

TEXAS STATE SOIL AND WATER CONSERVATION BOARD
**WATER QUALITY MANAGEMENT PLAN PROGRAM
REFERENCE GUIDE**

For Nonpoint Source Agricultural and Silvicultural Pollution

August 2019



"Protecting and Enhancing Natural Resources since 1939."

State Headquarters

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<https://www.tsswcb.texas.gov/programs/water-quality-management-plan>

<https://www.tsswcb.texas.gov/programs/water-quality-management-plan/poultry-water-quality-management-program>

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Section 201.026, Agriculture Code <i>[Statute Pertaining to the WQMP Program]</i>
Title 31, Part 17, Chapter 523, Texas Administrative Code <i>[WQMP Program Rules]</i>
TSSWCB WQMP Goals and Evaluation Criteria
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Catastrophic Animal Mortality Management (Burial Method) Technical Guidance

Electronic Appendix 2: All WQMP *Poultry* Program Law, Rules, Forms, Fact Sheets, and Technical Guidance Can be Downloaded from: <https://www.tsswcb.texas.gov/programs/water-quality-management-plan/poultry-water-quality-management-program>

Title 31, Part 17, Section 523.3, Texas Administrative Code <i>[WQMP Poultry Program Rules]</i>
WQMPs For Poultry Operations <i>[Overview]</i>

Supplemental Guidance to WQMPs *[For All Dry-Litter Poultry Operations]*

Example Poultry WQMP

Important State Statute Affecting Texas Poultry Producers

Summary of Senate Bill 1693 *[Poultry Odor Control Statute]*

Example Poultry WQMP Odor Control Plan

Burial of Catastrophic Mortality from Poultry Operations

Mortality Composting Regulations for Animal Feeding Operations

Composting Job Sheet

Litter Storage Brochure

TSSWCB REGIONAL AND POULTRY PROGRAM OFFICES

Dublin Regional Office

611 East Blackjack Street, Dublin, TX 76446-2321
Phone: 254-445-4814; 254-445-4815
Fax: 254-445-4819

Hale Center Regional Office

Mailing Address: PO Box 848, Hale Center, TX 79041-0848
Physical Address: 1201 Avenue E, Hale Center, TX 79041
Phone: 806-839-1030
Fax: 806-839-1323

Harlingen Regional Office

1824 West Jefferson Avenue, Suite A, Harlingen, TX 78550-5247
Phone: 956-421-5841
Fax: 956-421-5853

Mount Pleasant Regional Office

1809 West Ferguson Road, Suite B, Mount Pleasant, TX 75455-2955
Phone: 903-572-4471; 903-572-4472
Fax: 903-572-4897

San Angelo Regional Office

3129 Executive Drive, San Angelo, TX 76904
Phone: 325-949-3213
Fax: 325-949-3767

Wharton Regional Office

1120 Hodges Lane, Wharton, TX 77488-4328
Phone: 979-532-9496; 979-532-9497
Fax: 979-532-8765

Nacogdoches Poultry Program Office

2200 Northwest Stallings Drive, Suite 102, Nacogdoches, TX 75964-3070
Phone: 936-462-7020
Fax: 936-462-7009

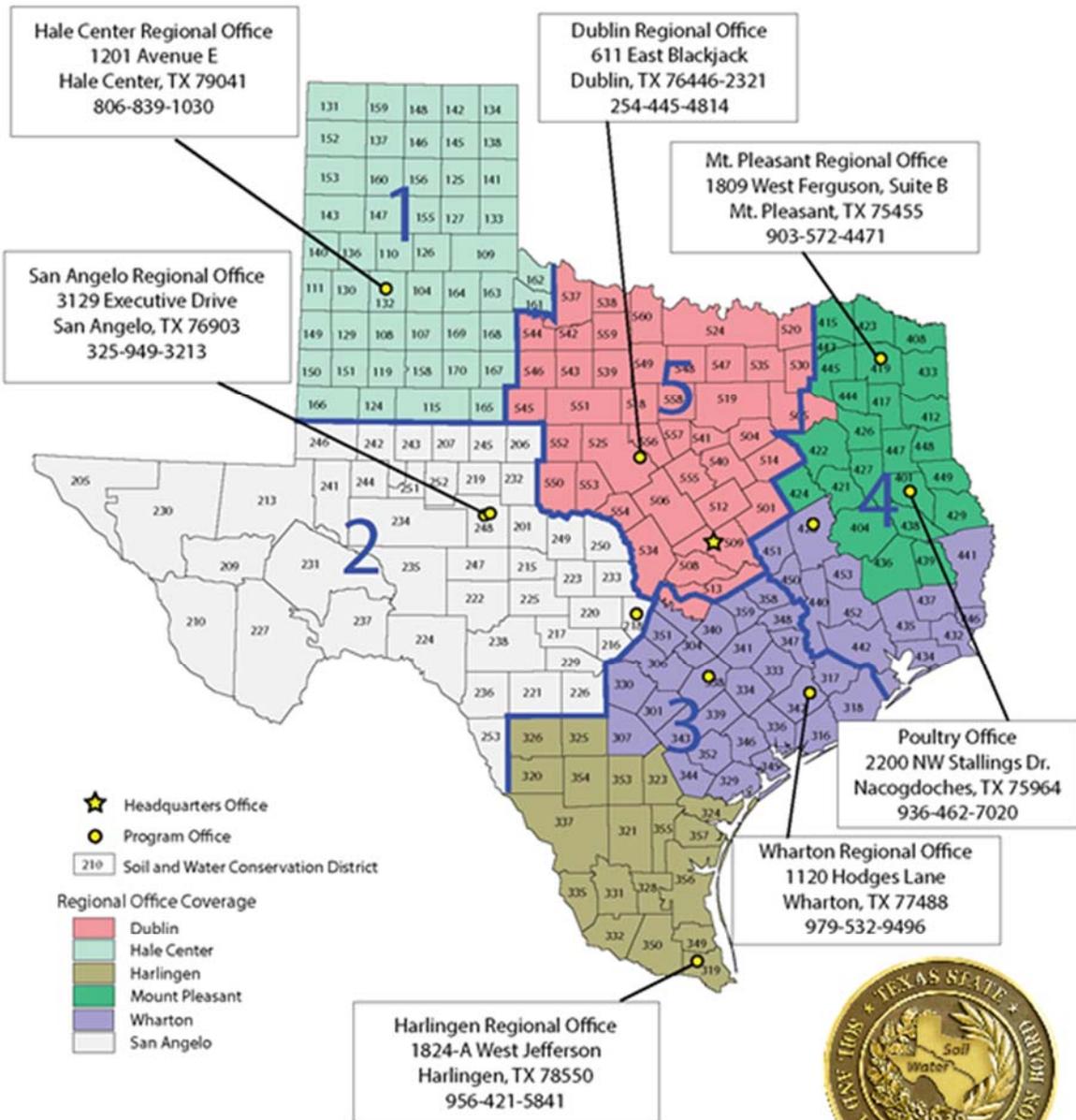
Buffalo Satellite Poultry Program Office

P.O. Box 362, Buffalo, Texas 75831
Phone: 936-245-9027
Fax: 936-462-7009

Gonzales Satellite Poultry Program Office

920 St. Joseph Street, Suite 132, Gonzales, TX 78629
Phone: 830-672-6541
Fax: 830-672-6472

Texas State Soil and Water Conservation Board Regional Office Coverages



SCOPE AND PURPOSE OF THIS REFERENCE GUIDE

The Texas State Soil and Water Conservation Board (TSSWCB) is the state agency that administers Texas' soil and water conservation law and coordinates conservation and nonpoint source water pollution abatement programs throughout for the State.

A water quality management plan (WQMP) is a voluntary, site-specific plan developed through and approved by soil and water conservation districts for agricultural or silvicultural lands. The plan includes appropriate land treatment practices, production practices, management measures, technologies or combinations thereof. The purpose of WQMPs is to achieve a level of pollution prevention or abatement determined by the TSSWCB, in consultation with local soil and water conservation districts, to be consistent with state water quality standards.

The WQMP Program is administered by the TSSWCB, in close coordination with the appropriate SWCD. The TSSWCB, all Texas SWCDs, and the United States Department of Agriculture – Natural Resources Conservation Service (NRCS) are all party to a memorandum of understanding (MOU) that lays out a conservation partnership for all aspects of soil and water conservation in the State. The WQMP Program is administered according to the principles within the MOU. The technical standards that WQMPs are developed in accordance with the NRCS Field Office Technical Guide (FOTG), and each WQMP must meet the requirements for the water quality criteria associated with a resource management system (RMS).

Possessing a certified WQMP provides assurances to the participant that their agricultural and/or land management conservation activities are designed and implemented in a manner that is consistent with achieving state water quality standards. It also provides assurance to the State of Texas that the participant is in compliance with all rules and regulations related to water quality. Additionally, this affords certain benefits to each participant, such as confidentiality, financial assistance toward implementing the WQMP, as well as ensure that any water quality complaints are resolved through the TSSWCB and the local SWCD, rather than the regulatory-compliance and enforcement program at the Texas Commission on Environmental Quality (TCEQ). The TSSWCB and the TCEQ are party to a different MOU that specifies how the two agencies coordinate on compliance and enforcement activities.

This reference guide is intended to be both an informational document for the public and a technical program manual for individuals employed by the TSSWCB, local SWCDs, and employees of the NRCS that facilitate the development and maintenance of water quality management plans certified under Chapter 201, Agriculture Code, and Title 31, Part 17, Chapter 523.

NONPOINT SOURCE (NPS) POLLUTION

Nonpoint Source (NPS) pollution is pollution caused by diffuse sources that are not regulated as point sources and is normally associated with, but is not limited to agricultural, silvicultural, and urban runoff including construction activities.

Such pollution is the result of human-made or human-induced alteration of the chemical, physical, biological and radiological integrity of water. In practical terms, nonpoint source pollution does not result from a discharge at a specific, single location (such as a single pipe) but generally results from land runoff, precipitation, atmospheric deposition, or percolation.

Pollution from nonpoint sources occurs when the rate at which pollutants enter water bodies or groundwater exceeds natural rates, or total loadings exceed natural loadings.

Causes of NPS Pollution

Possible nonpoint source pollutants associated with agricultural and silvicultural activities include nutrients, pesticides, organic matter, sediment, and animal wastes.

These pollutants may be transported to surface waters in solution with runoff water, suspended in runoff water, or adsorbed on eroded soil particles.

The primary concern about agricultural and silvicultural nonpoint source impacts on groundwater relates to the use of pesticides and nutrients and the potential leaching of these compounds to groundwater or surface runoff entering groundwater through avenues such as abandoned and improperly constructed wells.

Agriculture as Defined in the Texas Administrative Code

TAC Citation

Agricultural includes, but not limited to, the following activities:

- Cultivating the soil
- Producing crops for human food, animal feed, planting seed, or fiber
- Floriculture
- Viticulture
- Horticulture
- Aquaculture
- Raising or keeping livestock or poultry.
- Planting cover crops or leaving land idle for the purpose of participating in any government program or normal crop or livestock rotation procedure.

Silviculture as Defined in the Texas Administrative Code

TAC Citation

Silviculture includes, but is not limited to, the following activities:

- Practices to establish, nurture, protect, and enhance the desired growth of trees for human and/or wildlife benefit
- Natural or planted afforestation.
- The propagation and culture of tree seedlings, tree saplings, and Christmas trees
- Controlling, suppressing or culling unwanted woody or herbaceous vegetation in a forested area.
- Establishing and/or maintaining strips or belts of trees for purposes of providing wildlife habitat, wind breaks, or riparian buffers.
- Constructing and maintaining roads and fire lanes.
- Practices and operations that facilitate harvesting, handling and removing timber products from a site where they were grown.

ANIMAL FEEDING OPERATIONS

Confined Animal Feeding Operations (AFOs) occupy a unique place in the WQMP Program because by nature they produce larger quantities of animal by-products than typical agricultural operations, and as such, require more elaborate conservation practices to ensure water quality protection. AFOs, in their entirety as a single functioning facility, may be considered a point or a nonpoint source depending on size, location, and other considerations.

AFOs may be designated as point or nonpoint sources depending on size, location and other considerations. For the purposes of this guide, all AFOs not required to obtain a permit from the Texas Commission on Environmental Quality (TCEQ) will be considered nonpoint source. Those AFOs requiring a permit are *Concentrated Animal Feeding Operations (CAFOs)*. Texas administrative Code, Title 31, Part 17, Section 523.1(a) (B) specifies that all animal feeding operations *not* required to obtain a permit from the TCEQ are considered nonpoint sources. In general terms, AFOs requiring a permit are considered CAFOs (*point source*), and those not requiring a permit are considered AFOs (*nonpoint source*). Title 30, Part 1, Section 321.32 (14) of the TCEQ's administrative rules specify the number of animals for each species that automatically make an operation a CAFO. Only AFOs, with the exception of certain poultry CAFOs, qualify for the WQMP Program.

All dry-litter poultry operations that are not required to obtain authorization from the TCEQ are required by state law to obtain and follow a WQMP. A dry litter poultry *CAFO*, as defined by the TCEQ rules, is only required to obtain authorization by an individual water quality permit or a CAFO general permit if it proposes to discharge to waters of the state, or the executive director of the TCEQ determines that a permit is necessary due to an unauthorized discharge; the operation's failure to comply with, or timely obtain, a certified WQMP approved by the TSSWCB; or other pertinent factors. Any dry-litter poultry CAFO is authorized to be constructed and operated if the operation has a certified WQMP approved by the TSSWCB and is in compliance with the WQMP implementation schedule.

CONFIDENTIALITY OF WQMP INFORMATION

All information collected and possessed by the TSSWCB pertaining to the development, implementation, cost-share incentive funding, and water quality complaint resolution regarding a WQMP is considered confidential by State Law. Upon receipt of an open records request for such information, the TSSWCB routinely requests an opinion from the Attorney General of the State of Texas for verification. Below is **Section 201.006, Agriculture Code**.

Sec. 201.006. CONFIDENTIALITY OF CERTAIN INFORMATION. (a) Except as provided by this section, information collected by the state board or a conservation district is not subject to Chapter 552, Government Code, and may not be disclosed if the information is collected in response to a specific request from a landowner or the landowner's agent or tenant for technical assistance relating to a water quality management plan or other conservation plan if the assistance is to be provided:

(1) under this code; and

(2) on private land that:

(A) is part of a conservation plan or water quality management plan developed cooperatively with the state board or conservation district; or

(B) is the subject of a report prepared by the state board or conservation district.

(b) The state board or a conservation district may disclose information regarding a tract of land to:

(1) the owner of the tract or the owner's agent or tenant; and

(2) a person other than the owner or the owner's agent or tenant if:

(A) the owner or the agent or tenant consents in writing to full or specified partial disclosure of the information; and

(B) the consent is attached to each plan or report regarding the tract prepared by the state board or conservation district.

(c) The state board or a conservation district may disclose, in a manner that prevents the identification of a particular tract of land, the owner of the tract, or the owner's agent or tenant, a summary of information collected by the state board or conservation district regarding:

(1) the number of acres of land that are in a particular conservation plan;

(2) the number of acres of land that are subject to a particular conservation practice; or

(3) other conservation program information.

(d) The state board or a conservation district shall provide a person with notice regarding this section at the time the person requests technical assistance from the state board or conservation district.

(e) The state board or a conservation district may disclose information to a law enforcement agency of this state or the United States in compliance with a subpoena for the information.

(f) The state board or a conservation district may disclose information relating to water quality complaints or compliance failures to the Texas Natural Resource Conservation Commission under Section 201.026.

(g) The state board or a conservation district may disclose to the attorney general information relating to a breach of contract.

(h) The state board or a conservation district may not be held liable for damage caused by a violation of this section.

(i) A reference in this section to the state board or a conservation district includes an officer, employee, or agent of the state board or conservation district.

Added by Acts 1997, 75th Leg., ch. 410, Sec. 1, eff. Sept. 1, 1997.

WQMP PROGRAM ELEMENTS

Problem Area Identification

On its own petition or on the petition of a SWCD, the TSSWCB may designate an area having the potential to develop agricultural or silvicultural nonpoint source water pollution problems.

The TSSWCB identified AFOs as a potential problem statewide. All SWCDs can assist AFOs to develop WQMPs.

The TSSWCB continually evaluates watersheds for inclusion as a problem area for all agricultural activities.

Problem areas may be designated based on the following criteria:

- Data and information submitted by SWCDs;
- Data and information obtained by the TSSWCB;
- Studies conducted by the TSSWCB or SWCDs;
- Assessments, special studies and programs and research conducted relative to surface and underground water quality;
- Guidelines developed and promulgated by the TSSWCB.

The TSSWCB maintains a list of priority watersheds as a part of its management program activities under section 319 of the federal Clean Water Act. This list contains watersheds with the most severe agricultural/silvicultural nonpoint source pollution concerns facing the state at any given time. Identification of priority watersheds is based on an assessment prepared by the State pursuant to the federal Clean Water Act, Section 106, 303d, 305b, 314, and 319; the Coastal Zone Act Reauthorization Amendment (CZARA), Section 6217; the National Estuary Program; the Federal Insecticide, Fungicide and Rodenticide Act; the Texas Water Code, Section 26.0135; the Texas Clean Rivers Program and data and information collected or obtained by other local, state or federal government entities.

It is from the list of priority watersheds that water quality management program areas are identified. In addition, the designated "Coastal Management Zone" is also a program area for the TSSWCB. SWCDs with nonpoint source concerns that they would like to see addressed under the WQMP program should first work with the TSSWCB to assure their problems or concerns are identified as priority watersheds. Once a problem area is on the list of priority watersheds, it may be considered by the TSSWCB for inclusion into the WQMP cost-share program. SWCDs not included in a priority area are also eligible to request cost-share on a case-by-case, plan-by-plan basis by writing to the TSSWCB and requesting such assistance for each producer with a certified WQMP for eligible practices needed to implement the WQMP.

Allocation of Resources

Allocation of resources will be based on priority considerations. In allocating resources for the program, the TSSWCB will consider the following:

- Known problems, where the TSSWCB has determined that adequate data show the existence of a water quality problem caused by agricultural or silvicultural nonpoint sources and in the state designated coastal management zone.
- Potential problems, where the TSSWCB has determined that the intensity and location of certain agricultural and silvicultural activities requires program implementation to prevent pollution problems caused by agricultural and silvicultural nonpoint source activities.
- Corrective action plans needing to be implemented, the economic impact on producers, and benefits to water quality. Corrective action plans may include, but are not limited to, watershed protection plans, total maximum daily loads and associated implementation plans, nonpoint source grant project plans, or certified WQMPs.

Definition of Water Quality Management Plans (WQMPs)

31TAC523.3(b)(16)

A WQMP is a site-specific plan for agricultural or silvicultural lands which includes appropriate land treatment practices, production practices, management measures, technologies or combinations thereof which when implemented will achieve a level of pollution prevention or abatement determined by the TSSWCB in consultation with the local SWCD and the TCEQ to be consistent with achieving Texas surface water quality standards. This will be achieved by developing and implementing plans that meet or exceed the resource quality criteria for water quality at the Resource Management System (RMS) level of treatment as defined in the NRCS-Field Office Technical Guide (FOTG).

Process for Obtaining or Modifying a WQMP

A participant or operator may request the development of a plan or plan modification by the local SWCD. Landowners and operators, following consultation with their SWCD, will be encouraged and aided in working with the SWCD in the preparation of a plan or plan modification based on standards adopted by the TSSWCB to prevent or abate their nonpoint source pollution. The SWCD will determine the priority of plan development or plan modification and subsequently cause the development and approval of the plan or plan modification. A landowner or operator may appeal SWCD decisions relative to practices and practice standards to the TSSWCB in the manner prescribed by the TSSWCB.

When approved, the SWCD submits the plan to the TSSWCB. The TSSWCB then certifies the plan if it is consistent with achieving state water quality standards.

Producers following their certified WQMPs are considered compliant with state water quality laws.

A WQMP should be modified and re-certified when there is a land use change of any part of the operating unit; an addition or deletion of significant acreage to or from the operating unit covered by the WQMP; alteration of planned permanent practice measures including addition or deletion of such; changes identified by research and advanced technology as being needed to meet Texas surface water quality standards; or when more stringent measures become necessary to meet Texas surface water quality standards.

Establishment of Practice Standards

Practice Standards will be based on specific local conditions.

Practice standards will be those based on criteria in the NRCS FOTG; however, modification of those practice standards to ensure consistency with achieving Texas surface water quality standards and the Texas Nonpoint Source Management Program will be made as necessary.

Practice standards will be developed in conjunction with the local SWCD and with assistance and advice of the USDA-Natural Resources Conservation Service (NRCS), Texas AgriLife Extension Service, Texas Forest Service, Texas AgriLife Research, TCEQ, the local underground water conservation district and others as determined to be needed by the TSSWCB.

Texas Surface Water Quality Standards

To the extent allowed by available technology, WQMP development, approval and certification will be based on its contribution to achieving Texas surface water quality standards as established by the TCEQ. The Texas Surface Water Quality Standards establish explicit goals for the quality of streams, rivers, lakes, and bays throughout the state. The Standards are developed to maintain the quality of surface waters in Texas so that it supports public health and enjoyment and protects aquatic life, consistent with the sustainable economic development of the state.

Water quality standards identify appropriate uses for the state's surface waters, including aquatic life, recreation, and sources of public water supply (or drinking water). The criteria for evaluating support of those uses include dissolved oxygen, temperature, pH, dissolved minerals, toxic substances, and bacteria. Statewide standards may be revised on a site-specific basis when sufficient information is available.

WQMP Requirements

Senate Bill 503 of the 73rd Legislature (*codified at Chapter 201.026, Agriculture Code*) provides for the development and certification of WQMPs. These plans are site specific plans for agricultural or

silvicultural lands which include appropriate land treatment practices, production practices, management measures, technologies or combinations thereof.

When implemented they are to achieve a level of pollution prevention or abatement determined by the TSSWCB, in consultation with the local SWCD and TCEQ, to be consistent with achieving state water quality standards. Conservation planning and implementation at the RMS level of treatment for water quality accomplishes this. To be certified, a WQMP must at a minimum meet the resource quality criteria for water quality specified within the NRCS FOTG and encompass all lands that constitute an operating unit for agricultural or silvicultural nonpoint source pollution abatement purposes. It is the decision of the State Board that the implementation of a WQMP based on the NRCS FOTG, including all practices required to minimally meet the resource quality criteria for water quality at the RMS level, represents the best available technology for meeting Texas surface water quality standards.

A WQMP must contain an implementation schedule. The legislature gave responsibility for this program to the TSSWCB and SWCDs, in part, because it wanted the implementation schedule, as far as is practicable, to balance the State's need for protecting water quality with the needs of agricultural and silvicultural producers to have sufficient time to implement practices in an economically feasible manner. No other entity is more qualified to make this determination than a SWCD. This places tremendous responsibility on SWCDs, because these types of decisions require judgment and local knowledge.

Consideration must be given to local conditions and economy and must place appropriate importance on protecting the state's water resources.

TSSWCB policy requires that a WQMP cover an entire operating unit before it is eligible for certification. The intent of the TSSWCB is that, when a WQMP is certified and implemented, it will protect water quality to a degree consistent with the state's water quality standards. Certification by the TSSWCB affords the producer certain protections under state law in that it holds the same status as a discharge permit. It is important that certified WQMPs do what they are intended to do and protect water quality consistent with state standards.

To do that, all unpermitted activities on an agricultural or silvicultural operation must be addressed. The term operating unit is used by the TSSWCB to assure that a property with a certified plan is meeting the state's water quality requirements with all its activities. Therefore, the policy includes a requirement that a plan include the entire operating unit. There is an element of judgment involved in making determinations as to whether or not a plan covers an operating unit. Again, no other entity is better equipped to make such decisions than a SWCD. The SWCD confirms that a plan includes an operating unit with its approval of the plan by signing the *Certification Form (TSSWCB005)* or the *Revised Certification Form (TSSWCB006)*.

Implementation Schedule

A WQMP must contain an implementation schedule. The implementation schedule will, as far as is practicable, balance the State's need for protecting water quality with need of agricultural and silvicultural producers to have sufficient time to implement practices in an economically feasible manner.

Highest priority will be given to the implementation of the most cost effective and most needed pollution abatement practices.

The TSSWCB, in consultation with affected SWCDs, will conduct status reviews of the implementation of selected WQMPs.

The TSSWCB, in consultation with the local SWCDs, may withdraw certification of a WQMP that is not being implemented in accordance with its schedule. Prior to certification being withdrawn, a participant will be notified and provided a reasonable period of time to implement the WQMP according to the schedule or a modified schedule approved by the SWCD.

The holder of a certified WQMP shall notify the local SWCD in the event he or she deviates from the implementation schedule.

Setting Priorities

The SWCD should establish priorities for water quality management planning assistance. In assigning priorities for plan development or plan modification, the law requires that water quality considerations are the primary factor in determining priorities. Priority assignments for water quality purposes should be included as part of the SWCD's ongoing priority determination for conservation programs within its boundaries and should address the TSSWCB determination of priority activities.

Request for Assistance

The first step in the water quality planning process is when a producer requests assistance from the SWCD to obtain a WQMP. The producer should fill out a *Request for Water Quality Management Planning Assistance, form (TSSWCB-001)*. If the producer is not already a cooperator with the SWCD, a SWCD cooperator agreement should be executed at this time. The producer may also indicate interest in cost-share. Operations required to have a permit with TCEQ (CAFO's), other than certain dry-litter poultry operations, are not eligible for participation in the WQMP program.

Each request for planning assistance will be assigned a four -digit number representing the sequential order in which the planning requests are received. When a WQMP is developed, the plan will be numbered as follows:

A nine-digit number scheme in the format of ###-##-#### will be utilized.

The first three digits will be the SWCD number. The middle two digits will reflect the fiscal year in which the resulting plan is certified. If the year of certification is doubtful at the time the plan is completed, this segment of the number may be left blank until the plan is certified. The last four digits will be the same as the number of the request for planning assistance.

The SWCD, within its priority system, may then cause plan development to begin. Depending on technical needs and workload, the plan development may be accomplished by the local NRCS, TSSWCB regional office personnel and/or SWCD personnel.

Note: A cooperator may get an outside party to develop the plan then submit the WQMP to the local SWCD and NRCS for technical review.

Approval and Certification Process

The TSSWCB adopted the NRCS FOTG as the criteria applicable for WQMPs. This guide is specifically tailored for the geographic area of each SWCD. The FOTG contains technical information such as:

- Important conservation considerations for natural resources;
- Quality criteria and treatment levels;
- Conservation management system guide sheets by land use;
- And practice standards and specifications.

Each SWCD annually reviews and adopts the Technical Guide as the criteria for use within the SWCD. Both the TSSWCB and SWCDs are involved in the development and maintenance of the Technical Guide.

In the same fashion as a conservation plan, SWCD approval of a WQMP should be based on conformity with the technical guide and adherence to its priorities and policies. Certification of conformity with the technical guide will normally be made by a conservation planner.

WQMP Certification form (TSSWCB-005) should be signed by the applicant, a conservation planner and SWCD. After SWCD approval, an original signed copy of the form should be sent to the TSSWCB regional office, along with two copies of the plan. Plans are sent to the TSSWCB regional offices to be reviewed for final certification. Once certified, the producer has a plan that meets the state's goals for water quality as per Section 26.121 of the Texas Water Code.

The TSSWCB will then return both copies of the plan to the SWCD with signature sheets completed. The producer should be given his or her copy of the certified WQMP. The SWCD should retain a copy in its regular files. The TSSWCB retains an electronic scan of each plan in a program database.

WQMP DEVELOPMENT

The TSSWCB requires that WQMPs meet the resource quality criteria for water quality at the RMS level as defined in the FOTG. The NRCS National Planning Procedures Handbook will also be used to set standards for planning requirements and plan content.

Criteria Considered When Developing a WQMP

Operating Unit

31TAC523.3(b)(7)

A WQMP must be developed to address the entire operating unit. An operating unit is defined as land or lands, whether contiguous or non-contiguous, owned and/or operated in a manner that contributes or has the potential to contribute agricultural or silvicultural nonpoint source pollution to water in the state. An operating unit must be determined through mutual agreement by the holder of the WQMP, the SWCD, and the TSSWCB.

When determining the applicability of an operating unit, the following criteria must be considered:

- Contiguous lands under the same ownership and/or operational control must be considered one operating unit.
- Non-contiguous lands under the same ownership and/or operational control may be considered as more than one operating unit when there is mutual agreement by the SWCD and the potential holder of the WQMP unless the lands are associated with an animal feeding operation.
- An operating unit, when devised for an animal feeding operation, must at a minimum encompass all land or lands owned and/or operated by the holder of the WQMP that are used to produce feed that is consumed by the animals, as well as all land or lands owned and/or operated by the potential holder of the WQMP where manures or other agricultural by-products are beneficially used as a source of nutrients to produce food or fiber for any use.
- Land or lands within the scope of an existing operating unit for a certified WQMP may not be separated from the existing operating unit to establish another operating unit unless the ownership of the lands being separated into a new operating unit has changed.
- Where mutual agreement regarding an operating unit's consistency with these rules is not achieved by the potential holder of the WQMP, the SWCD, and the TSSWCB, the TSSWCB will make a final determination whether to certify the WQMP.

Essential Practices

Include essential practices applicable to the land-use planned. See the *NRCS Electronic FOTG* on the agency's website for complete copies of each practice standard referenced below.

- **For Cropland**

- Conservation Crop Rotation (FOTG Code 328): A planned sequence of crops grown on the same ground over a period of time (i.e. the rotation cycle). The purpose of conservation crop rotation is support one or more of:
 - Reduce sheet, rill and wind erosion.
 - Maintain or increase soil health and organic matter content.
 - Reduce water quality degradation due to excess nutrients.
 - Improve soil moisture efficiency.
 - Reduce the concentration of salts and other chemicals from saline seeps.
 - Reduce plant pest pressures.
 - Provide feed and forage for domestic livestock.
 - Provide food and cover habitat for wildlife, including pollinator forage, and nesting.

This practice applies to all cropland where at least one annually-planted crop is included in the crop rotation.

- Residue and Tillage Management [No-Till and Strip Till, Mulch Till, Ridge-Till or Seasonal] (FOTG Code 329): Limiting soil disturbance to manage the amount, orientation and distribution of crop and plant residue on the soil surface year around. The purpose of residue and tillage management is to:
 - Reduce sheet, rill and wind erosion and excessive sediment in surface waters.
 - Reduce tillage-induced particulate emissions.
 - Maintain or increase soil health and organic matter content.
 - Increase plant-available moisture.
 - Reduce energy use.
 - Provide food and escape cover for wildlife.

This practice applies to all cropland.

- **For Hayland**

- Forage Harvest Management (FOTG Code 511): The timely cutting and removal of forages from the field as hay, green-chop or ensilage. The purpose of forage harvest management is to:
 - Optimize yield and quality of forage at the desired levels
 - Promote vigorous plant re-growth
 - Manage for the desired species composition

- Use forage plant biomass as a soil nutrient uptake tool
- Control insects, diseases and weeds
- Maintain and/or improve wildlife habitat

This practice applies to all land uses where machine harvested forage crops are grown.

- **For Rangeland**

- Prescribed Grazing (FOTG Code 528): Managing the harvest of vegetation with grazing and/or browsing animals with the intent to achieve specific ecological, economic, and management objectives. Prescribed grazing should be applied as a part of a conservation management system to achieve one or more of the following:
 - Improve or maintain desired species composition, structure and/or vigor of plant communities.
 - Improve or maintain quantity and/or quality of forage for grazing and browsing animals' health and productivity.
 - Improve or maintain surface and/or subsurface water quality and/or quantity.
 - Improve or maintain riparian and/or watershed function.
 - Reduce soil erosion and maintain or improve soil health.
 - Improve or maintain the quantity, quality, or connectivity of food and/or cover available for wildlife.
 - Manage fine fuel loads to achieve desired conditions.

This practice applies to all lands where grazing and/or browsing animals are managed.

- Watering Facility (FOTG Code 614): A source of water is required for rangeland planning. A watering facility is a means of providing drinking water to livestock or wildlife. The purpose of a watering facility is to store or provide designated access to drinking water for livestock or wildlife to:
 - supply daily water requirements
 - improve animal distribution
 - provide a water source that is an alternative to a sensitive resource

This practice applies to all land uses where there is a need for a watering facility for livestock or wildlife, where there is a source of water that is adequate in quantity and quality for the purpose, and where soils and topography are suitable for a facility.

- **For Pastureland**

- Prescribed Grazing (FOTG Code 528): Managing the harvest of vegetation with grazing and/or browsing animals with the intent to achieve specific ecological, economic, and management objectives. Prescribed grazing should be applied as a part of a conservation management system to achieve one or more of the following:
 - Improve or maintain desired species composition, structure and/or vigor of plant communities.
 - Improve or maintain quantity and/or quality of forage for grazing and browsing animals' health and productivity.
 - Improve or maintain surface and/or subsurface water quality and/or quantity.
 - Improve or maintain riparian and/or watershed function.
 - Reduce soil erosion and maintain or improve soil health.
 - Improve or maintain the quantity, quality, or connectivity of food and/or cover available for wildlife.
 - Manage fine fuel loads to achieve desired conditions.

This practice applies to all lands where grazing and/or browsing animals are managed.

- Watering Facility (FOTG Code 614): A source of water is required for rangeland planning. A watering facility is a means of providing drinking water to livestock or wildlife. The purpose of a watering facility is to store or provide designated access to drinking water for livestock or wildlife to:
 - supply daily water requirements
 - improve animal distribution
 - provide a water source that is an
 - alternative to a sensitive resource

This practice applies to all land uses where there is a need for a watering facility for livestock or wildlife, where there is a source of water that is adequate in quantity and quality for the purpose, and where soils and topography are suitable for a facility.

Nutrient Management (FOTG Code 590)

Nutrient management means managing the amount (rate), source, placement (method of application), and timing of plant nutrients and soil amendments. The purpose of nutrient management is to budget, supply, and conserve nutrients for plant production to minimize agricultural nonpoint source pollution of surface and groundwater resources, properly utilize manure or organic byproducts as a plant nutrient source, protect air quality by reducing odors, nitrogen emissions (ammonia, oxides of nitrogen), and the formation of atmospheric particulates.

Additionally, nutrient management maintains or improves the physical, chemical, and biological condition of soil. This practice applies to all lands where plant nutrients and soil amendments are applied. This standard does not apply to one-time nutrient applications to establish perennial crops. Nutrient management practices are documented within a nutrient management plan in accordance with NRCS and Texas AgriLife Extension (Texas A&M University).

Integrated Pest Management

Integrated Pest Management is required when pesticides are applied. A site-specific combination of pest prevention, pest avoidance, pest monitoring, and pest suppression strategies. The purpose of integrated pest management is to prevent or mitigate off-site pesticide risks to water quality from leaching, solution runoff and adsorbed runoff losses, and prevent or mitigate off-site pesticide risks to soil, water, air, plants, animals and humans from drift and volatilization losses. Additionally, to prevent or mitigate on-site pesticide risks to pollinators and other beneficial species through direct contact, and prevent or mitigate cultural, mechanical and biological pest suppression risks to soil, water, air, plants, animals and humans. This practice applies to all lands where pests will be managed.

Animal Waste and Mortality Management

Proper animal waste and mortality management is required when an AFO is involved. The following conservation practices, but not limited to these, are requirements.

- Waste Utilization (FOTG Code 590 – Nutrient Management): Waste utilization is now addressed through the Nutrient Management Practice Standard (see above and refer to the Practice Standard for waste utilization requirements).
- Animal Mortality Facility (FOTG Code 316): An on-farm facility for the treatment or disposal of animal carcasses due to routine mortality. This practice may be applied to achieve one or more of the following purposes:
 - reduce pollution impacts to surface water and groundwater resources
 - reduce the impact of odors
 - decrease the spread of pathogens

This standard applies to livestock and poultry operations where routine animal carcass storage, treatment, or disposal is needed. This standard *does not* apply to catastrophic animal mortality. In cases of catastrophic animal mortality, use:

- Emergency Animal Mortality Management (FOTG Code 368): A means or method for the management of animal carcasses from catastrophic mortality events. This practice may be applied to achieve one or more of the following purposes:
 - reduce impacts to surface water and groundwater resources
 - reduce the impact of odors
 - decrease the spread of pathogens

This standard applies to animal operations where a catastrophic event would result in the need to manage animal carcasses. This practice may not apply to catastrophic mortality resulting from disease. In cases of disease-related catastrophic mortality, this standard is applicable only when the appropriate State or Federal authority (typically the State veterinarian or USDA Animal and Plant Health Inspection Service (APHIS)) approves the use of the methods in this standard. This practice does not apply to routine animal mortality. For routine animal mortality, use Conservation Practice Standard Code 316, Animal Mortality Facility. Additionally, the TSSWCB has prepared guidance documents specific to mortality management in both scenarios. See the Electronic Appendices listed in this document's Table of Contents.

Irrigation Systems and Irrigation Management

When irrigated land is involved, irrigation systems and irrigation water management are required. Irrigation Water Management (FOTG Code 449) is the process of determining and controlling the volume, frequency, and application rate of irrigation water. The purposes of Code 449 include improving irrigation water use efficiency, minimizing irrigation induced soil erosion, decreasing degradation of surface and groundwater resources, managing salts in the crop root zone, managing air, soil, or plant micro-climate, and reducing energy use. This practice is applicable to all irrigated lands. An irrigation system adapted for site conditions (soil, slope, crop grown, climate, water quantity and quality, air quality, etc.) must be in place and capable of efficiently applying water to meet the intended purpose(s). There are many individual irrigation practices that may be applied in conjunction with Code 449, and include:

- Irrigation Canal or Lateral (FOTG Code 320)
- Irrigation Ditch Lining (FOTG Code 428)
- Irrigation Field Ditch (FOTG Code 388)
- Irrigation Land Leveling (FOTG Code 464)
- Irrigation Pipeline (FOTG Code 430)
- Irrigation Reservoir (FOTG Code 436)
- Irrigation System, Microirrigation (FOTG Code 441)
- Irrigation System, Surface and Subsurface (FOTG Code 443)
- Irrigation System, Tailwater Recovery (FOTG Code 447)

All of the above referenced practice standards can be accessed through the NRCS Electronic FOTG website.

Erosion Control

Each WQMP must include erosion control measures to bring soil loss to tolerance levels established for each soil type. Other forms of erosion control must be used according to quality criteria in the FOTG.

Field Office Technical Guide Requirements for the WQMP to Meet Resource Management System (RMS) Water Quality Criteria

At a minimum, each WQMP must include certain other practices related to the water quality criteria within the FOTG to meet site concerns for a RMS. Below are the considerations/problems and quality criteria in Section III of the FOTG regarding conservation management systems.

**U. S. DEPARTMENT OF AGRICULTURE - FOTG
Natural Resources Conservation Service
Texas**

**Section III
Technical Guide
May 2002**

RESOURCE QUALITY CRITERIA

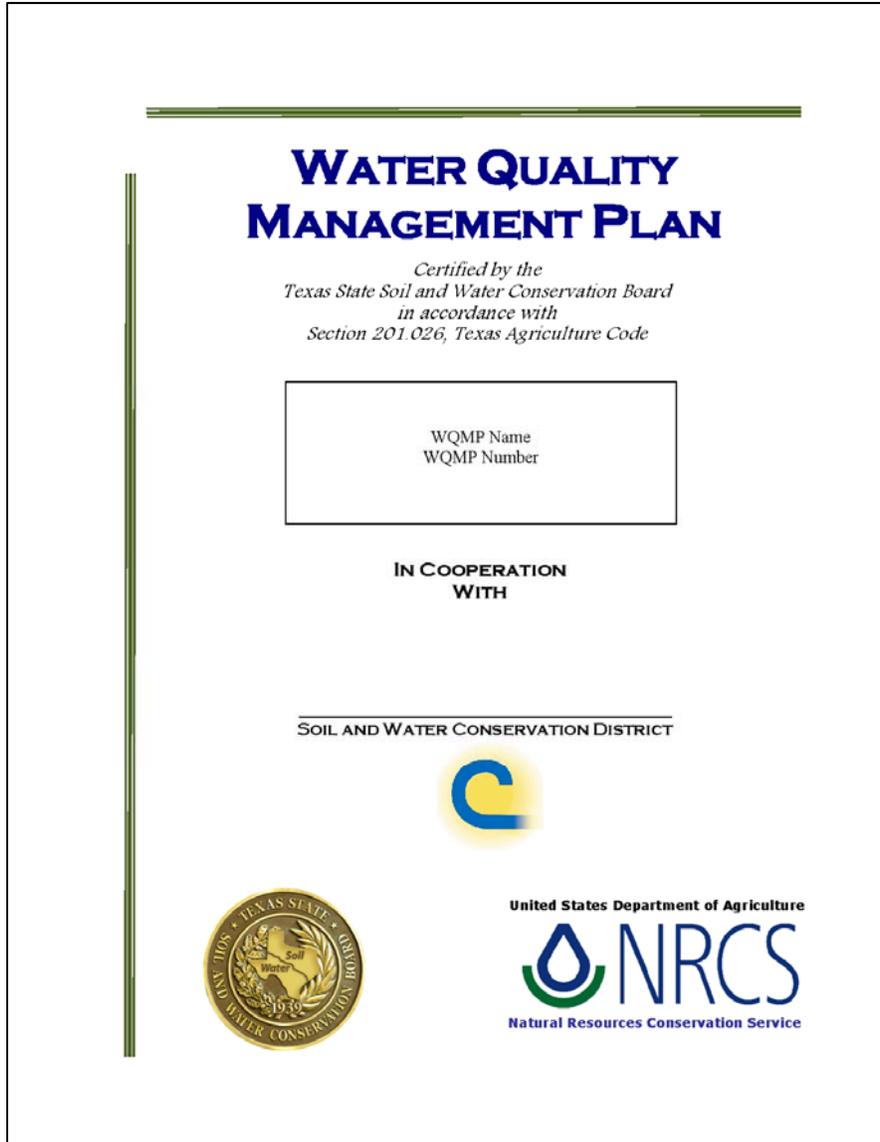
RESOURCE	CONSIDERATION/PROBLEM	QUALITY CRITERIA
WATER	Quality – Ground Water Contaminants – Pesticides Ground water pollution resulting from inappropriate use of chemicals to manage weeds, insects, or disease.	Criteria is met when the treated area no longer contributes to the ground water contamination and application of pesticides is in accordance with Pest Management, Brush Management, and/or Forest Stand Improvement practice standard. Federal, state, and local laws will be followed.
WATER	Quality – Ground Water Contaminants – Nutrients And Organics – Ground water pollution resulting from the inappropriate use of nutrients or organics.	Criteria is met when the treated area no longer contributes to the ground water contamination and the application of nutrients or animal waste is according to Nutrient Management and/or Waste Utilization practice standard. Federal, state, and local laws will be followed.
WATER	Quality – Ground Water Contaminants – Salinity Ground water pollution problems resulting from excess amounts of salts.	Criteria is met when the planned measures on the treated area are not contributing to the ground water contamination from excess salts.
WATER	Quality – Ground Water Contaminants – Heavy Metals - Ground water pollution problems resulting from excess heavy metals.	Criteria is met when the planned measures on the treated area are not contributing to the ground water contamination from heavy metals.

WATER	<p>Quality – Contaminants – Pathogens Ground water pollution Problems as a result of Excess pathogens.</p>	Criteria is met when the planned measures on the treated area are no longer adversely contributing to the ground water contamination from pathogens.
WATER	<p>Quality – Surface Water Contaminants – Pesticides Surface water pollution resulting from inappropriate use of chemicals to manage weeds, insects, or disease.</p>	Criteria is met when the treated area no longer contributes to the surface water contamination of pesticides, and the application of pesticides is according to the Pest Management, Brush Management, and/or Forest Stand Improvement practice standard. Federal, state, and local laws are followed.
WATER	<p>Quality – Surface Water Contaminants – Nutrients And Organics – Surface water pollution resulting from the inappropriate use of nutrients or organics.</p>	Criteria is met when the treated area no longer contributes to the surface water contamination from nutrients or organics and the application of nutrients or animal waste is according to Nutrient Management and/or Waste Utilization practice Standard, and all Federal, state, and local laws are followed.
WATER	<p>Quality – Surface Water Contaminants – Suspended Sediment and Turbidity – Surface water pollution problems in streams and lakes from suspended sediment and turbidity.</p>	Criteria is met when the planned measures on the treated area no longer adversely contribute to surface water contamination from suspended sediment and turbidity and all federal, state, and local laws are followed.
WATER	<p>Quality – Surface Water Low Dissolved Oxygen – Surface water problems Resulting from low dissolved oxygen and biological oxygen.</p>	Criteria is met when the planned measures on the treated area no longer adversely contribute to surface water contamination from low dissolved oxygen.
WATER	<p>Quality – Surface Water Contaminants – Salinity Surface water pollution problems resulting from excess common salts.</p>	Criteria is met when the planned measures on the treated area no longer adversely contribute to surface water contamination from salinity.
WATER	<p>Quality – Surface Water Contamination – Heavy Metals Surface water pollution problems resulting from excess levels of heavy metals.</p>	Criteria is met when the planned measures on the treated area no longer adversely contribute to surface water contamination from heavy metals.

WATER	Quality – Surface Water Temperature – Surface water has an undesirable water temperature.	Criteria is met when the planned measures on the treated area no longer adversely contribute to surface water temperature problems.
WATER	Quality – Surface Water Contamination – Pathogens Surface water pollution problems resulting from excess pathogens.	Criteria is met when the planned measures on the treated area no longer adversely contribute to surface water contamination from pathogens.
WATER	Quality – Aquatic Habitat Habitat – Water quality problems in open water benthic, or streambed embryo habitat.	Criteria is met when the planned measures provide suitable habitat for aquatic species to grow, reproduce, and perpetuate acceptable population levels or do not affect existing aquatic habitat.
WATER	Protection – Endangered And Threatened Species Endangered or threatened plants occupy the site or habitat for endangered or threatened animals is on the site.	Criteria is met when planned measures do not adversely affect the identified species or habitat.

Component Parts of a WQMP

All WQMPs will be assembled into a folder indicating the authenticity of the plan.



- SWCD cooperator agreement.
- Request for WQMP planning assistance.
- Soil Map with appropriate interpretations.
- Conservation WQMP Map showing boundaries, fields, land use and acres, facilities, etc. Other appropriate maps will be added depending on type of plan.
- Location Map
- A narrative record of decisions (CPO) using appropriate forms. Narratives should be developed for each identified practice that is needed for a WQMP.

- Implementation Schedule (month/year practices are to be applied in proper sequence).
- Worksheets used during the inventory or planning phases: waste utilization/nutrient management plan, forage inventories, grazing plans, erosion worksheets, engineering notes and designs, planning notes, etc.
- Environmental evaluation. (As required for NRCS technical assistance.)
- Signature Sheet Certification Sheet. (Original signatures of Cooperator, NRCS, SWCD, TSSWCB.)
- Conservation assistance notes.

Sequence of WQMP Development

The sequence of events in the planning process is as follows:

1. The participant requests planning assistance.
2. The SWCD approves this request and sets a planning priority.
3. The plan is developed.
4. The producer's signature is to be entered after he has reviewed the completed WQMP document and agrees that it is what he intends to do.
5. A certified conservation planner other than the developer will certify that the WQMP complies with the resource quality criteria for water quality at the technical guide requirements for an RMS.
6. The SWCD then confirms that the entire operating unit is included and approves the WQMP as meeting their program, plan and priorities.
7. The SWCD submits the plan to the TSSWCB regional office for review and certification.

The dates on all forms should reflect that the correct planning sequence has been followed.

Status Reviews

The purpose of the WQMP Status Review is to verify that implementation and maintenance of the practices scheduled in certified WQMPs are current and to determine if plan modifications are needed. The implementation schedule should balance the state's need for protecting water quality with producer's need to have sufficient time to implement practices in an economically feasible fashion.

All certified WQMPs will be subject to a Status Review at the end of one full year following plan certification.

WQMP Status Reviews will be conducted on certified plans each year. The review will be done on the property covered by the plan.

Plans on which WQMP Status Reviews are to be made will be selected by the TSSWCB regional offices based on the priority issues in each area.

The staff of the TSSWCB or qualified SWCD personnel will conduct WQMP Status Reviews. Each WQMP Status Review should be made with the producer or his/her representative present. Local SWCD directors and NRCS personnel will be invited to attend and participate in the review. Arrangements for the review will be made in advance with the producer, the applicable SWCD and authorized NRCS representative.

During the WQMP Status Review, the progress in applying the practices in the plan, the condition of existing practices and the need for follow-up assistance will be observed and noted. The results will be recorded on the *WQMP Status Review form (TSSWCB-008)*. Copies of the completed form will be provided to the producer and the local SWCD for filing in the applicable WQMP. The original will be filed in the SWCD copy of the plan.

All items determined during the review to need corrective action will be discussed with the local SWCD. If it is determined that corrective action is required, the producer will be advised, and plans will be developed to enable him/her to remain in compliance with their plan. Results of follow up assistance will be documented on *Record of Follow Up Assistance Water Quality Management Plan Status Review Form (TSSWCB-009)*.

In situations where the producer is unable or is unwilling to take steps to correct items needing correction, the SWCD should take the following action:

- Establish a time frame for the holder of the plan to meet the requirements established in their WQMP.
- Notify the holder of the plan of the deadline explaining that failure to meet the requirements of the plan can result in decertification of the plan. This notice should be delivered by certified mail to establish the beginning of the allowed time frame.

- If the holder of the plan fails to meet the established time frame, the SWCD should request that the TSSWCB decertify the plan. This request should be in a letter form.
- If the decertified plan is on an AFO, the TSSWCB is required to notify TCEQ.

CAFO Inspections for Dry-Litter Poultry Farms

All poultry farms that meet the definition of a Concentrated Animal Feeding Operation (CAFO) as defined in Title 30, Texas Administrative Code, Chapter 321, Subchapter B, are subject to annual inspections. Those dry-litter poultry farms that operate under a WQMP and choose not to obtain permit coverage from TCEQ will be inspected by TSSWCB staff. Aggregated data regarding these inspections is reported to TCEQ on a quarterly basis and may be shared with the U.S.

Environmental Protection Agency (EPA) in accordance with TCEQ's delegation agreement with EPA. This only occurs for Poultry WQMPs that are defined by EPA and TCEQ regulations and rules as CAFOs. No site-specific information is disclosed by TSSWCB; only information such as numbers of inspections performed, county, and a brief description of the results. Failure to implement corrective action on WQMP implementation needs may at some point result in further inquiries and action by TCEQ. The TSSWCB informs CAFO Dry-Litter Poultry WQMP Program participants of the possible outcomes of non-compliance with recommendations from TSSWCB upon completion of each inspection (if such issues are identified).

Modifications

A WQMP must be modified when land use changes are made, significant areas of land are added or deleted, or other changes occur where modification of the plan becomes necessary to maintain consistency with a producer's operation.

Minor modifications that can be accomplished by *pen-and-ink* changes include:

- Slight adjustments in the implementation schedule that do not change the effectiveness of the plan;
- Modification of components needed to complete a planned practice measure; or
- Slight corrections to acres in a field.

Modifications that require *recertification* include:

- The addition or deletion of significant acreage, such as the acquisition of new land that will be managed as part of the operating unit covered by the certified WQMP or the loss of significant acreage covered by the certified WQMP;
- Alteration of planned permanent practice measures including the addition or deletion of such;
- A land use change of any part of the operating unit; or
- A change of ownership or producer.

When pen and ink changes are made, a copy of the conservation plan of operation (CPO) pages on which the changes were made must be sent to the TSSWCB regional office for review. Because WQMPs are now generated electronically with a computer, it is sometimes easier to make the correction at the SWCD and print a new CPO.

Recertification can be accomplished as follows:

- Print the revised CPO.
- Revise the plan map if needed.
- Prepare two copies of the *Revised Certification form (TSSWCB-006)* with a brief narrative at the top of the form explaining the changes being made followed by signature and date spaces for representatives of each of the four entities signing the original plan certification form. Have the cooperator, conservation planner, and the SWCD sign and date both copies of the Revised Certification form.
- Send a copy of the revised CPO and both copies of the signed revised certification form to the TSSWCB regional office.
- The revised certification form will be signed by the regional manager and returned to be filed immediately in front of the original certification form in each copy of the plan.

It is recommended that the replaced CPO be retained in the SWCD copy of the plan. It can be filed behind the new CPO and marked as having been revised.

Resolution of Complaints Concerning a WQMP

Complaints concerning the violation of a WQMP or a violation of a law or rule relating to nonpoint source pollution will be addressed as follows.

1. The TSSWCB will investigate complaints regarding:
 - a. agricultural and silvicultural nonpoint sources;
 - b. operations with a certified WQMP;
 - c. operations that have applied for a WQMP;
 - d. nonpoint source problems related to operations needing a WQMP; and
 - e. general complaints regarding agricultural and silvicultural nonpoint source related pollution.

2. Determination of the need for action.
 - a. The TSSWCB in consultation with the SWCD will make a determination relative to the need for action.
 - b. To the extent practicable, the complainant will be interviewed by the TSSWCB and the SWCD prior to an investigation.
 - c. The TSSWCB in consultation with the local SWCD will, based on complainant interviews and investigations, including a review of the WQMP on file with the TSSWCB and/or the SWCD, determine whether or not the need for corrective action exists.
 - d. The TSSWCB will inform the complainant of the outcome of a determination upon completion of the investigation and it is determined whether the need for corrective action exists.
 - e. Upon completion of an investigation by the TSSWCB and all pertinent SWCDs, and provision of the final investigative determination to all complainants and operators interviewed and investigated, any complainant or operator interviewed or investigated shall be provided an opportunity for a hearing before members of the SWCD or SWCDs involved in the investigation.
 - f. Subsequent to a hearing before members of the local SWCD or SWCDs involved in the investigation, any complainant or operator interviewed or investigated may request a hearing before the State Board. The State Board may provide for the requested hearing at its discretion.

3. Corrective action plan. Once the determination of the need for action is made, a corrective action plan will be developed.
 - a. The corrective action plan must meet all requirements of a certified WQMP.
 - b. The corrective action plan will be developed in consultation with the SWCD in the same manner as a WQMP is developed.
 - c. The corrective action plan will be developed with the technical assistance from the Natural Resources Conservation Service, Texas AgriLife Extension Service, Texas

Forest Service, the local underground water conservation district, and/or TSSWCB as appropriate.

4. If the person upon whom the complaint was filed fails or refuses to take warranted corrective action within 45 days of notification of the outcome of the investigation, the TSSWCB shall refer the complaint to the TCEQ in accordance with state law and the MOU between the TCEQ and TSSWCB.

COST-SHARE PROGRAM

General Purpose

The purpose of cost-share funding is to provide an incentive to participants or operators to install soil and water conservation land improvement measures consistent with the purpose of controlling erosion, conserving water, and protecting water quality in accordance with a WQMP certified by the TSSWCB.

The intent of the WQMP Program is to see WQMPs developed and implemented permanently. Cost-share assistance is intended as an incentive and not the driving force behind the program. It is the policy of the TSSWCB to cost-share on the basis of actual cost not to exceed the average cost as determined by the local SWCDs.

Responsibilities of the TSSWCB

- Establish a procedure to allocate funds to a specific SWCD or to cost-share incentive funding priorities for utilization by multiple SWCDs.
- Establish conservation practice(s) eligible for cost-share incentive funding and their standards, specifications, maintenance and expected life.
- Establish maximum cost-share rate for each conservation practice(s) approved for cost-share incentive funding.
- Establish, prior to September 1 of each year, the minimum cost-share incentive funding amount that may be made under the program and the maximum cost-share incentive funding amount that an eligible person may be obligated from in any one program year.
- Provide verification to a SWCD that an application qualifies for cost-share incentive funding from a selected cost-share incentive priority prior to SWCD obligation of funds.
- Perform clerical, administrative and record keeping responsibilities required for carrying out the cost-share incentive funding activities.
- Receive and maintain monthly reports from SWCDs which have been directly allocated an amount of cost-share funding showing the unobligated balance of allocated funds as shown on each ledger at the close of the last day of each month.
- Receive requests for reallocated funds and funds reverted from participating SWCDs that received a direct allocation.
- Act on appeals filed by applicants.
- Process vouchers and issue warrants for cost-share to eligible recipients.

Allocation of Funds

The TSSWCB may allocate funds appropriated from the general revenue fund and other sources for cost-share incentive funding among particular soil and water conservation land improvement measures, specific SWCDs, among areas of the state through cost-share incentive priorities, or a combination thereof, and may adjust such allocations throughout the year as available funds and SWCD needs and priorities change in order to achieve the most efficient use of state funds. The TSSWCB may designate a portion of the funds allocated to a SWCD or to cost-share incentive priorities to reimburse SWCDs for obligations incurred in administering cost-share incentive activities.

The TSSWCB may designate a portion of the funds allocated to a SWCD or to cost-share incentive priorities to reimburse SWCD for obligations incurred in administering cost-share incentive activities. These administrative funds must be requested by the appropriate SWCD using the “admin fee” tabs in form TSSWCB-004.

Approval of Cost-share Incentive Priority Allocations

The TSSWCB may allocate cost-share incentive funding to priorities identified by the TSSWCB, local SWCDs through the stakeholder process, and other entities. Higher consideration will be given to priorities recommended through the stakeholder process. Priorities will be approved consistent with the purpose of cost-share incentives. A cost-share incentive priority shall exist for no more than two program years without re-approval by the TSSWCB.

Eligibility for Cost-Share Incentive Funding

Eligible person: Any individual, partnership, administrator for a trust or estate, family owned corporation, or other legal entity who as an owner, lessee, tenant, or sharecropper, participates in an agricultural or silvicultural operation and has a certified WQMP on an operating unit within a SWCD shall be eligible for cost-share incentive funding.

Ineligible for Cost-Share Assistance: State Board Members and TSSWCB Employees are governed by a July 17, 2003, State Board policy that prohibits persons employed by the TSSWCB and members of the State Board from entering into a cost-share (financial assistance) agreement while employed or serving on the State Board.

Conflict of Interest for Cost-Share Assistance: SWCD directors and SWCD employees must follow all WQMP guidelines, complete all required WQMP forms, and recuse themselves from any, and all, discussions and considerations of the application for a WQMP contract.

- SWCD Directors and SWCD employees must recuse themselves in any situation in which a relative, as defined by Chapter 573, Government Code, Nepotism Prohibitions, has applied for a WQMP contract.
- SWCD Board minutes are required to reflect that any SWCD director or SWCD employee recuse himself/herself from the deliberation on a contract and there was no undue influence regarding consideration of a contract.
- These same prohibitions apply to certifying work performed on a contract and any certification for payment of financial assistance under an approved WQMP contract.

An eligible person may receive cost-share only once for an operating unit: The State Board, on a case-by-case project or watershed basis and in consultation with the SWCD, may grant a waiver to this requirement in situations where:

- Research and/or advanced technology indicate(s) a plan modification to include additional measures to meet Texas surface water quality standards is needed;
- The operating unit is significantly increased in size by the addition of new land areas or the amount of animal waste production is significantly increased requiring additional conservation practices, not previously cost-shared, in order to meet Texas surface water quality standards;
- More stringent measures become necessary to meet Texas surface water quality standards;
- A landowner has assumed the responsibility of a maintenance agreement in cases where the landowner was not the applicant; or
- A participant has previously received cost-share through this program, but an additional practice or practices has/have been subsequently mandated by state law or the laws, rules, or regulations of a political subdivision. This waiver is only applicable to the mandated practice or practices and may not be applied more than one time to a single practice.

Eligible Land: Any of the following categories of land shall be eligible for cost-share incentive funding:

- Land within the state that is privately owned by an eligible person.
- Land leased by an eligible person over which he/she has adequate control and which land is utilized as a part of his/her operating unit.
- Land owned by the State; a political subdivision of the State, or a nonprofit organization that holds land in trust for the state.

Ineligible Land: Allocated funds shall not be used:

- To reimburse other units of government for implementing conservation practices.
- On privately owned land not used for agricultural or silvicultural production.
- On portion of operation that is permitted.

Eligible Purposes: Cost-share incentive funding shall be available only for those eligible practices measures included in a certified WQMP and to be needed by the SWCD to:

- Reduce erosion; and/or
- Improve water quality and/or quantity

Eligible Practices: Annually, the TSSWCB will develop and approve a list of practices eligible for cost-share assistance under the WQMP program. (Approved Practice List)

SWCDs should review the list of practices and from it, prepare a list of practices and component practices to be cost-shared in their SWCD. The list should be sent to the servicing TSSWCB regional office. The SWCD list may include:

- The entire list from the TSSWCB;
- Selected practices from the TSSWCB list, or;
- The entire list or partial list along with additional water quality justifiable practices and associated life spans for the SWCD. These additions must be approved by the TSSWCB prior to application to be eligible for cost-share.

The use of special conservation practice(s) is limited to those that can solve unique problems in a SWCD and which conform with one or more of the purposes of the cost-share program. These must be approved by the TSSWCB on a case-by-case basis.

If additional practices are requested, it will take action by the TSSWCB at its next scheduled meeting to obtain approval. The additional practices should be submitted to the TSSWCB for their consideration at the same time the list of approved practices is submitted. A brief statement of the water quality benefits of each additional practice should be included. The TSSWCB will notify SWCDs in writing of additional approved cost-share practices.

Average cost and cost-share rates should be established and included for all practices on the list intended to be cost-shared. This information should accompany the SWCD's request for their cost-share allocation. Cost data from other existing cost-share programs may be used. The TSSWCB will notify SWCDs in writing that their list of practices and supporting documentation has been approved.

Selected practices shall be consistent with the Agricultural and Silvicultural Nonpoint Source Management Program developed by the TSSWCB pursuant to the Federal Clean Water Act, Section 319 and CZARA Section 6217.

Responsibilities of Applicants

- Complete and submit an application to the SWCD.

- Where an applicant does not have a certified WQMP and has not determined the anticipated total cost of the requested measure(s), he/she, as part of the application, may request assistance from the SWCD in developing such plan and determining costs.
- After being notified of approval and obligation of funds by the SWCD, request technical assistance through the SWCD to design and layout the approved practices or request approval of alternate sources of technical assistance.
- Secure any approved contractor(s) needed and all contractual or other agreements necessary to construct or perform the approved practice(s). Cost-share will not be allowed for work begun before the application is approved.
- Complete and sign performance and maintenance agreements and any amendments to those agreements.
- Supply the documents necessary to verify completion of the approved practice(s) along with a completed and signed *Performance Certification* form (TSSWCB-004).
- If an applicant is a SWCD director/employee, he/she must complete and attach the SWCD Director/Employee Addendum to the Application For Cost-Share Assistance form (*TSSWCB002AD). This form should be completed by the SWCD.

Responsibilities of SWCDs

- Establish the period(s) of time for accepting applications, under the guidelines of the TSSWCB, and announce the availability of cost-share incentive funding locally.
- Accept cost-share applications at the SWCD's office.
- Determine eligibility of lands and persons for cost-share incentive funding under either the SWCDs local program for a direct allocation or under a cost-share incentive priority. If an applicant's land is in more than one SWCD, the respective SWCD board of directors will review the application and agree to oversee all work, administer all contracts and obligate all funds from one SWCD, or prorate the funding between SWCDs.
- Give initial approval to those applications that meet the eligibility requirements.
- Evaluate the initially approved applications under either the SWCD's priority system for a direct allocation or under a cost-share incentive priority and give final approval to the high priority applications that can be funded.
- For applications that may qualify for a cost-share incentive priority, submit the applications to the appropriate TSSWCB office for confirmation of qualification and availability of funds.
- Obligate funds for the approved conservation practice(s) that can be funded and notify the applicant that his/her conservation practice(s) has/have been approved for cost-share incentive funding and to proceed with installation. Allocated funds must be obligated by the last day of April of the fiscal year allocated. All unobligated allocations, regardless of whether they exist in a direct SWCD allocation or a cost-share incentive priority, shall become unallocated on May 1st of each fiscal year and may be reallocated to other priorities at the discretion of the TSSWCB to ensure the most efficient use of cost-share incentive funds.

- Determine compliance with standards and specifications and certify completed conservation land treatment measure(s) that meet standards.
- Keep accurate records and logs of applications and obligations.

Amended Applications for Allocated Funds

- In the event an adjustment to the estimated cost of conservation practice(s) is necessitated by the final design, the applicant shall either agree to assume the additional cost or complete and submit an amendment to his/her application for allocated funds to the SWCD for approval or denial by the SWCD. If the obligated funds originate from a cost-share incentive priority, the SWCD will confer with the TSSWCB to determine if additional funds are available.
- The SWCD may elect to adjust the amount of funds obligated for the conservation practice(s), provided funds are available, or to request additional funds from the TSSWCB. If the obligated funds originate from a cost-share incentive priority, the SWCD will confer with the TSSWCB to determine if additional funds are available.
- In the event additional funds are not available, the conservation practice(s) may be redesigned, if possible, to a level commensurate with available funds, provided the redesign still meets standards established by the TSSWCB; or the applicant can agree to assume full financial responsibility for the portion of the cost of conservation practice(s) in excess of the amount authorized.
- All information and data on the application and performance certification should agree and correspond to the WQMP. Any deviation should be accompanied by an explanation, plan revision if necessary, or revised certification documents if changes meet criteria for revision.

Performance Agreement

As a condition for receipt of cost-share assistance for conservation practice(s), the eligible person receiving the benefit of such incentive funding shall agree to perform those measures in accordance with standards established by the TSSWCB. Completion of the performance agreement and the signature of the eligible person are required prior to payment.

Maintenance Agreement

A written maintenance agreement must be signed between the eligible person and the SWCD wherein the eligible person(s) agrees to implement and maintain all conservation practices included in the WQMP in accordance with the implementation schedule, all technical requirements of the applicable practice standards, and specified life expectancies of practices until such time that the certification of the TSSWCB is withdrawn. The maintenance agreement shall specify that any practices installed through the financing of cost-share incentive funding, to any extent, must be maintained in accordance with the applicable practice standards and specified life expectancies

regardless of whether or not the WQMP continues to be certified or not. Failure to maintain cost-shared practices may result in the requirement for all or a prorated portion of the cost-share funding to be returned to the TSSWCB. Completion of the maintenance agreement and all appropriate signatures are required prior to payment.

The maintenance agreement is found on the application for cost-share. "Completely implemented" means that all practices contained in the implementation schedule are implemented to their full extent. Management practices must also be fully implemented. Practices such as conservation crop rotation must be completed before a plan will be considered as completely implemented. If a producer defaults on this agreement, repayment of all or a portion of the cost-share funds may be required by the TSSWCB.

The legal status afforded by a certified WQMP does not end two years after implementation. It is ongoing as long as the plan remains certified.

In the event that a producer chooses not to carry out the plan at some point after expiration of the maintenance agreement, certification of the plan may be withdrawn by the TSSWCB with SWCD concurrence.

Transfer of Land Ownership

A seller of agricultural land with respect to which a maintenance agreement is in effect may request the SWCD to inspect the practices. If the practices have not been removed, altered, or modified the SWCD shall issue a written statement that the seller has satisfactorily maintained the permanent practice as of the date of the statement.

The buyer of lands covered by a maintenance agreement may also request that the SWCD inspect the lands to determine whether any practice has been removed, altered, or modified as of the date of the inspection. If so, the SWCD will provide the buyer with a statement specifying the extent of noncompliance as of the date of the statement.

The seller and the buyer, if known, shall be given notice of the time of inspection so that they may be present during the inspection to express their views as to compliance.

Payment to Recipients

The SWCD shall determine eligibility of the applicant to receive payment of cost-share incentive funding and provide certification to the TSSWCB that measure(s) have been installed consistent with established standards.

The TSSWCB shall issue warrants or direct deposits for payments of cost-share incentive funding.

Applications Held in Abeyance Because of a Lack of Funds

In those cases where funds are not available, the applications will be held by the SWCD until allocated funds become available or until the end of the program year. When additional funds are received, the SWCD will obligate those funds. The SWCD may shift all unfunded applications held in abeyance because of lack of funds that are on hand at the end of a program year to the new program year or require all new applications as it deems appropriate.

Applications Denied for Reasons Other than Lack of Funds

Applications for funds which are denied by the SWCD directors for other than lack of funds shall be retained in the records of the SWCD in accordance with the SWCD's established record retention policy. Written notification of the denial shall be provided to the applicant along with the reason(s) that the application was denied.

Applications Withdrawn

An application may be withdrawn by the applicant at any time prior to receipt of cost-share incentive funding by notifying the SWCD in writing that withdrawal is desired. Applications withdrawn by the applicant shall be retained in the records of the SWCD in accordance with the SWCD's established record retention policy.

Applications Cancelled

If the applicant has not begun implementation of his/her practice(s) as indicated on his application, the SWCD may, if the directors determine such action is warranted, cancel a pending cost-share application. The applicant should be notified in writing establishing a specified time-period for the applicant to provide evidence of his commitment to earn the obligated funds.

Appeals

- An applicant may appeal the SWCD's decision relative to his/her application for allocated funds.
- The applicant shall make any appeal in writing to the SWCD which received his/ her application for allocated funds and shall set forth the basis for the appeal.
- The SWCD shall have 60 days in which to make a decision and notify the applicant in writing.
- The decision of the SWCD may be appealed by the applicant to the TSSWCB.
- All appeals made to the TSSWCB shall be made in writing and shall set forth the basis for the appeal.
- All TSSWCB decisions shall be final.

Maintenance of Practices

Requirements for maintenance of practices applied using cost-share incentive funds will be outlined in the eligible person's certified WQMP and reviewed with the eligible person at the time of application.

A properly executed maintenance agreement shall be signed by the successful applicant prior to receipt of payment of cost-share incentive funding from the SWCD for a conservation practice(s) installed.

The SWCD may require refund of all or a prorated portion of the cost-share incentive funding paid to an eligible person when the applied conservation practice(s) has not been maintained in compliance with applicable design standards and specifications for the practice during its expected life as agreed to by the eligible person. The TSSWCB may grant a waiver to this requirement on a case-by-case basis in consultation with the SWCD.

In cases of hardship, death of the participant, or at the time of transfer of ownership of land where a conservation practice(s) has been applied using cost-share incentive funding and the expected life assigned the practice has not expired, the participant, heir(s), or buyer(s) respectively, must agree to maintain the practice(s) or the participant, heir(s) or the buyer by agreement with seller must refund all or a prorated portion of the cost-share incentive funds received for the practice as determined by the SWCD. The State Board on a case-by-case basis in consultation with the SWCD may grant a waiver to this requirement.

Failed Practice Restoration

When conservation practices that have been successfully completed and which later fail as the result of floods, drought, or other natural disasters, and not the fault of the applicant, the applicant may apply for and SWCD may allocate additional cost-share incentive funds to restore them to their original design standards and specifications. These funds must come from either a current direct allocation to the SWCD or from a current cost-share incentive priority with confirmation from the TSSWCB from the current program year.

When conservation practices that have been successfully completed and which later fail as the result of error or omission on the part of the TSSWCB staff, the SWCD staff, or the USDA-Natural Resources Conservation Service staff while assisting the SWCD, and not the fault of the applicant, the State Board may approve additional cost-share incentive funds to restore the measure(s) to the correct design standards and specifications where an investigation approved by the Executive Director or his designee shows good cause. These funds must come from either a current direct allocation to the SWCD or from a current cost-share incentive priority with confirmation from the TSSWCB from the current program year.

SWCD Administration of the Cost-Share Program

In establishing a priority system to be used for the evaluation of application for cost-share assistance, the SWCD may consider the following facts:

- The potential for the producer to receive an enforcement order to control or abate possible nonpoint sources of agriculture-related pollutants. (The higher the potential, the higher the rating.)
- The relative significance of off-site benefits that are obtained by installation of the practices to be cost-shared. (The more significant the off-site benefits, the higher the rating.)
- The impact the installation of the cost-shared practices will have on helping the SWCD meet its program, plan and priorities. (The greater the impact, the higher the rating.)

Priorities should be based on identifiable parameters such as agricultural activities, watershed boundaries, proximity to groundwater, etc.

Example:

Priority 1: Animal Feeding Operations

Priority 2: Irrigated Cropland

Priority 3: Dry Cropland

Priority 4: Pasture and Range

A SWCD has two workable options in determining what is cost-shared and at what priority:

- Cost-share funds may be obligated first-come, first-serve.
- An established sign-up period may be established. At the end of the sign-up period, each application is reviewed and assessed relative to other applications.

It is advisable and most efficient to make prospective applicants aware up front of what WILL and what WILL NOT be cost-shared by the SWCD, and to convey SWCD priorities to applicants.

This can be accomplished by providing a sign-up period in the SWCD and advertising it in the media most applicable in the local area. TSSWCB regional staff could be available to assist with a sign-up.

A producer may request cost-share by completing *Request for Cost-share Incentive Funding form (TSSWCB002)*. The request for cost-share can be completed by the cooperator at any time during the planning process.

After practice needs have been determined and the plan has been certified by the TSSWCB, the SWCD may then approve an individual *Application for Cost-share Assistance form (TSSWCB003)*. Approvals should be based on funding limitations, priorities, and the individual caps established by the TSSWCB or SWCD. It is at this point that funds are considered obligated to the individual.

Applicants should be advised that they will be eligible to apply for cost-share only one time per operating unit.

Before approving the application, the SWCD must determine that a practice for which cost-share is requested meets the conditions of eligibility established by the TSSWCB.

If a SWCD director is applying for cost-share, the director must complete the *Director-Employee Addendum form (TSSWCB002AD)* (to be completed by SWCD). In accordance with established ethical procedures, such directors should recuse themselves when the SWCD considers their application.

The SWCD should retain the original and submit a copy of each approved and executed *Application for Cost-share Incentive Funding form (TSSWCB003)* to the TSSWCB regional office servicing that SWCD. The regional office will review the application, make necessary entries to logs and records, make copies and fax to the TSSWCB headquarters. The TSSWCB will set up a vendor ID number for the applicant to facilitate payment of cost-share funds to the producer.

When practices to be cost-shared are implemented, the producer should contact and inform the SWCD that the cost-share practice(s) is complete and furnish the SWCD with receipts for reimbursement. The SWCD should then certify that the practice(s) meets standards set forth in the FOTG. Once the practice(s) is certified, the SWCD should complete the *Performance Certification form (TSSWCB004)* and have the producer sign it. Normally, assistance from the authorized NRCS representative will be available for this certification. The SWCD may utilize other means, as it determines necessary, to make the certification. It is the SWCD's responsibility to assure that it is done adequately.

Partial payment can be made for completed practices that are listed separately on the application for cost-share. The partial payment block at the top of the performance certification form must be checked. The partial payments cannot exceed the amount of cost-share estimated for that particular practice by more than 10% of the application total.

When all practices for which cost-share was requested have been installed, the final payment block at the top of the performance certification form must be checked. If the amount of cost-share money earned is less than that obligated on the application, the difference should be released back to the SWCD by entering that amount in the release blank on the performance certification form. The amount of cost-share payment for any particular practice cannot exceed by more than 10% the amount of cost-share estimated for that particular practice and the total amount of cost-share payment for all practices combined cannot exceed the total amount approved on the application by the local SWCD.

The signed *Performance Certification form (TSSWCB004)* should be sent to the TSSWCB regional office servicing that SWCD and should be accompanied by receipts and other necessary documentation. The regional office will review the performance certification, make necessary

entries to logs and records, make copies and forward the original documents to the TSSWCB headquarters.

In addition, any correspondence from SWCDs concerning cost-share, WQMPs or the program should be sent to the servicing regional office.

Upon submission of a voucher by the TSSWCB, the State Comptroller will prepare a warrant in the amount requested based on the *Performance Certification form (TSSWCB004)*. The warrant will be sent to the TSSWCB. The TSSWCB will then send it directly to the producer.

An individual may receive cost-share only once for a WQMP unless a waiver is granted by the State Board [§523.6(e)(2)]. No person, whether as an individual, a partnership, or a corporation, may receive more than \$15,000 per fiscal year in cost-share funds from the TSSWCB. Any amount received by a person through a partnership or corporation shall be assessed against the annual \$15,000 limit in proportion to that person's interest in the partnership or corporation.

SWCDs may not establish a limit less than the minimum amount set by the TSSWCB.

Forms *TSSWCB002*, *TSSWCB002AD*, *TSSWCB003*, and *TSSWCB004* are included in the Electronic Appendices located on the TSSWCB's website identified in the Table of Contents of this Reference Guide.

Reporting and Accounting

The TSSWCB shall receive and maintain required reports from the SWCDs showing the unobligated balance of allocated funds as shown on each ledger at the close of the last day of each month.

Statewide Cost-Share Program

SWCDs outside a designated area with animal feeding operations, that do not rank high enough for area funds to be reserved for them and have developed certified WQMPs, may request an allocation for cost-share assistance from funds that the TSSWCB has reserved for statewide use. These requests should be specific to the plan and amount required for each plan. The requests should be accompanied by a SWCD practice list, average cost of practices, and cost-share limit and rates as discussed on previous pages.

GLOSSARY

Allocated funds: Funds budgeted through the TSSWCB either allocated directly to a specific SWCD or to a cost-share incentive priority for utilization by multiple SWCDs. For the purposes of the chapter, funds directly allocated to a specific SWCD shall be referred to as a direct allocation.

Animal feeding operation (AFO): A lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and the animal confinement areas do not sustain crops, vegetation, forage growth, or postharvest residues in the normal growing season.

Applicant: A person who applies for cost-share incentive funding from the SWCD.

Available funds: Monies budgeted, unobligated and approved by the State Board for cost-share incentive funding.

Concentrated animal feeding operation (CAFO): Any AFO that stables or confines and feeds or maintains for a total of 45 days or more in any 12-month period equal to or more than the numbers of animals specified in any of the categories listed in Title 30, Part 1, Section 321.32 (14) of the TCEQ's administrative rules.

Conservation practice(s): The conservation land improvement measure(s) approved by the State Board and applied to the land to control soil erosion or improve the quality and/or quantity of water.

Cost-share incentive funding: An award of money made to an eligible person for conservation land improvement measures pursuant to the terms of Agriculture Code §201.301.

Cost-share incentive priority: A geographic location such as a watershed, a SWCD or other political subdivision boundary, or a specific agricultural or silvicultural activity, or a combination thereof, that is adopted by the State Board as a specified priority for receiving an allocation of cost-share incentive funding. Cost-share incentive priorities must be consistent with the purpose of controlling erosion, conserving water, and/or protecting water quality.

Dry-litter poultry facility: A poultry animal feeding operation that does not use a liquid waste handling system.

Eligible land: Those lands that are eligible for application of conservation land improvement measures using cost-share incentive funding.

Eligible person: Any of the land holders eligible to apply for cost-share incentive funding or any person designated to represent the applicant as provided by a durable power of attorney, court order or other valid legal document.

Eligible practices: Those conservation land improvement measures that have been approved by the State Board.

Field Office Technical Guide (FOTG): The official Natural Resources Conservation Service guidelines, criteria, and standards for planning and applying conservation practices.

Landowner: Any person, firm or corporation holding title to land lying within a SWCD.

Maintenance agreement: A written agreement between the eligible person and the SWCD wherein the eligible person(s) agrees to implement and maintain all conservation practices included in the WQMP in accordance with the implementation schedule, all technical requirements of the applicable practice standards, and specified life expectancies of practices until such time that the certification of the TSSWCB is withdrawn. The maintenance agreement shall specify that any practices installed through the payment of cost-share incentive funding, to any extent, must be maintained in accordance with the applicable practice standards and specified life expectancies regardless of whether the WQMP continues to be certified or not. Failure to maintain cost-shared practices may result in the requirement for all or a prorated portion of the cost-share funding to be returned to the TSSWCB. It is the expectation of the TSSWCB that a WQMP be maintained by the participant for an indefinite period.

Obligated funds: Monies from a SWCD's allocated funds or from a cost-share incentive priority which have been committed to an applicant after final approval of the application.

Operating Unit: Land or lands, whether contiguous or non-contiguous, owned and/or operated in a manner that contributes or has the potential to contribute agricultural or silvicultural nonpoint source pollution to water in the state. An operating unit must be determined through mutual agreement by the holder of the WQMP, the SWCD, and the TSSWCB.

- Contiguous lands under the same ownership and/or operational control must be considered one operating unit.
- Non-contiguous lands under the same ownership and/or operational control may be considered as more than one operating unit when there is mutual agreement by the SWCD and the potential holder of the WQMP unless the lands are associated with an animal feeding operation.
- An operating unit, when devised for an animal feeding operation, must at a minimum encompass all land or lands owned and/or operated by the holder of the WQMP that are used to produce feed that is consumed by the animals, as well as all land or lands owned and/or operated by the potential holder of the WQMP where manures or other agricultural by-products are beneficially used as a source of nutrients to produce food or fiber for any use.
- Land or lands within the scope of an existing operating unit for certified WQMP may not be separated from the existing operating unit to establish another operating unit unless the ownership of the lands being separated into a new operating unit has changed.

- Where mutual agreement regarding an operating unit's consistency with this section is not achieved by the potential holder of the WQMP, the SWCD, and the TSSWCB, the TSSWCB will make a final determination whether or not to certify the WQMP.

Operator: An individual that has permission from a landowner to operate an agricultural or silvicultural enterprise but does not hold title to the land.

Participant: A landowner or operator that has obtained a certified WQMP.

Performance agreement: A written agreement between the eligible person and the SWCD wherein the eligible person agrees to perform conservation land improvement measures for which allocated funds are being paid.

Practice standard: A technical specification for a conservation practice within the NRCS FOTG that contains information on why and where the practice should be applied and sets forth the minimum quality criteria that must be met during the application of that practice for it to achieve its intended purpose(s).

Priority system: The system devised by the SWCD, under guidelines of the State Board, for ranking approved conservation practices and for facilitating the disbursement of allocated funds in line with the SWCD's priorities.

Program year: The period from September 1 to August 31.

Natural Resources Conservation Service (NRCS): An agency of the United States Department of Agriculture which includes the agency formerly known as the Soil Conservation Service (SCS).

Resource management system (RMS): A combination of conservation practices and resource management activities for the treatment of all identified resource concerns for soil, water, air, plants, animals, and humans that meets or exceeds the quality criteria in the NRCS FOTG for resource sustainability.

Status Review: An assessment performed by the TSSWCB on a WQMP for the purpose of determining adherence to the plan's implementation schedule and conservation plan of operations.

SWCD director: A member of the governing board of a SWCD.

Texas Nonpoint Source Management Program: The comprehensive management strategy to protect and restore water impacted by nonpoint sources of pollution jointly developed and administered by the TCEQ and the State Board and approved by the Governor of the State of Texas and the United States Environmental Protection Agency.

Texas surface water quality standards: The designation of water bodies for desirable uses and the narrative and numerical criteria deemed necessary to protect those uses established by the Texas Commission on Environmental Quality.

Soil and water conservation district (SWCD): A governmental subdivision of this state and a public body corporate and politic, organized pursuant to Chapter 201 of the Agriculture Code.

State Board: The Board of Directors that governs the Texas State Soil and Water Conservation Board agency organized pursuant to Chapter 201 of the Agriculture Code.

Texas Commission on Environmental Quality (TCEQ): The environmental regulatory agency for the State of Texas that oversees all air permitting activities, all aspects of planning, permitting, and monitoring to protect the state's water resources. TCEQ implements federal and state laws related to the regulation of aboveground and underground petroleum storage tanks, generation, treatment, storage, and disposal of municipal, industrial, low-level radioactive, and hazardous wastes, oversees state cleanup of contaminated sites, and enforces compliance with the state's environmental laws. TCEQ coordinates compliance activities related to WQMPs with the TSSWCB through a memorandum of understanding.

Texas State Soil and Water Conservation Board (TSSWCB): The Texas State Soil and Water Conservation Board is the state agency that administers Texas' soil and water conservation law and coordinates conservation and nonpoint source water pollution abatement programs throughout the State organized pursuant to Chapter 201 of the Agriculture Code.