

## **Part 500 – Watershed Program Management**

### **Subpart A – Program Criteria**

#### **500.0 Authority, Purpose, and Scope**

##### **A. Authority**

The National Watershed Program Manual (NWPM) provides policy for the delivery of technical and financial assistance authorized by either of the following:

- (i) Public Law 83-566, the Watershed Protection and Flood Prevention Act of 1954, as amended
- (ii) Public Law 78-534, the Flood Control Act of 1944

##### **B. Purpose**

The purpose of this manual is to set forth the policy for delivering the Watershed Program authorized by the Watershed Protection and Flood Prevention Act (Public Law 83-566, as amended; see exhibit in Title 390, National Watershed Program Manual (NWPM), Part 506, Subpart A, Section 506.0, of this manual) and the Flood Control Act of 1944 (Public Law 78-534, as amended; see exhibit in 390-NWPM, Part 506, Subpart A, Section 506.1, of this manual). General policies for planning and carrying out watershed projects under Public Law 83-566 and flood prevention projects under Public Law 78-534 are set forth in 7 CFR Part 622. Programmatic requirements for activities authorized by the two laws are identical unless noted otherwise. Hereafter, activities carried out under the authority of these two laws are referred to as “the Watershed Program.”

##### **C. Scope**

- (1) This manual sets forth the policy for all watershed plans developed under the Watershed Program. No project will be funded for planning or implementation under the Public Law 83-566 or Public Law 78-534 authority unless it meets all requirements set forth in this manual.
- (2) The Watershed Program plans and implements watershed project actions. A project action is a formally planned undertaking that is carried out within a specified area by sponsors for the benefit of the general public (7 CFR Section 650.4). Project sponsors are local organizations (as defined in Public Law 83-566 Section 2), that have the legal authority and resources to install, operate, and maintain works of improvement.
- (3) Watershed Program planning and implementation must comply with applicable federal, State and local laws, regulations and Executive orders. A list of many of the related Federal laws, regulations and Executive orders is found in 390-NWPM, Part 500, Subpart D, Section 500.32 (of this manual).

#### **500.1 Watershed Program Overview**

##### **A. Public Law 83-566 Watersheds**

- (1) Public Law 83-566, the Watershed Protection and Flood Prevention Act, as amended, authorizes the Secretary of Agriculture to “cooperate with States 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 USDA to local organizations representing the people living in watersheds. It also provides for needed additional treatment and protection of federally owned lands within such watersheds.

- (2) The Watershed Program requires the development of physically, environmentally, socially, and economically sound watershed project plans with actions scheduled for implementation over a specified period of years. Watershed project plans contain project actions, which are formally planned undertakings carried out within a specified geographic area by sponsors for the benefit of the general public. Project sponsors must have the legal authority and resources to carry out, operate, and maintain works of improvement (Public Law 83-566 Section 2).

#### **B. Public Law 78-534 Watersheds**

Public Law 78-534, as amended, gives USDA responsibility in 11 selected watersheds for watershed planning and for installing measures to reduce runoff and erosion. NRCS and the Forest Service (FS) carry out this responsibility with assistance from other agencies. The following 11 watersheds were individually authorized in Public Law 78-534 Section 13:

- (i) Buffalo Creek (New York)
- (ii) Coosa River (Georgia and Tennessee)
- (iii) Little Sioux River (Iowa and Minnesota)
- (iv) Little Tallahatchie River (Mississippi)
- (v) Los Angeles River (California)
- (vi) Middle Colorado River (Texas)
- (vii) Potomac River (Virginia, West Virginia, Maryland, and Pennsylvania)
- (viii) Santa Ynez River (California)
- (ix) Trinity River (Texas)
- (x) Washita River (Oklahoma and Texas)
- (xi) Yazoo River (Mississippi)

#### **C. Notification for Special Designated Areas**

- (1) Special commissions have been established with statutory authority to coordinate resource planning and development activities specific to the Water Resources Programs in several special designated areas. NRCS has formal and informal agreements with officials in these areas to coordinate and keep them informed of progress during planning and operations. The special designated areas are all of the following:
  - (i) Appalachia
  - (ii) Delaware River Basin
  - (iii) Susquehanna River Basin
  - (iv) Tennessee Valley Authority Area
- (2) See 390-NWPM, Part 500, Subpart E, Section 502.41 through 502.44 (of this manual) for more information on coordination regarding these special designated areas.

### **500.2 Relationship to Other Programs**

Watershed Program funds may be used in a complementary manner with other USDA natural resource conservation programs to reach project objectives, except as noted in cost-share policy provided in 390-NWPM, Part 500, Subpart E, Section 500.41 (of this manual).

Watershed Program assistance may not be used when the project can be installed by individual landowners or the collective action of multiple landowners under alternative financial assistance (7 CFR Section 622.11(a)(6)).

### **500.3 Eligible Purposes**

#### **A. General Purposes**

- (1) Section 1 of Public Law 83-566 sets forth three general purposes:
  - (i) Preventing damage from erosion, floodwater, and sediment
  - (ii) Furthering the conservation, development, utilization, and disposal of water
  - (iii) Furthering the conservation and proper utilization of land
- (2) Other resources not specifically mentioned in Public Law 83-566 may also be considered as appropriate, including air, cultural and historic resources, aesthetic resources, and others.
- (3) To achieve these purposes, section 3 of Public Law 83-566 authorizes NRCS to provide technical assistance to sponsoring local organizations (SLOs) as may be necessary to prepare and implement watershed project plans. NRCS technical assistance includes the following:
  - (i) Conduct investigations and surveys as necessary to prepare plans for works of improvement
  - (ii) Prepare plans and estimates required for adequate planning and engineering evaluation
  - (iii) Make allocations of costs to the various purposes to show the basis of such allocations and to determine whether benefits exceed costs
  - (iv) Cooperate and enter into agreements with and to furnish financial and other assistance to one or more SLO
  - (v) Obtain the cooperation and assistance of other Federal agencies in carrying out the purposes of this section
  - (vi) Enter into agreements with landowners and operators, based on conservation plans that are developed in cooperation with and approved by the local soil and water conservation district, for the installation of soil and water conservation practices and measures needed to conserve and develop the soil, water, woodland, wildlife, energy, recreation and scenic resources, and water quality

#### **B. Authorized Project Purposes**

Sections 3 and 4 of Public Law 83-566 provide for Federal assistance for the following authorized project purposes.

##### **(i) Flood Prevention (Flood Damage Reduction)**

Flood prevention or flood damage reduction measures are installed to prevent or reduce damages caused by floodwater. Flood damage reduction 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. Flood damage reduction and mitigation measures reduce or prevent floodwater damages by reducing runoff, erosion, and sediment; modifying the susceptibility of improvements in the floodplain to damage; removing damageable property from the floodplain; or reducing the frequency, depth, or velocity of flooding. Measures may also include actions that prevent encroachment into the floodplain.

##### **(ii) Watershed Protection**

- Watershed protection consists of onsite treatment of watershed natural resources concerns for the primary purpose of reducing offsite floodwater, erosion, sediment, and agriculture-related pollutants. Watershed protection plans may include ecosystem restoration type activities. Any practice or combination of practices listed in Title 450, National Handbook of Conservation Practices (NHCP), may be considered for inclusion in the systems of practices included in a watershed protection project plan. Project measures for watershed protection include land treatment practices installed by land users to conserve and develop any of the following:
  - Soil
  - Water quality and quantity
  - Woodland
  - Fish and wildlife habitats
  - Energy
  - Recreation and scenic resources
- Public Law 83-566 requires that the SLO must “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.” 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 retention reservoir.

**(iii) Public Recreation**

Public recreation developments may be included in a watershed project plan when the SLO agrees to operate and maintain a reservoir or other area for public recreation. Project measures must include only minimum basic facilities needed for public health and safety and access to, and use of the area. Minimum basic facilities may include picnic areas, sanitary facilities, fishing piers, shelters, cooking grills, parking areas, swimming beaches, access roads, water, and trails. Also included are practices to provide needed access, water, and power.

**(iv) Public Fish and Wildlife**

Fish and wildlife development areas may be included in a watershed project plan when the SLO agrees to operate and maintain a reservoir or other area for public fish and wildlife access. Measures installed for public use of areas developed to improve the habitat or the environment for the breeding, growth, and development of fish and wildlife may be included in a watershed project plan.

**(v) Agricultural Water Management**

Agricultural water management includes drainage, ground water recharge, irrigation, water conservation, water quality improvement, and agricultural (including rural communities) water supply. Measures planned for these purposes are installed on non-Federal land by the SLO to benefit groups of landowners and communities. Measures on Federal land will be installed and maintained in accordance with mutually satisfactory arrangements among the SLO, the land administering agency, and NRCS.

**(vi) Municipal and Industrial Water Supply**

Municipal and industrial (M&I) water supply includes measures necessary to provide storage capacity in reservoirs to increase the availability of water for present and

future municipal and industrial use. Needed outlet works and pipelines to convey water from the reservoir to the existing or proposed treatment facilities or water system are also considered project measures. The planning, design and installation of municipal and industrial water wells, water treatment plants, distribution systems, and electric distribution facilities fall outside the scope of the Watershed Program.

**(vii) Water Quality Management**

Water quality management measures provide water storage capacity in reservoirs for regulation of stream flow to improve water quality in streams.

**(viii) Watershed Structure Rehabilitation**

Watershed structure rehabilitation is covered in Public Law 83-566 Section 14, which authorizes financial assistance to local organizations to cover a portion of the costs of rehabilitating dams originally constructed as part of a project carried out under any of the following four authorities—Public Law 83-566, Public Law 78-534, the pilot watershed program authorized under the Department of Agriculture Appropriation Act of 1954, or the Resource Conservation and Development Program authorized by the Agriculture and Food Act of 1981.

## **500.4 Project Scope**

A. Section 2 of Public Law 83-566 defines the maximum watershed and structure size for works of improvement.

**(1) Maximum Watershed Size**

The maximum watershed or subwatershed area cannot exceed 250,000 acres. This limitation does not apply to Public Law 78-534 subwatershed plans.

**(2) Maximum Structure Size**

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 is defined as the total volume of space available for water and sediment upstream of a dam below the elevation at which discharge begins in the primary auxiliary spillway. This limitation does not apply to Public Law 78-534 subwatershed plans.

**(3) Economic Analysis**

- (i) Water resource plans will include allocations of installation costs to the various purposes and will show the basis of such allocations and whether National Economic Development (NED) benefits exceed NED costs. Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, 1983 (P&G) procedures will be used to identify alternative project NED benefits and NED costs, using viable alternative solutions consistent with local, regional, and national objectives. All works of improvement must maximize the net NED benefits, consistent with protecting the nation's environment, unless an exception is granted by the Chief of NRCS.
- (ii) Benefits and costs may be expressed in monetary and nonmonetary terms (P&G Section 1.7.1).
- (iii) Each project must contain benefits directly related to agriculture, including rural communities. Agriculture and rural communities must account for at least 20

percent of the total benefits of the project (Public Law 83-566 Section 2(3)). This requirement does not apply to Public Law 78-534 subwatershed plans.

- (iv) Non-water-resource plans and land treatment components of water resource plans are to be formulated to address public (offsite) water and related land resource problems. The recommended plan is to 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 period of analysis are to be included. Economic analysis of non-water-resource plans and land treatment components of water resource plans does not require the development, identification, or selection of the NED plan.

**B. Recreational Development Limitations**

- (1) The number of recreation developments within a watershed must 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 of between 75,000 and 150,000 acres, or three developments (the maximum number allowed) in a project of more than 150,000 acres (Public Law 83-566 Section 4(1)). 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.
- (2) Private development within land rights acquired with Federal cost-share funds for the purpose of public fish and wildlife or public recreation is prohibited. The exception to this is for facilities that are constructed or operated by private concessionaires on a controlled permit basis to serve the planned use of the improvement or development approved by the SLO and NRCS.

**C. Water Quality Management Reservoir Storage Limitations**

Works of improvement for water quality management that consist of water storage capacity in reservoirs for regulation of stream flow must not be provided as a substitute for adequate treatment or other methods of controlling waste at the source (Public Law 83-566 Section 4(2)). Works of improvement for water quality management must be consistent with State water quality standards developed in accordance with Public Law 92-500 Sections 208 and 319, as amended.