provide all interests an opportunity to participate in the plan selection. More than 600 parties were notified by mail of the joint public meetings. A transcript of the minutes was developed and is on file.

Exhibit 505-11 Sample record of decision—Continued

Testimony and recommendations were received relative to the following subjects:

- a. Public ownership and management of natural areas surrounding Structure 1 should be accomplished to offset the losses of wildlife habitat caused by the structure and adjacent activities.
- b. The adequacy of water quality of Site 1 for recreational use should be determined.
- c. Impacts to Lake Otto should be evaluated.
- d. A thorough consideration of nonstructural alternatives should be undertaken.
- e. Thermal impacts of the reservoirs should be evaluated.

A draft environmental impact statement was prepared in October 1991 and made available for public review. The recommendations and comments obtained from public meetings held during project planning and assessment were considered in the preparation of the statement. Projects of other agencies were included only when they related to the Public Law 566 project, and they were not evaluated with regard to their individual merit.

More than 250 copies of the draft environmental impact statement were distributed to agencies, conservation groups, organizations, and individuals for comment. Copies were also placed in several libraries in the watershed. The draft environmental impact statement was filed with the Environmental Protection Agency on December 27, 1991.

Existing data and information pertaining to the project's probable environmental consequences were obtained with assistance from other scientists and engineers. Documentary information as well as the views of interested Federal, State, and local agencies and concerned individuals and organizations having special knowledge of, competence over, or interest in the project's environmental impact were sought. This process continued until it was felt that all the information necessary for a comprehensive, reliable assessment had been gathered.

A complete picture of the project's current and probable future environmental setting was assembled to determine the proposed project's impact and identify unavoidable adverse environmental impacts that might be produced. During these phases of evaluation, it became apparent that there are legitimate conflicts of scientific theory and conclusions leading to differing views of the project's environmental impact. In such cases, after consulting with persons qualified in the appropriate disciplines, those theories and conclusions appearing to be the most reasonable, and having scientific acceptance were adopted.

The consequences of a full range of reasonable and viable alternatives to specific project features were considered, studied, and analyzed. In reviewing these alternatives, all courses of action that could reasonably accomplish the project purposes were considered. Attempts were made to identify the economic, social, and environmental values affected by each alternative. Both structural and nonstructural alternatives were considered.

Exhibit 505-11 Sample record of decision—Continued

The alternatives considered reasonable alternatives to accomplish the project's objectives were (1) a floodway and land treatment, (2) the NED plan – structural measures only (the selected plan minus the environmental quality elements), (3) the EQ plan—2 structures, flood plain acquisition for habitat preservation, upland habitat improvement, and land treatment measures, and (4) the selected plan. Ten other alternatives were suggested and evaluated that would accomplish part of the objectives of the planned project. The full range of effects was set forth in the alternatives section of the EIS. Individual flood plain management strategies, actions, and programs that would meet some of the project's goals were considered.

3. Conclusions—The following conclusions were reached after carefully reviewing the proposed Lake Creek Watershed project in light of all national goals and policies, particularly those expressed in the National Environmental Policy Act, and after evaluating the overall merit of possible alternatives to the project:

- a. The Lake Creek Watershed project will employ reasonable and practicable means that are consistent with the National Environmental Policy Act while permitting the application of other national policies and interests. These means include, but are not limited to, a project planned and designed to minimize adverse effects on the natural environment while accomplishing an authorized project purpose. Project features designed to preserve existing environmental values for future generations include: (1) placement into public ownership a natural area containing forest, native prairie, and geological features; (2) establishment of a wildlife habitat area adjacent to floodwater-retarding structures; (3) establishment of a program to monitor water quality in reservoir No. 1 during the summer season; (4) installation of pool drains in all reservoirs, which provides opportunities for withdrawal of water during low stream flows; (5) fish and wildlife management plans for the reservoirs and natural area cooperatively developed by the SLO and the Anystate Department of Natural Resources; (6) acceleration in the application of land treatment practices to prevent erosion and sediment damage to streams and ecosystems; (7) establishment of grasses and legumes on dams and offsite borrow areas to protect them from erosion and provide food for wildlife; and (8) placement of trees and shrubs in the proposed recreational facilities area.
- b. The Lake Creek Watershed project was planned using a systematic interdisciplinary approach involving integrated uses of the natural and social sciences and environmental design arts. All conclusions concerning the environmental impact of the project and overall merit of existing plans were based on a review of data and information that would be reasonably expected to reveal significant environmental consequences of the proposed project. These data included studies prepared specifically for the project and comments and views of all interested Federal, State, and local agencies and individuals. The results of this review constitute the basis for the conclusions and recommendations. The project will not affect any cultural resources eligible for inclusion in the National Register of Historic Places. Nor will the project affect any species of fish, wildlife, or plant or their habitats that have been designated as endangered or threatened.
- c. In studying and evaluating the environmental impact of the Lake Creek Watershed project, every effort was made to express all significant environmental values quantitatively and to identify and give appropriate weight and consideration of nonquantifiable environmental values.

Exhibit 505-11 Sample record of decision—Continued

- d. Wherever legitimate conflicts of scientific theory and conclusions existed and conclusions led to different views, persons qualified in the appropriate environmental disciplines were consulted. Theories and conclusions appearing to be most reasonable scientifically acceptable, or both, were adopted.
- e. Every possible effort has been made to identify those adverse environmental effects that cannot be avoided if the project is constructed.
- f. The long-term and short-term resource uses, long-term productivity, and the irreversible and irretrievable commitment of resources are described in the final environmental impact statement.
- g. All reasonable and viable alternatives to project features and to the project itself were studied and analyzed with reference to national policies and goals, especially those expressed in the National Environmental Policy Act and the Federal water resource development legislation under which the project was planned. Each possible course of action was evaluated as to its possible economic, technical, social, and overall environmental consequences to determine the tradeoffs necessary to accommodate all national policies and interests. Some alternatives may tend to protect more of the present and tangible environmental amenities than the proposed project will preserve. However, no alternative or combination of alternatives will afford greater protection of the environmental values while accomplishing the other project goals and objectives.
- h. I conclude, therefore, that the proposed project will be the most effective means of meeting national goals and is consistent in serving the public interest by including provisions to protect and enhance the environment. I also conclude that the recommended plan is the environmentally preferable plan.

4. Recommendations—Having concluded that the proposed Lake Creek Watershed project uses all practicable means, consistent with other essential considerations of the national policy, to meet the goals established in the National Environmental Policy Act, that the project will thus serve the overall public interest, that the final environmental impact statement has been prepared, reviewed, and accepted in accordance with the provisions of the National Environmental Policy Act as implemented by Departmental regulations for the preparation of environmental impact statements, and that the project meets the needs of the project SLO, I propose to implement the Lake Creek Watershed project.

By:

State Conservationist
Soil Conservation Service
U.S. Department of Agriculture

Date:

Exhibit 505-12 Sample transmittal letter notifying of project authorization



United States
Department of
Agriculture

Soil
Conservation
Service

xxxx Your Street, P.O. Box xxxx
Your City, Your State Your Zip

Honorable David L. Boren
United States Senate
Washington, DC 20510

Date

Dear Senator Boren:

We are pleased to notify you [and your Congressional colleagues] that I have authorized assistance for installation of works of improvement in the Wild Horse Creek Watershed, Payne County, Oklahoma, under authority of the Watershed Protection and Flood Prevention Act (Public Law 83-566).

This authority will permit advance planning with local sponsors. However, financial assistance funds for measure installation are not available at this time. Future funds will be provided based upon State priorities from annual allocations for the Public Law 83-566 program.

The Wild Horse Creek Watershed Project, sponsored by the Payne County Conservation District, contains 30,982 acres. The primary purposes of the project are flood prevention and watershed protection.

If additional information is needed, please contact Mr. C. Budd Fountain, State Conservationist, Soil Conservation Service, Agricultural Center Building, Stillwater, Oklahoma 74074, (405) 524-4360.

[A public announcement will not be made until 2 days after the date of this letter.]

Sincerely,

Chief
Soil Conservation Service

Identical letters sent to:

Honorable Don Nickles, United States Senate, Washington, DC 20510
Honorable Bill K. Brewster, House of Representatives, Washington, DC 20515

bc: Paul F. Larson, Director, South NTC, SCS, Fort Worth, TX
Eugene E. Andreuccetti, Assistant Chief, South, SCS, Washington, DC
Dorothy V. Bradbury, Confidential Assistant to Chief for Congressional and Public Liaison, SCS, Washington, DC

Note: When using this letter for other individuals, omit the words in the brackets.



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United States Department of Agriculture



Exhibit 505-13 Office of Management and Budget fact sheet

Fact Sheet

Project Information

Project Name

Total \$ in K

Location of Project

(Include State, counties, and Congressional district)

Authorization

Public Law 83-566, 68 Stat. 666 as amended (16 U.S.C. 1001 et. seq.) 1954

Background

(Purpose and description of project -- not more than 10 lines)

Economic and financial data

Costs

Project Purposes	Total traditional cost share		Total enhanced cost share		Annual O&M	
	Non-Fed	Federal	Non-Fed	Federal	Non-Fed	Federal

Total Costs

Benefits

Project Purposes	Average annual benefits		Number of direct beneficiaries	
	Onsite	Offsite	Onsite	Offsite

(When possible, differentiate between urban/rural flood control, existing/future)

Exhibit 505-13 Office of Management and Budget fact sheet—Continued

Benefit-to-Cost Ratio	<p>_____ @ _____ (authorized rate)</p> <p>_____ @ _____ (current rate)</p>																					
Budget Data	<table border="0"> <tr> <td>Funding schedule (Budget year + 5)</td> <td>1st</td> <td>2nd</td> <td>3rd</td> <td>4th</td> <td>5th</td> <td>6th</td> </tr> <tr> <td>Federal funds</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Non-Federal funds</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>	Funding schedule (Budget year + 5)	1st	2nd	3rd	4th	5th	6th	Federal funds							Non-Federal funds						
Funding schedule (Budget year + 5)	1st	2nd	3rd	4th	5th	6th																
Federal funds																						
Non-Federal funds																						
Period of Analysis and Project Life																						
Environmental Problems	(Significant impacts)																					
Other Significant or Controversial Issues	(Brief summary)																					
Evidence of Unusual Congressional or Local Interest																						
Compliance	<p>Is this report in compliance with executive orders, public laws, and other statutes governing the formulation of water resources projects?</p> <p style="text-align: center;">___ Yes ___ No</p> <p style="text-align: center;">(If No, give brief explanation)</p>																					

Exhibit 505-14 Plan-EA

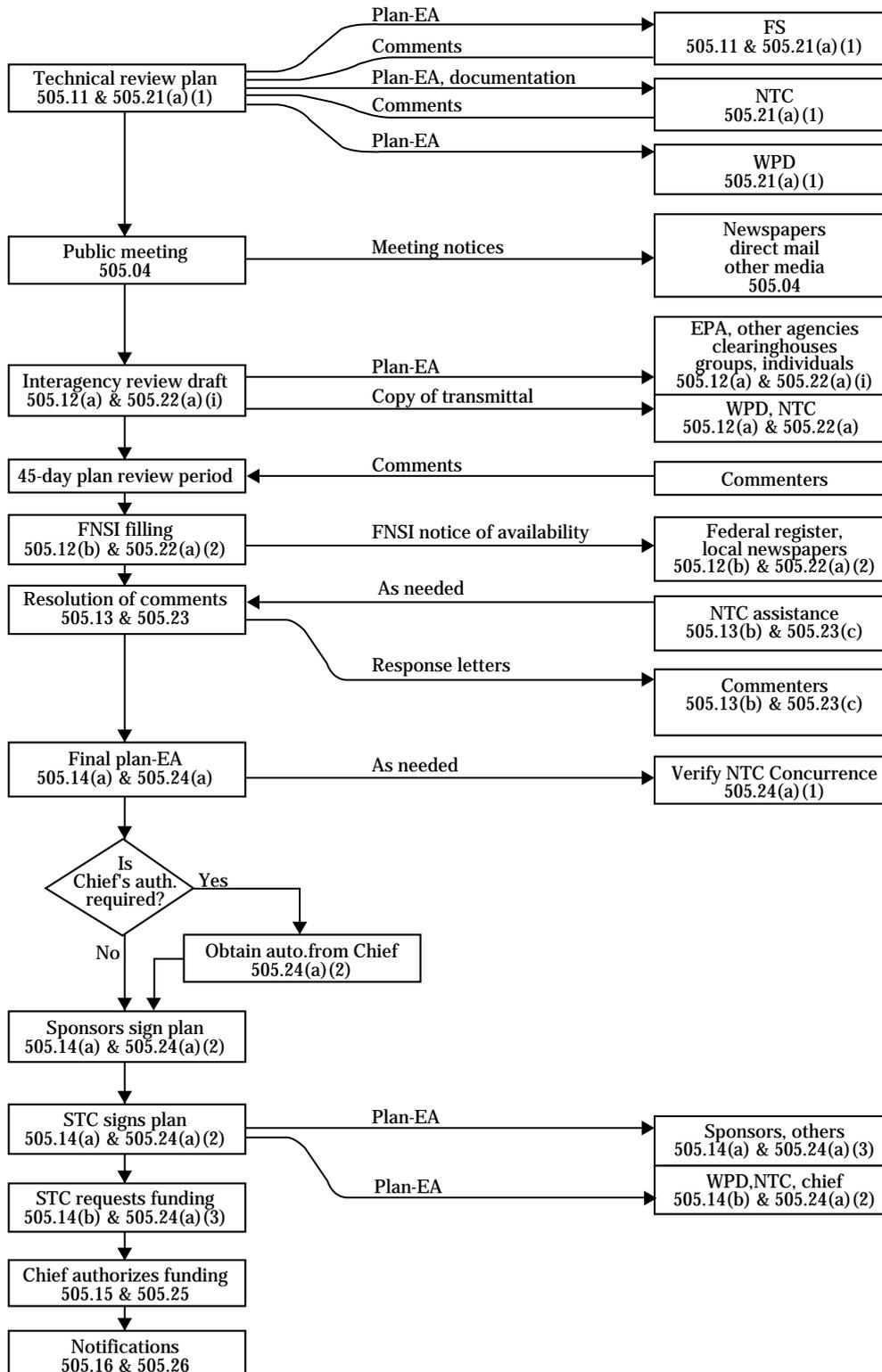


Exhibit 505-15 Plan-EIS

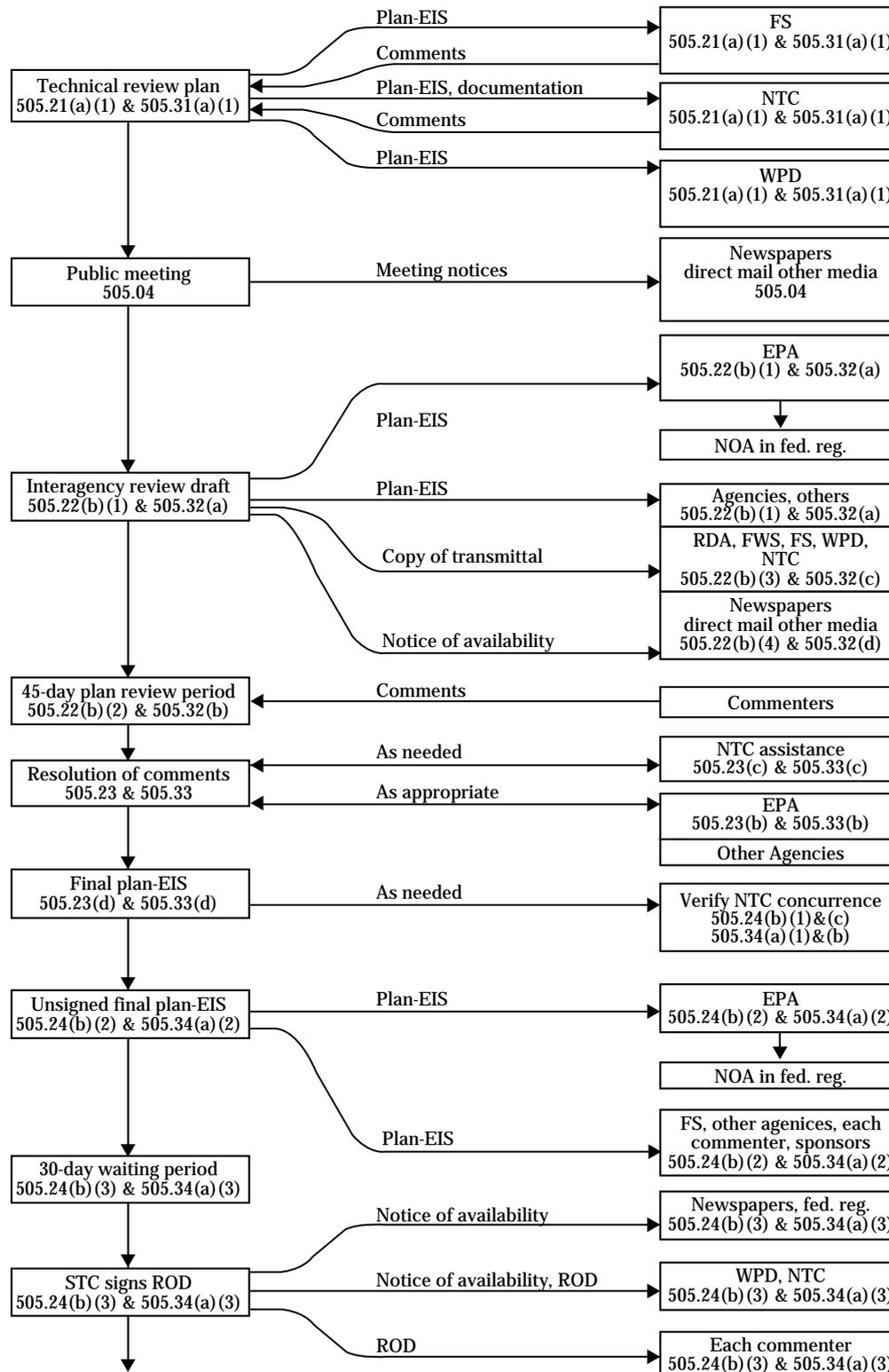
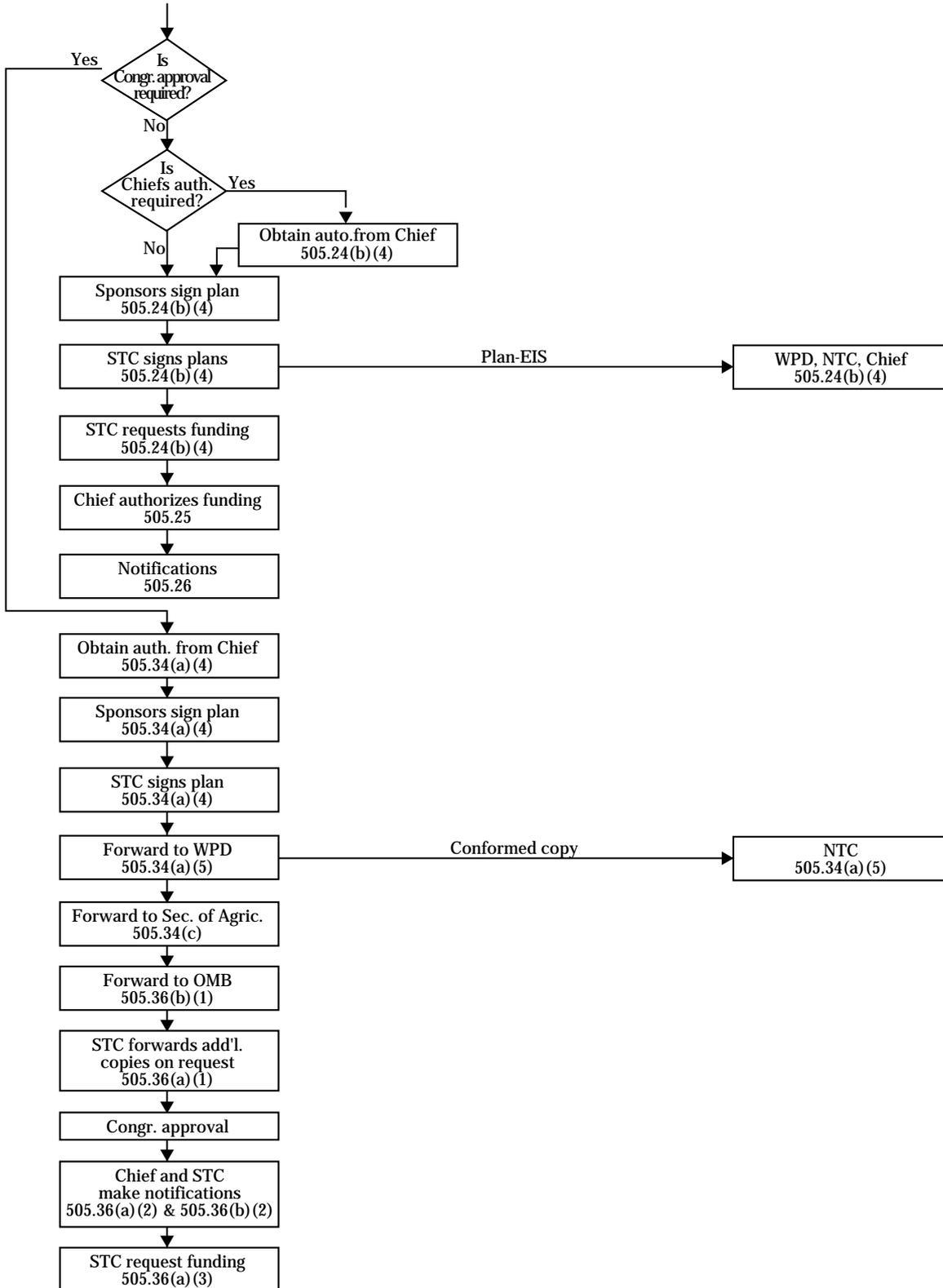


Exhibit 505-15 Plan-EIS—Continued



United States
Department of
Agriculture

**Soil
Conservation
Service**

National Watershed Manual

Part 506

Plan Modifications

Part 506

Plan Modifications

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Figure 506-2 Revised watershed agreement506-8

Subpart 506A General**506.00 Introduction**

The approved watershed agreement and watershed plan are the official documents for carrying out a watershed project. Whenever the terms, conditions, and stipulations of a watershed agreement must be modified, approval of such changes will be made and the agreements documented by executing a revised watershed plan or executing a supplement to the watershed plan. Some modifications of the watershed plan may be documented by executing a project agreement or supplementing the watershed agreement by an exchange of correspondence with the Sponsoring Local Organizations (SLO).

If changes are needed, the state conservationist should review all parts of the plan to assure that all needed changes are included in the proposed modification. Appropriate regional foresters and the area director of the Forest Service (FS) should be notified where forestry is involved and given the same opportunity for review of the modification as provided in the original plan.

State-developed procedures for coordination of proposed Federal financial assistance should be followed when a revised watershed plan or supplement is to be prepared that results in the addition of any structural measure or deletion of a multiple-purpose structure. In addition, the public must be kept informed of any major changes in the plan and invited to participate when planning takes place.

Policies outlined in this manual will be the basis for the review of plan modifications. Preparation, review, and approval of Public Law 78-534 projects are the same as those for administratively approved Public Law 83-566 projects.

506.01 Methods of modifying plans**(a) Revised watershed plan**

A revised plan replaces the existing plan, as supplemented. It should include all information needed to install a project without reference to the original plan or previous supplemental plans.

(b) Supplemental watershed plan

A supplemental plan is a document that changes part of an existing plan. The amount of detail included in a supplemental plan depends on the nature of the modifications and their effect on the overall project.

(c) Project agreement

A project agreement executed for the construction of works of improvement can also provide adequate documentation of an agreement for changes in cost, such as changes in the estimated Public Law 83-566 contribution to construction cost as a result of site adaptation or changing cost levels that do not modify the cost-sharing rate of Public Law 83-566 assistance for construction.

(d) Exchange of correspondence

Documentation of changes to the watershed agreement for modifications of the terms, conditions, and stipulations of approved plans, other than changes in purpose, scope, or major features, may be handled by an exchange of correspondence with each of the SLO. This method can be used to document a request by the SLO or the Soil Conservation Service (SCS) for a change to the approved plan. An example of the format for an exchange of correspondence is shown in exhibit 506-1. To report the completion of construction in a project, use the methods described in 507.21 of this manual.

506.02 Conditions requiring modification by revised watershed plan

The conditions requiring modification by a revised watershed plan include:

- Changes occur that require approval resolutions by Committees of Congress (see section 506.30(a) and (b) for more specific details), or
- New problems are identified that require Federal assistance, and numerous complex changes in the planned measures are required.

506.03 Conditions requiring modification by supplemental watershed plan

The conditions requiring modification by a supplemental watershed plan include:

- Changes in project purposes, scope, or major features or SLO responsibilities not significant enough to warrant a revised watershed plan (see 506.02) are to be documented in a supplemental watershed plan.
- Change in purpose—A change in purpose is defined as the addition to or deletion from an approved watershed project of one or more purposes for which it was formulated (see part 502).
- Change in scope—A change in scope is defined as a planned increase or decrease in the degree or extent of project development specifically to benefit either different beneficiaries or the same beneficiaries to a different degree.
- Change in major features—A change in major features is defined as:
 - Using different ways to achieve agreed upon objectives without planned changes in purpose or scope, by such means as significantly changing the number, location, extent, or capacity of project measures, substituting one type of structural measure for another, or substituting nonstructural measures for structural measures;
 - Adding provisions for Public Law 83-566 credit assistance; or
 - Changing the cost-sharing arrangements set forth in the watershed agreement.

506.04 Conditions requiring modification by project agreement or exchange of correspondence

The conditions requiring modification by project agreement or exchange of correspondence include:

- Agreement to a change of the terms, conditions, and stipulations of the approved plan that does not require the execution of a supplemental watershed plan may be documented by a project agreement or exchange of correspondence.
- Change in sponsors—A change in sponsors is defined as any change in the group of local organizations or their responsibilities. This may be documented by an exchange of correspondence. Where transfers of or changes in responsibilities result, a new supplemental agreement will be executed and signed by all parties. See exhibit 506-1.
- Any time an exchange of correspondence is executed, one conformed copy should be sent to the Watershed Projects Division (WPD) director and the NTC director.

506.05 Fund charges

All changes by revised plan or supplement should be charged to watershed operations funds WF-08. All changes to approved flood prevention (Public Law 78-534) subwatershed plans should be charged to WF-03 funds.

Subpart 506B Preparation of supplements and revised plans

506.10 General

The state conservationist will obtain written approval from the director, WPD, before agreeing to modifying a plan to add a cost shared purpose or modifying a plan in which the Public Law 83-566 costs are increased by more than 20 percent.

(a) Plan formulation procedures

Modifications to authorized plans that meet the criteria in section 506.11 will be formulated using the procedures in effect at the time of the modification. All works of improvement in evaluation units significantly affected by the proposed modification will be reformulated and reevaluated. Procedures used to formulate and evaluate the approved plan may be used for all other modifications.

(b) Interest rates

Proposed changes in projects that meet the criteria in section 506.11 will be evaluated using current interest rates.

For works of improvement not significantly impacted by proposed changes, the interest rate used during plan formulation will be used for both installed works and remaining works of improvement to be installed.

For modifications that require preparation of an EIS, the remaining works of improvement will be evaluated using both interest rates. The results of using the current and plan interest rate will be displayed in the EIS.

(c) Engineering criteria

Current engineering criteria will be used for

- Any new structural measures,
- Measures that, if installed according to original criteria, would endanger the new or modified measures, and
- Measures where the hazard classification has changed since originally planned (National Engineering Manual, 210-510.04).

506.11 Changes requiring reevaluation and reformulation

Modifications to approved water resource plans will be considered significant enough to warrant reformulation and reevaluation, using P&G, when any of the following conditions occur:

- A change in type, number, scope, or size of project measures significantly increases Public Law 83-566 costs. The increase is considered significant if it exceeds the updated Public Law 83-566 costs by 20 percent or the changes require approval of a Congressional committee.
- An additional cost sharing purpose is added.

506.12 Environmental concerns

SCS procedures for compliance with NEPA and related environmental concerns (Part 410, Subpart A of the General Manual) must be adhered to when making modifications to approved plans. An evaluation of the environmental effects is to be made and documented in an Environmental Assessment (EA). If the proposed changes result in significant impacts, an Environmental Impact Statement (EIS) or revised plan-EIS should be prepared and circulated for the same reviews as the original plan. If the proposed changes are considered major but the impacts are not significant, a write-up in the supplemental plan explaining the situation will suffice. In the latter case, a Finding Of No Significant Impact (FONSI) should be filed, and a supplemental plan or revised plan is the document that is prepared and reviewed. If the proposed changes are not considered major, it is not necessary to file a FONSI.

506.13 Content of supplements

Supplemental plans should begin with a section entitled "Need for the Supplement." This section should describe why the plan is being supplemented and what changes are being made. This should be followed by those sections from the original plan that are appropriate to document the changes proposed. The amount of detail given should be in keeping with the complexity of the proposed changes.

If revised tables are needed to document the changes, current cost estimates for works of improvement remaining to be installed are to be used. As-built costs should be used for measures already installed and contract costs for those measures under construction. These values are to be indexed to current dollar values or the remaining works are to be evaluated as a separate remaining increment (see section 507.01(f)). The as-built costs for installed measures are shown in Tables 1 and 2 (figs. 504-8 & 504-9). The as-built cost should be indexed to current values (see Table 4, fig. 504-15). Any comparison of benefits and costs must have a consistent dollar value for benefits and costs. This adjustment may involve other changes that have developed since the approved plan was prepared.

506.14 Content of revised plans

A revised plan follows the same format and content as that of a new plan (see part 504 of this manual).

506.15 Supplemental watershed agreements or revised watershed agreements

Supplemental watershed agreements or revised agreements shall be used with all supplements or revised plans. Place the agreement at the front of the document in back of the cover sheet. The amount of detail needed in the agreement is governed by the nature and scope of the change and should be conditioned on the amount of new information in the plan that is attached to and made part of the plan. The agreement should, in all cases, specify the nature of the plan modification, give the provisions of the original agreement (as supplemented, if appropriate) that are being modified by the new agreement, make changes resulting from new laws or policy, and specify those provisions in the original agreement that are not changed by the new agreement. Figure 506-1 shows a supplemental watershed agreement.

Revised watershed agreements shall be used with all revised watershed plans and placed at the front of the document right behind the cover sheet. Because the agreement is a revision, a special opening section is needed. However, after the introductory paragraphs, normal items are used as given in part 504 of this manual. Figure 506-2 shows a revised watershed agreement.

Figure 506-1 Supplemental watershed agreement

Supplemental Watershed Agreement No.

between the

Local organization

Local organization

Local organization
(Referred to herein as sponsors)

State of _____

and the

Soil Conservation Service
United States Department of Agriculture
(Referred to herein as SCS)

Whereas, the watershed plan for _____ Watershed, State of _____, executed by the sponsors named therein and SCS, became effective on the ___ day of _____, 19___; and

Note: The effective date of a watershed plan is the date that Federal assistance for installing the project measure was authorized.

If another supplemental agreement has already been executed, this should be recognized by another “Whereas” statement similar to the following. Thereafter reference to the agreement should include the phrase, “as supplemented.”

Whereas, a supplemental agreement(s) for said watershed, executed by the Sponsors named therein and the SCS became effective on the ___ day of _____, 19___; and

Whereas, in order to carry out the watershed plan for said watershed, it has become necessary to modify said watershed agreement; and

Whereas, the responsibility for administration of the Watershed Protection and Flood Prevention Act, as amended, has been assigned by the Secretary of Agriculture to the SCS; and

Note: Add “Whereas” clauses only if appropriate.

Figure 506-1 Supplemental watershed agreement—Continued

Whereas, a Supplemental Watershed Plan which modifies the watershed plan dated (date plan was authorized for operations) for said watershed has been developed through the cooperative efforts of the Sponsors and the SCS;

Now, therefore, the Secretary of Agriculture through the SCS and the Sponsors hereby agree upon the following modifications of the terms, conditions, and stipulations of said watershed agreement;

Note: Specify changes being made in the watershed agreement as follows:

(1) The _____ Watershed Conservancy District hereby agree to become one of the local organizations sponsoring said watershed project.

(2) The name of the _____ Department is hereby changed to _____ State Environmental Protection Agency.

(3) Multiple-purpose structure No. 12 is hereby deleted from the planned works of improvement.

(4) Municipal Water Supply is hereby deleted as a project purpose.

Note: The necessary paragraphs in the original agreement should be changed. Cost-sharing paragraphs should not be included unless a change in cost-sharing percentages is made.

(5) Paragraph number ____ is modified to read as follows:

The percentages of construction costs to be paid by the Sponsors and by SCS are as follows:

Works of improvement	Sponsors (or name of sponsor) (%)	SCS (%)	Estimated construction costs (\$)
Floodwater retarding structures, channel work, and floodways	None	100	Total

Note: The statement “paragraph numbered ____ is modified to read as follows:” completely cancels the paragraph in the original agreement. Therefore, the entire paragraph must be reproduced in its new form.

Figure 506-1 Supplemental watershed agreement—Continued

(6) Paragraph numbered ____ is hereby added as follows:

(7) Paragraphs numbered ____, ____, and ____ are hereby deleted from the agreement.

Note: After all changes, deletions, and additions are complete, the following statement should be included as an unnumbered item before the signature page:

The Sponsors and SCS further agree to all other terms, conditions, and stipulations of said watershed agreement not modified herein.

Note: Provisions for signatures should be provided as in standard agreement format.

Figure 506-2 Revised watershed agreement**Revised Watershed Agreement No.**

between the

Local organization_____
Local organization**(Referred to herein as sponsors)**

State of _____

and the

**Soil Conservation Service
United States Department of Agriculture
(Referred to herein as SCS)**

Whereas, the watershed plan for _____ Watershed, State of _____, executed by the sponsors named therein and SCS, became effective on the ___ day of _____, 19___; and

Note: If a supplemental agreement has been executed, this should be recognized by another "Whereas" statement similar to the foregoing. Thereafter, reference to the agreement should include the phrase, "as supplemented."

Whereas, the responsibility for administration of the Watershed Protection and Flood Prevention Act, as amended, has been assigned by the Secretary of Agriculture to the SCS; and

Note: For Public Law 78-534 projects change the Act in the above clause to Flood Control Act.

Whereas, in order to carry out the watershed plan for said watershed, it has become necessary to revise and supersede said watershed agreement; and

Whereas, a revised plan-EIS which modifies the watershed plan dated _____ for said watershed has been developed through the cooperative efforts of the Sponsors and the SCS;

Now, therefore, the Secretary of Agriculture, through the SCS, and the Sponsors hereby agree on the revised watershed plan-EIS.

Note: Use standard paragraphs found in Part 504 of this manual.

Subpart 506C Review of plan modifications

506.20 General

Subpart 506C provides guidance for the review of proposed modifications of watershed plans. The review will be commensurate with the magnitude of the changes being proposed. Input by the public and concerned groups, as well as local, State, and Federal agencies should be obtained as appropriate.

506.21 Review procedures

(a) General

The required review is based on the approval level of the proposed modification (see subpart 506D). The review procedure outlined in part 505 will be followed for all revised plans and supplements that require preparation of an EA or an EIS. The needed review of other modifications will be determined by the state conservationist on a case-by-case situation.

(b) State responsibilities

The state conservationist will assure that the proposed modification has been properly reviewed before the modification is approved. It is the state conservationist's responsibility to ensure that the document is ready for review.

(c) NTC responsibilities

The NTC will conduct a technical review of the draft documents and supporting data submitted by the state conservationist for review.

The NTC director will either write a letter of technical concurrence or a letter outlining changes that are needed to obtain NTC concurrence. Comments will include appropriate recommendations for resolving policy, administrative, or technical deficiencies or approval as appropriate.

506.22 Notification

(a) Congressionally approved revised plans

Procedures to be followed for revised plan-EIS are the same as those set forth in subpart 505D.

(b) All others

The state conservationist will transmit one manually signed copy and two conformed copies of the supplement or revised plan to the director, WPD. The SLO, the NTC, and field offices of all participating agencies and groups will be advised of the approval of a supplement or revised plan and furnished with such copies of the material as are necessary for their participation in the modified project. Where part of the local share of the costs is being financed with a watershed loan, the RDA regional office will be furnished copies of all supplements or revised plans.

Subpart 506D Approval authority for modifications

506.30 Approval by Congress

Approval resolutions by committees of Congress are required for all significant changes to approved Public Law 83-566 projects. Changes are considered significant where any of the following conditions are met:

(a) Plans originally approved by Congress

Cumulative change in scope is considered significant if it causes:

- An increase of more than \$5.0 million in the estimated Public Law 83-566 contribution to costs for items other than technical assistance, engineering services, and project administration (increases are to be computed as the sum of all increases whether made at one time or at different times) or
- * An increase in the total capacity of a structure that requires approval of the change by a Congressional committee other than the one that approved the original plan.

(b) Plans originally approved administratively

A change is considered significant if it causes:

- The estimated Public Law 83-566 costs, other than technical assistance, engineering services, and project administration, to exceed \$5 million or
- The total capacity of any structure to exceed 2,500 acre-feet.

506.31 Approval by the Chief

All revisions or supplements to plans previously approved by Congress, or the Chief, shall be approved by the Chief before signing by the state conservationist or the SLO except where delegated by the Chief to the state conservationist.

The Chief must also approve all modifications to plans that will require a Secretarial exception under the P&G.

506.32 Approval by the state conservationist

The state conservationist may approve all modifications by project agreement, or exchange of correspondence as defined in section 506.01, regardless of the level of approval or authority required for the original plan.

Revised plans or supplements to plans previously approved by the state conservationist may be approved by the state conservationist if the change does not cause the total project Public Law 83-566 financial assistance cost to exceed \$2 million.

506.33 Delegated approval authority

State conservationists who have, or have with NTC technical concurrence, delegated approval authority to approve plans for operations can also approve modifications to plans

- Where the modification proposed will not increase financial assistance cost of the project by 10 percent or more after adjustment for inflation or
- Where no additional cost shared purposes are added to the project.

The state conservationists will request authorization for funding from the director, WPD, for plan modifications that increase the cost of the project by 10 percent or more after adjustments for inflation or that add a cost shared purpose.

Subpart 506E Public Law 78-534 projects

506.40 General

Preparation, review, and approval of Public Law 78-534 projects are the same as those for Public Law 83-566 projects with one exception. If revisions and supplements to a subwatershed plan involve Federal financial or credit assistance from flood prevention funds for purposes other than flood prevention, the Chief will transmit one informational copy of the supplemental subwatershed plan to the Office of Management and Budget. The Chief will authorize the state conservationist to execute the revised or supplemental plan.



Subpart 506F Exhibits

Exhibit 506-1 Sample exchange of correspondence**Supplemental Watershed Agreement No.**for _____ **Watershed, (State)**

by

Exchange of Correspondence

Since the original watershed agreement was signed on _____, it has become necessary to modify that agreement to carry out the installation of the plan. As a result of the environmental evaluation, some mitigation is found to be needed.

Structure No. 6 will inundate 25 acres of type 7 wetland and convert it to a type 5 wetland, resulting in a net loss of 200 habitat units. Through the construction of a small dike across a 15-acre draw, 1.2 miles upstream from structure No. 6, a type 3 wetland can be created.

This dike will result in an increase of 190 habitat units, thus limiting the adverse effects to a loss of 10 units, which is not considered significant. There was no way that habitat-in-kind could be developed, and an agreement was reached with fish and wildlife agencies that this tradeoff would be acceptable. Construction costs are estimated to be \$9,200 and all are paid by SCS since Site 6 is a single-purpose flood control structure. The sponsors will obtain the land rights needed in connection with the mitigation measure.

Paragraph 3 of the watershed agreement is changed to read:

Works of improvement	Sponsors (%)	SCS (%)	Estimated construction cost (\$)
Multiple-purpose structure 3	50	50	723,000
Floodwater-retarding structures 1, 2, 6, 10, 12, & 15	0	100	3,256,700
Mitigation measure	0	100	9,200

All other terms, conditions and stipulations of the watershed agreement not modified herein remain the same and are agreed to:

_____ Chairman	Green County SWCD Sponsor	_____ Date
_____ Chairman	Green County Commissioners Sponsor	_____ Date
_____ Executive Director	Whitlow Drainage District Sponsor	_____ Date
_____ State Conservationist	Soil Conservation Service USDA	_____ Date

United States
Department of
Agriculture

**Soil
Conservation
Service**

National Watershed Manual

Part 507

Project Installation

Part 507

Project Installation

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Subpart 507A Project installation**507.00 General**

Installation is the phase of project development beginning after the watershed plan has been approved and Federal assistance for installing the project has been authorized. The installation phase continues until the construction of the project features is complete.

The Soil Conservation Service (SCS) will use the long-range plan, along with the plan of operations and management matrix to ensure the orderly flow of action and effective use of resources in installing watershed projects. Each responsible party, both the Sponsoring Local Organizations (SLO) and SCS personnel, must know what they are expected to do and when the action is to be completed.

Installation will be implemented as provided by the specific agreements entered into between the SCS and the SLO. Each agreement will detail the working arrangements, funding, and responsibilities of each party for carrying out specified elements of work. As stated in the watershed agreement, no work may be initiated by either party until a separate agreement is entered into that spells out the working arrangements. The SLO are responsible for carrying out the approved watershed plan. SCS is responsible for providing authorized assistance as set forth in the approved watershed plan.

Public Law 83-566 funds may not be used for developing final layout and structural details until after Federal installation assistance is authorized.

The civil rights statement as contained in the National Contracts, Grants and Cooperative Agreements Manual (NCGCAM) will be included in the mutually agreed to section in all agreements generated by this program.

507.01 Operations management**(a) Installation schedule**

The state conservationist will develop a planned sequence of installation for each watershed project approved for installation. Because of variations in availability of funds and acquisition of real property rights, the actual schedule of installation may vary considerably from the planned schedule of installation. The system of controls will be developed according to the circumstances in each State. The SLO are to be advised and consulted at all stages of scheduling and performing work.

(b) Time frame limit

The time frame for signing LTC to install land treatment practices is limited to 5 years from the date the plan was approved. Any extension of this time frame must be approved by the director, WPD.

(c) Budget requests and funds management

(1) Operations budget—States will submit budget requests as specified by the annual budget process schedule. The request is to be submitted as specified in subpart 507D. The FS budget estimates are included in the request. Program and financial plans for the FS activities are to continue to be developed as outlined in the interagency agreement (exhibit 501-1). WPD will coordinate the review of the request for funds with appropriate National Office staff. The state conservationist will notify the WPD director in writing, when (date) the first project agreement or LTC is signed on a project.

(2) Fund management—Unobligated funds are to be recalled by WPD at the end of the third quarter of the fiscal year for reallocation to projects that are ready for installation. Instructions for recalling funds are to be provided by the Financial Management Division. States should notify WPD during the year when unfunded work is ready for signing of a project agreement.

(3) Claims management—State conservationists are to monitor all aspects of contract administration and provide input at appropriate times. Contracting officers are to notify program managers of all claims. The Government's goal is to resolve all contractual issues by mutual agreement at the contracting officer level and to avoid litigation. To achieve this goal, program managers must monitor claims. When

contracting officer decisions for claims exceeding \$100,000 are appealed by the contractor, the state conservationist is to notify the Deputy Chief for Programs and provide the information needed for the claims data base. The Deputy Chief for Programs, in consultation with the Deputy Chief for Administration, will appoint an independent review team of representatives from WPD, Administrative Services, and Engineering Division. The team will review the case and recommend alternative actions the Service should consider to minimize its litigation risks.

(4) Reimbursables management—State conservationists are to monitor obligations of reimbursables. Budget adjustments will be made as needed.

(d) Watersheds with conditional approvals

Some projects approved by the Public Works Committees have limited the amount of Public Law 83-566 funds that may be expended and limited the purposes served by the project to those set forth in the watershed plan. These projects are referred to as "conditionally approved projects."

The data base for conditionally approved watersheds will be established and updated annually by the NHQ-Programs staff. Items to be included are current cost estimates as shown in the plan, total Public Law 83-566 fund limitation for the fiscal year in which the project was approved, and an annual update of obligated funds and remaining funds. At the end of each fiscal year, new indices are determined and the increased cost allowance is shown. States should retrieve their data annually, red line any errors, make appropriate changes, and resubmit to the WPD for updating.

Once it is determined that the project cost (adjusted for inflation and criteria changes) will exceed 10 percent of the amount approved by the Congressional Committee, steps must be taken to notify OMB. This will be done by the state conservationist providing written notification to the director, WPD. The notification shall:

- State the situation that caused the need for the request,
- Explain why the situation exists,
- Explain that there has been no reformulation and that benefits still exceed costs, and
- Review the SLO's commitments to date.

(e) Reaffirming feasibility

The continued feasibility of a project will be monitored and documented in the project files. Factors to be considered in determining the continued feasibility are costs, environmental impacts, social effects, changed watershed conditions, and SLO commitments. If it is determined that the project is no longer feasible to install, the plan should be modified to delete the infeasible elements or the project terminated.

When reaffirming feasibility, the interest rate at the time the plan was approved will be used except for plans approved before January 3, 1969. An interest rate of 3.25 percent will be used for the plans approved before that date.

At least once every 5 years during the installation of the project, the state conservationist will certify to the WPD director the continued feasibility for proceeding with project installation.

(f) Cost indexes

Cost indexes are used when updating cost to current values for maintaining the data base, preparing supplements and modifications, and reaffirming project feasibility. Because these factors are regional in nature, each State is responsible for maintaining appropriate indexes for each fiscal year. Suggested sources of indexes for the various cost categories include the following:

Consumer Price Index-Services—The index for project installation is based on the Consumer Price Index-Services. Project installation consists of the sum of land treatment (less critical area treatment), engineering, and project administration, as shown in Table 1 (fig. 504-8) of the plan.

Engineering News Record Construction Cost Index or DOC Composite Index—The index for construction and critical area treatment is to be based on the Engineering News Record Construction Cost Index or the U.S. Department of Commerce Composite Index.

Local information—The index for real property rights and relocation is to be determined by the state conservationist based on an analysis of the cost of land and its acquisition appropriate to the local area.

Wholesale Price Index—If a large part of the damages occur to contents of urban buildings, the Wholesale Price Index-All Commodities or Consumers Price Index (CPI)-Durables may be used.

Economic Research Service data—Indices of prices received by farmers for all crops and prices paid by farmers on all commodities are obtained from the Economic Research Service and may be used to update crop and pasture flood damages and other agricultural flood damages.

507.02 Agreements required

(a) Project agreement

Project agreements include any agreement entered into by SCS and the SLO in which detailed working arrangements are established for the installation of cost-shared structural, nonstructural, vegetative, or land treatment measures. It does not include agreements for the acquisition of real property rights, engineering services, and relocation assistance. Further information is available in the NCGCAM 120-514.

(b) Real property acquisition assurance

This assurance applies if real property interests were acquired for the installation of project measures and persons, businesses, or farm operations were displaced. Form SCS-ADS-78 will be completed and signed by the SLO and will be provided before Federal financial assistance is granted (NCGCAM 120-511.20).

(c) Operation and Maintenance (O&M) agreement

Arrangements for operating and maintaining planned practices are to be included in an O&M agreement between the SLO/land user and SCS. The agreement is to be entered into before SCS furnishes financial assistance for real property acquisition, relocation assistance, or installation of any of the planned measures (National Operations and Maintenance Manual 180-500.31). An O&M plan must be prepared and attached to the O&M agreement.

(d) Drug-free workplace certification

Before a construction contract is awarded to install any of the planned watershed measures, the grantees will indicate that they will abide by the regulations implementing sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V,

Subtitle D; 41 U.S.C. 701 et seq.), 7 CFR Part 3017 Subpart F, Section 3017.600, Purpose, by signing OMB Form AD-1050 (for grantees who are individuals) or OMB Form AD 1049 (for grantees other than individuals).

507.03 Methods of installation and payment

(a) General

Contracting for the construction of both structural measures and cost-shared land treatment measures is normally performed by the contracting local organization, but may be performed by SCS when requested in writing by the SLO. Under special conditions, measures may be installed by force account, division of work, performance of work, average cost, or small purchase procedures. These, along with the different types of contracts, are discussed in this subpart. The watershed plan is to state the method to be used. Detailed information is in NCGCAM 120-510.

(b) Formal contract

Formal contracts include construction contracts and vegetative contracts. Under formal contract, the SLO provide their share of the contract cost in cash. Contracting for the construction of structural measures and cost-shared land treatment measures is normally performed by the contracting local organization, but may be performed by SCS when requested in writing by the SLO (NCGCAM 120-510.11 and 120-510.12).

(c) Equipment rental contracts

Where a formal construction contract would be impractical because of the nature of the work and it would not be feasible to prepare detailed drawings and specifications, the work may be performed under a competitively awarded equipment rental contract. Only work that can be done by equipment may be included (NCGCAM 120-510.13).

(d) Small purchases

Supplies, materials, and services may be purchased by informal written or oral solicitation of prices if the maximum amount of purchase is \$10,000 or less for similar items (NCGCAM 120-510.14).

(e) Force account

Under this method the SLO provide their own forces including labor, equipment, and materials in lieu of cash. The SLO must keep accurate records of the cost of all the work performed (NCGCAM 120-510.15).

(f) Division of work

This method may be used only for cost-sharing land treatment measures. Measures to be installed by this method shall be described in the plan narrative and cost estimates included in the plan. The watershed agreement shall specify the increments of installation work for which SCS and the SLO are responsible without citing a percentage rate of cost sharing. The SLO are not required to keep records of expenditures. Detailed SCS cost estimates shall be maintained in support of the plan to show that Public Law 83-566 costs for land treatment do not exceed the rate authorized (NCGCAM 120-510.16).

(g) Performance of work

Under this method, the value of work to be provided by the SLO is determined by negotiation between the SLO and SCS and is included in a project agreement for the work. SCS-approved cost estimates made immediately before signing the agreement establish the maximum value of the work. (NCGCAM 120-510.17)

(h) Average cost

This method is limited to the installation of critical area treatment measures and cost-shared land treatment measures under the Flood Prevention (FP) and Public Law 83-566 programs. The average cost method is a procedure where cost-share payments are based either on a percentage of the average cost when the conservation district cooperator installs the work using his own forces, or on a percentage of the actual cost not exceeding the average cost for any component of the work that the cooperator contracts. Average costs are to be developed by SCS for each component of a measure to be installed by this method (NCGCAM 120-510.18).

(i) Long-term contracts

The two methods of carrying out long-term contracting for installing Public Law 83-566 financially assisted land treatment measures are:

- A project agreement between SCS and the SLO with a Long-Term Contract (LTC) between the SLO and land user, and
- A LTC between SCS and the land user. The contract period depends on the magnitude of the work. It will be at least 3 years, but may not exceed 10 years. All cost-shared land treatment is to be installed at least 2 years before expiration of the contract (NCGCAM 120-515.0).

Subpart 507B Provisions for financing

507.10 General

Federal assistance for project installation is authorized after the plan is approved. Federal assistance may include technical and financial assistance, advances, and loans. The watershed agreement shall specify the Federal assistance to be provided and show evidence of the SLO's commitments for funding, installing, and operating and maintaining the project. The Chief of the Soil Conservation Service shall allocate Federal funds for watershed projects from annual appropriations made for this program by Congress. The RDA is appropriated their own funds for participation in this program.

Public Law 83-566 funds obligated for a particular project agreement or LTC must be expended for that purpose or returned to Watershed Projects Division (WPD).

The SLO shall provide their share of installation costs from other than Public Law 83-566 funds. Local financing may include State, county, and other local funds, such as watershed or special purpose district taxes. Loans or grants of funds from other Federal programs may be used unless specifically prohibited.

507.11 Cash payments or expenditures

The SLO are expected to pay their share of the installation costs in cash unless otherwise provided for in the watershed plan and project agreement. Cash contributions represent the SLO's cash outlay from general tax revenues, sale of bonds, assessments, or other legally recognized means of raising money, and money contributed to the SLO by other public agencies and institutions, private organizations, and individuals. When authorized by Federal legislation, Federal funds received under other Federal programs may be considered as SLO's cash contribution.

507.12 In-kind contributions

In-kind contributions represent the value of noncash contributions made toward the SLO's share of the costs by the SLO and non-Federal parties. In-kind contributions may consist of real property and equipment and the value of goods and services. It includes work performed by the SLO by force account.

In-kind contributions may be made toward the SLO's share of public water-based fish and wildlife and recreation projects when provided for by the watershed plan and project agreement.

In-kind contributions are applicable only to projects that will be approved administratively or were transmitted to OMB after May 1, 1979. No exceptions will be allowed for any other projects regardless of the date or nature of project supplements. Property purchased with Federal funds may be considered the grantee's in-kind contribution only when authorized by Federal legislation.

In no case will the amount of an in-kind contribution exceed the SLO's share of the cost for the works of improvement. The maximum cost eligible for in-kind credit is to be the same as that for cost sharing. The SLO will receive no cash reimbursement for in-kind contributions of real property. Real property already devoted to and improved for public recreation or fish and wildlife use will not be eligible as an in-kind contribution.

507.13 Value of in-kind contributions

The value of in-kind contributions must be determined as set forth in the NCGCAM 510.64 through 510.67.

507.14 Loans

The RDA may make watershed loans to the SLO to help finance the local share of project costs set forth in approved watershed plans. The RDA has developed notices and procedures for granting these loans for all or part of the local cost for a watershed works of improvement (exhibit 501-2).

507.15 Advance of funds by SCS

In special situations SCS may advance funds to the SLO to use for engineering and construction costs, purchase of real property rights, or engineering services. The special conditions that follow must be met in all cases.

(a) Engineering and construction costs

Engineering and construction costs, not to exceed 30 percent of the total cost of the structure, to provide storage capacity for future municipal or industrial water supply are eligible for an advance of funds. The advance must be paid with interest within 50 years after the retention reservoir is constructed, or a shorter period if required by State law. Interest will not be charged until the water supply is first used from the structure or until 10 years after the date of completion of the structure, whichever is earlier.

(b) Real property rights

Funds may be advanced to purchase real property rights if the immediate purchase is essential to preserve the site for project works of improvement, a watershed plan has been approved, SCS and the SLO have signed an agreement covering the acquisition of real property rights, and RDA has approved the repayment on the date the advance is made to the SLO. The advance and accrued interest are to be repaid by the SLO before the works of improvement are constructed.

(c) Engineering services

An advance of funds can be made for engineering services for works of improvement if the work of improvement is included in the watershed plan, the engineers retained or employed by the SLO are satisfactory to SCS, and the total advance does not exceed 5 percent of the estimated installation cost of the works of improvement.

Subpart 507C Completion of projects

507.20 Completing project installation

Project installation is considered complete when watershed plan commitments for Public Law 83-566 assistance in installing works of improvement are satisfied as follows:

(a) Water resource projects

All structural and nonstructural measures, including mitigation measures, involving Public Law 83-566 assistance are installed in keeping with the watershed plan, as amended or supplemented and land treatment provided for in the plan has been accomplished or has progressed to the extent that it can be carried out with assistance from ongoing programs. Also, all LTC's must have expired.

(b) Watershed protection projects

Watershed protection projects are considered complete when land treatment provided for in the plan has been accomplished or has progressed to the extent that it can be carried out with assistance from ongoing programs and all LTC's have expired.

507.21 Completion report

The state conservationist is to report the completion of construction in writing to the director, WPD, after all planned measures have been installed. Copies of this notification should be sent to the NTC and other concerned Federal agencies. A completion report is to be forwarded to the director, WPD, as soon as the State obtains information as to total project obligations.

The state conservationist is to send each of the SLO a letter informing them of the official completion date of the project and reminding them of their responsibility for operation and maintenance, as shown in the O&M agreement(s). As a courtesy and to document final agreement, each SLO should be requested to concur in the final completion letter. The SLO's concurrence is not required to report a project complete.

Public Law 83-566 funds may not be charged to completed projects, except for post installation assistance as defined in part 508, without prior approval of the Chief.

The completion report will enumerate the number and purposes of project features installed and will include a statement of total local costs. Total local costs include real property rights, cost-shared items, technical assistance, and local administration costs.

507.22 Partly completed projects

Where projects are partly completed and there is little likelihood that remaining work will be installed, the state conservationist should arrange a meeting with the SLO. The purpose of the meeting will be to review the project installation schedule set forth in the plan, reaffirm the SLO's responsibilities, and develop a plan for completing project installation.

If the SLO agree that no further progress can be made, the project will be designated as installation complete. A supplemental watershed agreement that deletes the measures that have not been installed is to be prepared. Reasons for deleting the measures should be given in the supplement along with a discussion of the benefits that will be foregone by not installing the remainder of the project. For projects providing urban flood protection, the SLO with SCS assistance should prepare a flood plain map (based on the partly completed project) showing areas with significant remaining flood problems and publicize the remaining hazard. This should be done before the supplement is signed. A revised Table 1 (fig. 504-8) and completion report are to be submitted to the director, WPD.

If the state conservationist and the SLO agree that additional progress can be made, they should use the meeting to prepare a schedule for installing the remaining works of improvement. The schedule should include an agreement that at the end of a fixed time period (up to 2 years) from the date the schedule is prepared, the plan will be designated as installation complete if no progress has been made in completing the structural measures.

The state conservationist will inform the Governor or designated State agency of the decision and transmit a copy of the schedule. A copy of the schedule will be transmitted to the director, WPD. The Deputy Chief for Programs will inform the appropriate Congressional delegation of the plan for completing installation of the project.

If the agreed-to lapse period (up to 2 years) has passed and no progress has been made, the SLO will be notified of the state conservationist's intent to declare the installation of the project completed.

If progress has been made, the state conservationist may agree to extend the installation period for 1 year. Successive extensions may be granted if there was progress in the past year. Progress is defined as the signing of a project agreement to begin construction.

If progress is not made and the SLO do not agree to delete the measures that have not been installed, the state conservationist is to submit the matter to the director, WPD, setting forth the facts and the reasons why the SLO do not agree. Each project will be handled on a case-by-case basis.

507.23 Deauthorized projects

Deauthorization is applicable only to projects where no LTC's have been signed, where no planned measures have been installed, or where no O&M agreements are in effect.

When it becomes evident that the proposed works of improvement will not be installed, the state conservationist should consult with the SLO to seek their concurrence to deauthorize funding for the project. Agreements with the SLO for deauthorization of funding may be documented by an exchange of correspondence.

Deauthorization of the project removes authority to expend Public Law 83-566 funds.

The state conservationist shall initiate deauthorization of funding. If the SLO do not concur in deauthorization, the state conservationist should submit the matter to the director, WPD, setting forth the facts and the reasons why the SLO do not agree.

The director may make a unilateral decision to deauthorize a project based on a case-by-case review of the information provided.

The state conservationist is to notify the Chief in writing of the proposed deauthorization of funding. At the same time, the notice of intent (exhibit 507-1) should be sent to the Federal Register, assistant chief, NTC director, and concerned Federal, State, and local agencies. If authorization of funding by the Chief was subject to approval by resolution by committees of Congress, the Chief is to give the appropriate committees written notice of the proposed deauthorization at least 60 days before final deauthorization action is taken. The Chief will notify the state conservationist if there are congressional concerns about the proposed deauthorization.

Following the 60-day waiting period, the state conservationist will notify the WPD of any concerns received. If there are none, the Chief will notify the state conservationist that funding is deauthorized. The state conservationist is to notify the SLO and concerned Federal, State, and local agencies of the final action. Other actions by the state conservationist include removing project identification from project status maps and disposing of records as specified by the SCS Records and Management Guide.

The deauthorization process may be stopped by the state conservationist at any time before final notice of deauthorization is published.

The state conservationist will send a notice to the Federal Register announcing final deauthorization action (exhibit 507-2).

Areas in a project that have had funding deauthorized may be reactivated by including them in a new watershed application.

Subpart 507D Reports

507.30 General

Program managers in each state are to use the National Progress Reporting System to report progress (330 GM 409 and 300 GM 406). Maximum use is to be made of the options provided in the SCS-MGS-253 Reporting System to keep track of progress for installation of all projects.

Other information sources that are used to manage the operations phase of the water resources program are a series of data files stored on WPD's computer system. An introduction to this system is available on WPD's computer.

A status data base is kept current by WPD staff from letters and other paper reports. States should retrieve their data from this data base about once a year and review it for accuracy.

Program managers must contribute to the following data bases:

- Annual budget estimates for the upcoming fiscal year combined with all future obligation estimates.
- Watershed protection project description.
- Detailed description of planned and installed structures.
- Appropriated funds by state and local governments.
- Cultural resource activities.
- Dams inventory.
- Cumulative total of obligated watershed construction funds (a running account). These funds will be monitored by the SCS Program Accounting and Reporting System (SPARS).

507.31 Annual operation budget estimates and future obligation report

The format and content of these reports are specified in a data dictionary on WPD's computer system.

The data base is designed to be dynamic. Once established, changes are to be submitted electronically by the states to keep the information up-to-date. The information is to cover all projects needing future funds. The data will be accessed by WPD each year during May for budget allocation purposes and throughout the year in response to Congress, OMB, or other requests. States are expected to keep the information current and correct. New projects that are approved or changes that occur during the year should be added to the data base as the changes occur.

Factors to be considered in developing the annual budget estimates and future obligations are:

- The estimated approval date for operation,
- The schedule for installation of planned measures,
- The State's program analysis and long-range plan,
- The SLO's progress in fulfilling their obligations, and
- The sponsor's capability to proceed with installation.

Current estimates are to be developed by the program manager in consultation with the area conservationist, district conservationist, SLO, and appropriate SCS technical and administrative staff. If the project is located in more than one State, each State will prepare a report for the part of the project in their State.

507.32 Progress summaries

Progress summaries are developed from the data bases residing in the WPD. This data base should be reviewed annually by the state program manager to assure the data are accurate and factual.

Every 5 years State watershed maps are to be updated to show current status of watershed activity. The director, WPD, will get five copies, and two copies will be sent to the NTC and to each of the area or regional offices of the Forest Service.



Subpart 507E Exhibits

Exhibit 507-1 Example of Notice of Intent to Deauthorize Federal Funding**BILLING CODE: 3410-16
DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE**

(Name) Watershed, (State)

Agency: Soil Conservation Service

Action: Notice of Intent to Deauthorize Federal Funding

Summary: Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the (Name) Watershed project (County or Counties), (State).

For further information contact (Name), State Conservationist, Soil Conservation Service, (Street Address), (City), (State) (Zip Code), telephone: (Area Code and Number).

(Name) Watershed, (State)

Notice of Intent to Deauthorize Federal Funding

Supplementary information: A determination has been made by (State Conservationist's name) that the proposed works of improvement for the (Watershed) project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from (Name), State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the Federal Register.

(Signature)
(Type name and title of signee)
(Date)

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Exhibit 507-2 Example of Notice of Deauthorization of Funding**BILLING CODE: 3410-16
DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE****(Name) Watershed, (State)****Agency:** Soil Conservation Service**Action:** Notice of Deauthorization of Federal Funding**Summary:** Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the (Name) Watershed project, (County or Counties), (State), effective on (Date as indicated in letter from Chief).**For further information contact** (Name), State Conservationist, Soil Conservation Service, (Street Address), (City), (State) (Zip Code), telephone: (Area Code and Number).

(Signature)

(Type name and title of signee)

(Date)

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

United States
Department of
Agriculture

**Soil
Conservation
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**National
Watershed
Manual**

Part 508

**Post Installation
Assistance**

Part 508

Post Installation Assistance

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Subpart 508A Introduction**508.00 Introduction**

Part 508 provides Soil Conservation Service (SCS) policy in administering the operation and maintenance (O&M) requirements for any practice installed with SCS assistance. It includes provisions for remedial, rehabilitation, and decommissioning work where project measures may not conform to current engineering criteria, safety standards, or stability requirements.

Watershed projects installed under Public Law 83-566 contain land treatment, structural, and nonstructural practices that are planned to solve related soil, water, air, plant, and animal resource problems. The projects are planned to function over a period of generally not less than 25 years nor more than 100 years.

Before obtaining Federal financial assistance for installation of project measures, the Sponsoring Local Organizations (SLO) must satisfactorily assure SCS that installed practices will be operated and maintained properly. Arrangements for O&M must be documented. Satisfactory assurance consists of the development and signing of an O&M agreement between the SLO and SCS or, in the case of land treatment, between the SCS and the SLO/land user.

Many of the problems affecting installed structural measures are associated with the age of the structure and the lack of conformance to current engineering standards, safety, and stability.

Where a determination of the type of post-installation assistance is needed, the SLO will initiate such a request to SCS. If in making that determination a program report will be developed, the SLO will assist in the development of such a report.

Subpart 508B Operation and maintenance**508.10 Introduction****(a) Operation**

Operation includes the administration, management, and performance of nonmaintenance actions needed to keep a completed practice safe and functioning as planned. This includes being cognizant of changes in watershed conditions, both above and below completed practices, which alter the overall function of the project, so appropriate actions can be taken promptly.

(b) Maintenance

Maintenance includes routine work required to prevent deterioration of practices, to repair damage, or to replace practice components. It includes recurring needs, such as repainting, fertilizing and managing vegetation for dams and channels and repairing or replacing side channels and drop structures associated with a channel. Maintenance also includes repairing damages to completed practices caused by normal deterioration, drought, vandalism, or flooding from other than a catastrophic event.

508.11 Responsibilities

Responsibilities for O&M of watershed works of improvement are described in the National Operations and Maintenance Manual, 180-500. The O&M requirements must be documented in an O&M agreement with the SLO. Program managers should be familiar with these responsibilities and requirements and provide followup to ensure that an effective O&M program is carried out.

508.12 Inspection and followup

The O&M plan shall identify the practices covered by the agreement, the SLO who will inspect and finance the O&M of each practice, and the duration of the agreement. It will establish a schedule for performing inspections.

The SLO/land user is responsible for making the necessary inspections and may request SCS assistance. SCS responsibility for assisting in inspections and followup is designated by the state conservationist.

Where two or more States are concerned, responsibility will be determined jointly by the state conservationists.

It is recommended that SCS and the SLO make joint inspections

- During or immediately after the initial filling of a reservoir,
- Annually during the first 3 years after construction, and
- After major storms, major earthquakes, or other unusual conditions that might adversely affect the measure.

The SLO are responsible for continuing inspections after the third year. They are to prepare a report and send a copy to the SCS watershed program manager. SCS may assist for special situations as determined by the state conservationist.

State conservationists are to prepare a report to the SLO when structural measures reach their evaluated life and/or when the O&M agreement has expired. The report is to outline options available as to the relative need to continue operations and maintenance of the project facilities.

508.13 Technical assistance

SCS may provide technical assistance to the SLO in the O&M of installed measures. The following kinds of assistance are normally considered as O&M technical assistance:

- Coordination and training of the SLO on local responsibilities and development of financial methods of assuring availability of funds.
- Assisting with annual inspections and reports.
- Preparing or reviewing plans, designs, and specifications for proposed changes. This may include such items as emergency action plans.

Subpart 508C Remedial work

508.20 Kinds of remedial work

Remedial work is defined as work needed to correct problems caused as a result of a mistake or misjudgment by SCS during the installation of a measure or as a result of latent site conditions unknown to SCS or the sponsor/land user at the time of installation. Changes in policy, technical standards, or engineering concepts developed subsequent to the installation of the original measure are not considered mistakes or misjudgments by SCS. The following kinds of work may be considered as remedial work:

- Repair of a measure's components that deteriorate more rapidly than planned or do not perform as expected because of unusual or latent conditions.
- Reconstruction or repair of a completed measure that malfunctioned or failed because of a design or construction deficiency.
- Modification of a structure, property relocation, or addition of nonstructural measure, whichever is the most cost effective to meet the criteria for a higher hazard classification, where a structure was misclassified before installation.

508.21 Procedure

Remedial work may be necessary in operational or completed construction projects. The need for remedial work is to be documented by a program report. The preparation of the report is to be coordinated by the responsible state staff program manager. The report should contain the following:

- What caused the situation
- Alternatives considered (including doing nothing and determining methods for sponsor solutions and alternative engineering solutions)
- Analysis of the cost effectiveness of alternatives
- Estimated costs, benefits, and environmental effects
- Recommended solution

Technical input from the appropriate state technical specialists will be obtained by the program manager when the report is prepared. The National Technical Center (NTC) review and concurrence are required for remedial work that will substantially affect a measure that initially required NTC concurrence. An informational copy of the final report is to be sent to the Watershed Projects Division (WPD) and the NTC for all work authorized by the state conservationist. A copy of the final report will accompany all requests for authorization for remedial work exceeding the state conservationist's authority.

SCS may provide cost-sharing assistance for needed remedial work up to the same cost-sharing rate used for the original installation. The state conservationist may approve cost-sharing for remedial work if:

- The estimated Federal construction cost of the remedial work does not exceed \$150,000.
- The necessary program report has been completed and the required technical approvals have been obtained.
- The project is an operational project or the state conservationist has taken the necessary actions to reopen the project.
- The director, WPD, has been notified.

Where the estimated Federal construction cost of the remedial work exceeds \$150,000, the state conservationist must request authorization to proceed from the Chief. The letter of request must include a copy of the program report.

Subpart 508D Additional work

508.30 Additional work

Additional work may be considered in watershed projects. This includes installing land treatment, structural measures, or nonstructural measures to benefit new beneficiaries or the same beneficiaries to a different degree. It may include measures to serve an additional purpose.

Additional work considered for operational and completed projects will follow the policies in part 506.

508.31 Procedure

Authorization to reopen a project and reaffirmation of planning must be granted by the Chief. The request must be supported by a letter of request by the SLO and a report. The report should indicate that the additional work meets program objectives and shall outline the need for additional work, proposed measures, estimated cost, and anticipated environmental effects. A copy of the letter of request and the pre-authorization report are to be sent to the director, WPD, and the director of the NTC.

Upon notification from the Chief that additional planning is authorized, the state conservationist may proceed with the necessary studies and preparation of the documents.

Subpart 508E Rehabilitation work

508.40 Introduction

Rehabilitation work is defined as all work in excess of the operation and maintenance required to repair, restore, or improve a practice to a condition appropriate for its current or intended purpose(s). This may be a change from the practice's "as-built" condition. Rehabilitation also includes the repair of the practice damaged as the results of a catastrophic storm event (the 100-year rainfall for channels and the 100-year rainfall or the storm event that produces a 2-foot depth of flow in the emergency spillway for dams) or major natural events, such as an earthquake.

508.41 Types of rehabilitation work

Rehabilitation work may be considered in completed or partly completed and operational projects. Rehabilitation work considered for operational projects including work on projects that add additional purposes, benefit new beneficiaries, or both, shall follow the policies and guidelines in part 506. Rehabilitation work may include the following:

- Reconstructing or repairing principal spillways, embankments, emergency spillways, and other structural components of a dam to ensure the continued integrity of the installed structure.
- Installing structural, nonstructural, or land treatment measures to benefit new or the same beneficiaries to a different degree.

508.42 Documentation

The need for rehabilitation work is to be documented by a program report. The preparation of the report is to be coordinated by the responsible state staff program manager. The report is to contain specifics as to the current conditions, projected future conditions, alternatives considered, environmental effects, selected solutions, estimated benefits and costs, and recommended solutions. An informational copy of the final report is to be sent to the WPD and NTC for all

work authorized by the state conservationist. A copy of the final report will accompany all requests for authorization for rehabilitation work exceeding the state conservationist's authority.

508.43 Authority

Authority to develop a rehabilitation plan on completed construction projects must be granted by the Chief. The request must be supported by an amended project application and a program report. The report should indicate that the planned work meets program objectives and is economically feasible and environmentally acceptable. A copy of the letter of request and the program report is to be sent to the director, WPD, and the NTC director.

508.44 Technical assistance

SCS may provide technical assistance for needed rehabilitation work.

Subpart 508F Decommissioning work

508.50 Introduction

Decommissioning is taking a structure out of service in an environmentally sound and safe manner or converting it to a nonproject purpose. For example, changing from flood control to recreation may require transferring responsibility from the original entity to another.

Decommissioning can be considered for all installed works of improvement.

508.51 Procedure

The need for decommissioning is to be documented by a program report. The report is to contain specifics as to what caused the situation, alternatives considered, estimated cost, and selected solution. Technical input from the appropriate state technical specialist will be obtained by the program manager when the report is prepared. An informational copy of the final report is to be sent to the WPD and NTC for all work authorized by the state conservationist. A copy of the final report will accompany all requests for authorization for decommissioning work exceeding the state conservationist's authority.

Appropriate modification shall be made to the O&M agreement to reflect the decommissioning of the installed measures. In the case where responsibility is transferred to another entity, an exchange of correspondence shall be completed to document the change. Copies of the agreement shall be provided to all the SLO, the WPD director, and the NTC director.

508.52 Technical assistance

SCS may provide technical assistance for decommissioning work.

Subpart 508G Closed projects

508.60 Closed projects

Projects are considered closed when watershed plan commitments for Public Law 83-566 assistance are satisfied as follows.

(a) Projects that include structural or nonstructural measures

These projects are considered closed when:

- All planned work has been installed, and
- The operation and maintenance agreement has expired.

(b) Watershed protection projects

These projects are considered closed when:

- All planned works have been installed, and
- All contracts have expired.

Both water resource projects and watershed protection projects are considered closed when a project has been deauthorized.

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Part 509

**Emergency Watershed
Protection**

Part 509

Emergency Watershed Protection

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Subpart 509A General**509.00 Purpose**

Part 509 sets forth the requirements and procedures for Federal assistance administered by the Soil Conservation Service (SCS) under section 216, Public Law 81-516 and section 403 of Title IV of the Agricultural Credit Act of 1978, Public Law 95-334. Codified rules for administration of the Emergency Watershed Protection (EWP) Program are set forth in 7 CFR 624.

509.01 Objective

The objective of the EWP Program is to assist in relieving imminent hazards to life and property from floods and the products of erosion created by natural disasters that are causing a sudden impairment of a watershed.

509.02 Scope

Authorized EWP technical and financial assistance may be made available when an emergency exists. Emergency watershed protection consists of emergency measures to reduce hazards to life and property from floods, drought, and the products of excessive runoff or erosion on any watershed impaired by a natural occurrence.

509.03 Administration

Administration of the EWP Program has been delegated to SCS who shall provide overall administrative direction and guidance for the program. SCS will transfer funds to the Forest Service (FS) at the national level for work to be installed by FS or its cooperators. Under general program criteria and procedures established by SCS, FS is responsible for administering EWP measures in National Forests and National Grasslands. FS is also responsible for emergency measures on all forested lands or rangelands within the National Forests, on adjacent rangelands that are administered under formal agreement with FS, and on other forest lands. On these lands, emergency work is done by either SCS or FS as mutually agreed.

In carrying out their responsibilities, FS and SCS work cooperatively with other Federal, State, and local government agencies. Details on FS operations are in FS Manual 3540.

State conservationists are to administer the program within their respective states. This includes all coordination with other agencies.

509.04 Definitions**(a) Watershed emergency**

A watershed emergency exists when a natural occurrence causes a sudden impairment of a watershed that creates an imminent threat to life or property. For the watershed to be eligible for assistance, the imminent threat to life or property must significantly exceed that which existed before the impairment.

(b) Natural occurrence

A natural occurrence includes, but is not limited to, floods, fires, windstorms, hurricanes, typhoons, earthquakes, volcanic actions, slides, tornadoes, and drought.

(c) Watershed impairment

A watershed impairment exists when the ability of a watershed to carry out its natural function is reduced to the extent of creating an imminent threat to life or property.

(d) Sudden watershed impairment

A sudden watershed impairment results from a single natural occurrence or a short-term combination of occurrences. Watershed impairments resulting from long-term combinations or series of natural or other occurrences are not considered sudden watershed impairments.

(e) Exigency

An exigency situation is defined as an immediate threat of damage to life or property. An exigency continues to exist as long as the probability of damage continues at such a high level.

(f) Nonexigency

A nonexigency situation is defined as the near-term probability of damage to life or property high enough to constitute a continued hazard, but not an immediate threat to life or property. A nonexigency situation

continues to exist as long as the probability of damage remains high enough to be considered an emergency.

(g) Emergency measures

Emergency measures are those undertaken to remove or reduce hazards created by the disaster to safeguard life and property from flooding or the products of erosion.

(h) Federal-aid highway

A Federal-aid highway is any public highway, roadway, or other road eligible for the Emergency Relief Program administered by the Federal Highway Administration of the Department of Transportation. The Emergency Relief Program will help State and local highway agencies pay the unusually heavy expenses of repairing serious damage to the Federal-aid system resulting from natural disasters or catastrophic failure.

(i) Long-life structures

Debris basins and reservoir and channel protection measures containing grouted rock, concrete, pile and lagging, gabions, or any practice whose life expectancy is more than 10 years are considered long-life structures.

Subpart 509B Program administration

509.10 General

Emergency watershed protection assistance is made available when a watershed emergency is determined to exist by the state conservationist. Procedures for providing assistance vary according to whether the watershed emergency is classified as an exigency or a nonexigency. Guidance for managing the program and providing assistance is given in the National Emergency Watershed Protection Handbook.

The classification of an emergency may be changed if the situation changes. If the near-term probability that the threat to life or property is reduced because of emergency assistance or other factors, an exigency may be reclassified as a nonexigency. Similarly, as occurrences increase the probability of threats to life or property, a nonexigency will be appropriately reclassified as an exigency. If warranted, a situation previously considered a nonemergency will be appropriately reclassified as a nonexigency or an exigency.

509.11 Criteria for assistance

(a) Eligible persons

Assistance is available to those public or private landowners, land managers, land users, or others who have a legal interest in or responsibility for the values threatened by a watershed emergency and have exhausted or have insufficient funds or other resources available to provide adequate relief from the applicable hazards.

Interested persons other than Federal agencies must be represented by a project sponsor. The sponsor must:

- Be a legal subdivision of a State government or a State itself, a local unit of government, or qualified Indian tribe or tribal organization;
- Have legal authority and agree to use such authority to obtain needed real property rights, water rights, and permits; and
- Agree to provide for the operation and maintenance of completed emergency measures.

(b) Eligible measures

To be eligible for assistance, a measure must retard runoff to prevent flooding or prevent soil erosion, reduce threats to life or property (permanent improvements) resulting from a watershed emergency, and yield beneficial effects to more than one individual except in an exigency situation where single beneficiaries are permitted.

All measures must be economically and environmentally defensible and technically sound. They must be limited to what is necessary to reduce applicable threats to a level not to exceed that which existed before the watershed was impaired. All work is to be carried out according to National Engineering Manual 210-501.24(c).

The work must conform to rules and regulations published by SCS for complying with Executive Order 11990, Protection of Wetlands, and Executive Order 11988, Flood Plain Management.

Measures used must be the most cost effective ones that will provide immediate, adequate, and safe relief from the hazard causing the emergency.

509.12 Cost sharing

Federal funds may bear up to 75 percent of the construction costs of emergency measures. In an exigency situation, this requirement may be waived by the director of the Watershed Protection Division (WPD). In the case of immediate need or extreme hardship on the part of the sponsors, Federal funds may provide up to 100 percent of the cost. Sponsors are responsible for obtaining any needed real property rights.

Cost sharing for the construction of eligible measures of \$200,000 or less is waived for measures to be installed in American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands (48 U.S.C. 1469(d)).

Sponsors may provide their share of construction costs in the form of cash, in-kind services, such as labor or equipment, or a combination of cash and in-kind services.

509.13 Funding

The Chief allots funds to state conservationists to carry out emergency assistance within their respective states. NTC directors are allotted funds to coordinate emergency assistance activities and to ensure consistent and efficient operations for the states served. State conservationists are to establish procedures for charging time to EWP work as required by the SCS Time and Progress Reporting System.

Funds for work to be carried out on National Forest lands by the FS or by their cooperators are to be transferred to the FS at the national level. If additional funds are needed for FS work, the FS is to notify the WPD and arrange for appropriate transfer of funds at the national level.

509.14 Time limits

In an exigency situation, funds must be obligated within 10 days after the receipt of emergency funds, 2 days after the date of the disaster event, or when conditions permit beginning construction activities, whichever is later. All work must be completed within 30 days after the funds are obligated. A 10-day extension may be granted by the director, WPD, with justification based on unusual circumstances.

In a nonexigency situation, funds must be obligated and construction completed within 220 consecutive calendar days after the date of receipt of funds. The director, WPD, may grant extensions if unforeseen or uncontrollable events cause delays. Requests must be adequately supported by documentation.

509.15 Limitations

Emergency funds must not be used to perform normal operation or maintenance or to solve watershed problems that existed before the disaster-causing event. These funds are not to be used to repair, rebuild, or maintain private or public transportation facilities, public utilities, or similar facilities.

Emergency funds must not be used for installing rock riprap, gabions, or similar measures to provide protection to land, crops, or pastures; constructing a new channel or doing work that increases predisaster

capacity of a channel; removing floating debris and sediment from reservoirs or debris basins (this is operation and maintenance regardless of ownership); or repairing beaches, dunes, and shorelines damaged by erosion as a result of wave action.

Work may not be done on any measures installed under an SCS project agreement or on measures installed by other Federal agencies unless an exception is granted by the director, WPD. Documentation for an exception must include a certification that all operation and maintenance responsibilities of the sponsors have been performed and no engineering deficiency existed before the disaster.

Long-life measures, such as floodwater retarding dams, channel modification, sediment basins, grade stabilization structures, and channel stabilization measures (such as gabions), may not be installed as emergency measures unless they are the most cost effective way to safely obtain emergency protection.

Emergency funds are not to be used to remove threats to Federal-aid highways except where the Federal-aid highway protection would be incidental to other eligible protection.

Subpart 509C Assistance

509.20 Application

Sponsors may apply to any SCS office for EWP assistance. SCS shall help sponsors prepare their applications. Information supplied should include the nature, location, and scope of the problems and the assistance needed.

509.21 Investigations

Upon receipt of an application for EWP, the state conservationist and regional forester or area director, as appropriate, shall immediately investigate the emergency situation to determine if EWP is applicable. The FS will coordinate investigations with SCS. When carrying out the investigation, state conservationists must classify the degree of emergency. This determination considers two broad types or degrees of emergency situations:

- An imminent situation of unusual urgency—an exigency.
- An emergency requiring action, but of less urgency than an imminent situation—a nonexigency.

When an exigency exists, prompt remedial action to eliminate an imminent threat to loss of life is to be provided.

If an exigency does not exist, but the impairment justifies emergency assistance, the state conservationist shall submit a request for funds to the director, WPD, within 60 days after the disaster event. Neither SCS nor the FS may commit funds until notified by the National Headquarters that the funds are available.

509.22 Request for funding

(a) Exigencies

The state conservationist shall notify WPD and indicate the nature of the emergency and the estimate of funds needed within 10 days of the disaster event or within 2 days after conditions permit access to the damaged areas, whichever is later. If funds are made

available, the state conservationist shall confirm the situation in a memorandum to the director, WPD, that explains the nature of the emergency, the location of the emergency, the kind of remedial work and funds needed, who the sponsors are, and a description of potential damage. Where an exigency exists, the memorandum from the state conservationist constitutes the request for funds.

(b) Nonexigencies

Requests for nonexigency projects shall be in writing to the director, WPD, within 60 days of the disaster event. A report must accompany the request. It must be concise, but adequate to support the need for and eligibility of emergency assistance. The scope and detail of the report should correspond with the scope of the emergency. The request for funds is to include at least the following information:

- Total amount of funds needed for SCS and FS.
- Endorsement by the regional forester or area director if there is to be any input for forest lands.
- Event date and cause of watershed impairment. When applicable, use event date designated by Federal Emergency Management Agency (FEMA).
- Date of funding request.
- Members of the investigation team.
- Location (county, parish, other) of watershed impairment.
- Description of impairment and of potential damages from flooding and the products of erosion including:
 - Environmental impact.
 - Types of health hazards anticipated and number of people concerned.
 - Land use of property endangered.
- Map showing:
 - Land ownership or management of endangered area (National Forest, private, other).
 - Location of potential damage that would be prevented or alleviated by emergency treatment.
 - Area to receive emergency treatment.
- Estimated kind, quantity, and cost of emergency measures recommended.
- Economic, environmental, and other social effect defensibility of the proposed measures.

- Description of the environmental impact expected from installation of the recommended measures. Include a summary of substantive comments from other agencies.
- Identification of sponsors requesting assistance.
- List of other Federal, State, and local organizations that are involved. Show type and extent of involvement for each organization.
- A statement that:
 - FEMA has been consulted if the disaster is major,
 - The assistance recommended is being coordinated with other emergency assistance programs,
 - Other sources of funds are committed, and
 - An environmental evaluation will be made before measures are installed.
- Additional maps, tables, charts, or photographs as determined necessary.

Subpart 509D Planning and implementation

509.30 Coordination

The state conservationist is to notify the State and regional clearing houses, FEMA, regional offices of the United States Fish and Wildlife Service, the Environmental Protection Agency, the State Fish and Game agency, and other appropriate agencies of the expected emergency assistance and invite their assistance in planning and implementing the emergency work. Need for early action is to be stressed. Telephone contacts are acceptable, but are to be confirmed by a written notification and request for assistance.

As appropriate, an entity or entities of State government, such as conservation districts and county governments, are to be asked to assist the state conservationist in setting priorities for installation of measures.

The state conservationist is to coordinate work with other agencies administering emergency programs, including those administered by the Agricultural Stabilization and Conservation Service, Farmers Home Administration, U.S. Army Corps of Engineers, Small Business Administration, FEMA, and other appropriate agencies. Such coordination may include specific agreements about the tasks each agency is to perform.

If the area is declared a "major disaster area" by the President under Public Law 93-288, the emergency assistance is to be coordinated through FEMA. If FEMA transfers this responsibility to the Federal Regional Council during the recovery period, SCS is to be responsive to the council.

509.31 Planning considerations

When planning emergency measures, emphasis should be placed on measures that are the least expensive and most environmentally sound. The measures are to be accomplished by using the least damaging construction techniques and equipment to preserve as much of the existing wildlife habitat as possible.

Emergency construction practices may include, but are not limited to, such measures as seasonal construction, minimum clearing, reshaping spoil, limiting excavation to one bank (on alternate sides where appropriate), and prompt revegetation of disturbed areas. Concurrent installation of measures needed to offset adverse impacts of the emergency measures should be planned. If this is not practicable, plans should be included to ensure installation within 30 days of the other measures.

Eligibility of all long-life measures or practices proposed for construction shall be determined by a team consisting of SCS personnel from the National Headquarters, the NTC, and the State. The team shall determine the need for funds before any commitments are made. This team is also available for assistance in determining eligibility under adverse or questionable circumstances and applicable design standards.

If lands under FS jurisdiction are involved, the team will be assisted by FS representatives of the National Headquarters and area or regional offices. The team shall also be available, at the request of the state conservationist, regional foresters, and area directors, to help determine the eligibility of other EWP measures or practices and to assist with administrative details.

509.32 Environmental considerations

Environmental aspects of emergency work are to be considered as carefully as possible under the given emergency situation. A program environmental impact statement for EWP work has been developed in compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852 (42 U.S.C. 4321 et seq.)).

An environmental evaluation is to be prepared for all nonemergency situations. Archeological, historical, or other special expertise needed is to be solicited from appropriate agencies and groups. Environmental and other considerations are to be integrated into emergency work by using an interagency and interdisciplinary planning approach.

509.33 Methods of accomplishing work

SCS generally does emergency work by construction contract, equipment rental contract, supply contract, purchase order (small purchases only), and/or employed labor. However, emergency work may be done by the sponsors. Procurement for emergency work, even in an exigency, is to be consistent with the National Contracts, Grants, and Cooperative Agreements Manual (120-V-510), Federal Procurement Regulations, and USDA and SCS supplements.

Real property rights must be acquired, reviewed, and certified as provided in parts 511 and 512 of the National Contracts, Grants, and Cooperative Agreements Manual.

Real property rights should be obtained in writing. Oral permits should be documented as soon as possible by the person making contact with the landowner.

An agreement is required for all emergency watershed protection work. Agreements are to be prepared according to instructions in the National Contracts, Grants, and Cooperative Agreements Manual (120-V-514). These agreements will include requirements for needed operation and maintenance, which is the sponsor's responsibility.

The agreement can be used to record a disclaimer if the remedial work does not meet SCS standards. This disclaimer may be used only if the sponsor agrees to bring the measure up to reasonable standards by other means or authorities after the elimination of the threat.

509.34 Post installation review

Post installation reviews should be made to determine if the measures installed are according to policy and are effective. Reviews are to include spot checking of individual measures by the appropriate state office staff members.

Subpart 509E Reports

509.40 Project code numbers

Records of obligations, expenditures, and unobligated balances shall be recorded by project number. WPD will assign the number at the time funds are authorized for EWP. Each project will be numbered consecutively in each state (i.e., 5001, 5002, . . .).

509.41 Final report

A final report describing the measures installed and the benefits achieved shall be prepared within 60 days after all work is completed. The report will summarize the emergency operations of the SCS and the Forest Service separately. It will include:

- The assigned project code number and completion date.
- A brief description of the disaster and affected area.
- A description of any unusual situation or problems.
- A description of beneficial effects accrued, such as sediment reduction, property protected, or threat to loss of life reduced. Estimate dollar values where possible.
- A summary of measures installed and their cost. Show local and Federal cost. Federal cost shall include technical and financial assistance (TA & FA). If final accounts are not available within 60 days, use best estimate of cost.
- A statement as to whether set aside or small business contractors were employed for SCS activities and the dollar amount of such contracts or procurements.
- A statement that emergency work is completed and that EWP is terminated. At this time, all remaining EWP funds are to be released.

The final report is sent to the SCS Chief with copies to WPD and the NTC.

