

## § 1466.5

Chief determines that there is sufficient assurance of control;

(ii) If the applicant is a tenant of the land involved in agricultural production the applicant shall provide CCC with the written concurrence of the landowner in order to apply a structural or vegetative practice.

(3) Submit a conservation plan that is acceptable to NRCS, is approved by the conservation district, and is in compliance with the terms and conditions of the program;

(4) Comply with the provisions at §1412.304 of this chapter for protecting the interests of tenants and sharecroppers, including provisions for sharing, on a fair and equitable basis, payments made available under this part, as may be applicable; and

(5) Supply information as required by CCC to determine eligibility for the program.

(d) Land used as cropland, rangeland, pasture, forest land, and other land on which crops or livestock are produced, including agricultural land that NRCS determines poses a serious threat to soil, water, or related natural resources by reason of the soil types; terrain; climate; soil, topographic, flood, or saline characteristics; or other factors or natural hazards, including the existing agricultural management practices of the applicant, may be eligible for enrollment in EQIP. Additionally, land may only be considered for enrollment in EQIP if NRCS determines that the land is:

(1) Privately owned land;

(2) Publicly owned land where:

(i) The land is under private control for the contract period and is included in the participant's operating unit;

(ii) Conservation practices will contribute to an improvement in the identified natural resource concern; and

(iii) The participant has provided CCC with written authorization from the government landowner to apply the conservation practices; or

(3) Tribal, allotted, or Indian trust land.

(e) Fifty percent of available EQIP funds will be targeted to livestock-related natural resource concerns, including concerns on grazing lands and other lands directly attributable to

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livestock, measured at the national level.

### § 1466.5 Priority areas and significant statewide natural resource concerns.

(a)(1) Consistent with maximizing the overall environmental benefits per dollar expended by the program, NRCS may:

(i) Designate a watershed, an area, or a region of special environmental sensitivity or having significant soil, water, or related natural resource concern as a priority area and give special consideration to applicants who have conservation plans that address the natural resource concern(s) for which the priority area was designated;

(ii) Designate national conservation priority areas where the nature or scope of a natural resource concern necessitates greater coordination of efforts across boundaries; and

(iii) Identify significant statewide natural resource concerns outside a priority area.

(2) In addition to other factors identified in this section, priority areas, national conservation priority areas, and significant statewide natural resource concerns shall emphasize off-site benefits to the environment and coordination with other Federal and non-Federal conservation programs, including the Conservation Reserve Program and the Wetlands Reserve Program.

(b) CCC may approve technical, educational, and financial assistance under this part to participants with significant statewide natural resource concerns outside a priority area.

(c) To be considered for approval of a priority area, a Federal, State, or local government agency, Indian tribe, or a private group or entity shall work cooperatively with a respective local work group and State technical committee in identifying potential priority areas. The local work group shall obtain input from private individuals, groups, and organizations when considering and identifying potential priority areas. Proposals developed at the local level shall be reviewed by the State technical committee which makes a recommendation to the NRCS State conservationist. The priority area proposal shall include:

(1) A description, quantified when and where possible, of the nature and extent of natural resource concerns in the proposed area;

(2) A description, quantified when and where possible, of how the proposed goals, objectives, and solutions for the natural resource problems would maximize the environmental benefits that would be delivered with the requested Federal dollars, both within the priority area and as part of the overall program provided under this part;

(3) Background information such as science-based data on environmental status and needs, soils information, demographic information, and other available technical data that illustrate the nature and extent of natural resource concerns in the priority area or the appropriateness of the proposed solution to those natural resource concerns.

(4) The existing human resources, incentive programs, education programs, and on-farm research programs available at the Federal, State, Indian tribe, and local levels, both public and private, to assist with the areawide activities;

(5) The technical, educational, and financial assistance needed from EQIP to help meet the areawide goals and objectives;

(6) Ways and means to measure performance and success, quantified when and where possible, and plans to use existing or obtain additional science-based information; and

(7) An explanation, quantified when and where possible, of the degree of difficulty producers face in complying with environmental laws.

(d) The NRCS State conservationist, in consultation with the State technical committee and based on recommendations of local work groups, will approve the designation of a priority areas and make funding recommendations to the Chief. NRCS will evaluate proposals for priority area designations according to natural resource and environmental factors as identified in paragraph (d)(1) of this section, the economic significance of the factors, the incorporation of conservation practices that best address the factors, and the ability to obtain

multiple conservation benefits relative to the significance of these natural resource factors.

(1) NRCS shall consider the following factors in determining the significance of the natural resource concern(s) identified in the proposal:

- (i) Soil types and characteristics;
- (ii) Terrain and topographic features;
- (iii) Climatic conditions;
- (iv) Flood hazards;
- (v) Saline characteristics of land or water;
- (vi) Environmental sensitivity of the land, such as wetlands and riparian areas;
- (vii) Quality and intended use of the land;
- (viii) Quality and intended use of the receiving waters, including fishery habitat and source of drinking water supply;
- (ix) Wildlife and wildlife habitat quality and quantity;
- (x) Quality of the air; or
- (xi) Other natural hazards or other factors, including the existing agricultural management practices of the producers in the area or pest problems which may threaten natural resources.

(2) NRCS will consider the following factors in its allocation of funds:

- (i) Condition of the natural resources;
- (ii) Significance of the natural resource concern;
- (iii) Improvements that NRCS expects will result from implementation of the conservation plan;
- (iv) Expected number of producers who will participate and the time and financial commitment that the producers will provide;
- (v) Estimated program cost to provide technical, educational, and financial assistance;
- (vi) Level of coordination with and support from existing Federal, State, tribal, and local programs, including private sources, and both direct and in-kind contributions;
- (vii) Ways the program can best assist producers in complying with Federal, State, and tribal environmental laws, quantified where possible; and
- (viii) Other factors the NRCS determines will result in maximization of environmental benefits per dollar expended.

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(e) A NRCS State conservationist, in consultation with a State technical committee and based on recommendations of a local work group, may approve program assistance to participants with significant statewide natural resource concerns outside a funded priority area.

(f)(1) The Chief may designate national conservation priority areas using the identified national program objectives and criteria. The Chief may receive nominations from Federal, State, or local government agencies, Indian tribes, or private groups or entities, and may consult with other Federal agencies in selecting national conservation priority areas. Consistent with maximizing the overall environmental benefits per dollar expended by the program, the Chief may designate national conservation priority areas under this part to provide technical assistance, cost-share payments, incentive payments, and education for producers to comply with nonpoint source pollution requirements, other Federal, State, tribal or local environmental laws, or to meet other conservation needs.

(2) NRCS will consider the following factors in deciding whether to designate a national conservation priority area in which program assistance will be provided:

- (i) Condition of the natural resources;
- (ii) Significance of the natural resource concern;
- (iii) Improvements that NRCS expects will result from implementation of the conservation plan;
- (iv) Expected number of producers who will participate and the time and financial commitment that the producers will provide;
- (v) Estimated program cost to provide technical, educational, and financial assistance;
- (vi) Level of coordination with and support from existing State and local programs, including private sources, and both direct and in-kind contributions;
- (vii) Ways the program can best assist producers in complying with Federal, State, and tribal environmental laws, quantified where possible; and

(viii) Other factors that will assist CCC in maximizing the overall environmental benefit per dollar expended under this part.

(g) NRCS will establish program outreach activities at the national, State, and local levels in order to ensure that producers whose land has environmental problems and natural resource concerns are aware, informed, and know that they may be eligible to apply for program assistance. Special outreach will be made to eligible producers with historically low participation rates, including but not restricted to limited resource producers, small-scale producers, Indian tribes, Alaska natives, and Pacific Islanders.

(h) NRCS State conservationists shall develop an education plan that describes the educational assistance that will be provided to enhance program participant's knowledge about conservation opportunities, will aid in implementing their conservation plan, and enhance environmental benefits that will be realized through implementation of the program. In the development of the education plan, NRCS will design a coordinated approach, including national, State, and local components depending on the similar or unique education needs identified. NRCS will encourage cooperation among education providers, such as the Extension system, conservation districts, State agencies, and other public and private education providers, as well as the use of existing educational resources, material, or programs that deal with natural resource related issues.

(i) The Chief, with FSA concurrence, will make funding decisions for national conservation priority areas, State-approved priority areas, and significant statewide natural resource concerns outside a funded priority area.

(1) After review of funding requests, the Chief may base funding decisions on an allocation process which considers:

- (i) The significance of the environmental and natural resources conditions;
- (ii) Factors used and considered in accordance with paragraphs (d) and (f) of this section;

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(iii) The need to maximize environmental benefits per dollar expended;

(iv) The capability of the partners involved in the proposal to provide flexible technical, educational, and financial assistance;

(v) The conservation needs of farmers and ranchers in complying with the highly erodible land and wetland conservation provisions of part 12 of this title and Federal, State, and tribal environmental laws;

(vi) The opportunity for encouraging environmental enhancement;

(vii) The anticipated or proven performance of the partners involved in the proposal in delivering the program; and

(viii) Other relevant information to meet the purposes of the program as found in this part.

(2) In evaluating the considerations described in paragraph (i)(1) of this section, the Chief may consult other Federal agencies with the appropriate expertise and information.

(3) The approval of a priority area at the State level does not necessarily mean that funds will be allocated to that area. Funding may be allocated to a priority area for one or more years. Proposals that are not funded may be resubmitted to the Chief for subsequent review and consideration to determine if the resubmitted proposal meets Federal priorities for funding.

### § 1466.6 Conservation plan.

(a) The participant shall develop and submit a conservation plan for the farm or ranch unit of concern that, when implemented, protects the soil, water, or related natural resources in a manner that meets the purpose of the program, is acceptable to NRCS, and is approved by the conservation district. This plan forms the basis for an EQIP contract.

(1) When considering the acceptability of the plan, NRCS will consider whether the participant will use the most cost-effective conservation practices to solve the natural resource concerns and maximize environmental benefits per dollar expended.

(2) As determined by NRCS, the conservation plan must allow the participant to achieve a cost-effective resource management system, or some

appropriate portion of that system, identified in the applicable NRCS field office technical guide, for the priority natural resource condition of concern in the priority area or the significant statewide natural resource concern outside a funded priority area.

(b) Upon a participant's request, the NRCS may provide technical assistance to a participant. NRCS may utilize the services of qualified personnel of cooperating Federal, State, or local agencies, Indian tribes, or private agribusiness sector or organizations, in performing its responsibilities for technical assistance. Participants may use the services of qualified non-NRCS professionals to provide technical assistance. NRCS retains approval authority over the technical adequacy of work done by non-NRCS personnel for the purpose of determining EQIP contract compliance.

(c) Participants are responsible for implementing the conservation plan. A participant may seek additional assistance from other public or private organizations or private agribusiness sector as long as the activities funded are in compliance with this part.

(d) All conservation practices scheduled in the conservation plan are to be carried out in accordance with the applicable NRCS field office technical guide.

(e) The conservation plan, or supporting documentation, for the farm or ranch unit of concern shall include:

(1) A description of the prevailing farm or ranch enterprises and operations that may be relevant to conserving and enhancing soil, water, or related natural resources;

(2) A description of relevant natural resources, including soil types and characteristics, rangeland types and conditions, proximity to water bodies, wildlife habitat, or other relevant characteristics related to the conservation and environmental objectives of the plan;

(3) A description of the participant's specific conservation and environmental objectives to be achieved;

(4) To the extent practicable, the quantitative or qualitative goals for achieving the participant's conservation and environmental objectives;