

Natural Resources Conservation Service, USDA

§ 636.21

§ 636.17 Compliance with regulatory measures.

(a) Participants who carry out conservation practices shall be responsible for obtaining the authorities, rights, easements, permits, or other approvals necessary for the implementation, operation, and maintenance of the conservation practices in keeping with applicable laws and regulations.

(b) Participants shall be responsible for compliance with all laws and for all effects or actions resulting from the participant's performance under the cost-share agreement.

§ 636.18 Technical services provided by qualified personnel not affiliated with USDA.

(a) NRCS may use the services of qualified TSPs in performing its responsibilities for technical assistance.

(b) Participants may use technical services from qualified personnel of other Federal, State, and local agencies, Indian tribes, or individuals who are certified as TSPs by NRCS.

(c) Technical services provided by qualified personnel not affiliated with USDA may include, but is not limited to: Conservation planning; conservation practice survey, layout, design, installation, and certification; and information; education; and training for producers.

(d) NRCS retains approval authority over certification of work done by non-NRCS personnel for the purpose of approving WHIP payments.

§ 636.19 Access to operating unit.

As a condition of program participation, any authorized NRCS representative shall have the right to enter an agricultural operation or tract for the purposes of determining eligibility and for ascertaining the accuracy of any representations related to cost-share agreements, and performance. Access shall include the right to provide technical assistance; determine eligibility; inspect any work undertaken under the cost-share agreements, including the WPO and O&M agreement; and collect information necessary to evaluate the conservation practice performance specified in the cost-share agreements. The NRCS representative shall make a reasonable effort to contact the partic-

ipant prior to the exercising of this provision.

§ 636.20 Equitable relief.

(a) If a participant relied upon the advice or action of any authorized NRCS representative and did not know, or have reason to know, that the advice or action was improper or erroneous, NRCS may accept the advice or action as meeting program requirements and grant relief because of the good-faith reliance on the part of the participant. The financial or technical liability for any action by a participant that was taken based on the advice of a NRCS certified non-USDA TSP is the responsibility of the certified TSP and will not be assumed by NRCS when NRCS authorizes payment. Where a participant believes that detrimental reliance on the advice or action of a NRCS representative resulted in an ineligibility or program violation, the participant may request equitable relief under 7 CFR 635.3.

(b) If, during the term of a WHIP cost-share agreement, a participant has been found in violation of a provision of the cost-share agreement, the O&M agreement, or any document incorporated by reference through failure to fully comply with that provision, the participant may be eligible for equitable relief under 7 CFR 635.4.

§ 636.21 Environmental services credits for conservation improvements.

USDA recognizes that environmental benefits will be achieved by implementing conservation practices funded through WHIP, and that environmental credits may be gained as a result of implementing activities compatible with the purposes of a WHIP cost-share agreement. NRCS asserts no direct or indirect interest on any such credits. However, NRCS retains the authority to ensure that the requirements for WHIP funded improvements are met and maintained consistent with §§ 636.8 and 636.9. Where activities required under an environmental credit agreement may affect land covered under a WHIP cost-share agreement, participants are highly encouraged to request a compatibility assessment from NRCS prior to entering into such agreements.