

Part 500 – Watershed Program Management

Subpart C – Application for Assistance

500.20 Request for NRCS Planning Assistance

A. Sponsoring Local Organization Request Planning Assistance

It is the responsibility of the SLO to request NRCS planning assistance and authorization to develop either a watershed project plan under Public Law 83-566 or a subwatershed plan under Public Law 78-534, including an environmental assessment (EA) or an environmental impact statement (EIS). The following items are needed to support a request for planning authorization:

- (i) Preliminary investigation report, indicating project feasibility
- (ii) Valid application – Standard Form (SF) 424

B. Preapplication Requirements

- (1) The SLO must request Watershed Program planning assistance in writing. NRCS will assist the SLO in conducting the preliminary investigation and report for determining the feasibility of a proposed action and its potential eligibility for the program. The preliminary investigation report can be a brief report using existing data (refer to Title 390, National Watershed Program Manual (NWPM), Part 501, Subpart C, Section 501.20, and Title 390, National Watershed Program Handbook (NWPB), Part 606, Subpart B, Section 606.11).
- (2) If a preapplication study is undertaken, the STC must notify in writing the Governors concerned, the U.S. Fish and Wildlife Service, the National Oceanic Atmospheric Administration National Marine Fisheries Service, the U.S. Army Corps of Engineers, and all other Federal agencies concerned with a 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 (Executive Order 10584 Section 3).

C. Application Requirements

- (1) SF 424, “Application for Federal Assistance,” will be used. This form is available online at http://www.grants.gov/techlib/424_20090131.doc. The start and end dates and funding information may be omitted. An original signature is required. The application is submitted by the SLO to the Governor or supervisory State agency of each participating State.
- (2) Applications must comply with all of the following:
 - (i) Have sponsorship by qualified local organizations (7 CFR Section 622.10)
 - (ii) Conform with Federal policies on nondiscrimination (7 CFR Part 15)
 - (iii) Comply with the requirements of Public Law 83-566 (7 CFR Section 622.11)
 - (iv) Include documentation of compliance with Executive Order 12372
- (3) Executive Order 12372, Intergovernmental Review of Federal Programs, requires Federal agencies to utilize State processes to obtain the views of State and local officials on proposed Federal financial assistance. In addition, Public Law 83-566 Section 3 requires applications to be submitted by the SLO to the State agency having supervisory responsibility (referred to in this manual as “supervisory State agency”), or the Governor if there is no supervisory State agency. If the application is not disapproved by the State agency within 45 days then NRCS will continue with

assistance to the SLO. For watershed structure rehabilitation applications, a copy will also be furnished to the State dam safety agency if State permits and approvals are required.

- (4) The SLO must follow State-developed procedures (based on Executive Order 12372) for coordination of proposed Federal financial assistance. USDA and NRCS regulations envision a State single point of contact that will provide State process recommendations (7 CFR Sections 3015.308, 622.7, and 622.20). The STC must allow State, area, regional, and local officials and entities 60 days for comment, starting from the date of submission of the application to the State single point of contact. Federally recognized Native American Tribes are not required to use the State process.
- (5) The Governor or supervisory State agency will approve or disapprove the application. If disapproved, no further action is required of NRCS. If approved or not disapproved within 45 days, the application must be sent to the STC. After the STC has determined that an application is legally valid, he or she will notify the SLO of the receipt of the application. If the application is found to be legally invalid, the STC will return it to the originator with an opinion (7 CFR Section 622.21).

500.21 Planning Authorization

A. Planning authorization must be requested when the STC is ready to commit technical resources to the planning effort. The Chief is responsible for authorizing planning assistance to develop a watershed plan. The authorization will specify the purposes that can be included in the plan. The plan status will become “active” in the Program Operations Information Tracking System (POINTS) database once authorization for planning assistance is granted.

B. The planning authorization will be limited to 5 years when appropriate funding is available. The planning authorization will be cancelled if the watershed plan is not in interagency review within the 5-year time period. At that time, the planning status will become “deauthorized” in POINTS.

C. Requests for a planning authorization will include all of the following items:

- (1) A copy of the preliminary investigation report and a plan of work
- (2) The designated State agency’s current priority rating for the watershed application
- (3) An estimate of the cost of plan development for NRCS, contracted expertise outside of NRCS, or both
- (4) A list of the SLOs, the name and address of the current chair, and the name of the person designated as the contact for all the SLOs
- (5) Statements by the SLO confirming its understanding of the commitments it has made, a self-evaluation of the depth and likely commitment of support for the project being planned, its authority and willingness to obtain real property rights, and its willingness to use the power of eminent domain

D. If the application fits one of the situations described in section 4(a) of Executive Order 10584 (see exhibit in 390-NWPM, Part 506, Subpart A, Section 506.3, of this manual), the STC must coordinate as needed with the Bureau of Reclamation, Corps of Engineers, and the Tennessee Valley Authority, as applicable, before requesting a planning authorization.

E. The STC must notify the following, in writing, of all approvals or disapprovals of applications for planning assistance: the SLO, the State Governors, and other concerned Federal agencies (Executive Order 10584 Section 3(a)(2)).

500.22 Amendment to an Application

A. Amendments

- (1) The STC must have prior approval of the Chief to amend a planning authorization in order to add or change a purpose. Requests for approval will include a revised preliminary investigation report that clearly identifies watershed problems, proposed alternatives, and the revised plan of work. There will also be an explanation of why the original proposal should be changed.
- (2) If an amendment to an application is needed, the STC will require that the SLO notify each supervisory State agency (or the Governor if there is no supervisory State agency) in writing, of the nature of and need for any changes, with a copy to the STC.

B. Withdrawal of Application

If, at any time, NRCS and the SLO determine that there is no possibility of developing a feasible or acceptable project plan, the SLO will be encouraged to withdraw the application in writing. The STC will return the withdrawn application to the supervisory State agency or Governor. Where the application is considered invalid or infeasible, but the SLO does not withdraw it, the STC will return the application to the supervisory State agency or Governor with a letter explaining why the project is not feasible. The plan status will become “terminated” in POINTS once the application is withdrawn or determined to be unfeasible and returned.

C. Termination of Planning

- (1) If at any stage of plan development it becomes apparent that a feasible plan cannot be developed, the STC will terminate planning assistance and the plan status will become “terminated” in POINTS. 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, those notified pursuant to Executive Order 12372 of the receipt of a valid watershed project application must be provided written notification of planning termination accompanied by a copy of the letter sent to the SLO. If a notice of intent (NOI) to prepare a Plan-EIS has been published in the Federal Register, then a notice of termination of development of a Plan-EIS must be published.
- (2) Once planning is terminated by either the STC or the automatic provisions of 390-NWPM, Part 500, Subpart C, Section 500.20 (of this manual), 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; a new planning authorization must be given by the Chief before work can be resumed.