Subpart A - General Information

515.0 General Information

A. Background and Purpose

The Environmental Quality Incentives Program (EQIP) is reauthorized by the Food, Conservation, and Energy Act of 2008 (Public Law 110-246) to—

(i) Promote agricultural production, forest management, and environmental quality as compatible national goals and to optimize environmental benefits—

(a) On eligible land with farmers, ranchers, and nonindustrial private forest land owners.

(b) On a voluntary basis.

(c) Using partnerships with local, State, Tribal, and Federal agencies, producer associations, and nonprofit organizations.

(d) Providing flexible technical and financial assistance to install and maintain conservation practices, including those related to organic production, that sustain food and fiber production.

(e) Assisting farmers and ranchers in complying with local, State, Tribal, and Federal regulatory requirements.

(ii) Encourage environmental enhancement.

(iii) Stimulate innovative approaches to leveraging the Federal investment in environmental enhancement and protection, including air quality concerns, in conjunction with agricultural production through Conservation Innovation Grants.

(iv) Promote ground and surface water conservation on agricultural operations.

Note: Ground and Surface Water Conservation and Klamath Basin funding were not reauthorized by the Food, Conservation, and Energy Act of 2008 (Public Law 110-246); however, existing contracts funded under the authority of these programs will continue to be implemented using EQIP funds to service remaining contract obligations.

B. Program Availability

The program is available to all eligible producers in the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Marianas Islands.

C. Procedure

EQIP provides technical and financial assistance, and training to eligible producers who enter into contracts based on an EQIP plan of operations.

D. Agency Responsibilities

(1) The Natural Resources Conservation Service (NRCS) has overall leadership for the program and is responsible for establishing polices, guidelines, and priorities for EQIP with guidance from the State technical committee. NRCS also provide technical assistance.

(2) The responsibilities of the Farm Service Agency (FSA) are identified in Title 440, Conservation Programs Manual (440-CPM), Part 512, Subpart A, General Information.

(3) Conservation districts may convene local working groups which provide advice and recommendations to the designated conservationist for program implementation. Refer to Subpart C, "Roles of Committees and Other Groups," in this Part.

(4) Conservation district responsibilities are outlined in 440-CPM, Part 515, Subpart B, Responsibilities for local implementation of EQIP. FSA county participation is outlined in 440-CPM, Part 515, Subpart B, Responsibilities.

515.1 Source of Authority

A. Legislative Authorities

Legislative authorities for the policies and procedure contained in this Part, codified in 16 U.S.C. Section 3801 et seq., are:

(i) Food Security Act of 1985, Public Law 99-198, Title XII

(ii) Federal Agriculture Improvement and Reform Act of 1996, Public Law 104-127

(iii) Farm Security and Rural Investment Act of 2002, Public Law 107-171

(iv) Food, Conservation, and Energy Act of 2008, Public Law 110-246

B. Federal Register

C. Authority to Waive Administrative Procedures
   (1) The Deputy Chief for Programs may waive any administrative procedural provision in this Part:
      (i) Unless prohibited by statute or regulation.
      (ii) If the waiver is justified and will not defeat the purposes of EQIP or any other conservation program administered by USDA.

   Note: This relief is in addition to the appeals provisions of EQIP.

   (2) Requests for waivers from the State Conservationist may be submitted in writing to the Deputy Chief for Programs, who will review the request and make an appropriate determination. Requests for waivers will include:
      (i) A description of the problem with the existing procedure, including specific reference to actual situations.
      (ii) A description of the recommended procedure.
      (iii) A recommendation for the applicable State.

D. Delegation of Authority
   The State Conservationists may delegate responsibilities on items for which they have responsibility, unless specifically prohibited by the Part or other agency policy. These delegations of authority will be managed through the “permissions function” in ProTracts and by written State policy supplements.

515.2 Purpose and Use of the Part
A. Purpose of this Part
   This Part contains NRCS policies, guidance, and operating procedures for implementing EQIP (7 CFR Part 1466), in accordance with the final rules identified in (see 440-CPM, Part 512, Subpart A).

B. Knowledge by Employees
   NRCS personnel assigned EQIP responsibility will have a working knowledge of this Part as well as 7 CFR Part 1466.

C. Use of Part
   This Part will be used in conjunction with the Conservation Program Contracting procedures in 440-CPM, Part 512, to provide—
      (i) Policy implementation, guidance, and operating procedures for NRCS.
      (ii) A reference and training tool for—
          NRCS employees.
          Conservation districts.
          State technical committee and local working group members.
          Personnel from cooperating agencies and organizations.
          Technical service providers (TSPs).
          Tribes.
          Others with authority or responsibility for program administration.

D. Supplements to this Part
   State policy supplements to this manual may be approved by the State Conservationist, with written concurrence from the Deputy Chief of Programs, unless specifically prohibited by this Part or other agency policy.

E. Use of Terminology in this Part
   (1) As provided by Section 1241 of the Food Security Act of 1985 (16 U.S.C. Sections 3838 to 3839 aa-8), as amended by the Farm Security and Rural Investment Act of 2002, the funds, facilities, and authorities of the Commodity Credit Corporation (CCC) are available to NRCS for carrying out EQIP. (The Chief of the NRCS is a vice president of the CCC.) Accordingly, where NRCS is mentioned in this Part, it also refers to the CCC’s funds, facilities, and authorities where applicable.

   (2) NRCS has established policies and promulgated regulations regarding the certification and use of technical service providers. Accordingly, where TSP is used in this Part, it means an NRCS-certified technical service provider.

515.3 Program Objectives
A. Objectives
   The EQIP objectives, as stated in the Food, Conservation, and Energy Act of 2008 (Public Law 110-246), are to promote agricultural production, forest management, and environmental quality
as compatible national goals, and to optimize environmental benefits, by—

(i) Assisting producers in complying with local, State, Tribal, and Federal regulatory requirements concerning—
   Soil, water, and air quality
   Wildlife habitat
   Surface and ground water conservation
   Organic production
   Other natural resource concerns

(ii) Avoiding, to the maximum extent practicable, the need for regulatory programs by assisting producers in protecting soil, water, air, and related natural resources and meeting environmental quality criteria established by Federal, State, Tribal, and local agencies.

(iii) Providing flexible assistance to producers to install and maintain conservation practices that sustain food and fiber production while enhancing soil, surface and groundwater, and related natural resources, including grazing land, forestland, wetland, and wildlife, and conserving energy.

(iv) Assisting producers to make beneficial, cost-effective changes to production systems (including conservation practices related to organic production), grazing management, nutrient management, pest management, irrigation water management, or other practices on agricultural land.

(v) Consolidating and streamlining conservation planning and regulatory compliance procedures to reduce administrative burdens on producers and the cost of achieving environmental goals.

B. National Priorities and Measures

(1) In order to provide direction to the State and local levels for implementing EQIP to achieve its objectives, NRCS has established the national priorities listed below. In addition, energy conservation is considered a component of all national priorities in the context of applying conservation practices in an energy conserving manner. The five EQIP national priorities are:

   (i) Reduction of nonpoint source pollution, such as nutrients, sediment, pesticides, or excess salinity in impaired watersheds consistent with Total Daily Maximum Loads (TMDLs), where available, as well as the reduction of groundwater and surface contamination and reduction of contamination from agricultural point sources including confined animal feeding operations.

   (ii) The conservation of ground and surface water resources.

   (iii) Reduction of emissions, such as particulate matter, nitrogen oxides (NOX), volatile organic compounds, and ozone precursors and depleters that contribute to air quality impairment violations of National Ambient Air Quality Standards.

   (iv) Reduction in soil erosion and sedimentation from unacceptable levels on agricultural land.

   (v) Promotion of at-risk species habitat conservation.

(2) State Conservationists will also utilize recommendations from the State technical committee and local working groups to include State and local priorities that may be considered in the ranking evaluation process. In most cases, it is expected that these issues will aid the State in addressing national priorities; however, there may be cases where the State and local priorities address resource concerns that do not fall within a national priority.

(3) To assist States in addressing the national priorities, NRCS has identified specific measures that can help EQIP achieve its national priorities and statutory requirements more efficiently. These measures include identifying and implementing conservation practices that—

   (i) Increase overall environmental benefits, for example by addressing multiple resource concerns, ensuring more durable environmental benefits, and limiting adverse ancillary impacts.

   (ii) Encourage innovation.

   (iii) Comply with the statutory mandate to target nationally, 60 percent of available financial assistance to livestock-related conservation practices.

   (iv) Employ appropriate tools to more comprehensively serve EQIP purposes, such as comprehensive nutrient management plans, integrated pest management plans, forest management plans, irrigation water management plans, and grazing management plans.

   (v) Target 10 percent of available funding to beginning, or socially disadvantaged producers.

(4) NRCS will review these priorities and measures annually and make revisions as required to address emerging resource issues. NRCS will—

   (i) Use the national priorities to guide the allocation of EQIP funds to the State NRCS offices.

   (ii) Use the national priorities in conjunction with State and local priorities to assist with prioritization and selection of EQIP applications.

   (iii) Periodically review and update the national priorities utilizing input from the public and affected stakeholders to ensure that the program continues to address national resource needs.
(5) Where a natural disaster has created a natural resource concern, State and local decisionmakers can identify that resource concern as a priority for EQIP assistance to help producers implement conservation practices to prevent future occurrences.
515.10 Natural Resources Conservation Service Responsibilities

Note: Responsibilities regarding EQIP regulations and administration of the program may also affect the administration of Conservation Innovation Grants (CIG), the Agricultural Water Enhancement Program (AWEP), the Chesapeake Bay Watershed Initiative (CBWI), and the Cooperative Conservation Partnership Initiative (CCPI).

A. Responsibility Assignments
   This Section defines NRCS responsibilities for:
   (i) National Headquarters
   (ii) State offices
   (iii) Field offices

B. National Headquarters, Chief
   The Chief provides national leadership for—
   (i) Making policy and program regulatory decisions.
   (ii) Making fund allocation and reallocation decisions.
   (iii) Maintaining working relationships within USDA and with external groups and partners to foster effective and efficient use of EQIP.
   (iv) Waiving AGI, contract limit of $300,000 and $300,000 payment limitation

C. Regional Conservationists
   (1) Review and approve contracts worth $150,000 to $300,000.
   (2) Manage and review requests to the Chief for waivers associated with special environmental significance, in accordance with the provisions of the 2008 Farm Bill.

D. National Headquarters, Deputy Chief for Programs
   The Deputy Chief for Programs provides national leadership for—
   (i) Program development and implementation, including rulemaking.
   (ii) Making fund allocation and reallocation recommendations.
   (iii) Waiving administrative procedures as warranted.
   (iv) Coordinating with appropriate agencies and organizations at the national level.
   (v) Oversight of implementation of EQIP, including Conservation Innovation Grants (CIG) and the Agricultural Water Enhancement Program (AWEP).
   (vi) Other responsibilities delegated by the Chief.

E. National Headquarters, Deputy Chief for Financial Management
   The Deputy Chief for Financial Management will provide national leadership for:
   (i) Issuing funds in the financial management system to State Conservationists for system allocations, reallocations, and modifications when approved by Chief or Associate Chief.
   (ii) Maintaining fund accountability and accounting procedures, including accounts for cost overruns.
   (iii) Other responsibilities delegated by the Chief.

F. National Headquarters, Deputy Chief for Management
   The Deputy Chief of Management provides national leadership for—
   (i) Providing expertise and support for EQIP-related contracts and agreements, including AWEP, CIG, and CCPI.
   (ii) Providing information technology support for approved software for EQIP, including CIG.

G. National Headquarters, Deputy Chiefs for Science and Technology and Soil Survey and Resource Assessment
   These Deputy Chiefs provide leadership for—
   (i) Developing technology for EQIP support, including CIG.
   (ii) Analysis and evaluation support for EQIP, including support during rulemaking.

H. National Headquarters, Regional Assistant Chiefs
   The Regional Assistant Chiefs must provide approval for every contract whose total contract obligation exceeds a specific dollar amount, as set by the Chief in accordance with 440-CPM, Part 512, Subpart E, Contracting, Section 512.46 D. This concurrence cannot be delegated. For payment schedule approval requirements see 440-CPM, Part 512, Subpart E, Contracting Section 512.33.

I. National Headquarters, Director, Financial Assistance Programs Division
   The Director, Financial Assistance Programs Division, provides national leadership for—
   (i) Operational leadership and management for EQIP, including CIG, CCPI and AWEP.
(ii) Maintaining liaison and working relationship with Farm Service Agency (FSA) program leaders, other NRCS division directors, and NRCS national technical service centers (NTSC).
(iii) Program training.
(iv) Overall program evaluation, including program accountability.
(v) Recommending policies and regulation content, and establishing supporting procedures.
(vi) Developing user requirements for program related software, including coordination and involvement with business and information technology specialists on testing, issuing, training and maintaining software to support EQIP activities.
(vii) Program information sharing.
(viii) Updating eligibility criteria in response to statutory changes.
(ix) Developing and updating the EQIP Manual to reflect program policies and procedures.
(x) Developing and implementing a natural resource-based methodology to support fund allocation recommendations.
(xi) Working closely with FSA to ensure access to the adjusted gross income (AGI) and highly erodible land conservation (HELIC)/wetland conservation (WC) compliance data, as well as access to Service Center Information Management System (SCIMS).
(xii) Other responsibilities as assigned by the Deputy Chief for Programs.

J. State Offices, State Conservationist

The State Conservationist will provide leadership for the following EQIP responsibilities within his or her State:

(i) Ensuring that all program activities are in compliance with NRCS regulations and policies.
(ii) Supplementing the EQIP manual to establish a process for determining irrigation history.
(iii) Seeking recommendations and advice from the State technical committee regarding EQIP implementation.
(iv) Developing additional guidelines for conservation needs assessments.
(v) Establishing State program management policies, procedures, and program performance indicators to support EQIP national priorities and measures.
(vi) Maintaining program and fund integrity and accountability.
(vii) Delegating authority to certify and approve payments consistent with agency policies.
(viii) Approving the payment schedule and payment rates used in the State that provides a cost basis for conservation program payments (see 440-CPM, Part 512, Subpart D, Cost-Sharing and Incentives Payments).
(ix) Conducting statewide public outreach and information activities.
(x) Establishing State policies, resource concerns and priorities.
(xi) Establishing list of eligible practices.
(xii) Determining fund allocations within the State and establish statewide ranking pools to address specific resource concerns as appropriate.
(xiii) Identifying, monitoring and analyzing performance indicators and evaluating and reporting program impacts on resources.
(xiv) Designating appropriate roles and responsibilities to designated conservationists for each jurisdiction of the State.
(xv) Ensuring compliance with appropriate internal controls, including separation of duties as they relate to contract development, contract obligation and modification, and payment certification.
(xvi) Administering offsets, collections, and claims.
(xvii) Implementing the provisions of Section 1240H, "Conservation Innovation Grants, Cooperative Conservation Partnership Initiative" and Section 1240I, "Agricultural Water Enhancement Program," as appropriate.
(xviii) Providing training.
(xiv) Coordinating across State lines with other State Conservationists.
(xx) Participating in the appeal process, as appropriate.
(xxi) Providing leadership for developing cooperative agreements with other conservation partners concerning their roles and responsibilities.
(xxii) Reviewing local working group application process and ranking to ensure the program is in compliance with NRCS regulations and policies; and that USDA civil rights responsibilities are met.
(xxiii) Granting waivers for:
- Starting a practice prior to application for the program or contract approval.
- All or part of recovery costs.
- Liquidated damages.
- The requirement to commence a financially-assisted practice in the first 12 months of a contract. (see 440-CPM, Part 512, Subpart E, Contracting)
(xxiv) Randomly selecting 5 percent of the self-certified limited resource producers and 5 percent of the beginning farmers or ranchers for verification.
(xxv) Establishing Statewide quality assurance procedures.
(xxvi) Contracting responsibilities as defined in 440-CPM, Part 512, Subpart A, General Information.
(xxvii) Posting EQIP ranking criteria, signup periods, and other informational materials on...
NRCS Web sites to make them available to the public as required by program regulations and policies. Posting technical program support information such as payment schedules and rates to eFOTG.
(xxxiii) Other responsibilities as assigned by the Chief.
(xxxiv) Other tasks as indicated by policy.
(xxxv) Advancing payments of up to 30 percent to historically underserved producers.
(xxxvi) Determining an acceptable watershedwide project.
(xxxvii) Determining acceptable forest management plans.
(xxxviii) Determining acceptable percentage of funds targeted to socially disadvantaged farmers and ranchers and beginning farmers and ranchers.
(xxxix) Targeting 10 percent of funds to assist socially disadvantaged farmers and ranchers and beginning farmers and ranchers.
(xxl) Coordinating with organic certifiers if participant is not actively pursuing an organic system plan and has received EQIP funds to address conservation as part of an organic farming operation.
(xxl) Groups applications to the extent possible by similar crop, forestry, and livestock operations for evaluation purposes.
(xxl) Managing or reserving special initiative funds such as the 6 percent of EQIP funds to support the Cooperative Conservation Partnership Initiative (CCPI).
(xxl) Supporting and administering applicable agency initiatives such as the EQIP Air Quality Initiative, program support for development of conservation activity plans (See 440-CPM, Part 512, Subpart D, Cost-Sharing and Incentives Payment), or other similar initiatives approved by the Chief.
(xxl) Manage and review requests to the Chief for waivers associated with special environmental significance, in accordance with the provisions of the 2008 Farm Bill Statute.

K. Field Offices, Designated Conservationist

Designated conservationists will provide leadership for EQIP activities in their area of authority as delegated by the State Conservationist, with advice of the local working group, including the following responsibilities:

(i) Providing local program leadership.
(ii) Assessing natural resource and environmental conditions and needs.
(iii) Identifying program priorities and resources available.
(iv) Making program policy recommendations to the State Conservationist.
(v) Where a conservation district is not present or chooses not to fulfill the responsibilities outlined in 440-CPM, Part 501, Executive Summary, the NRCS designated conservationist will have these responsibilities.

(vi) Providing leadership in carrying out public outreach and information activities at the local level and document activities per National Outreach Policy.
(vii) Determining eligible conservation practices and recommending payment rates, with advice of the local working group (see 440-CPM, Part 501, Subpart A, Executive Summary).
(viii) Analyzing performance indicators and reports.
(ix) Monitoring, evaluating, and reporting program impacts on natural resources.
(x) Providing leadership for developing cooperative agreements with local conservation partners.
(xi) Implementing policies and procedures.
(xii) Developing a process to evaluate EQIP applications based on advice from the local working group and announcing application evaluation periods (batching).
(xiii) Accepting applications and entering them into ProTracts.
(xiv) Verifying individual or entity designation of application, as necessary.
(xv) Acquiring all necessary signatures on the Conservation Program Application (Form NRCS-CPA-1200), the Conservation Program Contract (Form NRCS-CPA-1202), and the Conservation Program Application Appendix (Form NRCS-CPA-1200 Appendix).
(xvi) Determining producer eligibility, including whether applicant is an agricultural producer (see 440-CPM, Part 515, Subpart F, Program Eligibility).
(xvii) Determining land eligibility and update status in ProTracts.
(xviii) Ranking applications and selecting applications approved for funding and plan development.
(xix) Entering all approved contracts into ProTracts.
(xx) Participating in appeal processes, as appropriate.
(XX) Documenting case file in accordance with Title 180, National Planning Procedures Handbook (NPPH), Part 600 (see 440-CPM, Part 515, Subpart I, EQIP Plan of Operations).
(XXI) Ensuring contracts and payments are not approved in excess of allocations.
(XXII) Certifying installation and check-out of completed structural and vegetative practices, unless contracted for completion by a TSP.
(XXIII) Determining eligibility to receive payment according to the Highly Erodible Land Conservation and Wetland Conservation Certification form (Form AD-1026), processing payment request, Form NRCS-1245, Practice Approval and Payment Application (see 440-CPM, Part 515, Subpart F, Program Eligibility).
(XXIV) Conducting spot checks on State office selected limited resource producers and
515.11 Farm Service Agency (FSA) Participation

A. Introduction
This section defines the FSA participation in EQIP in the State. Other FSA assistance may be outlined in interagency agreements developed at the national headquarters level.

B. State FSA Committee
The State FSA Committee may participate on the State technical committee, which provides advice to the State Conservationist.

C. State FSA Office
The State executive director may participate on the State technical committee, which provides advice to the State Conservationist.

D. County FSA Committee
The county FSA committee may participate on the local working group.

E. County Offices
The staff of county FSA offices:
(i) County executive director (CED) may participate on the local working group.
(ii) Ensure effective working relationship with NRCS.
(iii) May participate in the appeals process (see 440-CPM, Part 512, Subpart E, Contracting).
(iv) Establishing farm records for NRCS program applicants and completing producer eligibility determinations and certifications in accordance with the memorandum of understanding between NRCS and FSA.

515.12 Conservation District, State Agency, and State Association Responsibilities

A. Introduction
This section defines the responsibilities assigned to—
(i) State soil conservation agency, State association of soil and water conservation districts, or both.
(ii) Local, State, or Tribal conservation districts.

B. State Soil and Water Conservation Agency and State Association of Soil and Water Conservation Districts
State soil and water conservation agencies and State associations of soil and water conservation districts may participate as a member of the State technical committee.

C. Local or Tribal Conservation Districts
Local conservation districts are legal subdivisions of State government and are charged by State law with providing leadership for the conservation of soil, water, and other natural resources within conservation district boundaries. Tribal conservation districts are appointed by Tribal government or formed under Tribal resolution. Subsequently, elected or appointed conservation district members may take part in the implementation of EQIP, as follows:
(i) Identifying local resource concerns, objectives, and priorities; recommending application and evaluation processes; priorities for assistance; and, assuring local resource priority issues and concerns are being addressed.
(ii) Notifying local working group members of meeting times and dates.
(iii) Convening and participate on the local working group (see 440-CPM, Part 501, Subpart A, D. Delegation of Authority
Information
Refer to 440-CPM, Part 515, Subpart E, Program Eligibility, Note
Implement conservation practices for certified organic production that are consistent with an organic operations as recorded on the Form NRCS practices that will not be financially assisted in the contract. Another form of to the farm or EQIP benefits is sufficient evidence to show voluntary removal.

D. Delegation of Authority
Information
Refer to CPM, Part 515, Subpart E, Program Eligibility, Note
Implement conservation practices for certified organic production that are consistent with an organic operations as recorded on the Form NRCS practices that will not be financially assisted in the contract. Another form of to the farm or EQIP benefits is sufficient evidence to show voluntary removal.
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(iv) Assessing natural resource conditions and needs.
(v) Identifying local program priorities and available resources.
(vi) Providing input and recommendations to NRCS for program guidelines.
(vii) Accepting applications for contracts and forwarding them to NRCS.
(viii) Providing technical assistance support, where appropriate.
(xix) Providing contract administrative support, where appropriate.
(x) Providing advice on contract violations and terminations.
(xi) Assisting NRCS with local information and outreach activities.
(xii) Other assistance as requested by the State Conservationist.

Note: Where a conservation district is not present or chooses not to fulfill the responsibilities outlined in 440-CPM, Part 501, Subpart A, Executive Summary, the NRCS-designated conservationist will have these responsibilities.

515.13 Responsibilities Assigned to Other Agencies and Tribes

Other Federal, State, and local agencies and Tribes may have the following responsibilities:

(1) Serving as a member of the State technical committee, local working group, or both.
(2) Providing input and recommendations to NRCS for developing program guidelines.
(3) Assisting NRCS with information and outreach activities.
(4) Providing technical assistance where appropriate.
(5) The Bureau of Indian Affairs (BIA) must ensure no Tribal member exceeds payment limitations.
(6) BIA must provide authorization to participant for adequate control of land.
(7) BIA must approve forest management plans on lands administered by BIA.
(8) State forester must work with State Conservationist to determine acceptable management plans.
Subpart C - Roles of Committees and Other Groups

515.20 Reserved

515.21 State Technical Committee

The roles and responsibilities, and standard operating procedures of the State technical committee are found in 440-CPM, Part 501, Subpart B, State Technical Committees,

(1) The State technical committees provide recommendations concerning the implementation of the program and establishing program direction for EQIP in the applicable State. Although technical committees have no implementation or enforcement authority, USDA gives strong consideration to the committee's recommendations.

(2) Each State technical committee will provide recommendations to establish criteria and guidelines for evaluating petitions by agricultural producers regarding new conservation practices and systems not already described in field office technical guides.

515.22 Local Working Groups

Purpose

The purpose of the USDA local working group is to facilitate locally led conservation (440-CPM, Part 500 and 440-CPM, Part 501, Subpart B, State Technical Committee, Section 501.14) and to provide advice to NRCS concerning the implementation of conservation programs including EQIP in accordance with the Federal Advisory Committee Act. The roles and responsibilities of the USDA local working groups, a subset of the State technical committee, are found in 440-CPM, Part 501, Subpart A, Overview of USDA Conservation Program Delivery.
Subpart D - Information and Outreach

515.30 General

Explanations of Information and Outreach

While information and outreach are frequently managed similarly and they may have common purposes and activities, a distinction is made in EQIP because of the statutory limitations placed on education assistance. The statute authorized the Secretary of Agriculture to provide “the producer with information and training to aid in implementation of the EQIP plan of operations.” Procedures will adhere to public information policy guidance in GM-260, Part 400. The following are general explanations of information, outreach, and education:

(i) Information includes those activities to develop, produce, and deliver general news, knowledge, and facts about the program. Information is delivered extensively to a wide audience. NRCS will use all available media to provide full disclosure of ranking criteria, eligible practices, payment rates, and program descriptions.

(ii) Outreach includes those activities to develop, produce, and deliver general news, knowledge, and facts about the program to a specific audience. Outreach efforts are typically aimed at producers who have been historically underserved, have not historically participated in conservation programs, or who require special emphasis or accommodations. The intent of outreach activities is to assure that the targeted producers are aware and informed of program opportunities and have access to program participation.

(iii) Training and education includes those activities to develop, produce, and deliver technical news, knowledge, and facts to producers to help them identify and understand their natural resource and environmental conditions, and to know how to develop, implement, and maintain a conservation practice or system.

515.31 Information and Outreach

Special Emphasis

Special emphasis will be made in all information activities to provide conservation assistance, program outreach, and access to limited resource farmers and ranchers, socially disadvantaged farmers or ranchers, small-scale farmers or ranchers, beginning farmers or ranchers, Tribal members, Alaska Natives, Pacific Islanders, producers with disabilities, and other producers with historically low participation rates in conservation programs. Procedures will adhere to national outreach policy guidance in GM-180, Part 406. Special outreach efforts could include, but not be limited to—

(i) Establishing special outreach activities at the national, State, and local levels.

(ii) Providing special accommodations, to the extent possible, to assure that producers are aware, informed, and have access to information and assistance, such as—

Using language spoken by the intended audience.
Using appropriate media sources to reach the intended audience.
Subpart E - Appeals

515.40 Reserved

515.41 Appeals

A. Appeal Process

All EQIP appeals will be handled in accordance with 440-CPM, Part 510, and, if appropriate, the Farm Service Agency (FSA) Handbook 1-APP. The applicable regulations for appeals are: 7 CFR Part 614, "NRCS Appeals Procedures"; 7 CFR Part 780, "FSA Appeals Procedures"; and 7 CFR Part 11, "National Appeals Division (NAD) Rules of Procedure."

B. Actions Not Appealable

In accordance with the provisions of the Department of Agriculture Reorganization Act of 1994, Public Law 103-354 (7 U.S.C. Section 6991 et seq.), and as set forth in the National Appeals Division Rules of Procedure, 7 CFR Section 11.6(a)(2), it "...shall [be] determined whether the decision is adverse to the individual participant, and thus appealable, or is a matter of general applicability, and thus not subject to appeal..." Actions and decisions that are generally applicable to all participants in the nation, State, or Tribes and are not specifically adverse to a participant in EQIP are not appealable, such as the following list:

(i) Payment limits and payment rates.
(ii) Identification of priority natural resource concerns or areas in the ranking criteria.
(iii) Funding allocations, funding levels, and funding decisions.
(iv) Eligible conservation practices.
(v) NRCS conservation practice standards and specifications and other technical criteria.
(vi) The application ranking and the screening process.
(vii) Science-based formulas and criteria.
(viii) Other matters of general applicability.
(ix) Matters of regulation and law that expressly provide for the action taken.
(x) Denial of program participation due to a current lack of program funds.

515.42 Handling Adverse Decisions

A. Adverse Decisions

NRCS may make different types of decisions for an EQIP participant depending on the basis for the decision. Many of the decisions that will be issued to a program participant will be about contract or program administration, (e.g., eligibility, violation, loss of control of the land under contract, payment ineligibility). However, some adverse decisions issued for EQIP may be strictly technical in nature (i.e., failure to complete a conservation practice according to FOTG standards). There are significant differences in the appeals procedures used for technical determinations as opposed to program decisions.

B. Technical Determinations

(1) These types of decisions must be issued appeal rights specified in 7 CFR Sections 614.7 and 614.8, which provide for review and reconsideration, mediation, or expedited finality at the preliminary determination level and an informal appeal hearing by either the FSA county committee (COC) or a formal appeal review by the National Appeals Division (NAD) at the final technical determination level. It is important that all steps are completely and correctly followed so that there can be no assessment of error by the participant that the proper appeal rights were not afforded for a particular determination.

(2) Preliminary technical determinations must also undergo a review by the NRCS State Conservationist if, upon reconsideration, the determination remains adverse to the participant. This review will ensure that the following actions are completed:

(i) The technical determination is fully supported by the record.
(ii) The technical determination conforms to the specific program regulation.
(iii) If one or both of these items are found to be in question, the State Conservationist may either remand the determination to the field office to redo the determination or have another employee conduct a new determination.

C. Program Decisions

(1) Program decisions are defined as "...written decision[s] by NRCS concerning eligibility for program benefits, program administration or program implementation and [are] based upon applicable regulations and program instructions." Program decisions are issued as final
decisions that achieve finality upon receipt by the program participant.
(2) Program decisions can be based on a technical aspect, yet, due to the nature of the
decision, be considered as a program decision. Examples of program decisions include, but
are not limited, to the following: program eligibility decisions, program ranking decisions,
program violations (even if they have a technical basis), recovery of costs due to loss of
control of the contract acreage, and failure to start a contracted practice within the first 12
months of a contract.
(3) The appeal rights for a program decision according to 7 CFR Section 614.9 include
mediation, informal appeal to either the FSA COC or the State Conservationist, or formal
appeal to NAD.

**Note**: Only those actions that are considered to be appealable will be given appeal rights. See
440-CPM, Part 515, Subpart F, Program Eligibility, for EQIP actions considered not to be appealable. The EQIP
participant has the right to request a NAD appealability review for determinations or decisions that
NRCS has determined not to be appealable. (see 440-CPM, Part 515, Subpart E, Appeals.)

### 515.43 Appeals and Decisions

A. Reserved

B. FSA Determination Appeals

FSA committee responsibilities are defined in 440-CPM, Part 512, Subpart A, General Information. Eligibility
decisions rendered by the FSA committee will be included in the overall eligibility decision issued
by NRCS as these decisions are not appealable due to being issued by another Federal agency at
the request of NRCS, (7 CFR Section 614.4(b)(6)).

C. Reserved

### 515.44 Notification Requirements

A. Notification of Nonappealable Issues

Participants must be notified in writing by NRCS if the action is nonappealable. The notice must
include both of the following:

(i) The participant’s right to request a NAD appealability review within 30 calendar days of
receipt of the adverse decision that the action is not appealable.
(ii) The address of the NAD regional director.

B. Appeals in Writing

(1) All adverse decisions, except those that are not appealable as provided in Section 515.44,
must be provided to the EQIP participant in writing, not later than 10 calendar days after the
decision has been reached. Appeal rights must be provided on all adverse decisions or
determinations as provided in Sections 515.42 (A)(1) or (2).
(2) A participant’s request for appeal is considered filed when the participant makes a written
request to any of the appeal venues provided by hand or when NRCS receives a properly
addressed appeal, in a postage paid envelope postmarked no later than 30 days from the
date that the participant received the adverse decision. All requests for appeal must include
a copy of the adverse decision being appealed.

**Note**: If NRCS did not send the adverse decision with any delivery notification, then timelines are
calculated using the date of the adverse decision plus seven days for mailing.
Subpart F - Program Eligibility

515.50 Reserved

515.51 Producer Eligibility

A. Overview

To be eligible to participate in EQIP, an applicant must be an individual, legal entity, or joint operation (see 7 CFR Part 1400) and meet all of the following eligibility criteria:

(i) Be an agricultural producer that is engaged in livestock or agricultural production, including forestry, or be an owner of agricultural lands, nonindustrial private forestlands, or other lands on which agricultural products, livestock, or forest-related products are produced and natural resource concerns may be addressed. A producer means a person, legal entity, or joint operation who has an interest in the agricultural operation, according to 7 CFR Part 1400 or who is engaged in agricultural production or forestry management. In accordance with 7 CFR Part 1400, an interest in agriculture means the owner or renter of land, which includes a farming operation.

(ii) Have an interest in the agricultural or forestry operation associated with the land being offered for enrollment in EQIP.

Note: 7 CFR Part 1400 defines interest as follows: "Interest in a farming operation means one of the following:

(iii) Owner or renter of the land in the farming operation;
(iv) An interest in the agricultural products, commodities, or livestock produced by the farming operation; or
(v) A member of a joint operation that either owns or rents land in the farming operation or has an interest in the agricultural products, commodities, or livestock produced by the farming operation."

(vi) Have control of the land for the term of the proposed contract period. For operators who plan to implement structural and vegetative practices on property they do not own, the applicant must submit written concurrence by the landowner at the time of the application or the owner may also be signatory to the program contract with zero percent interest. (see 440-CPM, Part 515, Subpart F, Program Eligibility).

(vii) Be in compliance with the provisions for protecting the interests of tenants and sharecroppers, including the provisions for sharing EQIP payments on a fair and equitable basis. (see paragraph M of this section).

(viii) Be in compliance with the highly erodible land (HEL) and wetland conservation (Swampbuster) compliance provisions of the 1985 Farm Bill, as amended in the 1990, 1996, and 2002 Farm Bills.

(ix) Be within appropriate payment limitation requirements as specified in sections 2503 and 2508 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246).

(x) Be in compliance with adjusted gross income (AGI) requirements as specified in 7 CFR Part 1400.

(xi) Have completed all other eligibility certifications as required in 440-CPM, Part 512, Subpart C, Application for Assistance.

Note: Federal, State, county, and local governments, and political subdivisions of State government (e.g., school districts, conservation districts, etc.) and entities containing these units of government or subdivisions are not eligible; however, land that they own may be eligible if leased to an eligible agricultural producer (see 440-CPM, Part 515, Subpart F). These entities may be listed with zero percent shares on an EQIP contract in cases where they are the owner of the land. These entities may include State agencies, State universities, and other State-funded organizations.

Federal or State agencies, Indian Tribes, conservation districts, units of local government, public or private organization, and individuals may enter into agreements with NRCS in order to assist with implementation of the program.

Foreign individuals and members of foreign entities may participate in EQIP if they meet eligibility criteria and have obtained and provided a Federal Identification Number issued by the Internal Revenue Service (IRS).

All individuals and entity EQIP applicants must be entered into the Service Center Information Management System (SCIMS) and assigned with an appropriate business type before the program application can be processed. Refer to 440-CPM, Part 512, Subpart C, for more information. Applicants must be associated with one of the eligible business types identified on program eligibility matrix located in 440-CPM, Part 512, Subpart J, “Exhibits,” in order to apply to EQIP.
B. Responsibility for Determinations

NRCS Field offices will—

(i) Comply with contracting policy eligibility requirements contained in 440-CPM, Part 512, Subpart C, Application for Assistance,

(ii) Make agricultural producer eligibility determinations (verify whether an applicant is an agricultural producer and does not exceed the program payment limitation).

(iii) Determine interest in the farming operation using a web service accessed by ProTracts.

(iv) Make land eligibility determinations in accordance with 440-CPM, Part 515, Subpart F, Program Eligibility and record in ProTracts per 440-CPM, Part 512, Subpart C, Application for Assistance. These determinations include agricultural land, crop and livestock, irrigation history, ownership and control, enrollment in other conservation programs as described later in this section of the manual. When all NRCS eligibility determinations have been completed the Designated Conservationist shall complete the “Other Eligibility” check box in the ProTracts Applicant Information screen.

Note: Adjusted gross income (AGI) is a payment eligibility determination that is applicable beginning with fiscal year 2003 contracts. AGI eligibility determination for EQIP is required before the application is promoted to “eligible” status and is applicable for the entire contract term. AGI verifications are handled through ProTracts. Refer to 440-CPM, Part 512, Subpart C.

C. Waiver Authority

(1) AGI Waiver.—To assist in the implementation of EQIP, the Chief may waive the eligibility requirement for the adjusted gross income limitation (AGI) on a case-by-case basis, in accordance with policy and processes cited in 7 CFR Part 1400. Requests for AGI waivers are made in writing by the State Conservationist, through the Regional Assistant Chief (RAC) office, to the Chief.

(2) Payment Limitation Waiver.—Producer contracts approved under EQIP authority are limited to payments of no more than $300,000. In order to assist in the implementation of EQIP, the Chief may provide a waiver to the $300,000 payment limitation, up to a maximum of $450,000, for projects of special environmental significance. Refer to subpart J of this manual for additional information and guidance.

D. Areas Experiencing Exceptional Drought

For agricultural lands not irrigated for two of the previous 5 years, the construction, improvement, or maintenance of irrigation ponds, small onfarm reservoirs, or other agricultural water impoundment structures, which are designed to capture surface water runoff, are eligible only in an area that is experiencing or has experienced exceptional drought conditions between June 18, 2006, and June 18, 2008. National Headquarters will provide guidance and identification of the area’s which meet the exceptional drought criteria (NOAA D4 designation).

E. Limitation on Administrative Expenses

None of the funds made available under the AWEP or CCPI programs may be used for a partner’s administrative expenses. All AWEP and CCPI funds will be administered directly through program contracts between NRCS and eligible producers.

F. Determining Eligibility as an Agricultural Producer

(1) NRCS has responsibility for notifying the applicant if they determine producer eligibility criteria are not met and to provide appeal rights according to 440-CPM, Part 510.

(2) An applicant is eligible if all of the following are met:

(i) The applicant is an individual, legal entity, or joint operation.

(ii) The applicant has an interest in an agricultural operation or is engaged in livestock, agricultural or forestry production as defined in this section. In accordance with 7 CFR Part 1400, an interest in agriculture means the owner or renter of land which includes a farming operation.

(iii) The land being offered for enrollment in EQIP is used in agricultural, livestock, or forestry production or is capable of growing trees as defined in this section.

(iv) In order to be considered an agricultural producer there must be an annual minimum of $1,000 of agricultural products being produced, sold, or both from the operation or from the land in which an owner has an interest according to 7 CFR Part 1400. If there were reasons beyond the producer’s control (e.g., climatic conditions such as drought) to meet this $1,000 annual minimum, then documentation must verify that the $1,000 minimum has been met 2 of the last 5 years. The $1,000 threshold may be documented by using crop type acres and livestock numbers collected as part of the conservation planning inventory and estimating associated dollar values from agricultural statistics data reports or other acceptable forms of proof including Internal Revenue Service profit or loss from farming Form 1040, Schedule F or other accounting records certified by a tax preparer that show profit or loss from farm operations. States may need to supplement this policy based on State and local needs.

(v) In lieu of documentation of the $1,000 threshold, the inherent value of production may be estimated by using comparable statistical values based on acres planted or number and type of livestock being raised to determine program eligibility.
(vi) Producers with nonindustrial private forest land must have an interest in the nonindustrial private forest land or land capable of growing trees.

(vii) Agricultural producers of nonindustrial private forest land or land capable of growing trees are exempt from the $1,000 requirement.

(viii) State Conservationists, with advice from the State technical committee, may further define criteria necessary for determining agricultural producer and agricultural production eligibility if appropriate and does not exceed statutory authorities.

Note: Producers of nonindustrial private forestland are those individuals, groups, associations, corporations, Indian Tribes, or others with definitive decisionmaking authorities over the land that are not:

(ix) Principally engaged in the primary processing of raw wood products; or

(x) Corporations or other legal entities with publicly traded stock.

(3) State Conservationists may consult the State forester for advice, on a case-by-case basis, as to whether a landowner is "industrial" or "nonindustrial" based on these two requirements when making this determination.

(4) To be eligible for EQIP, an applicant who certified as a beginning farmer or rancher must also be determined to be an agricultural producer.

(5) Foreign individuals and entities may be determined eligible producers provided they meet the provisions of this section.

(6) Agricultural support businesses such as agricultural supply buyers and sellers are not eligible to participate in EQIP. Likewise, producer organizations and cooperatives that provide support but do not meet the above criteria are not eligible.

(7) In addition to the above criteria:

**Agricultural production** is defined as farm or ranch operations involving the production of crops including, but not limited to:

- Grains or row crops
- Tobacco
- Seed crops
- Vegetables or fruits
- Hay, forage, or pasture
- Orchards or vineyards
- Flowers or bulbs
- Naval stores
- Field-grown ornamentals
- Plant materials
- Plant materials in greenhouses
- Trees, including private nonindustrial forest land
- Other agricultural commodities
- Other crops used for subsistence
- Other crops as identified by the State Conservationist with the advice of the State technical committee

(8) Livestock production is defined as farm or ranch operations involving the production, growing, raising, or reproduction of livestock or livestock products:

(i) For food or fiber including, but not limited to the following:

- Alpacas
- Dairy cattle
- Beef cattle
- Buffalo or Bison
- Poultry
- Turkeys
- Swine
- Sheep or goats
- Horses
- Fish or other animals raised by aquaculture
- Ostriches, rhea, or emus
- Other livestock or fowl

(iii) Other animals as identified by the Chief.

G. Determining Eligibility as Separate Individual or Entity

To be considered as a separate individual or legal entity for the purposes of EQIP (other than an individual or legal entity that is a member of a joint operation), in addition to other provisions of this section, all of the following must apply:

(i) Has a separate and distinct interest in the land or the agricultural, forestry, or livestock production involved

(ii) Exercises separate responsibility for such interest

(iii) Maintains funds or accounts separate from that of any other individual or entity for such interest
H. Determining Payment Limitations

(1) A payment limitation service is available in ProTracts to provide the balance of payment limitations available for contract approval to ensure that a participant has not received payments exceeding the $300,000 payment limitation for EQIP and AWEP. Projects having special environmental significance may receive a waiver from the Chief and be funded up to $450,000. Payments for technical assistance are not included in the calculation of the payment limitation.

Concerning persons or legal entities who receive payments for conservation practices related to organic production and to the transition to organic production, payments are limited to $20,000 per year or $80,000 during any 6-year period.

(2) ProTracts will use Web service information available from FSA to determine the following information, which is necessary to track payment limitations:

(i) Names of all members of the entity
(ii) Names of all members of any embedded entities
(iii) Percentage share for all members
(iv) Social Security numbers for all members (where applicable; American Indians, Alaska Natives, and Pacific Islanders may use another unique identification number for each individual eligible for payment)

Exceptions:

(i) Foreign individuals and members of foreign entities must obtain and provide a Federal identification number (Employer Identification Number (EIN), Social Security number (SSN), or both).
(ii) With regard to contracts on Indian land, payments exceeding the payment limitation may be made to the Tribal venture if an official of Bureau of Indian Affairs (BIA) or a Tribal official certifies in writing that no one individual directly or indirectly will receive more than the limitation.

I. Subsistence Producers

Individuals and families engaged in agricultural production for subsistence purposes are eligible for EQIP if they meet the requirements of 440-CPM, Part 515, Subpart F; Program Eligibility, however, the value of the production of food and fiber had it been sold may be used to document the $1,000 requirement if the production is:

(i) The primary source of family consumption and use, or
(ii) Used in barter and trade.

J. Squatters or Tenants by Sufferance

(1) The applicant must meet all of the following conditions:

(i) Be an eligible producer in accordance with 440-CPM, Part 515, Subpart F, Program Eligibility.
(ii) Have legal access to the land being offered for enrollment.

(2) Determine EQIP eligibility according to the following table:

<table>
<thead>
<tr>
<th>IF the applicant...</th>
<th>THEN the applicant is...</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has control of the land being offered for enrollment with the knowledge and written consent of the owner.</td>
<td>Eligible.</td>
</tr>
<tr>
<td>Is on the land being offered for enrollment without the knowledge and written consent of the owner.</td>
<td>Ineligible.</td>
</tr>
</tbody>
</table>

K. Indians and Indian Tribes

Indians and Indian Tribes are eligible producers if any of the following apply:

(i) The Indian Tribe owns or has control of the eligible land. (see 440-CPM, Part 515, Subpart F).
(ii) An individual Indian on Tribal land meets the requirements included in 440-CPM, Part 515, Subpart F.
(iii) An individual Indian on non-Tribal lands meets the requirements included in 440-CPM, Part 515, Subpart F.
(iv) An individual or entity having grazing authority on Tribal land is eligible as a tenant to perform practices on the land if the lease or permit is issued by an appropriate Tribal or Bureau of Indian Affairs official.

L. Cooperative Grazing Associations or Districts

A cooperative grazing association or district is eligible if either of the following applies:

(i) The requirements included in 440-CPM, Part 515, Subpart F, have been met.
(ii) It serves as the decisionmaker on behalf of its members, and the members meet the requirements included in 440-CPM, Part 515, Subpart F.
Subpart A - General Information

Subpart B - Responsibilities

Subpart C - Roles of Committees and Other Groups

(i) The individual or entity is one of the following:
   A member of the district.
   An owner or operator of the land located within the district.

N. Clubs and Organizations

Clubs and organizations such as 4-H clubs, FFA chapters, scout troops, and sportsmen’s clubs are eligible, providing that all of the following apply:

(i) The club or organization meets the requirements included in section 515.51 of this subpart.
(ii) A list of all members is provided, along with the Social Security number of all members and the percentage of interest of all members, or who are otherwise eligible in accordance with the requirements in Section 515.51 (E) of this Subpart.
(iii) An adult who officially represents the organization signs all of the required forms.

O. Minors

A minor is eligible only if the minor is legally responsible and is independently participating in the operation of the farm or ranch as an eligible individual. An adult who is legally responsible for the minor must also co-sign for the minor and is responsible for all terms of the contract.

P. Protecting Interests of Tenants and Sharecroppers

(1) The interests of tenants and sharecroppers must be safeguarded so that they may share, on a fair and equitable basis, in EQIP payments. This is a requirement of the Food Security Act of 1985, as amended in 1996. NRCS must not approve contracts with landlords who—
   (i) Do not give tenants and sharecroppers an opportunity to participate in EQIP.
   (ii) Reduce the number of tenants and sharecroppers in anticipation of EQIP participation.

(2) If there is a dispute between landlord and tenant or sharecropper, NRCS will not approve the EQIP contract until the landlord and tenant or sharecropper resolve their dispute.

           (i) Landlord and tenant or sharecropper provisions do not apply when the tenant or sharecropper—
               (i) Was removed voluntarily, as determined by the regional attorney according to State law.
               (ii) Left the farm voluntarily without any coercion from the landlord.

Note: A signed statement by the tenant or sharecropper voluntarily relinquishing his or her rights to the farm or EQIP benefits is sufficient evidence to show voluntary removal.

515.52 Eligibility of Land

A. Land Eligibility Decisions

NRCS makes land eligibility decisions and maintains copies of the determination in the official EQIP file. This eligibility determination is also documented in the “Other Eligibility” box in ProTracts.

B. Eligible Land

(1) Eligible land includes agricultural and nonindustrial private forest land, and other land on which agricultural products, livestock, or forest-related products are produced and resource concerns may be addressed.

(2) In general, the term “agricultural land” means land on which agricultural products, livestock, or forest related-products are produced and resource concerns can be addressed in order for an agricultural producer to meet the requirements included in 440-CPM, Part 515, Subpart F.

F. Agricultural land types include:

   (i) Cropland
   (ii) Rangeland
   (iii) Grassland
   (iv) Pasture land
   (v) Other agricultural land

Other agricultural land includes cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of agricultural land associated with the production of livestock. Examples include but are not limited to irrigation system pivot corners, access roads, streambanks and farmsteads.

   (vi) Nonindustrial private forestland

(3) The term nonindustrial private forest land means rural land that has existing tree cover or is suitable for growing trees; and is owned by any nonindustrial private individual, group,
assistance, corporation, Indian Tribe, or other private legal entity that has definitive decisionmaking authority over the land.

Note: Irrigation History:
A participant will be eligible for financial assistance for water conservation and irrigation related structural, vegetative, and land management practices only on land that has been irrigated for 2 of the last 5 years prior to application for assistance. State Conservationists will supplement this manual to identify the process and documentation necessary to validate irrigation history.

C. Land Ownership and Control
Land may only be considered for enrollment if the land meets any of the following criteria:
(i) Privately owned
(ii) Publicly owned land where all of the following apply:
   The land is under the participant's control for the contract period and is included in the participant's operating unit.
   The conservation practices to be implemented on the public land are necessary and will contribute to an improvement in the identified resource concern.

Note: The term "publicly owned land" means all lands owned by a public agency, which includes all Federal, State, or local units of government and their subdivisions.
(iii) Indian land.

D. Evidence of Control of Land
An applicant must provide satisfactory evidence that control of the land will continue uninterrupted for the contract period. Evidence may include—
(i) Deed or other evidence of land ownership.
(ii) Lease.
(iii) Other written authorization from the landowner showing control of the land for the life of the contract.

Note: Evidence may already be on file in the FSA county office or NRCS field office and should be referenced.

E. Permission of the Landowners
An applicant proposing to implement a structural practice funded through an EQIP contract must obtain written concurrence from the landowner or owners at the time of the application that specifically grants the applicant permission to install, operate, and maintain the practice for the lifespan of the conservation practices as defined in the contract (see 440-CPM, Part 515, Subpart F).
In the absence of a letter of authorization, the landowner may sign the contract as a zero percent shareholder to authorize structural conservation practices on their property. This authorization is needed in addition to the evidence of control of land.

F. Land enrolled in other Conservation Programs – Land enrolled in other conservation programs is eligible under EQIP provided—
(1) EQIP does not pay for the same practice enrolled on the same land as any other USDA conservation program. If there is an overlap for any part of the same practice, that practice would be considered as duplicative practice and not authorized under EQIP.
(2) Land enrolled in the Conservation Reserve Program (CRP) and the Conservation Reserve Enhancement Program (CREP) may only be offered for enrollment during the last year of the contract and no EQIP practice or activity may be implemented on that land until after the CRP or CREP contract has expired or has been terminated.
(3) The EQIP practices or activities do not defeat the purpose of either EQIP or the other conservation program contracts. (see 440-CPM, Part 512, Subpart C, for practice eligibility.)
Subpart G - Fund Allocation

515.60 Reserved

515.61 Allocation Process

A. Introduction

(1) All EQIP funds (technical assistance (TA) and financial assistance (FA)) are handled through the Foundation Financial Information System (FFIS). EQIP FA funds are further managed at the contract level through ProTracts.

(2) The NRCS National Headquarters will allocate the amount of financial and technical assistance funds to each NRCS State office after funds are apportioned. State offices may further allocate funds to other State created fund subaccounts created in ProTracts to address priority resource concerns and nationally established initiatives.

B. Funding Sources

There are three statutes authorizing funding for EQIP. Program rules and fund administration change based on the source.

(i) The initial source of funding was the Federal Agriculture Improvement and Reform Act of 1996 (1996 Farm Bill). When NRCS was assigned responsibility for program administration, all of the 1996 Farm Bill funds (1996 through 2004) were reprogrammed to 2005. As a result, deobligated funds are available for cost overruns until 2010 or 5 years from apportionment.

(ii) The second source is the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill). Deobligated funds from this source become unavailable 5 years from the fiscal year in which they were appropriated. For example, fiscal year 2002 funds that are not obligated in contracts can no longer be used for cost overruns, as it is now after September 2007.

(iii) The third and present, funding source is the Food, Conservation, and Energy Act of 2008 (Public Law 110-246). See 440-CPM, Part 512, Subpart I, Fund Management, for more details on managing funds from the 1996, 2002, and 2008 Farm Bills. Deobligated funds from this source become unavailable 5 years from the fiscal year in which they were appropriated.

C. National Allocation

(1) NRCS will determine the scheduled allocation of EQIP funds to NRCS State Conservationists using a formula that reflects national priorities and uses available natural resource and resource concerns data, such as—

(i) The significance of the environmental and natural resource concerns and the opportunity for environmental improvement.

(ii) The ways the program can best assist producers in complying with Federal, State, local, and Tribal environmental laws, quantified where possible.

(iii) The amount of agricultural land in different land use categories, such as grazing land, specialty crops, and others.

(iv) Other relevant information to meet the purposes of the program.

(2) As mandated by the Food, Conservation, and Energy Act of 2008 (Public Law 110-246), NRCS will target nationally 10 percent of the funds to assist socially disadvantaged farmers and ranchers and beginning farmers and ranchers.

D. Performance Incentive

Each fiscal year, NRCS will designate a portion of program funding to reward States that demonstrate a high level of performance in implementing EQIP. In making the allocation, the Chief will consider factors such as strategically planning EQIP implementation, effectively addressing national priorities, and State and local resource concerns, the program delivery effectiveness, the use of technical service providers (TSPs), and the number of contracts with historically underserved producers. The amount of funding designated for performance incentives and the criteria used to distribute funds among States will be determined by the Chief of NRCS.

E. State Allocations and Management

(1) The State Conservationist, with advice of the State technical committee, will determine how to manage EQIP funding and will direct funds toward meeting national priorities and measures, identified resource concerns at the State level, local level, or both, and State priority resource concerns.

Note: The term “priority resource concern” means a resource concern that is identified by the State Conservationist, in consultation with the State technical committee, as a priority for a State,
geographic area, or watershed level and documented in the ProTracts Application, Evaluation and Ranking Tool (AERT).

(2) The State Conservationist, with the advice of the State technical committee, will—

Document decisions and rationale for allocation of funds to different natural resource concerns or to different localities within the State and will consider the following to determine how to manage EQIP and how to allocate funds within a State:

The nature and extent of priority resource concerns at the State and local level.

Goals, objectives, and solutions, quantified when and where possible, for the natural resource concerns in order to optimize the environmental benefits that would be delivered with the authorized Federal dollars.

Science-based background data, quantified when and where possible, on the environmental status and needs, soils information, demographic information, and other available technical data that illustrate the nature and extent of natural resource concerns.

The availability of human resources, incentive programs, financial assistance, educational programs, and onfarm research programs from public, private and Tribal sources, to assist with the activities related to the priority resource concerns.

The existence of multicounty collaborative efforts, multistate collaborative efforts, or both, to address regional priority resource concerns.

Program performance and results.

The degree of difficulty that producers face in complying with environmental laws.

The presence of additional priority resource concerns and specialized farming operations, including but not limited to, specialty crop producers, organic producers, and small scale farms.

(3) For purposes of ranking applications, State Conservationists will group to the greatest extent practicable, applications of similar crop, forestry and livestock operation practices. Other groupings could include historically underserved producers, and groupings based on resource concerns. Applications placed within one of these groups will be evaluated and ranked against other applications within the same group. These funding pools are referred to and may be tracked as subaccounts in ProTracts.

(4) State Conservationists will target 10 percent of their funding for socially disadvantaged and beginning farmers and ranchers based on potential demand in a State to ensure that the national goal is met for these categories.

(5) Each fiscal year as authorized, State Conservationists must reserve 6 percent of their funding to support the Cooperative Conservation Partnership Initiative (CCPI).

(6) Contracts must be signed by both the participants and the designated conservationist. Contracts must be approved and signed in ProTracts by September 15 of the budget fiscal year that the money was made available. Balances not obligated by this date will no longer be available for funding new contracts. (See 440-CPM, Part 512, for details.)

**Note:** Due to ProTracts end-of-the-year maintenance, all contracts must be obligated in ProTracts and FFIS prior to September 15.

F. Allocation Control

FFIS will always maintain the official status of funds. An interface between FFIS and ProTracts will be used for FA allocation and control.

### 515.62 Funding Requirements

A. Obligations Limited to Authorized Funds

Refer to [440-CPM, Part 512, Subpart I, Fund Management](#).

B. Overobligation is prohibited.

Refer to [440-CPM, Part 512, Subpart I, Fund Management](#).

C. Immediate Pay

Refer to [440-CPM, Part 512, Subpart G, Conservation Program Payments](#).

D. Unobligated FY EQIP Funds

Refer to [440-CPM, Part 512, Subpart I, Fund Management](#).

E. Deobligation of Prior Years Funds

Refer to [440-CPM, Part 512, Subpart I, Fund Management](#).
Subpart H - Contract Application Acceptance and Evaluation

515.70 Applications

Continuous Application Acceptance
(1) EQIP applications will be accepted on a continuous basis throughout the year. Cutoff dates will be scheduled to allow for ranking, prioritization, and selection of applications for funding. NRCS, with advice from the State technical committee, local working groups, or both, as appropriate, will rank and select applications received during the continuous signup period up to the cutoff date.
(2) The cutoff date will be announced by NRCS, with assistance from partners. Program announcements should include the following information and be posted to the State Web site:
   (i) EQIP purposes and objectives.
   (ii) Continuous signup and evaluation cutoff dates.
   (iii) Conditions under which assistance is available.
   (iv) Description of program benefits and practices available.
   (v) How to apply for program benefits.
   (vi) Where to apply.
   (vii) Land and producer eligibility requirements.
   (viii) Payment information.
   (ix) Participant responsibilities.
   (x) Starting a practice prior to written contract approval will result in the ineligibility of that practice for EQIP assistance, unless a waiver has been approved. (see 440-CPM, Part 512, Subpart E Contracting).
   (xi) Emphasized outreach to historically underserved individuals and groups.
   (xii) The EQIP Program is open to all eligible agricultural producers as outlined in 440-CPM, Part 515, Subpart F, Program Eligibility.
   (3) The official USDA nondiscriminatory statement must be included on all information and announcements to the public.

515.71 Application Guidance

A. Accepting Applications
   (1) Refer to 440-CPM, Part 512, Subpart C, Application for Assistance, for guidance in accepting, processing, and evaluating EQIP applications.
   (2) The EQIP application period is continuous and an application may be submitted at any time. Applications taken after the application evaluation cutoff date will be held in the NRCS field office and processed for the next evaluation cutoff date, regardless of whether the next cutoff date occurs in the current fiscal year or subsequent fiscal year.

B. Signature Requirement
   (1) Eligible applicants wishing to participate in an EQIP contract must submit Form NRCS-CPA-1200, "Application," printed from the NRCS Program Contracts System (ProTracts) signed and dated by an authorized person or representative of an entity. Refer to 440-CPM, Part 512, Subpart C, Application for Assistance, for further explanation of requirements for program application.
   (2) Written concurrence from the owner of the land under contract must be submitted at the time of application if either of the following applies:
      (i) The participant cannot provide evidence that he or she will have control of the land, in accordance with 440-CPM, Part 515, Subpart F, Program Eligibility.
      (ii) A structural or vegetative practice will be implemented (see 440-CPM, Part 515, Subpart F, Program Eligibility)
   (3) Guidance on signature authority information for individuals and other business entities is contained in 440-CPM, Part 512, Subpart C, Application for Assistance.

C. Historically Underserved Producers
   (1) A farmer or rancher meeting the historically underserved producer designation may be awarded the applicable payment rate and an additional rate that is not less that 25 percent above the applicable rate however, the rate established may not exceed 90 percent. Any applicant seeking to receive the higher payment rate as a historically underserved producer must certify eligibility when they submit an EQIP application. Self-certification information is available at http://www.nrcs.usda.gov/programs/SLB_Farmer. All applicants must certify on Form NRCS-CPA-1200.
   (2) Historically underserved producer means an eligible person or legal entity who is a beginning farmer or rancher, socially disadvantaged farmer or rancher, or limited resource farmer or rancher.
(3) The State Conservationist may issue advanced payments to historically underserved producers up to 30 percent of the anticipated amount of the costs incurred for the purpose of purchasing materials or services to implement a conservation practice.

(4) Beginning farmer or rancher means a person or legal entity who—

(i) Has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 consecutive years. This requirement applies to all members of an entity who will materially and substantially participate in the operation of the farm or ranch.

(ii) In the case of a contract with an individual, individually or with the immediate family, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the county or State where the farm is located.

(iii) In the case of a contract with an entity of joint operation, all members must materially and substantially participate in the operation of the farm or ranch. Material and substantial participation requires that each of the members provide some amount of the management, labor and management necessary for day-to-day activities, such that if each of the members did not provide these inputs, operation of the farm or ranch would be seriously impaired.

(5) The term “limited-resource farmer or rancher” means—

(i) A person with direct or indirect gross farm sales not more than $155,200 in each of the previous 2 years (to be adjusted beginning in fiscal year (FY) 2010 for inflation using the Prices Paid by Farmers Index as compiled by the National Agricultural Statistics Service, and

(ii) Has a total household income at or below the national poverty level for a family of four, or less than 50 percent of the county median household income in each of the previous two years (to be determined annually using Commerce Department data).

(iii) A socially disadvantaged farmer or rancher is a farmer or rancher who has been subjected to racial or ethnic prejudices because of their identity as a member of a group without regard to their individual qualities. (see 440-CPM, Part 512, Subpart A, General Information).

D. Starting Practices

Refer to 440-CPM, Part 512, Subpart C, Application Assistance, for guidance.

E. Application Eligibility

Once NRCS has determined that all EQIP eligibility requirements have been met, the "Other Eligibility" box in ProTracts will be checked. In addition to the eligibility requirements for highly erodable land conservation (HEL/)/wetland conservation (WC), adjusted gross income (AGI), and payment limitations, NRCS will also confirm producer eligibility, land eligibility, control of the land requirements, irrigation history requirements, if applicable, and any other EQIP-specific eligibility requirements prior to checking the “Other Eligibility” box in the “Participant Information” screen of ProTracts.

Historically underserved producers will self-certify their eligibility status.

515.72 Application Ranking Process

A. Purpose

(1) The State Conservationist, with advice from the State technical committee, will—

(i) Identify State priority resource concerns that directly contribute to meeting national priorities and measures.

(ii) Determine how EQIP funds in the State will be distributed.

(iii) Develop a ranking process to evaluate and prioritize EQIP applications for funding, including the development of appropriate funding pools to group similar crop, forestry, and livestock operations for the purposes of evaluation. Ranking pools may address a specific resource concern, geographic area, or agricultural operation type.

(ii) This process will be used to select applications that optimize environmental benefits and achieve national, State, and local priorities for contracts, to the extent funding is available. Ranking criteria should be accompanied by written instructions to aid in consistent evaluation of applications.

(3) Only practices requested to be part of the contract will be considered in the ranking process.

(4) Bidding down in an EQIP application to increase the chances of being funded is not allowed.

Note: A form of “bidding down” is the awarding of points in the ranking process for conservation practices that will not be financially assisted in the contract. Another form of “bidding down” includes the participant acceptance of reduced financial assistance. Neither is permissible.

(5) The State Conservationist may also delegate the development of the evaluation process and the development of funding pools for the selection of applications for contracting to the
designated conservationist, who will seek advice from the local working group.

(6) When the process is delegated to the designated conservationist, the designated conservationist will take the following actions for all applications for county allocations, targeted allocations, or both:
   (i) Collect all of the information necessary to evaluate the applications.
   (ii) Conduct peer reviews of completed evaluations for consistency, accuracy, and to avoid the appearance of bias.
   (iii) Compile and prioritize the applications using the State-approved ranking process that considers national, state, and local resource concern priorities.
   (iv) Select the applications for funding.

(7) The State Conservationist will ensure that all ranking and evaluation processes are in compliance with NRCS regulations and policies.

B. Application Ranking Minimum Requirements

(1) All application ranking evaluations will be performed using the ranking tool accessed through ProTracts (see 440-CPM, Part 512, Subpart C, Application for Assistance).

(2) The following factors are to be used (as required in the EQIP Final Rule) when ranking applications:
   (i) The degree of cost effectiveness of the proposed conservation practices:
       - Limiting payment rates for eligible practices, and/or
       - Utilizing a variable payment rate to encourage the adoption of preferred cost effective practices that achieve the desired results, using least-cost-alternative conservation practices.
   (ii) The magnitude of the expected environmental benefits resulting from the conservation treatment and the priority of the resource concerns that have been identified at the local, State, and national levels.
   (iii) How effectively and comprehensively the project addresses the designated resource concern or resource concerns:
       - Applications that result in the greatest environmental improvement should receive a higher ranking.

All ranking processes and criteria must use the resource concerns that are listed in the Field Office Technical Guide (FOTG) for the specific area being proposed for treatment, and identify the associated national priorities that are addressed by this treatment.

Note: National priorities are the resource issues identified by the Chief, with advice from other Federal agencies and State Conservationists that the agency is targeting to be addressed through the use of EQIP. These national priorities guide local program delivery and all applications approved for funding must meet at least one national priority.

   (iv) Use of conservation practices that provide long-term environmental enhancements.
   (v) Compliance with Federal, State, local, and Tribal regulatory requirements concerning soil, water, habitat, and ground and surface water conservation.
   (vi) Higher ranking should be given to plans that will help producers avoid regulatory requirements altogether, meet regulatory requirements, or reduce the potential for regulations.
   (vii) Willingness of the applicant to complete all conservation practices in an expedited manner.
   (viii) The ability to improve existing conservation practices or systems, which are in place at the time the application, is accepted, or that complete a conservation system.
   (ix) Other locally defined pertinent factors, such as the location of the conservation practice, the extent of natural resource degradation, and the degree of cooperation by local producers to achieve environmental improvements.

(3) For application ranking pools that include water conservation or irrigation-efficiency practices, the State Conservationist will give priority to those applications where, consistent with State law in which the producer's eligible land is located, there is a reduction in water use in the agricultural operation, or where the producer agrees not to use any associated water savings to bring new land under irrigation production, other than incidental land needed for efficient operations. A producer who brings new land under irrigated production may be excluded from this latter condition if the producer is participating in a watershed project that will effectively conserve water. The State Conservationist will designate eligible watersheds projects that effectively conserve water, using the following criteria:
   (i) The project area has a current, comprehensive water resource assessment.
   (ii) The project plan has demonstrated effective water management strategies.
   (iii) The project sponsors have consulted relevant State and local agencies.

(4) If the State Conservationist determines that the environmental values of two or more applications for 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.

(5) The ranking process will determine the order in which applications will be selected for funding. The approving authority for EQIP contracts will be the State Conservationist or designee, except the approving authority for any EQIP contract greater than $150,000 but not more than $300,000, which will be approved by the Regional Assistant Chief. Contracts over
$300,000 will be approved by the Chief.
(6) The State Conservationist will make available to the public all information regarding priority resource concerns, the list of eligible practices, payment rates, and how EQIP is implemented in the State.
(7) When developing an application ranking process, the State Conservationist or designee may also consider:
(i) An applicant’s history of proper maintenance of practices installed with program assistance.
(ii) Awarding negative ranking points for participants that have contracts that are not on schedule or have had previous contract terminations.
(iii) Achieving a higher level of treatment.

C. Process Examples
The evaluation (ranking) processes may include—
(i) Grouping of applications to the greatest extent possible by similar crop or livestock operations for evaluation purposes in order to evaluate each application relative to other applications of similar farming operations. Ranking pools may be developed to address a specific resource concern, geographic area or agricultural operation type. However, in order to promote efficient and timely delivery of program assistance, States should limit creation of fund pool subaccounts in ProTracts to the minimum number of such accounts needed to effectively rank and approve applications.
(ii) Defining a threshold level for high priority applications. Thresholds will be based on definitive target levels or benchmark conditions defined for that particular natural resource concern. (see 440-CPM, Part 512, Subpart C, Application Assistance.)
(iii) Using an expanded screening process, extended screening process, or both, to compile, sort, and prioritize applications.
(iv) Using evaluation criteria based on identified resource concerns, developing packages based on treatment levels where applicants choose the package they agree to plan and implement and contracts are offered to applicants who optimize environmental benefits.
(v) Considering multiplier benefits versus additive benefits, in assigning points in a ranking system.
(vi) States are encouraged to utilize a screening process that results in determination of priority (high, medium, low) that can be recorded in the ProTracts system.

D. Avoid Bias in the Ranking and Screening Process
The ranking criteria will be size-and class-neutral and will avoid criteria that may cause a bias for or against any individual group or size of operation. See Application Evaluation Ranking Tool (AERT) Business Manual. Otherwise-eligible program applications may not be determined ineligible or deferred based upon the size or extent of the producer ownership, area proposed for treatment or extent of practice or activities to be addressed. Controls for payment should be managed through development of appropriate payment schedules and scenarios and by establishment of practice payment caps. States may establish a maximum payment cap for any practice, but may not establish a maximum extent limitation (e.g., States may not establish a maximum number of acres to be supported through EQIP for any given practice). Maximum practice payment caps are managed through the ProTracts system. Total contract payment limits may not be established other than what is authorized by Statute or regulation (e.g., States may not establish a $25,000 maximum payment cap for any contract).

E. Update and Monitor the Ranking Process
The ranking process should be evaluated periodically to determine if the process is resulting in applications being selected for contracts that best meet the program objectives.

F. Deferred Applications
Refer to 440-CPM, Part 512, Subpart C, Application Assistance.

G. Disposition of Applications not Selected for Funding
Refer to 440-CPM, Part 512, Subpart C, Application Assistance.
Subpart I - EQIP Plan of Operations

515.80 General Information

A. Introduction

1. The Conservation Plan Schedule of Operations Form NRCS-CPA-1155 is the document that identifies the conservation practices to be implemented, the timing of the implementation, the practice location, and payment rates. It is part of the contract and the participant is responsible for the implementation of its contents. All conservation practices must be carried out in accordance with the NRCS Field Office Technical Guide (FOTG).

2. The plan of operations must include—
   
   i. A description of the participant's specific conservation and environmental objectives to be achieved.
   
   ii. The contract period must be a minimum duration of 1 year after completion of the last practice but no more than 10 years.
   
   iii. To the extent practicable, the quantitative or qualitative goals for achieving the participant's conservation, natural resource, and environmental objectives in meeting national, State, and local priorities.
   
   iv. A description of one or more conservation practices or activities in the conservation management system, including conservation planning, design, or installation activities, to be implemented to achieve the conservation and environmental objectives.
   
   v. A description of the schedule for implementing the conservation practices or activities, including timing, sequence, operation, and maintenance.
   
   vi. Information that will enable evaluation of the effectiveness of the plan in achieving the environmental objectives.

3. If an EQIP plan of operations includes an animal waste storage, management or treatment facility, the participant must develop and implement as scheduled, a comprehensive nutrient management plan (CNMP), prior to the installation of the waste storage, management, or treatment facility.

4. If an EQIP plan of operations addresses forestland, the participant must develop and implement as scheduled a forest management plan prior to applying a conservation practice.

5. If an EQIP plan of operations includes conservation practices related to organic production or the transition to organic production, the participant must acknowledge that in order to receive organic related technical and financial assistance through EQIP that the participant will agree to develop and implement conservation practices that are consistent with an organic system plan in accordance with the provisions established in the Food, Conservation, and Energy Act of 2008 and to the standards established in the National Organic Programs (NOP) Act (7 U.S.C. Sections 6501 to 6522). This will be documented in writing by the participant and kept in the contract file. Producers with certified organic operations must maintain certification in order to receive EQIP assistance for organic related practices and must provide a copy of the organic system plan to NRCS for verification of compliance with the provisions of the statute.

Note: The participant must work toward implementing the required plan but it is not a requirement that all planned items be included in the contract.

6. A participant may receive assistance to implement an EQIP plan of operations for water conservation if the assistance will facilitate a reduction in ground and surface water use on the agricultural operation, unless the producer is participating in a watershedwide project, as approved by the State Conservationist that will effectively conserve water.

Note: By signing the Conservation Program Contract Form NRCS-CPA-1202 and the Conservation Program Contract Appendix (NRCS-CPA-1202 Appendix), the applicant is agreeing to the plan of operations as recorded on the Form NRCS-CPA-1155. Signatures of all participants must be obtained before contract approval according to 440-CPM, Part 512, Subpart E, Contracting. Signature and date are required on the EQIP plan of operations.

7. The State Conservationist, with advice from the State technical committee, may develop additional requirements to be included in the EQIP plan of operations.

8. The State Conservationist may elect to provide program financial assistance for development of conservation practice activity plans.

B. Policy and Technical References

Refer to 440-CPM, Part 512, Subpart B, Conservation Plan Schedule of Operation.

C. Compliance with Laws and Regulations

1. Refer to 440-CPM, Part 512, Subpart B, Conservation Plan Schedule of Operation, for initial guidance.

2. Any participant with an EQIP contract that includes an animal waste storage or treatment facility will provide for the development of a CNMP prior to the installation of a waste storage or treatment facility. Anytime funds are obligated for a waste storage facility or a waste treatment facility, all associated practices of a CNMP must be implemented to insure the...
system will function properly.

515.81 Eligible Conservation Practices and Activities

A. Conservation Practices and Activities
   (1) A conservation practice is one or more conservation improvements and activities, including structural practices, land management practices, vegetative practices, forest management practices, and other improvements that achieve the program purposes, including such items as CNMPS, forest management plans and other plans determined acceptable by the Chief. An authorized conservation practice activity is for development of a conservation plan prepared by a certified technical service provider (TSP).
   (2) The State Conservationist must publish a list of eligible practices.
   (3) Eligible conservation practices:
      (i) Provide beneficial, natural resource conservation or environmental enhancements.
      (ii) Meet the intent of the program and locally identified natural resource concerns (see 440-CPM, Part 515, Subpart J).
      (iii) Are approved for financial assistance by the State Conservationist or designee with advice from the State technical committee or local working group. (see exceptions to ineligible practices in 440-CPM, Part 515, Subpart J.)
      (iv) CNMP development is eligible for financial assistance.
   (4) For Agricultural Water Enhancement Program (AWEP) applications that include water conservation or irrigation efficiency, eligible practices are those which—
      (i) Improve irrigation systems.
      (ii) Enhance irrigation systems.
      (iii) Convert to: The production of less-water-intensive agricultural commodities.
      (iv) Dryland farming.
      (v) Improve the storage of water through such measures as water banking and groundwater recharge.
      (vi) Mitigate the effects of drought.
      (vii) Institute other measures that improve ground and surface water conservation in the agricultural operation of the producer, as determined by the Secretary.

Note: The State Conservationist will give priority to those AWEP applications that result in a reduction in water use or the participant agrees not to use any water savings to bring new land other than incidental land under irrigation, unless the producer is participating in a watershed wide project (for definition see Part 515, Subpart H) that will effectively conserve water.

   (5) Practices related to organic production or transition to organic production. This does not include costs associated with organic certification or practices eligible for payments under the National Organic Program.

Note: Participants must agree to develop and carry out an organic system plan or develop and implement conservation practices for certified organic production that are consistent with an organic system plan.

   (6) Only conservation practices and activities approved for use and recorded in the NRCS Conservation Practice Standards (CPS) database may be included for financial assistance payment in program contracts.

B. Ineligible Practices

Ineligible conservation practices are those:

   (i) Where the sole purpose is to enhance production without an identifiable conservation benefit or natural resource concern.
   (ii) That the producer has already installed to address an identified resource concern on a specific land unit. However, management practices that address a higher level quality concern may be implemented again on the same land unit. Producers may also apply for EQIP financial assistance to implement a management practice to address a resource concern on land within the operation which has not been previously implemented.

Note: The following demonstrate allowable examples of reapplication of management practices:

Example 1: Producer uses EQIP to apply IWM management practice (449) Level 1 scenario in payment schedule to achieve water savings of 5 ac/in/ac on field one, which meets FOTG quality criteria. At a later date, producer again applies for EQIP assistance to apply IWM management practice Level 2 scenario in payment schedule to achieve a greater amount of water savings of 10 ac/in/ac on field one using new measurement devices and higher level of technology. The new EQIP application is eligible and IWM practice allowed for financial support.

Example 2: Producer applies to EQIP to implement nutrient management practice (590) “organic” scenario in a payment schedule to meet FOTG quality criteria on field two of the operation. Later, the producer applies to EQIP to implement the 590 organic practices on fields five and six of the
operation. The new EQIP is eligible as the practice will be installed to address an identified resource concern and has not been implemented on these two new fields. EQIP cannot impose any size or extent limit on practices included in applications. However, State Conservationists may establish a practice "payment cap" (e.g., maximum $2,000 cap for a practice) to help control costs associated with practices paid by acres such as management practices.

(iii) Practices that were commenced prior to contract obligation by the NRCS approving official, unless waived by the State Conservationist in accordance with 440-CPM, Part 515, Subpart B.

(iv) That the producer is likely to apply without EQIP financial assistance, such as—Practices a producer is required to establish as a result of a judicial or court action.

Practices required for repeated violations as determined at the State level.

**Note:** If a producer has been accused of violating a law or regulation but may still voluntarily apply a conservation practice to comply with the law or regulation, the practice may be eligible for EQIP financial assistance.

(v) Water conservation or irrigation related practices on land that has not been under irrigation for 2 out the past 5 years.

(vi) In violation of highly erodible land and wetland compliance provisions.

(vii) Practices included in 440-CPM, Part 515, Subpart 3.

(viii) Vegetative practices that have previously received payment on the same land under the same EQIP contract unless destroyed by reasons beyond the participant's control.

**Note:** EQIP may be used to assist producers to protect or enhance cropland or wetland beyond compliance with the HEL and WC provisions on eligible EQIP land, such as to assist a producer to move from an alternative conservation system to a basic conservation system or to change from one acceptable system to another.

C. Technical References

All conservation practices in the EQIP plan of operations must be developed and carried out in accordance with the applicable NRCS technical guidance. Technical references for implementing conservation practices are—

(i) Field Office Technical Guide (FOTG and the eFOTG).

(ii) Title GM-450, Part 401.

(iii) Title 450, National Handbook of Conservation Practices (NHCP).

D. Land Management Practices

(1) Land management practices are those that require primarily management techniques and methods to implement the practice.

(2) Land management practices include, but are not limited to—

(i) Nutrient management

(ii) Waste utilization

(iii) Pest management

(iv) Irrigation water management

(v) Prescribed grazing

(vi) Residue and tillage management

(vii) Stripcropping

(viii) Contour farming

(ix) Upland and wetland wildlife habitat management

(x) Conservation crop rotation

(xi) Prescribed forestry

**Note:** Manage practices typically have a life span of one year as documented in the NRCS CPS database.

(xii) Payments for management practices:

Management practices are typically applied annually with a maximum practice lifespan of 1 year. Payments for management practices are limited to a maximum of three separate payments during the term of a contract. Payment schedule scenarios should be constructed to allow for varying payment amounts depending upon the variation in costs incurred and income foregone for each year of payment. Only payment schedules associated with management practices may include scenarios for multiyear payments, other practices are limited to a single payment.

The Agricultural Water Enhancement Program (AWEP) includes specific statutory authority to offer payments for a period of 5 years to encourage producers to convert from irrigated farming to dryland farming.

E. Structural and Vegetative Practices

(1) Structural practices for the purpose of EQIP include vegetative practices as specified by statute and rule. Structural and vegetative practices are those that primarily involve the establishment, construction, installation or planting of a site-specific measure to conserve, protect from degradation, or improve soil, water, or related natural resources in the most
Subpart J - Conservation Practice and Technical Assistance Payments

Subpart K - Contracts, Payments, and General Requirements

515.161 Glossary of Abbreviations
See 440-CPM, Part 502, Subpart B, Common Abbreviations.

515.13 Responsibilities Assigned to Other Agencies and Tribes

One acceptable system to another.

Note: A Land Eligibility Decisions

A. Introduction

A. Purpose of this Part

is presumed to be more critical and needed on a more frequent basis.

proposals (RFP). The Chief will review and evaluate the proposals based on the criteria include

intercropping, or.

Retrofitting of structural practices is allowable provided that a higher level of conservation

be achieved.

practices that affect multiple agricultural or nonindustrial private forest land.

(i) Provide beneficial, natural resource conservation or environmental enhancements.

(ii) A description of the agricultural water quality or water conservation issues to be

(iii) In the case of a contract with an entity of joint operation, all members must

(iv) Improve the storage of water through such measures as water banking and

(v) Compile national

(vi) The content and format of the final project performance report that is required as a

(vii) Be in compliance with the provisions for protecting the interests of tenants and

(f) Should the money was made available. Balances not obligated by this date will no longer be

(ii) Program decisions can be based on a technical aspect, yet, due to the nature of the

(ii) Ensure effective working relationship with NRCS.

(iii) To assist in the implementation of CCPI, the Chief may waive the eligibility

(ii) The second source is the Farm Security and Rural Investment Act of 2002 (2002 Farm

(ii) An interest in agriculture means the owner or renter of land which includes a farming

agricultural or forestry production as defined in this section. In accordance with 7 CFR Part

be achieved.

(i) Title 180, National Planning Procedures Handbook, Part 600.

(ii) Field Office Technical Guide FOTG.

(iii) GM-450, Part 407.

(iv) State quality assurance plan.
Subpart J - Conservation Practice and Technical Assistance Payments

515.90 Refer to Guidance in 440-CPM, Part 512, Subpart D, Conservation Payments

**Note:** When setting payment rates with regard to income foregone for EQIP, the State Conservationist may accord greater significance to a practice that promotes increased environmental benefits or promotes residue management, nutrient management, air quality management, pollinator habitat, pest management, and animal carcass management technology.

515.91 Determining Eligible Payment Schedule Costs

A. Eligible Costs
   (1) Payment rates are limited to the least-cost alternative to achieve the minimum practice standards and specifications needed to address the resource concerns. The least-cost-alternative limitation is only applicable to payment rates and does not limit choice of treatment options.

   **Example:** If minimum standards and specifications require a three-wire fence and the participant wants to install a woven wire fence that costs twice as much as the minimum acceptable standard, EQIP will pay the minimum payment rate and any additional costs are borne by the participant.

   (2) The individual or entity is responsible for the expense of conservation practice installation. The participant receiving the program benefit must also be the individual or entity that directly incurred the cost of the practice installation.

   (3) Items eligible to establish levels and rates include the cost of any direct or significant factors necessary to perform the practice, such as:
      (i) New, donated, or used materials (in accordance with NRCS policy).
      (ii) Services and labor, from the participant or others.
      (iii) Sales tax.

   **Note:** Used materials may be authorized if the criteria set forth in Title 210, National Engineering Manual (NEM), Part 512, Subpart C, Application for Assistance, are met. The determination that used materials meet NRCS requirements rests with the individual having job-approval authority.

B. Ineligible Costs Table – [Click here for a copy of the Ineligible Costs Table](#)

See also the guidance provided in 440-CPM, Part 515, Subpart I, EQIP Plan of Operation.

C. Reviewing and Revising Payment Rates

Refer to 440-CPM, Part 512, Subpart D, Cost-Sharing and Incentive Payments.

515.92 Payments and Payment Limitations

A. Eligibility for Payments

Refer to 440-CPM, Part 512, Subpart C and Part 515, Subpart F.

B. Contract Payment Limitation

(1) Contracts having an appendix dated after October 1, 2008, are considered as "[2008 Farm Bill Contracts](#)" and each contract will be limited to no more than $300,000 in financial assistance. The Chief may waive the $300,000 payment limitation up to a maximum of $450,000 for those projects of special environmental significance that include methane digesters or other innovative technology that will result in significant environmental improvement. In order to qualify for this waiver, the application must meet all of the following criteria:
   (i) Site-specific evaluation documents have been completed, documenting that the project will have substantial positive impacts on critical resources on or near the project area.
   (ii) The project clearly addresses a national priority as well as State, Tribal, or local priorities, as applicable.
   (iii) The project assists the participant in complying with Federal, State, and local regulatory requirements.

(2) Contracts having an appendix dated July 15, 2002, and before October 1, 2008, are considered as "Post-[2002 Farm Bill Contracts](#)" and the sum total of all contract payments during this period will be limited to no more than $450,000 in financial assistance.
Note: Technical assistance payments for Technical Service Providers (TSPs) do not count against the financial assistance aggregate payment limitation or the contract financial assistance payment limitation.

(3) Contracts having an appendix dated December 31, 1998 or earlier are considered as "Pre-2002 Farm Bill Contracts," and the following limitations will both apply:
   (i) No more than $10,000 per person for any fiscal year.
   (ii) No more than $50,000 per person for any multiyear contract.

Note: The State Conservationist, or designee, may authorize, on a case-by-case basis, payment in excess of $10,000 in any fiscal year to a person, up to the $50,000 contract limitation. Such increase in payments for a certain year must be offset by reductions in the payments in subsequent years.

(4) "Person" determination provisions of Farm Service Agency (FSA) Handbook Payment Limitations 1-PL continue to apply only to fiscal year (FY) 1997 through FY 2002 contracts.

(5) Payments for practices related to organic production or the transition to organic production are limited to $20,000 per year, and $80,000 during any 6-year period for persons or legal entities. For purpose of applying this requirement, the 6-year period will include those payments made in FY 2009 to FY 2014. Producers receiving payment under this provision must be pursuing organic certification or must be in compliance with the Organic Foods Production Act.

C. Aggregate Payment Limitation for Persons and Legal Entities

(1) Payment limitations will be monitored and tracked through a payment limitation service.
(2) Except for contracts entered into prior to October 1, 2008, or as provided in this section, the total amount of payments paid to a person, joint operation, or legal entity under this part may not exceed an aggregate of $300,000, directly or indirectly, for all contracts, including prior year contracts, entered into during any 6-year period. For purpose of applying this requirement, the 6-year period will include those payments made in FY 2009 to 2014. Payments received for technical assistance are excluded from this limitation.
   (i) The Chief may waive the $300,000 payment limitation, allowing up to $450,000 per person, joint operation, or legal entity for projects of special environmental significance.
   (ii) Payments for conservation practices related to organic production to a person, joint operation, or legal entity, directly or indirectly, may not exceed in aggregate $20,000 per year or $80,000 during any 6-year period. Payments received for technical assistance are excluded from this limitation.
   (iii) All program payments will be attributed to individuals who either received an EQIP payment directly or who are considered to have received a payment indirectly by holding an interest in an entity that received the EQIP payment. EQIP payments will be tracked by entity tax identification numbers and Social Security numbers, or in certain situations, payments may be tracked using a unique identification number.
(3) Individuals, who are members of joint operations, partners in a general partnership, or participants in a joint venture, may be eligible for a separate $300,000 payment limitation if all of the following apply:
   (i) They have a separate and distinct interest in the land or the agricultural or livestock production involved.
   (ii) They exercise separate responsibility for such interest.
   (iii) They maintain funds or accounts separate from that of any individual or entity for such interest.
(4) When the members of an entity or organization, such as a Tribe or not-for-profit organization, do not receive any direct or indirect benefits from EQIP payments, that entity or organization will not be required to attribute EQIP payments received to individual members. Where EQIP payments cannot be attributed to individual members, EQIP payments paid to the entity or organization will be tracked only to the entity’s tax identification number. Payments to that entity or organization will be limited to a total of $450,000 for all FY 2002 through FY 2008 EQIP contracts and $300,000 for any 6-year period for contracts approved October 1, 2008, or later to which that entity or organization is a party.
(5) Contracts on Indian land, payments exceeding the payment limitation may be made to the Tribal participant if a Bureau of Indian Affairs (BIA) or Tribal official certifies in writing that no one individual will receive more than the payment limitation. The Tribal entity must also provide, annually, a listing of individuals and payments made, by tax identification number or other unique identification number, during the previous year for calculation of overall payment limitation.
   (i) Federally recognized Native American Indian Tribes or Alaska Native corporations are exempt from the adjusted gross income (AGI) payment limitations regardless the number of contracts entered into by the individual or entity.
   (ii) Where a Tribal official is the only authorized representative to approve contracts for Tribes, EQIP contract obligations and payments will be attributed to the Tribal entity or individual who will receive payment.

D. Inherited Land

(1) With respect to land under EQIP contracts entered into from FY 1997 through FY 2001 and
those FY 2002 contracts subject to pre-2002 Farm Bill provisions, if the land is inherited in the second or subsequent year of the contract, the $10,000 per person per fiscal year payment limitation will not apply to the extent that the payments from any contract on the inherited land cause an heir who is a party to an EQIP contract on other lands prior to the inheritance to exceed the $10,000 payment limitation.

(2) There is no exception to any of the following:
(i) $450,000 aggregate payment limitation for all FY2002 through FY 2008 EQIP contracts.
(ii) $450,000 contract payment limitation.
(iii) $50,000 per person contract payment limitation for pre-2002 Farm Bill EQIP contracts.
(iv) $300,000 aggregate payment limitation for a 6-year period including payments made in fiscal years 2009 through 2014 and $300,000 contract limit for all contracts approved on or after October 1, 2008. The Chief may waive this limit up to a maximum of $450,000 for projects of special environmental significance (see 440-CPM, Part 515, Subpart J, Conservation Practice and Technical Assistance Payments).

E. Advance Payments

Applications accepted from historically underserved groups are eligible to receive an increased payment rate, advanced payments, or be evaluated under special funding pools as specified in individual program regulations and policies. Historically underserved EQIP participants may receive an advance of up to 30 percent of the total EQIP practice payment in order to purchase materials or services to implement a practice, etc., associated with a contracted practice installation. Advance payments may not exceed the normal Federal percentage of the total cost of the materials associated with the conservation practice being implemented. Refer to 440-CPM, Part 512, Subpart G, Conservation Program Payments for additional guidance, policy requirements and functionality through ProTracts contracting software.

F. Waiver of Adjusted Gross Income

Applicants may request a waiver for adjusted gross income from the Chief on a case by case basis for protection of environmentally sensitive land of special significance. State Conservationists will provide required applicant request information through the Regional Conservationists to support each request according to criteria specified by a waiver request worksheet approved by the Chief.
Subpart K - Contracts, Payments, and General Administrative Requirements

515.100 Environmental Services Credits for Conservation Improvements

A. NRCS recognizes that environmental benefits will be achieved by implementing conservation practices funded through EQIP. These environmental benefits may result in opportunities for the program participant to sell environmental credits. These environmental credits must be compatible with the purposes of the program contract. NRCS asserts no direct or indirect interest on these credits. However, NRCS retains the authority to ensure that operation and maintenance (O&M) requirements for EQIP-funded improvements are met. Where activities may impact the land and conservation practices under an EQIP contract, participants are highly encouraged to request an O&M compatibility assessment from NRCS prior to entering into any credit agreement.

B. This assessment would be a simple evaluation to determine if the actions to be taken would jeopardize compliance with an EQIP contract, including O&M requirements of a practice or system funded by NRCS. This assessment will be documented in the assistance notes and a letter (see sample letter in 440-CPM, Part 512, Subpart J, Section 512.91) provided to the client. These assessments should be conducted the same as those done for contract reviews (see 440-CPM, Part 512, Subpart F, Section 512.55).

515.101 Contract Modifications

Refer to guidance in 440-CPM, Part 512, Subpart F, Contract Administration.

515.102 Equitable Relief

The Farm Security and Rural Investment Act of 2002, Public Law 107-171, Section 1613 (2002 Farm Bill) has set forth provisions where NRCS program participants, as defined at section 1613(a)(3), may apply for equitable relief when a determination of noncompliance with a provision of the EQIP contract, the operation and maintenance (O&M) agreement, or any document incorporated by reference has been issued and the participant believes it occurred due to detrimental reliance on the advice or action of a NRCS representative. Equitable relief guidance can be found in 440-CPM, Part 509.

515.103 Canceling and Terminating Contracts

Follow guidance in 440-CPM, Part 512, Subpart F.

515.104 Recovery of Costs

Follow guidance in 440-CPM, Part 512, Subpart F.

515.105 Payment Procedures

All EQIP payments will be processed in accordance with 440-CPM, Part 512, Subpart G, Conservation Program Payments.
Subpart L - Chesapeake Bay Watershed Initiative

515.110 See 440-CPM, Part 508 Subparts A and B
515.120 General Information

A. Background and Purpose

(1) The Agricultural Water Enhancement Program (AWEP) is a voluntary conservation program that provides financial and technical assistance to assist agricultural producers. The assistance provided enables producers to implement agricultural water enhancement activities that are consistent with State water law on agricultural land for the purposes of conserving surface and ground water and improving water quality. These activities may include—

   (i) Water quality or water conservation plan development.

   (ii) Water quality or water quantity, restoration or enhancement projects, including conversion to production of less-water-intensive agricultural commodities or dryland farming.

   (iii) Irrigation system improvement or irrigation efficiency enhancement.

   (iv) Activities designed to mitigate the effects of drought, and other activities that the Chief determines will help achieve water quality or water conservation benefits on agricultural land.

(2) NRCS will use the National Headquarters (NHQ) Review Evaluation Guidance for AWEP to categorize, evaluate, and select proposal for funding. NRCS will administer the AWEP using two strategies.

   (i) NRCS will partner with State, local, and Tribal governments, agricultural or silvicultural associations, and other groups of such producers, such as an irrigation association, agricultural land trust, or other nongovernmental organization that has experience working with agricultural producers, in accordance with the notice of request for proposals. Approved AWEP partner agreements funding will not provide any financial or technical assistance directly to or through approved partners. AWEP funds will be provided by NRCS directly to eligible producers through individual contracts.

   (ii) Once proposals with partners are approved, NRCS will enter into contracts directly with individual participants in approved AWEP designated areas.

   (iii) Except as noted below individual producers applying for AWEP financial assistance must meet all EQIP eligibility requirements, such as adjusted gross income (AGI), payment limitations, and other requirements contained in program contracting policy.

   Participants are not required to have an existing EQIP contract to participate in AWEP but are required to have an AWEP contract.

   The land associated with the AWEP contract must be located within an approved AWEP-designated area.

   Participants wishing to transition from irrigation agriculture to dryland farming may receive AWEP program payments to support this activity for up to 5 years.

515.121 Contracting Directly with Eligible Producers

Once an AWEP project area is approved, producers meeting EQIP eligibility criteria and wishing to apply for AWEP funding may do so at their local NRCS office, subject to local availability of funds.

515.122 Partnership Proposals and Agreements

A. Agreement Process

The Chief may enter into partnership agreements in order to leverage available resources to achieve a shared conservation goal consistent with the purposes of the AWEP. Partners and approved project areas will be selected on a competitive basis, for all proposals sent directly to the Chief. Eligible partners must submit a complete proposal including review letters from the appropriate State Conservationist by the deadline established in the notice of request for proposals (RFP). The Chief will review and evaluate the proposals based on the criteria included in the RFP notice.

B. AWEP Proposal Announcement

A request for proposals will be advertised each year the partnership approach is offered as part of AWEP. Interested parties should follow the protocols issued in the request for proposal.

C. Partnership Proposal Content

(1) All proposals must contain at a minimum the following items in order to receive
consideration:

Partnership capacity:
- Demonstrate a commitment by the partner to the long-term conservation of surface and ground water or water quality improvement.
- Demonstrate the ability to coordinate water quality and quantity efforts among agricultural producers.
- Demonstrate the availability of non-Federal matching funds or other resources being contributed.
- Demonstrate the ability to monitor and evaluate project effects on natural resources.
- Demonstrate the capacity to deliver a final project performance report.
- Identify potential criteria to be used by NRCS to prioritize and rank agricultural producers’ AWEP applications in the project area.
- Describe the partners collaborating to achieve the project objectives and the roles, responsibilities, and capabilities of each partner.
- Describe the proposed agricultural water enhancement activities to be applied within the designated 5-year timeframe.
- Describe the amount of funds needed annually for producer contracts.
- Describe the amount and source of non-Federal funds or other resources that are anticipated to be leveraged by AWEP.
- Identify the project funding NRCS is requested to provide through AWEP.
- Provide a project implementation schedule.

(2) Lands to be treated: The proposal should describe the geographic area to be covered by the partnership agreement. Specifically, the proposal should include—
   (i) A map showing the proposed project areas.
   (ii) A description of the agricultural water quality or water conservation issues to be addressed by the partnership agreement.
   (iii) A description of the agricultural water enhancement objectives to be achieved through the partnership.
   (iv) The total number of acres anticipated to need conservation treatment.
   (v) The proposed agricultural water enhancement activities that may be implemented.

(3) Producer Information: The partner must identify—The number of agricultural producers that are likely to participate in the project.

The total number of agricultural producers in the project area.

(4) Letter of review: Potential partners must include a copy of the cover letter showing that the proposal was sent to the appropriate State Conservationists for review. If a project is multistate in scope, all State Conservationists in the project area must be sent the proposal for review. The State Conservationists will review the proposal for potential duplication of efforts, consistency with overall EQIP objectives, and the expected benefits to EQIP implementation in their States. Applicants must send their proposal to the appropriate State Conservationist in accordance with the proposals submission instructions.

(5) Potential partners should submit project action plans and schedules, not to exceed 5 years, detailing activities, including timeframes related to project milestones and monitoring and evaluation activities. The project action plan should describe how often the potential partner plans to monitor and evaluate the project and how it plans to quantify the results of the project for the final project performance report.

Note: Incomplete project proposals and those that do not meet the AWEP program requirements will not be considered, and notification of elimination will be mailed to the applicant.

D. Evaluation

(1) The Chief will evaluate the proposals using a competitive process managed at the national level. The Chief may give a higher priority to proposals that—
   (i) Include high percentages of agricultural land and producers in a region or other appropriate area.
   (ii) Result in high levels of applied agricultural water quality and water conservation activities.
   (iii) Significantly enhance agricultural activity.
   (iv) Allow for monitoring and evaluation.
   (v) Assist agricultural producers in meeting a regulatory requirement that reduces the economic scope of the producer’s operation.
   (vi) Achieve the project’s land and water treatment objectives within 5 years or less.
   (vii) For proposals from States with water quantity concerns include any of the following:
   (viii) Assist producers in States with water quantity concerns, as determined by the Chief.
   (ix) Include the conversion of agricultural land from irrigated farming to dryland farming.
   (x) Leverage Federal funds provided under the program with funds provided by partners.
   (xi) Are located in the following regions: Eastern Snake Plain Aquifer, Puget Sound, Ogallala Aquifer, Sacramento River Watershed, Upper Mississippi River Basin, Red River of the North Basin, or Everglades.

(2) Each fiscal year that the AWEP program is available, the NHQ will establish a process to
evaluation the partner proposal applications and provide recommendations to the Chief. After selection and approval by the Chief, NHQ will allocate AWEP funding to States where projects have been approved along with the approved partner agreements.

E. Partnership Agreements

The partner agreements will be developed at NHQ and forwarded to State Conservationists for implementation. The Chief will enter into a partnership agreement with a selected partner. The partnership agreement will not obligate funds, but will address—

(i) Agricultural water enhancement activities anticipated to be applied.
(ii) The role of NRCS.
(iii) The responsibilities of the partner related to the monitoring and evaluation of project performance.
(iv) The frequency and duration of the monitoring and evaluation of project performance.
(v) The content and format of the final project performance report that is required as a condition of the agreement.
(vi) The specified project schedule.
(vii) Other requirements deemed necessary by NRCS to achieve the purposes of AWEP.

F. Waiver Authority

(1) AGI Waiver—To assist in the implementation of AWEP, the Chief may waive the eligibility requirement for the AGI limitation on a case-by-case basis, in accordance with policy and processes cited in 7 CFR Part 1400. Requests for AGI waivers are made in writing by the State Conservationist, through the Regional Chief’s office to the Chief.
(2) Payment Limitation Waiver—Producer contracts approved under AWEP authority are limited to payments no more than $300,000. In order to assist in the implementation of AWEP, the Chief may provide a waiver to the $300,000 payment limitation up to a maximum of $450,000 for projects of special environmental significance. Refer to Subpart J of this Part for additional information and guidance.

G. Areas Experiencing Exceptional Drought

For agricultural lands not irrigated for 2 of the previous 5 years, the construction, improvement, or maintenance of irrigation ponds, small onfarm reservoirs, or other agricultural water impoundment structures that are designed to capture surface water runoff, are eligible only in an area that is experiencing or has experienced exceptional drought conditions between June 18, 2006, and June 18, 2008. NHQ will provide guidance and identification of the areas that meet the exceptional drought criteria (NOAA D4 designation).

H. Limitation on Administrative Expenses

None of the funds made available under the AWEP may be used for partner’s administrative expenses. All AWEP funds will be administered directly through AWEP contracts between NRCS and producers.
Subpart N - Program Evaluation and Assessment

515.130 Reserved

515.131 Evaluation and Assessment Process

A. National Assessment
   (1) The Deputy Chief for Programs will—
       (i) Establish national performance indicators.
       (ii) Compile baseline data from States.
       (iii) Compile program accomplishments.
       (iv) Compile national-level information on amount of program funds targeted and
            expended on livestock-related natural resource concerns.
       (v) Compile national-level information on the amount of program funds targeted and
            expended on beginning, socially disadvantaged, and limited resource farmers and ranchers.
       (vi) Report to Congress through the Chief.
   (2) National program assessments will be done by aggregating assessments, data, and
       information from other levels in order to provide a national summary of overall program
       performance.

B. Periodic Evaluation

   Evaluations at all levels will be performed on an annual basis, except in cases where evaluation
   is presumed to be more critical and needed on a more frequent basis.

C. Civil Rights Assessment

   At all levels, program managers will compile information concerning the outreach to and
   participation of producers by race, sex, and national origin. This information will be used to
   assess whether satisfactory efforts have been made to ensure that limited-resource producers,
   socially disadvantaged producers, and others who may not have historically participated in
   previous conservation programs are being equitably served in EQIP.

515.132 Program Evaluation and Assessment Report

Assessment Report

   At each level where the evaluation and assessment is performed, the designated evaluator will
   report on the findings for the evaluation period. Information from reports will be aggregated and
   used as one of the tools in evaluating program effectiveness.
Subpart O - Cooperative Conservation Partnership Initiative

515.140 General Information

Background and Purpose

(1) The Cooperative Conservation Partnership Initiative (CCPI) is a voluntary conservation initiative that enables the use of certain conservation programs along with resources of eligible partners to provide financial and technical assistance to owners and operators of agricultural and nonindustrial private forest lands. Eligible producers, who participate in a project area identified in an approved partner agreement and have an active application in one of the following approved programs, may be approved for assistance. Eligible programs include: Environmental Quality Incentives Program (EQIP), Wildlife Habitat Incentives Program (WHIP), and the Conservation Stewardship Program (CSP). Under CCPI, the Natural Resources Conservation Service (NRCS) enters into partnership agreements with eligible entities that want to enhance conservation outcomes on agricultural and nonindustrial private forest lands. The Secretary of Agriculture has delegated the authority for CCPI to the NRCS Chief, found in section 2707 of the Food, Conservation, and Energy Act of 2008 which establishes the CCPI by amending section 1243 of the Food Security Act of 1985 (16 U.S.C. Section 3843).

(2) NRCS will make Environmental Quality Incentives Program (EQIP) benefits to owners and operators of agricultural and nonindustrial private forest lands who participate in CCPI project areas. As authorized by Congress, this is not a grant program to eligible partners. This is a program whereby approved eligible partners will enter into multiyear agreements with NRCS to help enhance conservation outcomes on agricultural lands and private nonindustrial private forest lands. The intent of CCPI is for the Federal government to leverage investment in natural resources conservation along with services and resources of non-Federal partners.

(3) The purposes of a CCPI partnership agreement are to—

(i) Address conservation priorities involving agriculture and nonindustrial private forest land on a local, State, multistate, or regional level.
(ii) Encourage producers to cooperate in meeting applicable Federal, State, and local regulatory requirements related to production.
(iii) Encourage producers to cooperate in the installation and maintenance of conservation practices that affect multiple agricultural or nonindustrial private forest land.
(iv) Promote the development and demonstration of innovative conservation practices and delivery methods, including those for specialty crop and organic production and precision agriculture producers.

515.141 Contracting Directly with Eligible Producers

Eligible Producers

Only producers who are eligible for an approved program may receive financial assistance. In order for a producer to be considered for financial assistance through EQIP, a program CCPI partner proposal or application must have been submitted and approved by the NRCS Chief. Producers meeting EQIP eligibility criteria and wishing to apply for CCPI in an approved project area may do so at their local NRCS office, subject to availability of funds.

515.142 Partnership Agreements

A. Purpose

The Chief or State Conservationist may enter into partnership agreements in order to leverage available resources to achieve a shared conservation goal consistent with the purposes of the CCPI. Partners and approved project areas will be selected on a competitive basis, for all proposals sent directly to the State Conservationist or the Chief for multistate proposals. If the project proposal is multistate in scope, all State Conservationists in the project area must be sent the proposal for review. State Conservationists must submit letters of review to the Chief as outlined in the current fiscal year CCPI notice of request for proposals (RFP). The Chief will review and evaluate the proposals based on the criteria included in the RFP notice. Potential partners are encouraged to consult with the appropriate State Conservationists during proposal development to discuss the letter of review.

B. Eligible Partners

Partner means an entity that enters into a partnership agreement with NRCS to carry out the CCPI activities. Eligible partners include federally recognized Indian Tribes, State and local units...
of government, producer associations, farmer cooperatives, and institutions of higher education, or nongovernmental organizations with a history of working cooperatively with producers.

C. Process

A notice of RFP will be advertised each fiscal year the partnership approach is offered as part of CCPI. Interested parties should follow the protocols issued in the RFP.

D. Partnership Proposal Content

Prospective partners submit complete proposals to the appropriate State Conservationist (State initiatives) or the Chief (if the project is multistate or national). The proposal must contain the information set forth below in order to receive consideration:

(i) A description of the partners' history of working with producers to address the conservation objectives to be achieved.
(ii) A description of the geographic area covered by the proposal, conservation priorities in the area, conservation objectives to be achieved, and the expected level of participation by producers.
(iii) A description of the partner, or partners, collaborating to achieve the objectives of the agreement, and the roles, responsibilities, and capabilities of the partners.
(iv) A description of the project duration, not to exceed 5 years in length, and schedule that details when the potential partner anticipates finishing the project and submitting a final report.
(v) A description of the resources that are requested from the Secretary, and the non-Federal resources that will be leveraged by the Federal contribution.
(vi) A description of the plan for monitoring, evaluating, and reporting on progress made towards achieving the objectives of the agreement.
(vii) A list of the criteria to be used to prioritize individual producer applications to ensure that applications most aligned with the proposal's objectives receives priority.
(viii) An estimate of the percentage of producers, including nonindustrial private forest landowners, in the project area that are likely to participate in the project.
(ix) A description of the conservation practices and activities to be applied on the landscape within the project timeframe.
(x) An estimate of the financial assistance program funds and acres needed to implement the conservation practices and activities within the project area (for multistate or national projects provide the funds or acres by State).
(xi) A description of any requested program adjustments, by program, with explanation of why the adjustment is needed in order to achieve the objectives of the project. If a partner is requesting specific program flexibilities that depend on detailed participant or project information, the proposal must provide the needed information. Partners should contact their local NRCS office to determine the specific information required.
(xii) A description of how the partner will provide for outreach to beginning, limited-resource, and small and disadvantaged farmers and ranchers, and Indian Tribes.
(xiii) A description of how the proposal's objectives further the Nation's efforts with regard to renewable energy production, energy conservation, mitigating the effects of climate change, facilitating climate change adaptation, or fostering carbon sequestration, if applicable.

E. Evaluation

(1) Once the Chief or appropriate State Conservationist has assessed the merits of each proposal, the Chief or appropriate State Conservationist will rank the proposals via a competitive process. The Chief or State Conservationist must give a higher priority to proposals that—

(i) Have a high percentage of producers actively farming or managing working agricultural or nonindustrial private forest lands included in the area covered by the agreement.
(ii) Complete the application of the conservation practices, conservation activities, or both, on all of the covered program contracts or cost-share agreements in 5 years or less.
(iii) Assist the participants in meeting local, State, or Federal regulatory requirements.
(iv) Significantly leverage non-Federal financial and technical resources and coordinate with other local, State, or Federal efforts.
(v) Provide for matching technical assistance funds to assist participants with the implementation of their EQIP contracts and WHIP cost-share agreements.
(vi) Deliver high percentages of applied conservation to address water quality, water conservation, or State, regional, or national conservation initiatives.
(vii) Provide innovation in conservation methods and delivery, including outcome-based performance measures and methods.
(viii) Further the Nation's efforts with regard to renewable energy production, energy conservation, mitigating the effects of climate change, facilitating climate change adaptation, or fostering carbon sequestration.
(ix) Provide for outreach to, and participation of, beginning farmers or ranchers, socially disadvantaged farmers or ranchers, limited-resource farmers or ranchers, and Indian Tribes within the area covered by the agreement.

(2) Each fiscal year that the CCPI program is available, the National Headquarters (NHQ) will
establish a process to evaluate the partner proposal applications and provide recommendations to the Chief or appropriate State Conservationist. For multistate projects, after selection and approval by the Chief, NHQ will allocate CCPI funding to States where projects have been approved along with the approved partner agreements. For within-State projects, the State Conservationist will utilize reserved CCPI program funds to support approved projects.

F. Partnership Agreements

NRCS will enter a partnership agreement with a selected partner as the mechanism for participation in CCPI. The partnership agreement will not obligate funds, but will address, among other things—

(i) The role of the partner.
(ii) The role of NRCS.
(iii) The responsibilities of the partner as it relates to the monitoring and evaluation.
(iv) The format and frequency of reports (semi-annual, annual, and final) that are required as a condition of the agreement.
(v) The frequency and duration of the monitoring and evaluation that will take place within the project area.
(vi) Plan of work and budget to identify other funding sources (if applicable) for financial assistance, technical assistance, or both.
(vii) The specified project timeframe.
(viii) Other requirements deemed necessary by NRCS to further the purposes of the CCPI project.

G. Waiver Authority

(1) AGI Waiver—To assist in the implementation of CCPI, the Chief may waive the eligibility requirement for the adjusted gross income (AGI) limitation, on a case-by-case basis, in accordance with policy and processes cited in 7 CFR Part 1400. Requests for AGI waivers are made in writing by the State Conservationist, through the Regional Chief’s office to the Chief.
(2) Payment Limitation Waiver—Producer contracts approved under CCPI-EQIP authority are limited to payments no more than $300,000. In order to assist in the implementation of CCPI, the Chief may provide a waiver to the $300,000 payment limitation up to a maximum of $450,000 for projects of special environmental significance. Refer to subpart J of this manual for additional information and guidance.

H. Limitation on Administrative Expenses

None of the funds made available under the CPPI may be used for partner’s administrative expenses. All CPPI funds will be administered directly through CCPI contracts between NRCS and program participants.
Subpart P - Exhibits

515.150 Forms

Refer to 440-CPM, Part 512, Subpart J, Exhibits.

515.151 Lifespan of Conservation Practices

A. Lifespan of Conservation Practices

(1) Refer to 440-CPM, Part 512, Subpart B, Section 512.11 (D), for contract requirements related to practice lifespan. Conservation practice lifespans are established and maintained in the Conservation Practice Standards (CPS) Web application. States may also post the State-determined lifespan in section IV of the eFOTG.

(2) Lifespan is the period of time specified in the contract during which the conservation practice or conservation system is to be maintained and used for the intended purpose. See 440-CPM, Part 502.

B. EQIP Contract Payment Item Codes

Refer to 440-CPM, Part 512, Subpart D, Cost-Sharing and Incentive Payments.

C. Practice Resource Concerns

Refer to the Title 180, NPPH, Part 600.
515.160 Glossary of Terms

See 440-CPM, Part 502, Subpart A, Common Terms.

515.161 Glossary of Abbreviations

See 440-CPM, Part 502, Subpart B, Common Abbreviations.