

10 Minute Supervisor Trainings



August 2020

State Cost Share Regulation Revision Summary

The Kentucky Soil and Water Quality State Cost Share Program underwent a major programmatic reorganization over the past three years. The program evolved to better meet the needs of today's conservation landscape. During this time, it became obvious that the regulation governing this program was in need of revision as well. The original administrative regulation had not been revised in over twenty years. The new 416 KAR 1:010 officially became effective July 9, 2020. This training will outline some of the more substantial revisions to the regulation.

As with any update of a document of that age, there were numerous minor revisions to grammar, definitions, organizational names, etc. The new regulation may be reviewed at <https://apps.legislature.ky.gov/law/kar/416/001/010reg.pdf>. As of the writing of this training, it is still in its original form with revisions shown. At some point in the coming weeks, a "clean" copy will appear. The primary revisions to the regulation are summarized below:

- ❖ **Section 2 Eligibility of Persons. 1(a) The person has prepared an agriculture water quality plan.** -This requirement has always been in the regulation. However, language was struck that included a conservation plan, a compliance plan, and a forest management or stewardship plan. In addition to this revision, on the SCS Application, the policy on what a "current" plan constitutes is defined as follows: "The AWQA plan for the farm must not be older than the most recent version of the statewide agriculture water quality plan. For example, if the statewide plan was updated in November 2019, then all plans must have been updated after November 2019. Plans developed before that date would be considered out of date and no longer current". This requirement is reflected within the regulation as follows: **Section 5 Contents and Completion of Applications. 1(a) An agriculture water quality plan in effect for the eligible land that is compliant with KRS 224.71-120 and updated to be current with the Statewide Agriculture Water Quality Plan authorized by KRS 224.71-110.**
- ❖ **Section 2 Ineligible Persons 2(b) Failed to comply with practice lifespans or complete previous cost-share projects within five (5) years prior to the application date.** -This requirement is self-explanatory and is in line with previous program policy discussion.

- ❖ **Section 5. Contents and Completion of Applications. (2) An applicant applying for cost-share funds for best management practices involving nutrient storage shall include a nutrient management plan as established in the Statewide Agriculture Water Quality Plan.** -This addition is also self-explanatory. The requirements for nutrient management plans for individual practices are documented in the 2019 Kentucky Soil and Water Quality Cost Share Handbook.

- ❖ **Section 10. Execution of Performance and Maintenance Agreements. (1)(e) Approved applicants shall complete the practice within one (1) year from the date of approval. Upon request, the Division of Conservation shall grant a six (6) month extension per approved application. After two (2) extensions have been granted and expired, the landowner shall forfeit the right to the funds.** –This has always been program policy. It has now been documented in the regulation.

- ❖ **Section 10. Execution of Performance and Maintenance Agreements. (3) Refunds of funds dispersed.** -This entire subsection has new language on if a refund is in order due to the applicant not honoring the performance and maintenance agreement.

- ❖ **Section 10. Execution of Performance and Maintenance Agreements. (6)(a) Cost-share assistance awarded to an applicant shall be limited to a maximum of seventy-five (75) percent of the actual cost, not to exceed an amount approved by the commission, for each best management practice, with the assisted applicant providing twenty-five (25) percent of the cost, which may include in-kind support, with a maximum of \$20,000 per year.** The language in this subsection changes the maximum annual limitation of awards to \$20,000 for all practices (or combinations thereof).

- ❖ **Section 13. Incorporation by Reference. (1) “The 2019 Kentucky Soil and Water Quality Cost-Share Practice Handbook”, October 2019 is incorporated by reference.** -Since the initial “State Cost Share Manual” was incorporated by reference in the original regulation, an incorporation by reference was also required here. A renaming was required, thus the new title was changed from the term “manual” to “handbook”.

These are the primary revisions that occurred within 416 KAR 1:010. For a more detailed review, please visit the link referenced on the first page of this training document. In addition to the regulation, minor revisions were made to forms used in the processing of SCS applications. These forms are located on the KDOC website under the State Cost Share section, or at the following link:

<https://eec.ky.gov/Natural-Resources/Conservation/Pages/State-Cost-Share.aspx>