

## Commodity Credit Corporation, USDA

## § 1466.20

(i) The cost-effectiveness of the facility and its potential to maximize environmental benefits per dollar expended;

(ii) The ability of the producer to pay for the cost of animal waste management facilities;

(iii) The significance of the natural resource concern resulting from the operation;

(iv) The prevailing State, Tribe, or local implementation of various Federal, Tribal, and State environmental laws and regulations, including regulations promulgated pursuant to the Clean Water Act (33 U.S.C. 1251 *et seq.*) and guidance developed under § 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b);

(v) The particular characteristics of modern livestock operations; and

(vi) The size of the operation in relation to other confined livestock operations in the State or region.

(3) The NRCS State conservationist, in consultation with the State technical committee, shall place emphasis on the considerations contained in paragraphs (b)(2)(i) and (b)(2)(ii) of this section when developing the criteria to define a large confined livestock operation.

(4) The definitions developed by NRCS State conservationists must be approved by the Chief, who will also provide oversight on their implementation. In approving the definitions the Chief will consider:

(i) The justification for the definition; and

(ii) The need for consistency in the definitions used between and among States, to the greatest extent possible.

(5) The Chief will report semiannually to the Secretary during the first two years of the program on the implementation of paragraph (b) of this section, including the impact that may have occurred to the environment and to the structure of livestock agriculture.

### **§ 1466.8 Technical and other assistance provided by qualified personnel not affiliated with USDA.**

(a) A NRCS State conservationist may utilize technical and other assistance from qualified personnel of other Federal, State, and local agencies, or

Indian tribes, and will encourage producers to use the most cost-effective technical assistance available, including if appropriate, using the services of the private agribusiness sector to carry out the assigned responsibilities of the program.

(b) Technical and other assistance provided by qualified personnel not affiliated with USDA may include, but is not limited to: conservation planning; conservation practice survey, layout, design, installation, and certification; information, education, and training for producers; and training, certification, and quality assurance for professional conservationists.

(c) NRCS shall provide technical coordination and leadership for the program, regardless of who provides technical and other assistance, and shall assure that the quality of the assistance obtained from other Federal, State, and local agencies, Indian tribes, and the private agribusiness sector is acceptable for purposes of this part. Non-NRCS assistance shall not be deemed to satisfy an EQIP contract entered into under subpart B of this part until the assistance has been approved by NRCS.

### **Subpart B—Contracts**

#### **§ 1466.20 Application for contracts and selecting offers from producers.**

(a) Any producer who has eligible land may submit an application for participation in the EQIP to a USDA service center. Producers who are members of a joint operation shall file a single application for the joint operation.

(b) CCC will accept applications throughout the year. NRCS shall rank and select the offers of applicants periodically, as determined appropriate by NRCS after consultation with the State technical committee and on the recommendation of the local work groups.

(c) The designated conservationist, in consultation with the local work group, will develop ranking criteria to prioritize applications within a priority area. NRCS shall prioritize applications from the same EQIP-funded priority area using the criteria specific

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to the area. The FSA county committee, with the assistance of the designated conservationist and the FSA county executive director, shall approve for funding the applications in a priority area based on eligibility factors of the applicant and the NRCS ranking.

(d) The NRCS State conservationist, in consultation with the State technical committee, and using quality criteria in the NRCS field office technical guide, will develop criteria to prioritize applications from applicants with significant statewide natural resource concerns outside a priority area. The FSA county committee, with assistance of the designated conservationist and FSA county executive director, shall approve for funding these applications based on the eligibility factors of the applicant and the NRCS ranking.

(e) The designated conservationist will work with the applicant to collect the information necessary to evaluate the application using the ranking criteria. A participant has the option of offering and accepting less than the maximum program payments allowed.

(f) NRCS will rank all applications using criteria that will consider:

(1) The environmental benefits per dollar expended;

(2) A reasonable estimate of the cost of the conservation practices, the program payments that will be paid to the applicant, and other factors for determining which applications will present the least cost to the program;

(3) The environmental benefits that will be derived by applying the conservation practices in the conservation plan which will meet the purposes of the program;

(4) The extent to which the contract will assist the applicant in complying with Federal, State, tribal, or local environmental laws;

(5) Whether the land in the application is located in a priority area and the extent to which the contract will assist the priority area goals and objectives.

(g) If two or more applications have an equal rank, the application that will result in the least cost to the program will be given greater consideration.

**§ 1466.21 Contract requirements.**

(a) In order for a participant to receive cost-share or incentive payments, the participant shall enter into a contract agreeing to implement a conservation plan or portions thereof. FSA shall determine the eligibility of participants. The FSA county committee, with NRCS concurrence, shall use the NRCS ranking consistent with the provisions of §1466.20 and grant final approval of a contract.

(b) An EQIP contract shall:

(1) Incorporate by reference all portions of a conservation plan applicable to EQIP;

(2) Be for a duration of not less than 5 years nor more than 10 years;

(3) Incorporate all provisions as required by law or statute, including participant requirements to:

(i) Not conduct any practices on the farm or ranch unit of concern that would tend to defeat the purposes of the contract;

(ii) Refund any program payments received with interest, and forfeit any future payments under the program, on the violation of a term or condition of the contract, consistent with the provisions of §1466.25;

(iii) Refund all program payments received on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees to assume all obligations of the contract, consistent with the provisions of §1466.24; and

(iv) Supply information as required by CCC to determine compliance with the contract and requirements of the program.

(4) Specify the participant's requirements for operation and maintenance of the applied conservation practices consistent with the provisions of §1466.22; and

(5) Any other provision determined necessary or appropriate by CCC.

(c) The participant must apply a financially assisted practice within the first 12 months of signing a contract.

(d) There is a limit of one EQIP contract at any one time for each tract of agricultural land, as identified with a FSA tract number, determined at the