

**§ 1466.20**

**7 CFR Ch. XIV (1-1-08 Edition)**

for producers; and training, certification, and quality assurance for professional conservationists. Payments to certified Technical Service Providers will be made only for an application that has been approved for payments.

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

**Subpart B—Contracts and Payments**

**§ 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. Applications are accepted throughout the year. Producers who are members of a joint operation may file a single application for the joint operation.

(b) The State Conservationist or Designated Conservationist with advice from the State Technical Committee or Local Work Groups will develop a ranking process to prioritize applications for funding which address priority natural resource concerns. The State Conservationist or Designated Conservationist will periodically select for funding the highest ranked applications based on applicant eligibility and the NRCS ranking process. The State Conservationist or Designated Conservationist will rank all applications according to the following factors:

- (1) The degree of cost-effectiveness of the proposed conservation practices,
- (2) The magnitude of the environmental benefits resulting from the treatment of National priorities and the priority natural resource concerns reflecting the level of performance of a conservation practice,
- (3) Treatment of multiple resource concerns,
- (4) Use of conservation practices that provide environmental enhancements for a longer period of time,
- (5) Compliance with Federal, state, local or tribal regulatory requirements concerning soil, water and air quality; wildlife habitat; and ground and surface water conservation, and
- (6) Other locally defined pertinent factors, such as the location of the con-

servation practice, the extent of natural resource degradation, and the degree of cooperation by local producers to achieve environmental improvements.

(c) If the State Conservationist determines that the environmental values of two or more applications for cost-share payments or incentive payments are comparable, the State Conservationist will not assign a higher priority to the application solely because it would present the least cost to the program.

(d) The ranking will not give preferential treatment to applications based on size of the operation.

(e) The ranking will determine which applications will be awarded contracts. The approving authority for EQIP contracts will be the State Conservationist or designee except the approving authority for any EQIP contract greater than \$100,000 is the NRCS Regional Conservationist.

(f) The State Conservationist will make all information regarding priority resources concerns, how the EQIP program is implemented in the state, and the cost-list of eligible practices available to the public.

**§ 1466.21 Contract requirements.**

(a) In order for a participant to receive cost-share or incentive payments, the participant must enter into a contract agreeing to implement one or more conservation practices. Cost-share payments and incentive payments as well as reimbursement for Technical Service Provider technical assistance may be included in a contract.

(b) An EQIP contract will:

- (1) Identify all conservation practices to be implemented, the timing of practice installation, the operation and maintenance requirements for the practices, and applicable cost-shares and incentive payments allocated to the practices under the contract;
- (2) Be for a minimum duration of one year after completion of the last practice, but not more than 10 years;
- (3) Incorporate all provisions as required by law or statute, including requirements that the participant will:
  - (i) Not implement any practices on the farm or ranch unit under the contract, or agricultural operation of the

producer for ground and surface water conservation contracts, that would tend to defeat the purposes of the program;

(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 § 1466.26;

(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 § 1466.25;

(iv) Implement a comprehensive nutrient management plan when the EQIP contract includes a waste storage or waste treatment facility; and

(v) Supply information as may be required by NRCS 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) Specify any other provision determined necessary or appropriate by NRCS.

(c) The participant must start at least one financially assisted practice within the first 12 months of signing a contract. If a participant, for reasons beyond their control, is unable to start a practice within the first year of the contract, they can request a waiver from the State Conservationist.

(d) Each contract will be limited to no more than \$450,000.

**§ 1466.22 Conservation practice operation and maintenance.**

The contract will incorporate the operation and maintenance of conservation practices applied under the contract. The participant must operate and maintain each conservation practice installed under the contract for its intended purpose for the life span of the conservation practice as determined by NRCS. Conservation practices installed before the execution of a contract, but needed in the contract to obtain the environmental benefits

agreed upon must be operated and maintained as specified in the contract. NRCS may periodically inspect a conservation practice during the life-span of the practice as specified in the contract to ensure that operation and maintenance are occurring. When NRCS finds that a participant is not operating and maintaining practices in an appropriate manner, NRCS will request a refund of cost-share or incentive payments made for that practice under the contract.

**§ 1466.23 Cost-share rates and incentive payment levels.**

(a) Determining Cost-share payment rates.

(1) The maximum cost-share payments made to a participant under the program will not be more than 75 percent of the actual cost of a structural practice, as determined by the State Conservationist or Designated Conservationist, except that for a Limited Resource Farmer or Rancher or Beginning Farmer and Rancher cost-share payments may be up to 90 percent, as determined by the State Conservationist or Designated Conservationist.

(2) The cost-share payments to a participant under the program will be reduced proportionately below the rate established by the State Conservationist or Designated Conservationist, or the cost-share limit as set in paragraph (c) of this section, to the extent that total financial contributions for a structural practice from all public and private sources exceed 100 percent of the actual cost of the practice.

(b) Determining Incentive Payment levels. NRCS may provide incentive payments to participants for performing a land management practice or to develop a comprehensive nutrient management plan in an amount and at a rate necessary to encourage a participant to perform the practice that would not otherwise be initiated without government assistance. The State Conservationist or Designated Conservationist, with the advice of the State Technical Committee or Local Work Groups, may consider establishing limits on the extent of land management practices that may be included in a contract.