

## **Part 530 – Working Lands Conservation Programs Manual**

### **Table of Contents**

### **Contracting Policy**

#### **Subpart A – General Information**

- 530.0 General
- 530.1 Definitions
- 530.2 Responsibilities
- 530.3 Delegation of Authority
- 530.4 Historically Underserved Individuals and Groups
- 530.5 Information, Outreach, and Training
- 530.6 Access to Data
- 530.7 Policy Waivers
- 530.8 Environmental Service Credits for Conservation Improvements
- 530.9 Changes to Hard Copies of Documents

#### **Subpart B – Managing Funds**

- 530.10 General
- 530.11 Fund Spending Limits and Management
- 530.12 Funding Preparation Activities
- 530.13 Program Payment Schedules

#### **Subpart C – Application for Assistance**

- 530.20 General
- 530.21 Producer Types with Additional Considerations
- 530.22 Application Requirements
- 530.23 Submitting Applications
- 530.24 Signature Authority
- 530.25 Signature Documentation

#### **Subpart D – Application Processing**

- 530.30 General
- 530.31 Planning
- 530.32 Screening

- 530.33 Assessment
- 530.34 Ranking
- 530.35 Selecting Assessments for Funding
- 530.36 Disaster Assistance
- 530.37 ACT NOW (Reserved)

### **Subpart E – Contract Development and Requirements**

- 530.40 General
- 530.41 Approval Process
- 530.42 Contract Components
- 530.43 Contract Requirements

### **Subpart F – Payments**

- 530.50 Payment Requirements
- 530.51 Processing Payment Applications
- 530.52 Payment Types
- 530.53 Disapproval of Payment Applications
- 530.54 Payments not Authorized

### **Subpart G – Modifications**

- 530.60 Contract Modifications
- 530.61 Contract Increases
- 530.62 Documentation Requirements
- 530.63 Destruction of Conservation Practices or Activities under an Active Contract
- 530.64 Reapplication of Failed Conservation Treatment

### **Subpart H – Contract Reviews and Quality Assurance**

- 530.70 General
- 530.71 Review Types
- 530.72 Quality Assurance

### **Subpart I – Contract Violations**

- 530.80 General
- 530.81 Documenting Noncompliance
- 530.82 Addressing Noncompliance and Violations
- 530.83 Other Violations

- 530.84 Cancellation and Termination of Contracts
- 530.85 Recovery of Costs and Liquidated Damages
- 530.86 Claims, Debt Collections, and Offsets
- 530.87 Unauthorized Commitments
- 530.88 Equitable Relief, Appeals, and Mediation

### **Subpart J – Program Evaluation**

- 530.90 Purpose
- 530.91 References
- 530.92 Definitions
- 530.93 Background
- 530.94 Responsibilities
- 530.95 Policy

### **Subpart K – Management of Contracts Obligated Prior to Fiscal Year 2020**

- 530.100 General Information
- 530.101 Managing Funds
- 530.102 Application for Assistance
- 530.103 Application Processing
- 530.104 Contract Development and Requirements
- 530.105 Payments
- 530.106 Modifications
- 530.107 Contract Reviews and Quality Assurance
- 530.108 Contract Violations
- 530.109 Program Evaluation
- 530.110 Program Exhibits

### **Subpart L – Reserved**

### **Subpart M – Reserved**

### **Subpart N – Reserved**

### **Subpart O – Exhibits**

- 530.140 Exhibit Uses
- 530.141 Letter Templates
- 530.142 Checklists

530.143 Charts and References

530.144 Forms

## **Program-Specific Policy**

### **Subpart P – Agricultural Management Assistance (AMA)**

530.200 General

530.201 AMA Funds Management

530.202 AMA Eligibility

530.203 AMA Planning

530.204 AMA Application Processing

530.205 AMA Contracting

530.206 AMA Payments and Payment Limitations

530.220 AMA Exhibits

530.220A Form NRCS-CPA-1263, “Template for Producer Self-Certification – Fiscal Year Payments”

530.220B AMA Regulation—7 CFR Part 1465

530.220C AMA Statute

### **Subpart Q – Conservation Stewardship Program (CSP)**

530.300 General

530.301 CSP Funds Management

530.302 CSP Eligibility

530.303 CSP Planning

530.304 CSP Application Processing

530.305 CSP Contracting and Contract Management

530.306 CSP Payment and Payment Limitations

530.310 CSP Grassland Conservation Initiative (CSP-GCI)

530.320 CSP Exhibits

530.320A CSP Preobligation Checklist

530.320B CSP-GCI Preobligation Checklist

530.320C Form NRCS-CPA-1248, “Contract Renewal Offer Worksheet”

530.320D CSP Regulation—7 CFR Part 1470

530.320E CSP Contract Renewal Notification Letter

530.320F CSP Unfunded Renewal Notification Letter

530.320G Determining Substantially Separate Operations

530.320H CSP Renewals and the 2-Year Ineligibility Period

**Subpart R – Environmental Quality Incentives Program (EQIP)**

- 530.400 General
- 530.401 EQIP Funds Management
- 530.402 EQIP Eligibility
- 530.403 EQIP Planning
- 530.404 EQIP Application Processing
- 530.405 EQIP Contracting and Contract Management
- 530.406 EQIP Payments and Payment Limitations
- 530.407 Conservation Innovation Grants
- 530.408 EQIP Incentive Contracts
- 530.420 EQIP Exhibits
  - 530.420A EQIP Preobligation Checklist
  - 530.420B EQIP Incentives Preobligation Checklist [Reserved]
  - 530.420C EQIP Irrigation History Waiver Worksheet
  - 530.420D EQIP Regulation—7 CFR Part 1466
  - 530.420E Advance Payment Collection Letter
  - 530.420F EQIP Water Management Entity Flowchart
  - 530.420G EQIP AGI Applicability and Payment Limitation Waiver Request Worksheet for WMEs

## Part 530 – Working Lands Conservation Programs Manual

### Subpart A – General Information

#### 530.0 General

##### A. Purpose and Use of This Manual

- (1) This manual contains NRCS policy and administrative procedures to implement conservation on working lands through programs authorized under the Food Security Act of 1985, as amended by the Agriculture Improvement Act of 2018 (the 2018 Farm Bill), section 524(b) of the Federal Crop Insurance Act (7 U.S.C.1524(b)), or as otherwise authorized. In the event guidance in this manual conflict with statute or regulation, statute or regulation prevails.
- (2) Subparts A through O of this manual include policy applicable to the following programs unless otherwise stated:
  - (i) Agricultural Management Assistance (AMA)
  - (ii) Conservation Stewardship Program (CSP)
  - (iii) Environmental Quality Incentives Program (EQIP)
  - (vi) Regional Conservation Partnership Program (RCPP) (2014 Farm Bill)

**Note:** Subparts A through O of this manual only apply to covered program contracts associated with a 2014 Farm Bill RCPP agreement.

  - (v) Wildlife Habitat Incentives Program (WHIP)

**Note:** Initiatives implemented under the authority of the programs listed above will follow the policy in this manual.
- (3) Subparts P through R of this manual include program-specific policy for AMA, CSP, and EQIP.
- (4) This part is effective for—
  - (i) New enrollments during fiscal year 2020 and forward until superseded.
  - (ii) Administration of all contracts for the programs listed above in accordance with the regulations in effect on the date of obligation unless otherwise noted in this manual. Refer to subpart K of this manual for guidance on the appropriate use of legacy manuals when part 530 is not applicable.
- (5) Employee Knowledge.—NRCS personnel assigned program responsibility must have working knowledge of this manual and all applicable regulations.

##### B. State Supplements to this Manual

State supplements to this manual must be submitted to the Deputy Chief for Programs for review and approval. State supplements must not conflict with or be less restrictive than national policy and statutory or regulatory program provisions.

#### 530.1 Definitions

- A. Refer to Title 440, Conservation Programs Manual (440-CPM), Part 502, “Terms and Abbreviations Common to All Programs,” for the definition of terms related to conservation program contracts.
- B. Refer to subpart O, exhibit 530.143G, “Crosswalk of Terminology,” of this manual for a list of redefined terms.

## 530.2 Responsibilities

A. The NRCS Chief has overall leadership for conservation programs that deliver financial and technical assistance to eligible producers. NRCS is responsible for establishing policies, guidelines, and priorities for financial and technical assistance. As identified in this section, the NRCS Chief delegates responsibilities related to the programs identified above in section 530.0A(2) to National Headquarters (NHQ), State office, and field office staffs.

### B. NHQ

- (1) The Chief and Associate Chief provide national leadership for—
  - (i) Program policy and regulatory decisions.
  - (ii) Implementing the policies and procedures explained in this manual.
  - (iii) Modifying or waiving nonstatutory, discretionary provisions if the Chief determines the application of that provision to a particular limited situation to be inappropriate and inconsistent with the purposes of the program.
  - (iv) Making fund allocation and reallocation decisions.
- (2) The Regional Conservationists provide national leadership for—
  - (i) Implementing the policies and procedures explained in this manual.
  - (ii) Overseeing the State conservationist’s implementation of the programs at the State level.
  - (iii) Managing allocations and State spending limits.
  - (iv) Other responsibilities delegated by the Chief.
- (3) The Deputy Chief for Programs provides national leadership for—
  - (i) Developing and implementing policy and procedures for all programs covered by this manual.
  - (ii) Coordinating landscape-scale special initiatives.
  - (iii) Overseeing rulemaking and policy guidance development.
  - (iv) Making fund allocation and reallocation recommendations.
  - (v) Waiving discretionary program policy and procedures.
  - (vi) Supporting the development of business tools to facilitate program delivery.
  - (vii) Other responsibilities delegated by the Chief.
- (4) The Deputy Chiefs for Science and Technology and Soil Science and Resource Assessment provide national leadership for—
  - (i) Developing technical criteria for conservation practices, enhancements, and other activities to support implementation of the programs.
  - (ii) Supporting program implementation as explained in this manual.
  - (iii) Providing technical training.
  - (iv) Other responsibilities delegated by the Chief.
- (5) The Deputy Chief for Management and Strategy provides national leadership for—
  - (i) Managing the payment schedule development process.
  - (ii) Managing and tracking audit-related activities.
  - (iii) Policy review.
- (6) The Director, Financial Assistance Programs Division (FAPD), provides national leadership for—
  - (i) Providing management and operational activities to assist the Deputy Chief for Programs to implement programs.
  - (ii) Maintaining a working relationship with national Farm Service Agency (FSA) program leaders, other NRCS division directors, NRCS national technical support centers, and partnering agencies.
  - (iii) Providing program training.
  - (iv) Providing overall program evaluation and assessment, including program accountability.

- (v) Supporting the development and maintenance of business tools to facilitate program delivery.
- (vi) Other responsibilities as assigned by the Deputy Chief for Programs.

C. State Office

- (1) The State conservationist provides State program leadership for—
  - (i) Managing and implementing the programs as explained in this manual at the State level.
  - (ii) Maintaining program and fund integrity and accountability.
  - (iii) Delegating authority and assigning business tool roles for program implementation, processing applications, and managing contracts, including contract approval, obligation, modification, and quality assurance to the appropriate staff.
  - (iv) Ensuring a second-level review occurs prior to all obligations and payments according to section 530.3, “Delegation of Authority,” below; subpart E, “Contract Development and Requirements,” of this manual; and subpart F, “Payments,” of this manual.
  - (v) Establishing State program management policies and procedures as applicable.
  - (vi) Participating in the appeal process, as appropriate.
  - (vii) Establishing State policies, priority resource concerns, and other priorities using recommendations of State technical committee and Tribal conservation advisory council according to provisions of 440-CPM, Part 501, “USDA Conservation Program Delivery.”
  - (viii) Establishing the locally led process and ensuring that conservation needs assessments are developed per 440-CPM, Part 500, “Locally Led Conservation,” and that local working group recommendations are considered by the State technical committee.
  - (ix) Granting waivers, as authorized, within regulatory and program policy. Refer to section 530.7, “Policy Waivers” below.
  - (x) Reviewing and concurring with waivers that require national-level approval prior to submitting to NHQ.
  - (xi) Developing applicable State supplements to conservation practices or activities.
  - (xii) Entering into agreements with Federal or State agencies, Indian Tribes, conservation districts, units of local government, public or private organizations, and other individuals that may assist NRCS with implementation of the programs.
  - (xiii) Other responsibilities as indicated by policy and assigned by the Chief including section 1619 of the Food, Conservation, and Energy Act of 2008 (FCEA) to identify information that the Government may or must withhold from disclosure.
- (2) The Assistant State conservationist for programs has responsibility for—
  - (i) Managing and implementing programs described in this manual as delegated by the State conservationist.
  - (ii) Oversight and evaluation of State program implementation.
  - (iii) Elevating requests for assistance to NHQ when an issue cannot be resolved at the State level.
  - (iv) Providing support and serving as a point of contact for business tools at the State level.
  - (v) Developing and providing program training.

D. Field Office

Designated conservationists will provide local program leadership for activities in their areas of authority as delegated by the State conservationist, including—

- (i) Managing and implementing program activities explained in this manual as delegated by the State conservationist.
- (ii) Participating in appeal processes, as appropriate.
- (iii) Conducting quality assurance activities.
- (iv) Serving as a member of the local working group, as outlined in 440-CPM-501.

- (v) Fulfilling the responsibilities of the conservation district, as outlined in 440-CPM-501, where a conservation district is not present or chooses not to fulfill those responsibilities.
- (vi) Providing recommendations to the State conservationist, considering the advice of the local working group on program delivery as outlined in 440-CPM-501.
- (vii) Maintaining an effective working relationship with the servicing FSA county office.
- (viii) Preparing information in support of requested programmatic waivers or other requests for assistance.
- (ix) Maintaining the case file in accordance with Title 180, National Planning Procedures Handbook, Part 600; subpart E, “Contract Development and Requirements,” of this manual; and State procedures.
- (x) Certifying and approving payments to participants when conservation practices or activities are completed and meet NRCS standards and specifications in accordance with 450, General Manual (450-GM), Part 407, “Documentation, Certification, and Spot Checking.”
- (xi) Other responsibilities as indicated by policy and delegated by the State conservationist.

#### E. Responsibilities of Other Agencies and Indian Tribes

- (1) FSA.—FSA establishes and maintains farm records and eligibility certifications including—
  - (i) Form AD-1026, “Highly Erodible Land Conservation and Wetland Conservation.”
  - (ii) Adjusted gross income certifications.
  - (iii) Member information of legal entities and joint operations.
- (2) Other Federal, State, and local agencies, Indian Tribes, and Tribal conservation advisory councils, including local and Tribal conservation districts and associations, may have the following opportunities:
  - (i) Serving as a member of the State technical committee, local working group, or both.
  - (ii) Identifying local conservation needs, resource concerns, and priorities in order to provide recommendations regarding program administration and implementation.
  - (iii) Providing input and recommendations to NRCS for developing program guidelines.
  - (iv) Providing leadership for the conservation of soil, water, and other natural resources within the conservation district or Tribal boundaries.
  - (v) Assisting NRCS with information and outreach activities.
  - (vi) Providing technical assistance where appropriate.
  - (vii) Entering into agreements with NRCS, where appropriate, to assist with the implementation of the programs.
  - (viii) Developing the conservation needs assessment and conservation action plan according to 440-CPM-500.
  - (ix) Where a conservation district is not present or chooses not to fulfill the responsibilities outlined in 440-CPM-501, the NRCS designated conservationist will have these responsibilities.

### 530.3 Delegation of Authority

A. NRCS officials may further delegate responsibilities on items for which they have delegated responsibility above, unless specifically prohibited by statute, regulation, this manual, or other agency directive. No delegation of authority by an NRCS official contained under this part shall preclude the NRCS official from exercising any of the authority so delegated.

B. When delegating responsibilities not listed above in section 530.2 or when making changes to those delegations, each State conservationist is required to delegate in writing the responsibilities for developing, approving, and administering contracts; obligating funds; making payments; and

assigning appropriate roles in the business tools. Refer to subpart O, exhibit 530.143K, “Business Tools Quick Reference,” of this manual for a list of applicable business tools.

- (1) State conservationists may use subpart O, exhibit 530.143N, “Delegation of Authority” of this manual, letters, memos, State directives, Form AD-1143, “Corporate System Access Request Form,” or other written documentation to record the appropriate delegations.
- (2) State conservationists may delegate roles differently by program.

**Note:** When delegating responsibilities, the State conservationist must ensure a separation of duties for obligating funds and the second-level review of obligations in the applicable business tools. Employees who are authorized to obligate funds and approve payment applications must not perform the second-level obligation review on contracts for which they have made these approvals.

**Note:** An employee who provides second-level obligation review cannot be a State vendor coordinator; these roles are exclusionary.

C. The State delegations of authority must be within individual program regulations and national policy including Title 130, General Manual, Part 400, Subpart B, “Delegations of Authority.”

- (1) Refer to subpart O, exhibit 530.143N, of this manual for responsibilities the State conservationist may delegate.
- (2) The State conservationist cannot further delegate the following responsibilities:
  - (i) Approval of a control of land waiver for Tribal land and other unique cases. Refer to subpart C, section 530.22D(2)(iii) of this manual.
  - (ii) Extension of NRCS-CPA-153 for one additional year. Refer to subpart I, section 530.82C(5) of this manual.

D. Only NRCS employees with delegated authority may sign (obligate) contracts or approve modifications. NRCS prohibits non-NRCS employees from performing these functions.

E. Refer to subpart E, “Contract Development and Requirements;” subpart F, “Payments;” and subpart G, “Modifications,” of this manual for additional guidance related to delegation of authority and separation of duties.

#### **530.4 Historically Underserved Individuals and Groups**

A. Historically underserved individuals and groups include those who have not participated in, or who have received limited benefits from, USDA or NRCS programs. The 2008, 2014, and 2018 Farm Bills recognize producers who are socially disadvantaged, have limited financial resources, or who are beginning farmers or ranchers as eligible for special considerations for program participation. The 2014 and 2018 Farm Bills also included veterans meeting certain conditions in the historically underserved category. Special considerations may include increased payment rates, advance payments, evaluation under special ranking pools, and priority for funding as specified in the individual program regulations and policies.

B. Refer to 440-CPM-502 for the specific definitions of each group included under the historically underserved category.

C. Refer to subpart C, “Application for Assistance,” of this manual for additional information regarding historically underserved individuals and groups.

## 530.5 Information, Outreach, and Training

A. Information, outreach, and training activities ensure that NRCS customers and potential program participants are aware of, understand, and have access to conservation programs and services. These activities deliver facts, details, and news about the programs to broad audiences.

B. Procedures for program information and outreach must adhere to public information policy guidance in Title 260, General Manual, Part 400, “Public Information Policy,” and Title 230, General Manual, Part 406, “National Outreach Policy.”

C. Information and outreach include developing, producing, and delivering general news, knowledge, and facts about the programs. NRCS must include the official USDA nondiscriminatory statement on all information and outreach provided to the public. The following provides guidance for information, outreach, and training:

- (1) Information is delivered to a wide audience while outreach targets a specific audience. NRCS uses all available media to provide basic program information including ranking period information, assessment and ranking criteria, eligible conservation practices or activities, payment rates, and program descriptions.
- (2) Outreach and special emphasis activities make targeted producers aware of program opportunities and help increase program participation. Outreach activities completed at the Farm Production and Conservation (FPAC) Business Center (BC) and NRCS national, State, and local levels may include—
  - (i) Ensuring that diverse residents, landowners, and land operators in an area are represented in the locally led process to provide input into natural resource management.
  - (ii) Providing special accommodations to the extent possible, such as native language interpretation, sign language interpretation, or braille materials.
  - (iii) Posting information through appropriate media sources to reach the intended audience.
  - (iv) Direct mailings to historically underserved producers, including—
    - Limited-resource farmers and ranchers.
    - Socially disadvantaged farmers and ranchers.
    - Veteran farmers and ranchers.
    - Beginning farmers and ranchers.
    - Tribal members, Alaska Natives, and Pacific Islanders.
    - Producers with disabilities.
    - Organic and transitioning-to-organic producers.
    - Any other producers with historically low participation rates in conservation programs.
  - (v) Ensuring outreach is provided so as not to limit participation because of size or type of operation, or based on production system, including specialty crop and organic production.
- (3) Training includes developing, producing, and delivering technical information, knowledge, and facts to individual 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.
- (4) NRCS is committed to providing consultation, outreach, and services to Indian Tribes and is taking actions to expand outreach activities that will include—
  - (i) Working with the Intertribal Agriculture Council to provide onsite outreach and training to American Indians and Alaska Native producers, farmers, land users, and their Tribal Governments.
  - (ii) Expanding consultation efforts to be more inclusive of USDA conservation programs and services to Indian Tribes. Consultation will—

- Be open and candid so that all parties may evaluate for themselves the potential impact.
- Be conducted among designated USDA officials and designated Tribal officials.
- Operate within a Government-to-Government relationship with federally recognized Indian Tribes.
- Consult, to the greatest extent practicable and permitted by law, with Indian Tribal Governments before taking actions that affect federally recognized Indian Tribes.
- Remove procedural impediments to working directly with Tribal Governments on activities that affect trust property or governmental rights of the Tribes.
- Work cooperatively with other agencies to accomplish these goals.

## 530.6 Access to Data

### A. Program contract data

- (1) Information about applicants and participants is generally not released to the public to protect individual privacy rights. The Freedom of Information Act (FOIA), the Privacy Act of 1974, section 1244 of the Food Security Act of 1985, and section 1619 of the Food, Conservation, and Energy Act of 2008 (FCEA) identify information that the Government may or must withhold from disclosure. Refer to Title 120, General Manual, Part 408, Subpart C, “Freedom of Information Act and Privacy Act,” for NRCS policy regarding FOIA and the Privacy Act. The following information about contract applicants must not be released:
  - (i) Names
  - (ii) Addresses
  - (iii) Telephone numbers
  - (iv) Social Security or tax identification numbers
  - (v) Amount of Federal funds requested
  - (vi) Bank account information

- (2) FCEA does not prohibit the sharing of information between and among USDA agencies. However, information may only be shared with Federal agencies outside USDA or others for specific purposes under a cooperative agreement or program, and not for general regulatory or enforcement purposes.
- (3) Contract Applicant Information

Aggregate or statistical information about contract applications may be described in news releases, web sites, and other tools used to inform the public.

- (4) Contract Participant Information

When a contract applicant becomes a participant (the applicant and NRCS approving official having signed the contract), additional information may be available for release through a properly submitted FOIA request:

- Name
- Limited address (State, city, county)
- Contract obligation amount

**Note:** Additional restrictions about the release of address information apply to some corporate and nonprofit business types. Consult 120-GM-408 or the State NRCS FOIA officer for more guidance.

- (5) Contract Information

To ensure consistent and well-documented responses to requests for official NRCS program data, all requests for data that will be shared outside of NRCS must be directed to the FPAC-BC, Economic Policy and Analysis Division.

**B. Release and Receipt of Information to and from a Designated Third Party**

- (1) Consistent with 120-GM-408-C-408.47F(7), NRCS may disclose information to or receive information from a third party, including a technical service provider, when the landowner, producer, or program participant provides written authorization specifying the information to be disclosed or received (subject to NRCS discretion).
- (2) NRCS will make Form NRCS-CPA-1270, “Consent to Release or Receive Information for NRCS Program Participation,” available to landowners, producers, and program participants for this purpose. (Refer to subpart O, exhibit 530.144E, “Consent to Release or Receive Information for NRCS Program Participation” of this manual.
- (3) In lieu of Form NRCS-CPA-1270, NRCS will also accept a written request from the landowner, producer, or program participant that includes all the following—
  - (i) Application or contract number, if known
  - (ii) Applicable program
  - (iii) Identification of specific third party to whom NRCS may release or from whom NRCS may receive information
  - (iv) Detailed description of the specific information NRCS may release to or receive from the identified third party, and how that information will be utilized
  - (v) Time period under which NRCS may release or receive information
  - (vi) Signature of the person authorizing release or receipt
  - (vii) Contact information for person authorizing release or receipt

**Note:** Refer to subpart C, 530.25(B) “Digital signatures,” of this manual for guidance on proper submission of documents with signatures.

### **530.7 Policy Waivers**

A. The Deputy Chief for Programs (DCP) may waive conservation program policy or procedure unless prohibited by statute or regulation. In addition, the DCP has delegated waiver approval authority to the FAPD director and branch chiefs when the waiver request meets the following two criteria:

- (1) The request is contract or application specific; and
- (2) The request addresses an administrative issue.

B. A policy waiver request may include multiple producers, applications, or contracts for which the policy waiver sought is for the same set of facts and circumstances. States must specifically identify the producers, applications, or contracts in the waiver request.

**Note:** NHQ will not approve broad or blanket policy waivers.

C. The State must provide justification for the waiver request that does not defeat the purposes of the applicable program or any other conservation program administered by USDA. This waiver authority is in addition to equitable relief and appeals provisions that may be authorized through the programs. Refer to the following sections of this manual for guidance on some specific waivers:

- (1) Subpart C, 530.23B, “Early Start Waiver”
- (2) Subpart C, 530.23C, “Adjusted Gross Income (AGI) Waivers”
- (3) Subpart I, 530.85, “Recovery of Costs and Liquidated Damages”
- (4) Subpart R, 530.402C (2), “Irrigation History Requirements”

**Note:** A memorandum for the record (MFR) may be used to correct a minor administrative error that does not conflict with policy in this manual. State conservationists may use an MFR for situations where NRCS did not follow procedural guidance or other administrative processes provided the rights and responsibilities of an applicant or participant are not affected by such administrative error. For example, NRCS failed to certify technical adequacy of the contract documents before obtaining participant signature but such contract documents were actually technically adequate. The MFR must clearly document any corrective action taken and the basis for the decision. It will be signed by the decision maker and recorded in the case file for future reference. The State conservationist may delegate this authority no lower than an assistant State conservationist or area conservationist.

D. State conservationists must review and concur with all waiver requests submitted to NHQ. States are responsible for documenting this concurrence based on State policy.

E. States must provide a detailed justification; identify the specific producer, application, contract, and policy for which the waiver is sought; and identify any pertinent supporting documentation when submitting a waiver request

F. Once the approving official makes the final decision and signs the waiver response letter, States must retain the response letter in the applicable case file according to subpart E, “Contract Development and Requirements,” of this manual. States will then take appropriate action to notify participants of the waiver decision and provide applicable appeal rights for adverse decisions according to subpart I, “Contract Violations,” of this manual.

**Note:** Refer to National Instruction, 440-311, “Submitting and Processing State Requests using the Financial Assistance Programs Division (FAPD) SharePoint Site,” for instructions regarding waiver submission.

### **530.8 Environmental Service Credits for Conservation Improvements**

A. Program participants may achieve environmental benefits that qualify for an environmental credit trading program. NRCS asserts no direct or indirect interest in these credits and retains authority to ensure all program purposes are met. Participants who enroll in both a program covered by this manual and an environmental credit trading program must ensure the requirements of the market program are compatible with the purposes and requirements of the program contract.

B. The participant must meet all operation and maintenance requirements for program-funded activities consistent with the specific program statute, regulation, and contract. Where activities required under an environmental credit agreement may affect the land and conservation activities under a program contract, NRCS recommends that the participant request assistance with the development of a compatibility assessment from the credit trading program prior to entering into any credit agreement. The program contract may be modified in accordance with policies outlined in subpart G, “Modifications,” of this manual, provided the modification meets the program purpose and complies with the program regulations.

### **530.9 Changes to Hard Copies of Documents**

NRCS may make pen-and-ink changes to documents when necessary to address minor information gaps or errors provided that the changes do not affect the contract terms. NRCS must adhere to these requirements when making pen-and-ink changes to documents:

- (1) NRCS and the applicant/participant must initial and date the change.
- (2) NRCS must include a note in the case file indicating the reason for the change.

## Part 530 – Working Lands Conservation Programs Manual

### Subpart B – Managing Funds

#### 530.10 General

A. This subpart provides policy related to managing funds and State spending limits. NRCS will ensure funds delivered through conservation program contracts are properly managed and disbursed for the intended purpose. NRCS uses various business tools to create spending plans and associated ranking pools. Refer to subpart O, exhibit 530.143K, “Business Tools Quick Reference,” of this manual for a list of applicable business tools.

B. The Farm Bill and/or annual agricultural appropriations law authorize, and the Office of Management and Budget (OMB) apportion, funds received by NRCS each fiscal year. The Farm Production and Conservation (FPAC) Business Center (FBC) posts funds in the Financial Management Modernization Initiative (FMMI) system as an allotment and uses them for execution at the program level. NRCS National Headquarters (NHQ) ensures consistency with funding authorities in the various business tools used by the agency.

- (1) FMMI is the official general ledger system NRCS uses for all obligations and disbursements.
- (2) The types of funds that may be authorized include:
  - (i) Annual.—Funds carrying a year-specific identifier can only be obligated in the fiscal year of their availability or, subsequent to that fiscal year, to cover cost-overruns of a contract of the same-year funding.
  - (ii) Multiple (Multi).—Funds must be obligated within the authorized period. OMB must reapportion any multiyear unobligated balances.
  - (iii) No-Year.—Funds remain available until expended for their original purpose. Each fiscal year, OMB must reapportion any unobligated fund balance.
- (3) NHQ provides States with an allocation letter as soon as practicable after October 1, the start of the new fiscal year, which specifies the authorized financial and technical assistance funds for each program.

#### 530.11 Fund Spending Limits and Management

A. State Spending Limit Distribution and Management

- (1) NHQ determines State funding limits by program using a process that reflects national priorities and locally led conservation priorities and uses available natural resource data.
- (2) NRCS targets funding according to program-specific requirements.
- (3) The State conservationist, considering the advice of the State technical committee and Tribal conservation advisory council, as applicable, must develop a State spending plan to address program and national priorities, natural resource concerns, and priority geographic locations within the State or Tribal lands. Refer to the program-specific subparts for additional guidance.
- (4) Spending plans have a one-to-one relationship with ranking pools, so both the spending plan and the ranking pool must have the same name in the applicable business tools.

B. In distributing fiscal year funds in the business tools for obligation in conservation program contracts, State conservationists must—

- (1) Establish State-level procedure for managing the State spending plan based on State-designated ranking pools and any desired spending plan categories.

- (2) Develop, at a minimum, a spending plan for each program.
- (3) Distribute funds to all spending plans and spending plan categories.

**Note:** By establishing spending plan categories, States can subdivide funds within a larger spending plan without creating separate ranking pools for each category.

- (4) Establish protocols for distributing 900-Series technical assistance (TA) funds for participant-acquired technical service provider (TSP) contract items. The TA for this should be accounted for in the applicable business tool.

#### C. Funding Targets

- (1) States must establish spending plans in accordance with program-specific targets for beginning farmers and ranchers, socially disadvantaged farmers and ranchers, and other groups, as identified in subpart Q, “Conservation Stewardship Program (CSP)” and subpart R, “Environmental Quality Incentives Program (EQIP)” of this manual. However, States are not required to establish categories specific to land use or operation type within these spending plans.
- (2) Section 1244(n) of the Food Security Act of 1985, as amended by the 2018 Farm Bill, requires not less than 10 percent funds made available across all programs authorized by Title XII of the Food Security Act of 1985, except the Conservation Reserve Program, be used to encourage practices that relate to water quality or water quantity that protect source waters for drinking water (including protecting against public health threats) while also benefitting agricultural producers.
  - (i) NHQ tracks this data to ensure compliance.
  - (ii) State conservationists will—
    - Work collaboratively with community water systems and State technical committees to identify local priority areas for protection of source waters for drinking water; and
    - Subject to national guidance, offer to producers increased incentives and higher payment rates, not to exceed 90 percent, of practice costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training for practices that further the protection of source waters for drinking water.

#### D. All organizational levels are responsible for managing funds and fund integrity.

- (1) Farm Production and Conservation (FPAC) Business Center (BC)
  - (i) Enters and adjusts State allocations in FMFI.
  - (ii) Enters accruals as applicable for conservation practices or activities completed, but not yet approved for payment prior to the close of the reporting period.
- (2) Deputy Chief for Programs (DCP)
  - (i) Processes allowance change requests to adjust State current- or prior-year allocations.
  - (ii) Coordinates allowance changes, or distributions with the regional conservationists.
  - (iii) Monitors fund obligations to achieve program goals and critical program delivery timelines.
- (3) Regional Conservationists (RCs)
  - (i) Ensures funds are used for the allocated purpose.
  - (ii) Approves and denies allowance change requests.
  - (iii) Ensures fund obligations achieve program goals and critical program delivery timelines.

#### E. Fund Spending Limit Changes

- (1) State conservationists must monitor program obligations and expenditures. Business tools have the necessary controls to prevent obligation in excess of the State allocation. State conservationists will monitor and manage State- and contract-level funds in all program

- accounts to provide the funding necessary to accomplish the program’s objectives, and as provided in the annual spending level.
- (2) States must submit requests for additional current-year program funds and cost overrun funds using the nationally established process.
  - (3) State conservationists must return current-year funds that the State cannot obligate using the nationally established process for returns. When returning financial assistance funds, States must also return associated TA funds. States must return funds by the date specified so that NHQ may reallocate returned funds to other States in the same year.

### **530.12 Funding Preparation Activities**

- A. NHQ must publicly post specific information on the NRCS website to announce funding opportunities. This information includes, but is not limited to, the following:
- (1) Program description
  - (2) National priorities
  - (3) General application information
- B. State conservationists must provide at least 30 days public notice for all application periods and ranking deadlines and post the following information on the State’s website by the time of the program application announcement. Although NRCS accepts program applications on a continuous basis, States may not establish an application period or deadline prior to publication of the information below. All applicants must be provided an equal opportunity to make informed decisions regarding program opportunities prior to the end of the application period. Refer to subpart D, section 530.36 of this manual when establishing a disaster-specific program opportunity.
- (1) General program and application information, including program-related deadlines and how to apply
  - (2) National and State natural resource priorities
  - (3) Producer and land eligibility requirements
  - (4) Provide the following as soon as available:
    - (i) Screening and ranking criteria
    - (ii) Eligible conservation practices and activities approved for the application ranking period
    - (iii) Payment rates approved for eligible conservation practices and activities or a link to the State payment schedule website
- C. Designated conservationists must perform the following sign-up preparation activities in their geographic area by posting or publishing program information. This may include local newspapers, producer organization newsletters, conservation district newsletters, or other local media accessible by the general public. This outreach effort must include, but is not limited to—
- (1) Program description.
  - (2) General application information, including continuous signup, application period, cut-off dates for ranking, other program related deadlines, and where to apply.
  - (3) Local office location and contact information.
  - (4) State NRCS website.

### **530.13 Program Payment Schedules**

- A. NRCS uses payment schedules to document applicable costs and payment rates used to support authorized programs. Payment schedules must document estimated costs for implementation of conservation practices and activities in accordance with NRCS technical standards, specifications, job sheets, guide sheets, etc. Payment schedules must follow the principle of cost effectiveness as

defined in 440-CPM, Part 502, “Terms and Abbreviations Common to All Programs,” and adhere to program-specific requirements.

**Note:** While planners and engineering staff should work with the participant in selecting a treatment option that will address the identified resource concern in the most cost-effective manner, this does not limit the conservation practice or activity that the participant can select. Treatment options must meet NRCS standards and specifications, address the identified resource concern, and be approved by an individual with NRCS job approval authority.

**Note:** Some programs may use payment methods, other than payment rate (PR), for financial assistance payments, such as actual cost not to exceed a specified maximum (AM), average cost (AC), or flat rate (FR).

**Note:** Technical assistance provider (TSP) 900-series technical assistance payment contract items use the AM payment method.

B. Definitions, methods of payment, and detailed guidance for development of payment schedules are found in the following directives:

(1) 440-CPM-502.

(2) Title 300, Payment Schedule Handbook (PSH), Part 600, “Payment Schedules.”

C. Unless otherwise specified by program or national directive, State conservationists, with input from the State technical committee, partners, or other stakeholders, must establish appropriate program payment percentages for each cost category that considers the minimum or lowest percentage needed to encourage program participation. The payment percentage must be the same for all cost components except foregone income. Refer to the program-specific subparts of this manual for additional guidance.

D. NHQ will publish the program payment schedules for all States to the National Payment Schedules website. States must link their website to the appropriate payment schedules.

E. Once NRCS finalizes the payment schedules for a fiscal year, the payment schedules will apply to all contracts obligated within that fiscal year.

## Part 530 – Working Lands Conservation Programs Manual

### Subpart C – Application for Assistance

#### 530.20 General

A. This subpart provides policy related to requests for conservation program assistance including eligibility requirements. NRCS accepts requests for financial assistance for all conservation programs on a continuous basis and evaluates and administers them in a fair, transparent, and consistent manner. Refer to the program-specific subparts within this manual for additional application requirements.

B. Producer.—Eligible applicants must be—

- (1) A person, legal entity, Indian Tribe, Alaska Native corporation, or joint operation with signature authority.
- (2) Engaged in agricultural production or forestry management or have an interest in the agricultural or forestry operation associated with the land offered for enrollment. Interest in the agricultural operation means one of the following:
  - (i) Owner or renter of the land in the agricultural operation;
  - (ii) Have an interest in the agricultural products, commodities, or livestock produced by the agricultural operation; or
  - (iii) Be a member of a legal entity or joint operation that either owns or rents land in the agricultural operation or has an interest in the agricultural products, commodities, or livestock produced by the agricultural operation.

**Note:** NRCS must not establish or use any additional criteria for determining that an applicant is a producer other than criteria cited in this section. Do not use the following criteria to determine eligibility as a producer:

- Type of operation or agricultural enterprise
- Size of operation
- Location of operation
- Income; profit or loss

C. Potential Applicants Include—

- (1) Persons.—Producers who apply with a Social Security number (SSN) and under the producer's individual name.
- (2) Legal Entities.—Producers who apply with an Employer Identification Number (EIN) generally using a business name.

**Note:** Some trusts and limited liability corporations (LLCs) may operate using an SSN.

- (3) Joint Operation.—Joint operations exist where each member or partner shares direct liability or responsibility for the partnership, and the eligibility information of each individual transfers to the joint operation.
  - (i) Joint operations, such as a general partnership, must have an EIN to receive payments directly to the joint operation.
  - (ii) Unlike a general partnership, a joint venture may or may not be formed under State law and may be an informal agreement between two or more individuals or businesses. Informal joint ventures require each member to be signatory to the contract for their individual interest and are not based on an EIN. NRCS will pay members directly using their individual tax identification numbers.

- (4) Indian Tribes, Alaska Native corporations, and trusts involving the Bureau of Indian Affairs (BIA).—A unique situation occurs in contracting with Indian Tribes and related corporations and trusts. Refer to section 530.21B below for additional information.
- (5) Water Management Entities.—A State, irrigation district, ground water management district, acequia, land grant-merced, or similar entity, with responsibilities related to irrigation water delivery or management. These may be public or semi-public agencies or organizations with the purpose of assisting individual producers.
- (6) NRCS Employees.—May become a participant in conservation programs and receive payments. However, NRCS employees must follow ethics guidance contained in Title 110, General Manual (GM), Part 405, Subpart F, “Employee Participation in NRCS Programs.” NRCS employees who are members of a legal entity may not communicate with, or appear before NRCS or any other Federal agency, on behalf of that legal entity. NRCS does not prohibit these legal entities from applying for USDA programs, but employees must have another member (or an individual with Power of Attorney) handle all communications and appearances.
- (7) Conservation District Employee.—Subject to the ethics requirements specified in the approved cooperative working agreement between NRCS and the conservation district.
- (8) Minor.—Eligible as a contract participant if legally responsible and independently participating in the operation of the farm or ranch as an eligible individual. A parent or legal guardian must also be signatory to the contract. In most cases, NRCS will attribute payments earned by a child under 18 years of age to the parent or any court-appointed person such as a guardian or conservator who is responsible for the minor child. Refer to Farm Service Agency (FSA) Handbook 5-PL, “Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income – Agricultural Act of 2014,” Paragraph 172, and 7 CFR Section 1400.101 for additional guidance related to when NRCS may attribute a payment to a minor.
- (9) Foreign Person.—A foreign person who is providing land, capital, and a substantial amount of personal labor in the production of crops may be eligible if the foreign person meets all other program eligibility requirements as determined by FSA and obtains a tax identification number from the Internal Revenue Service (refer to 7 U.S.C. Section 1308-3). With respect to a legal entity, any member, partner, or stockholder who is not a U.S. citizen or resident alien is ineligible for payment unless the person provides a significant amount of active personal labor to the farming operation.

**Note:** Refer to the program-specific eligibility matrix in subpart O, exhibit 530.143C, “Program Eligibility Matrices for Individuals, Entities, and Joint Operations” of this manual for applicant-type filing requirements. For business-type descriptions, refer to FSA Handbook 11-CM, “Customer Data Management,” and 11-CM, Exhibit 10, “Business Partner Customer Roles/Business Types and Valid Tax ID Types.”

D. Group Projects.—Participants may enroll in joint contracts according to guidelines established in the program-specific subparts. These projects are made up of two or more eligible applicants on two or more operations, intending to pool resources, efforts, finances, or other contributions to address collaboratively the same resource concerns. Joint participation is permitted when it will result in greater environmental benefit than individual participation, or in a cost savings, and all producers receiving direct or indirect benefits from the group project meet eligibility requirements. Refer to subpart R, “Environmental Quality Incentives Program” of this manual for additional guidance.

#### E. Ineligible Applicants

- (1) A producer is ineligible for USDA program benefits if engaged in controlled substance activities, including growing marijuana on any part of their agricultural operation in violation of Federal law, even if the requested assistance does not relate to the part of

the agricultural operation used for the production of the controlled substance. Refer to section 530.21D below for guidance on hemp production.

- (2) Federal, State, county, and local governments, and political subdivisions of State government (e.g., school districts, conservation districts, etc.) and entities with members of units of government or subdivisions, are not eligible. Refer to subpart R, section 530.402, “EQIP Eligibility,” of this manual for exceptions to this policy.

F. Refer to the program-specific subparts of this manual for additional eligibility requirements.

G. Applications Crossing State or Ranking Pool Boundaries

- (1) Contracts that cross over State, ranking pool, or servicing area boundaries may be developed and administered within the State or service area where the majority of the land is located.
- (2) For applications crossing State, ranking pool, or servicing area boundaries, State conservationists will evaluate the application and the producer’s request for servicing office or other factors to determine which office will service the application.

### 530.21 Producer Types with Additional Considerations

A. Historically Underserved (HU) Producers and Groups

- (1) Refer to subpart A, “General Information,” of this manual for a description of HU producers, and to 440-CPM, Part 502, “Terms and Abbreviations Common to All Programs,” for specific definitions of each HU category.
- (2) To receive program-specific HU considerations, participants on the contract must meet, at a minimum, the percent interest requirements as described in table 530.C-1.

**Table 530.C-1 HU Participant Interest**

HU Category	% Interest of HU Participants
Limited resource farmer/rancher (LRF)	100
Beginning farmer/rancher (BFR)	100
Socially disadvantaged farmer/rancher (SDFR)	50
Veteran farmer/rancher (VFR)	100

- (3) NRCS does not recognize gender as an HU category.
- (4) For LRF, a self-determination tool is publicly available at <https://lrftool.sc.egov.usda.gov/> or producers may request a copy from the local NRCS field office.
- (5) Refer to exhibit 530.143O, “Veteran Farmer or Rancher Determination Matrix for Historically Underserved Payment Rate and Veteran Preference” of this manual for guidance on determining when to provide veteran preference.

**Note:** Unless a landowner is directly involved in the day-to-day management of the farming operation, the landowner does not qualify for program-specific HU considerations for BFR, including higher payment rates.

B. A federally recognized Indian Tribe means any Indian Tribe, Band, Nation, Pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established under the Alaska Native Claims Settlement Act. Federally recognized Indian Tribes are exempt from payment limitation requirements, contract limitations, and adjusted gross income (AGI) requirements. The following requirements apply to Indians represented by BIA:

- (1) Current business tools do not maintain a payment limitation record for “Indians Represented by the Bureau of Indian Affairs.”
- (2) NRCS can make payments exceeding the payment limitation to the Tribal participants if a BIA official certifies in writing that no one individual will receive more than the payment limitation.

**Note:** Individual Tribal members are not exempt from payment limitations, contract limitations, and AGI requirements.

- (3) The BIA must produce, at the request of NRCS, proof of payments made to the person or legal entity that incurred costs or lost income related to conservation practice or activity implementation, as record of payment limitations.

C. Organic Producers.—Organic regulations are found under 7 CFR Part 205, “National Organic Program,” and are administered by the USDA Agricultural Marketing Service (AMS). Refer to subparts Q, “Conservation Stewardship Program (CSP),” and R, “Environmental Quality Incentives Program (EQIP),” within this manual for program-specific information pertaining to organics, including the national organic initiative offered through EQIP.

Organic producers include those who are certified organic, transitioning to organic production, or exempt from organic certification. The following apply to organic producers:

- (i) USDA-certified organic producers agree to implement conservation practices or conservation activities that are consistent with an approved organic system plan (OSP) or requirements of the Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6523). A private or governmental agency, accredited by USDA as a certifying agent, must certify a producer’s organic system plan.

**Note:** Organic operations or organic producers that sell less than \$5,000 a year in organic agricultural products are exempt from USDA organic certification (7 U.S.C. Secs. 6501 to 6522).

- (ii) Although certified-organic and transitioning-to-organic applicants are not required to provide a copy of their OSP, the applicant is responsible for providing information as needed for the development of a plan of operations that identifies conservation practices or activities that are consistent with the requirements of an OSP.
- (iii) When developing a schedule of operations to support organic operations, NRCS or a technical service provider (TSP) must address the National Organic Program (NOP) requirements in the conservation practice or activity design to ensure that the planned conservation practices or activities are consistent with OSP standards.
- (iv) The designated conservationist must annually determine whether the participant is implementing conservation practices or activities consistent with an OSP. Refer to subpart H, “Contract Reviews and Quality Assurance,” in this manual. If a participant is not implementing conservation practices or activities according to schedule or not consistent with an OSP, the contract may be subject to termination. Refer to subpart I, “Contract Violations,” in this manual.

D. Hemp Producers.—USDA published a final rule effective March 22, 2021, to establish a domestic hemp production program. Through the rule, USDA specified the rules and regulations to produce legal hemp and outlined the process by which States and Tribes can submit plans for hemp production for USDA approval. The rule also established a USDA plan to regulate hemp production by producers in areas where hemp production is legal but not covered by an approved State or Tribal plan. AMS is the lead USDA agency for hemp regulations.

For NRCS to determine a hemp producer eligible for financial assistance through NRCS-administered conservation programs, the following conditions apply:

- (i) A State or Indian Tribe with a USDA-approved plan for the domestic production of hemp has licensed or otherwise authorized the producer to produce hemp or AMS has directly authorized hemp production when the producer is in a State or territory of an Indian Tribe that authorizes hemp production, but such State or Indian Tribe does not have (or seek to have) a USDA-approved plan.
- (ii) Hemp producers authorized under a USDA-approved plan or through AMS must record a valid license or authorization number with FSA.
- (iii) NRCS will refer to FSA records to determine whether the producer is authorized to produce hemp.

**Note:** A hemp producer may be producing hemp pursuant to the research/pilot exception under section 7606 of the Agricultural Act of 2014, and if so, such hemp producer is eligible for NRCS conservation programs. The section 7606 research/pilot exception expires one year after publication of the interim rule, and thereafter the hemp producer must comply with the AMS interim or subsequent rule.

**Note:** Hemp information can be found at <https://www.ams.usda.gov/rules-regulations/farmbill-hemp>.

**Note:** Producers participating in unauthorized hemp production are ineligible for NRCS financial assistance; however, they may be eligible for conservation technical assistance (CTA) on land not included in the unauthorized hemp production.

## 530.22 Application Requirements

A. NRCS receives applications on a continuous basis and provides timely notification to applicants of all missing documents and filing requirements and eligibility status. Applicants must provide records, certifications, and other required documents within NRCS specified timeframes.

B. Required Records and Forms.—Applicants will establish farm records with FSA and must complete required certifications to complete the application process. Producers with established farm records should review their business structure and farm operating plan and make updates with FSA if needed. NRCS and FSA use the following forms for accepting applications, establishing farm records, completing certifications, and documenting other program eligibility requirements:

- (1) Form NRCS-CPA-1200, “Conservation Program Application”
- (2) Form AD-1026, “Highly Erodible Land Conservation and Wetland Conservation Certification”
- (3) Form CCC-941, “Average Adjusted Gross Income Certification and Consent to Disclosure of Tax Information,” or equivalent successor forms as applicable for reporting years
- (4) Form CCC-902, “Farm Operating Plan,” for individuals, legal entities, and joint operations, or equivalent successor forms as applicable for reporting years. The FSA County Committee will use the information collected on Form CCC-902 to make payment eligibility and payment limitation determinations.

**Note:** Beginning in fiscal year 2021, NRCS will no longer accept Form CCC-901, “Member Information,” as a standalone document for participation in NRCS programs. Individuals, legal entities, and joint operations must file Form CCC-902, and as determined necessary by FSA, Form CCC-901.

**Note:** If producers previously filed Form CCC-902 and FSA has made a determination, it is not necessary for NRCS to collect duplicate information or to request that the applicant refile forms because of NRCS program participation. FSA eligibility determinations carry over from one fiscal year to the next. However, applicants must update their Form CCC-902 when there are changes made to the farming operation that affect the previous FSA determination.

**Note:** Refer to program-specific subparts within this manual for additional application records and forms that may be needed.

### C. Certifications

- (1) Applicants, excluding those applying under Agricultural Management Assistance (AMA), must meet conservation compliance provisions of the Food Security Act of 1985, as amended, for “Highly Erodible Land Conservation (HELCS) and Wetland Conservation (WC) Certification.” A person who FSA determines is ineligible for USDA program benefits under the HELCS and WC provisions may not participate in conservation programs or receive any payments for the crop year for which the person is found ineligible. Additionally, participants will not receive payments for—
  - (i) Violations of the HELCS provisions, for all subsequent years that the person remains ineligible.
  - (ii) Violations of the WC provisions, for the crop year of the conversion and all subsequent crop years that the person remains ineligible.
- (2) Applicants must submit Form CCC-941 or equivalent successor forms as applicable for reporting years. A person or legal entity is not eligible to receive program payments if their AGI exceeds the AGI limitation; however, the Financial Assistance Division Director, may waive this requirement under some circumstances. Refer to section 530.23 C, “Adjusted Gross Income (AGI) Waivers,” below. Additionally—
  - (i) NRCS will reduce any payment issued to a legal entity or joint operation with members who do not meet the AGI requirement by an amount commensurate with their direct or indirect ownership interest (member share). Previously ineligible applicants may reapply in subsequent years.
  - (ii) FSA makes the AGI determination in the fiscal year NRCS approves the conservation program contract, and the determination applies throughout the term of the contract unless there is a change in contract participants or to the members of a legal entity or joint operation. For contract transfers or membership changes, FSA makes the AGI determination for the new participant or member based on the fiscal year NRCS approves the transfer or the membership changes. Transferees must meet the applicable Farm Bill AGI requirements in place at the time NRCS originally obligated the contract.
  - (iii) This applies to all contract participants, entity members, and successors to these contracts.

**Note:** Changes in the members or in member shares of an entity must be documented by the entity submitting revised FSA forms. Failure to update the FSA Subsidiary Business File will result in a mismatch between business tools, which will prevent obligation and payment.

### D. Other Requirements

- (1) Signature authority for an individual requesting benefits for a legal entity or joint operation is discussed in section 530.24, “Signature Authority,” below.
- (2) Control of Land Requirements.—NRCS may enter into a contract with one or more participants having control of the offered land. The word “control” means possession of the land by ownership, lease, or other agreement.

- (i) Applicants self-certify control of the land unit and relationship (owner, operator, or both), and, if leased or through other agreement, on Form NRCS-CPA-1200 at the time of application. NRCS verifies that the participant continues to maintain control prior to contract obligation, during annual contract reviews, and prior to approval of any payments. Refer to subpart H of this manual for additional information.
  - (ii) When available, NRCS should use FSA records, such as the Producer Farm Data Report, to verify the participant's interest in the land (owner, operator, or other tenant). In the absence of FSA records, NRCS may use other reliable documentation such as a lease, survey maps, tax parcel data, official land use maps, etc., to verify control of land.
  - (iii) State conservationists may waive this requirement for Tribal land and other unique cases in which a written lease is not customarily used.
  - (iv) Applicants who sublease portions of their operation to other producers during the term of the proposed contract may not have control of the land. Under these circumstances, NRCS must verify during the application process or contract review that the lease agreement demonstrates to the satisfaction of NRCS that the applicant/participant remains in full control of the land and will be able to meet all contract provisions.
- (3) Prior to obligation, tenants must obtain and provide to NRCS written concurrence from the landowner to apply a structural or vegetative conservation practice or activity. Use subpart O, exhibit 530.144D, Form NRCS-CPA-1257, "Landowner Concurrence for Structural or Vegetative Conservation Activities," of this manual, or other written landowner concurrence.

For the land included in the contract offer—

- If a parcel has multiple landowners, only one landowner is required to sign the form.
  - NRCS needs separate, signed forms for each parcel with different owners.
- (4) Program applicants must comply with the provisions for protecting the interests of tenants and sharecroppers, including the provisions for sharing payments on a fair and equitable basis. Consent must be obtained, in writing, from each identified tenant or sharecropper before excluding them from a contract to ensure that all parties having a share in the agricultural operation receive equitable treatment. This determination is applicable before contract obligation and to all owner or operator changes during the term of the contract.
- (5) Refer to the program-specific subparts within this manual for additional eligibility requirements.

## 530.23 Submitting Applications

### A. Submitting Applications

- (1) NRCS must have a separate application, Form NRCS-CPA-1200, on file for each program by the program-specific application cut-off deadline for NRCS to consider an assessment for the funding period. NRCS will consider applications received after the application cut-off deadline in subsequent funding periods.

**Note:** An applicant does not need to submit a new application if they do not receive a contract under that program during the fiscal year. Refer to section 530.23H below for guidance on servicing unfunded applications.

**Note:** Applicants who receive partial funding of an assessment during a fiscal year, must submit a new application in a subsequent fiscal year for NRCS to consider them for additional contracts under that program. NRCS must notify the applicant at the end of the funding cycle, typically the end of the fiscal year, of the status of their unfunded assessments using subpart O, exhibit 530.141R, “Unfunded Notification for Partially Approved Application Letter” of this manual.

**Note:** Applicants must submit a separate application for special one-time funding opportunities such as for specific disaster events.

- (i) Applicants can submit a signed and dated Form NRCS-CPA-1200 in the office, hand delivered, mailed, faxed, scanned, submitted by email, or submitted through agency-approved business tools. Applicants can access forms at the local NRCS office or electronically through the USDA eForms website located at <https://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home> or through the Farmers.gov portal located at <https://www.farmers.gov/>.
  - (ii) If NRCS receives a program application request by other means, such as by telephone, email, or letter, an NRCS representative must manually prepare Form NRCS-CPA-1200, using the date NRCS received the request in order to establish the application cut-off deadline has been met, with either a copy of the request, or a note about the application request if received verbally. NRCS must obtain the applicant’s signature on Form NRCS-CPA-1200 to ensure NRCS properly completed the information prior to ranking.
- (2) The tax identification number (tax ID) on the application and contract documents must match the tax ID for the established vendor record. NRCS reports all financial assistance funds the participant receives to the Internal Revenue Service using this tax identification number, even when the participant assigns payment to a third party.
  - (3) The NRCS field office should provide applicants with a copy of the completed application and relevant fact sheets, information about the availability of advance payments when applicable, and other materials that explain program requirements.

B. Early Start Waiver.—State conservationists or their designee, at their discretion, may grant an early start waiver based on an evaluation of the specific circumstances for which the applicant is requesting the waiver and a determination that the applicant did not start the conservation practice or activity prior to approval of the waiver. Approved waivers expire on a date determined by the State conservationist, but no later than 12 months after the approval date. Refer to subpart O, exhibits 530.141D, “Early Start Waiver Approval Letter,” and 530.141E, “Early Start Waiver Disapproval Letter,” of this manual. NRCS must inform applicants that the—

- (1) Approved waiver does not guarantee contract approval;
- (2) Conservation practices or activities must meet NRCS standards and specifications; and
- (3) Applicant must maintain eligibility, or the applicant will be ineligible to receive payments.

**Note:** Conservation practices or activities completed prior to contract obligation but after the waiver has expired are not eligible for payment.

C. Adjusted Gross Income (AGI) Waivers.—There are various authorities with respect to waiving AGI provisions.

- (1) NRCS may waive the AGI limitation on a case-by-case basis if NRCS determines that the application or contract will protect environmentally sensitive land of special significance as a result of the AGI waiver. This is not a waiver of the requirement to file Form CCC-941. Persons or legal entities who exceed the AGI limit or whose

payment would be subject to a commensurate reduction, as determined by FSA, may request a waiver.

- (2) For water conservation or irrigation efficiency projects, NRCS may waive the applicability of the AGI provisions if NRCS determines that the waiver is necessary to fulfill the objectives of a water conservation project implemented through an EQIP contract with a water management entity. Under this specific authority, NRCS will not require a water management entity that requests and receives this waiver to file AGI paperwork or have AGI determinations made by FSA. Refer to subpart R of this manual for additional guidance.

**Note:** NRCS National Headquarters (NHQ) will provide AGI waiver submission guidance through a separate directive and on the Deputy Chief for Programs SharePoint site. Contact NHQ for assistance if needed.

D. Applications for Disaster Recovery and Resiliency Assistance.—Refer to subpart D, section 530.36, “Disaster Assistance,” of this manual and National Instruction 440-312, “Addressing Natural Disasters Using NRCS Financial Assistance Program Funds,” for guidance.

E. The designated conservationist will review all applications for completeness and consistency with customer and farm information and applicant-supplied data to ensure that it meets program-specific eligibility, and that the applicant signed the application.

- (1) When there will be more than one participant on the contract, the decisionmaker must identify all other applicants at the time of application; however, only the decisionmaker must sign the application. States must determine eligibility for all applicants before contract obligation.

**Note:** If the decisionmaker fails to identify all applicants at the time of application, the decisionmaker may correct this omission prior to contract obligation in order to allow NRCS to make eligibility determinations for all applicants.

**Note:** Producers must be an eligible applicant before NRCS can enter into a contract with them. No one can become a participant unless they applied to the program and NRCS determined their eligibility.

- (2) NRCS services applications based on the signup and evaluation cut-off dates, screening when used, the availability of program funds, and other requirements, as specified for the applicable program. Refer to subpart H, “Contract Reviews and Quality Assurance,” of this manual.

F. NRCS must determine final eligibility prior to contract approval per guidance in subpart E, section 530.41A and section 530.41C, of this manual.

G. Ineligible Applications.—NRCS determines whether the applicant and the land meet the general eligibility requirements in this subpart in addition to any program-specific eligibility requirements. If NRCS determines that the applicant or the land does not meet general or program-specific eligibility requirements, NRCS must notify the applicant of this adverse decision using subpart O, exhibit 530.141B, “Ineligibility Determination for Conservation Program Contract Letter,” of this manual, and include exhibit 530.143M, “Appeal Rights.”

H. Servicing Unfunded Applications.—At the beginning of the new fiscal year, NRCS will defer unfunded applications to the new fiscal year. NRCS must send unfunded applicants a deferral letter which notifies the applicant of the options to keep the application active for consideration in a subsequent funding period or to request cancellation. Refer to subpart O, exhibit 530.141A, “Application Deferral Letter,” or exhibit 530.141R of this manual.

**Note:** Applicants may request deferral of eligible applications prior to the end of the fiscal year.

I. The designated conservationist must cancel any application for producers who die or become incapacitated. Successors wishing to continue the application must sign a new application. Applications cannot be transferred.

## 530.24 Signature Authority

### A. Documentation Required for Signature Authority

- (1) For individuals operating under business type code 1, “Individual,” NRCS only requires documentation of signature authority if another individual is signing in a representative capacity. For this situation, use Form FSA-211, “Power of Attorney,” or another document approved by NRCS. Refer to section 530.24C below for additional information related to a Power of Attorney.
- (2) Legal entities may establish signature authority using Form CCC-902 or equivalent successor form, with FSA. Form CCC-901 may also be used for embedded entities if a manual Form CCC-902 is completed.

**Note:** Both Farm Bill 2014 and Farm Bill 2018 use the same forms, CCC-901 and CCC-902.

**Note:** Form CCC-501, “Member’s Information,” and Form CCC-502, “Farm Operating Plan for Payment Eligibility Review,” used in prior Farm Bills, provide a list of entity members but do not establish signature authority for the business.

### B. Authorization for Joint Operations and Legal Entities

- (1) Members of legal entities operating with an EIN self-certify signature authority using Forms CCC-901 and CCC-902, as determined by FSA. Refer to section 530.24A(2) above. Only members with designated signature authority are authorized to sign on behalf of the legal entity.
- (2) If Form CCC-901 or CCC-902 is not used, NRCS will accept a copy of the corporate charter, bylaws, court orders of appointment, trust agreement, last will and testament that designates an executor of a trust or estate and which has been approved by the applicable court, articles of partnership, or other legal documents clearly designating who has signature authority for the joint operation or legal entity. Where the documents do not provide specific signatory authority, all members must sign the contract documents or use a power of attorney designating an individual to act as the attorney-in-fact or agent for the joint operation or legal entity.
- (3) Although the electronic FSA Subsidiary Business File records are not stored with signatures, the presence of Form CCC-901, CCC-902, or equivalent successor forms in FSA’s Business Partner system indicates that FSA received a signed copy when the legal entity originally filed or updated the form. NRCS does not need to obtain a signed copy of these forms.
- (4) For joint operations without an EIN, NRCS requires each member be identified on the application and sign Form NRCS-CPA-1202, “Conservation Contract,” and the appendix to Form NRCS-CPA-1202 or provide documentation as identified in section 530.24A, “Documentation Required for Signature Authority” above, or section 530.24C, “Power of Attorney” below.

### C. Power of Attorney (POA)

- (1) An individual, legal entity, or joint operation may use Form FSA-211, “Power of Attorney,” (revision 12/17/2008 or after) which specifies applicability for NRCS

programs, to establish signature authority. Form FSA-211 must indicate that the appointed attorney-in-fact may act on behalf of the grantor(s) for NRCS programs and the grantor must have the form notarized or witnessed by an authorized FSA employee. NRCS employees are not authorized to sign as a witness. NRCS has accepted this form since 2009. Refer to FSA Handbook 1-CM, “Common Management and Operating Provisions,” for details.

- (2) An executor or other estate representative can sign for an estate with no further authorizations when they provide NRCS with appropriate supporting documentation.
- (3) NRCS may accept other forms of POAs provided the Office of the General Counsel (OGC) concurs that they are legally sufficient to document signature authority and specify that the attorney-in-fact may conduct program activities on behalf of the grantor.

**Note:** Under 7 CFR Section 718.9, “Signature Requirements,” spouses may sign on behalf of one another without a POA only as authorized for specific FSA programs. This authorization does not extend to NRCS programs. NRCS program applicants or participants must execute the appropriate POA to give spouses authority to sign contract documents.

**Note:** All POAs expire upon the death of the grantor of the POA.

### 530.25 Signature Documentation

A. The signature on the contract document indicates agreement to the terms of the contract; therefore, NRCS must ensure the validity of the signature, especially when an individual is signing on behalf of a legal entity or another individual.

- (1) Individuals signing on their own behalf:
  - (i) Signatures should match the name printed on the contract documents. Variations that do not cause disagreement between signature and the printed name are permitted.
  - (ii) NRCS can confirm the validity of an illegible signature or applicant or participant’s use of a mark or stamp, by comparing it with a previously witnessed signature or through verbal confirmation with the individual. NRCS must note any verbal confirmation on the relevant contract document or in the case file.
- (2) Individuals signing on behalf of another individual or legal entity:
  - (i) The individual signing should indicate that they are doing so in a representative capacity using terms such as “by” or “for” and include their title, relationship, or capacity for which they are signing.
  - (ii) When the signature is missing the indicator of the representative, NRCS must confirm that the individual has appropriate authority to sign on behalf of the individual or legal entity. Refer to section 530.24, “Signature Authority” above.
- (3) If NRCS does not have documentation of signature authority on file or cannot confirm the validity of a signature, NRCS must reject the signature.

B. Digital signatures

- (1) NRCS may accept digital signatures if they comply with agency-approved digital signatures guidance. Refer to guidance provided by NRCS NHQ on the use of digital signature flexibilities. States can request additional flexibility on a case-by-case basis by consulting NHQ.

**Note:** Agency-approved digital signatures may include software solutions that have 2-factor authentication but which are not USDA e-Authenticated.

Title 440 – Conservation Programs Manual

- (2) NRCS will accept contract documents with original signatures and digital signatures when uploaded through agency-approved, e-Authenticated, web portals.

## Part 530 – Working Lands Conservation Programs Manual

### Subpart D – Application Processing

#### 530.30 General

- A. This subpart provides policy related to planning, screening, assessing, and ranking a producer’s request for assistance or conservation program application.
- B. Unless otherwise stated in the program-specific subparts of this manual, NRCS will use the applicable business tools to complete evaluations for all applications and assistance requests. Refer to subpart O, exhibit 530.143K, “Business Tools Quick Reference” of this manual for a list of applicable business tools.

#### 530.31 Planning

- A. Planning occurs throughout the application and contract management process. However, planning typically begins once the producer requests assistance from NRCS or applies for a program to address an identified natural resource concern on their operation. NRCS works with the producer to select appropriate conservation treatment and develop the conservation plan.

**Note:** The conservation plan in this context is not the same as the highly erodible land conservation (HELC) compliance plan defined by Title XII of the Food Security Act of 1985, but instead identifies conservation practices and activities the producer will use for conservation treatment to address resource concerns on their operation in order to meet program requirements.

- B. Planning Conservation Treatment

- (1) The conservation treatment included in a conservation plan must improve the identified resource concerns.
- (2) Conservation treatment includes any conservation practice or activity that meets program criteria and meets the minimum planning criteria established in the Field Office Technical Guide (FOTG) or other criteria as specified by program regulation or policy.
  - (i) For States to plan and use conservation practices, they must be listed in Title 450, National Handbook of Conservation Practices (NHCP), Part 620, and be included in the Conservation Practice Data Entry System (CPDES) with an approved standard available in the State FOTG.
  - (ii) For States to plan and use conservation activities, they must be included in the CPDES and have an associated guide sheet or other applicable guidance document that outlines the required technical criteria. NHQ provides guidance to the States on the location of these documents.

- C. Planning Conservation Practices or Activities

- (1) Consistent with Title 180, General Manual, Part 409, “Conservation Planning Policy,” conservation practices and activities must be planned, applied, and maintained in accordance with the approved practice standards, specifications, or enhancement guide sheets.
- (2) When planning conservation practices and activities that will be included in a program contract, NRCS may only include the extent necessary to address the resource concern in accordance with the conservation standards, specifications, job sheets, guide sheets, or other applicable criteria.

**Note:** This does not preclude NRCS from working with the applicant or participant to plan a conservation practice or activity that exceeds the minimum requirements. Refer to subpart B, section 530.13A, of this manual for additional guidance on selecting the appropriate payment scenario.

- (3) Refer to the following manuals and handbooks for additional planning resources:
  - (i) Title 180, National Planning Procedures Handbook (NPPH), Part 600
  - (ii) Title 190, General Manual, Part 410, “Compliance with NEPA”
  - (iii) Title 190, National Cultural Resources Procedures Handbook, Part 601
  - (iv) Title 190, National Environmental Compliance Handbook, Part 610
  - (v) Field Office Technical Guide (FOTG)
  - (vi) 440-CPM, Part 500, “Locally Led Conservation”
  - (vii) 440-CPM, Part 504, “Technical Service Provider Assistance”
  - (viii) Title 450, General Manual (GM), Part 401, “Technical Guides”
  - (ix) 450-NHCP-620

#### D. Conservation Practice and Activity Lifespans

- (1) The NRCS Science and Technology Deputy Area establishes conservation practice and activity lifespans which NRCS records in the CPDES. Refer to 450-GM-401. The lifespan is the minimum number of years NRCS expects the implemented conservation practice or activity to function for its intended purpose.
- (2) Except when a conservation practice or activity fails for circumstances beyond the control of the participant, NRCS will not use financial assistance to reapply a conservation practice or activity that is still within its lifespan. Refer to subpart G, section 530.64, “Reapplication of Failed Conservation Treatment,” of this manual.
- (3) Participants agree to operate and maintain all conservation practices or activities established through a contract for the established lifespan. The lifespan of a conservation practice or activity may extend beyond the length of the conservation program contract period.

**Note:** Once a contract expires, neither NRCS nor the participant have any responsibilities under the contract; however, if a producer fails to operate and maintain a contracted practice or activity for its lifespan, they may be considered a low priority in subsequent application periods. Refer to subpart D, section 530.32, “Screening,” below.

- (4) Refer to subpart E, section 530.43, “Contract Requirements,” of this manual for additional guidance on establishing the contract length when contracts contain conservation practices with long lifespans.

#### E. Conservation Treatment Already on the Land

Participants and NRCS will use previously established conservation practices and activities in combination with planned conservation practices and activities to address resource concerns. NRCS will include operation and maintenance requirements as part of the conservation plan for any existing conservation practice or activity used to meet the objectives of the conservation program contract and the planned management system.

#### F. Technical Service Providers (TSPs)

Program participants may elect to use a TSP in lieu of NRCS for technical assistance to help with developing plans, completing designs, and other actions. Refer to subpart E, section 530.40C, “Technical Assistance for Contracts,” of this manual for additional guidance related to TSP assistance.

## 530.32 Screening

### A. General

- (1) States may use screening criteria to manage workload or for specific projects or initiatives.
- (2) The purpose of screening is to quickly identify applications that would receive a high-ranking score based on the criteria established for a given ranking pool. This allows NRCS to streamline the evaluation process and identify assessments that will maximize conservation benefits more efficiently.
- (3) It is not appropriate to develop or use screening criteria that undermine the ranking process. Any screening criteria must be consistent with statutory or regulatory requirements.
- (4) States may consider the following when developing a screening tool:
  - (i) Applicants who failed to properly operate and maintain conservation practices or activities still within their lifespan and installed with program financial assistance.
  - (ii) Applicants with a contract violation for reasons within their control. NRCS may not screen a producer as lower priority for a contract violation if NRCS has not taken appropriate contract administrative action to enforce the contract.
  - (iii) Applicants who have had a previous contract terminated for reasons within their control.
- (5) Examples of inappropriate screening criteria include, but are not limited to—
  - (i) Actions outside of the producer’s control, such as the ability for NRCS to develop a conservation plan or provide completed conservation practice or activity designs, hardship, or disaster events.
  - (ii) Whether or not the participant has previously held a program contract.
  - (iii) Type of livestock or crop operation, including minimum livestock numbers.
  - (iv) Size of operation or minimum acre threshold.
  - (v) Applicants who have had a previous contract cancelled.

### B. Projects and Initiatives

States may establish screening criteria in accordance with paragraph A above to support national landscape or programmatic initiatives (consistent with approved national guidance), State, or locally led group projects or initiatives.

C. If a State uses a screening tool to establish priority, such priority must be recorded in applicable business tools and documentation maintained in the applicant case file.

## 530.33 Assessment

- A. Refer to the Conservation Assessment and Ranking Tool (CART) guidance for information on completing assessments.
- B. Planners must assess resource concerns associated with conservation practices or activities planned for inclusion in a program contract.
- C. Additionally, planners must assess any nationally required resource concern categories and associated resource concerns identified for a specific program.

## 530.34 Ranking

- A. Refer to the CART guidance for information on ranking assessments.
- B. Find program-specific ranking guidance in the applicable program subpart of this manual.
- C. NRCS must not rank an assessment for a specific program unless the applicant submitted Form NRCS-CPA-1200, “Conservation Program Application,” prior to the application signup cutoff date.

### **530.35 Selecting Assessments for Funding**

- A. States will use a selection tool to select the highest-ranked assessments for funding and change their status to preapproved based on availability of funding. Refer to subpart B, section 530.11, “Fund Spending Limits and Management,” of this manual for additional information on establishing spending plans.
- B. NRCS staff making funding selections must not skip assessments within a ranking pool to allow funding of a lower-ranked assessment. However, this stipulation does not apply to lower ranked assessments within a separate spending plan category as described in subpart B, section 530.11B of this manual.
- C. If two or more assessments have a tied ranking score, NRCS will fund the assessment with the highest efficiency score first. If tied assessments also have the same efficiency score, States must fund either all tied assessments or none.
- D. Preapproval of an assessment does not guarantee NRCS will approve and obligate a contract.
- E. For the next steps in the contract development process, refer to subpart E, section 530.41, “Approval Process” of this manual.
- F. At the end of each selection period, NRCS must save the program-specific ranking list for that ranking pool and retain in accordance with National Instruction 120-357, “Disposition of Land Treatment Program Contract Documents.”

### **530.36 Disaster Assistance**

- A. When establishing a disaster-specific program opportunity, State conservationists may waive the requirements under subpart B, section 530.12, “Funding Preparation Activities,” of this manual with respect to the 30-day public notice of the application period and the requirement to have all required information posted to the State website.
- B. Refer to guidance provided by NRCS National Headquarters for nationally approved disaster events.
- C. State conservationists may use subpart O, exhibit 530.143N, “Delegation of Authority” of this manual to document their delegations of authority. For a specific disaster event, the State conservationist may further delegate authority to the designated conservationist to approve “early start waivers” for identified practices that the applicant will use to address resource concerns arising from the disaster event.

### **530.37 ACT NOW**

Reserved

## Part 530 – Working Lands Conservation Programs Manual

### Subpart E – Contract Development and Requirements

#### 530.40 General

##### A. Overview

- (1) This subpart provides policy for developing a contract based on an approved program application.
- (2) NRCS will use applicable business tools for developing and implementing a contract for the programs included in this manual. Refer to subpart O, exhibit 530.143K, “Business Tools Quick Reference” in this manual for additional information.

##### B. Contracting Responsibilities

- (1) Conservation contracts are legally binding agreements that define the terms and conditions of program participation, including the responsibilities of the participants and NRCS, as well as the consequences of violating the terms and conditions of the contract.
- (2) NRCS must provide the participant with all standards, specifications, guide sheets, and designs required for the participant to implement the planned conservation practices or activities in accordance with the contract.
- (3) NRCS must permit all economic uses of the eligible land that—
  - (i) Maintain the agricultural or forestry nature of the land.
  - (ii) Are consistent with the purposes of the conservation contract.

##### C. Technical Assistance for Contracts

- (1) Based upon available funding, NRCS must provide technical assistance to a contract participant for development of implementation requirements, designs, operation and maintenance plans, and conservation practice or activity layout as requested by the participant. NRCS is responsible for reviewing and certifying all conservation practices and activities after the participant completes them.
  - (i) By entering into a contract, the participant agrees to implement scheduled conservation practices or activities regardless of who provides necessary technical assistance.
  - (ii) At the option of the participants, technical assistance may be obtained from other Federal and State agencies or private sources, including technical service providers (TSPs), for conservation planning, design, and checkout. NRCS may provide a payment for technical assistance according to section 530.40C (2), below.
  - (iii) If NRCS fails to provide required assistance, the participant will not be considered in violation. Refer to subpart I, section 530.82, “Addressing Noncompliance and Violations,” of this manual.
- (2) TSPs are not considered participants on a financial assistance program contract.
  - (i) TSP responsibilities are outlined in 7 CFR Part 652, “Technical Service Provider Assistance,” and in Title 440, Conservation Programs Manual (CPM), Part 504, Subpart B, “Roles and Responsibilities.”
  - (ii) Participants interested in receiving a payment for use of a TSP must secure the services of a TSP certified for the services being requested. Participants can find certified TSPs registered through the TSP website located at <https://techreg.sc.egov.usda.gov/CustLocateTSP.aspx>.
  - (iii) NRCS may schedule a technical assistance (TA) contract item using the appropriate 900-series code as part of the original contract or modify the contract to add the

applicable TA items after obligation. Refer to subpart G, “Modifications,” of this manual for guidance.

- (iv) NRCS must fund TA items with current-year funds. NRCS may fund future-year TA items in subsequent years, subject to available funds.

### 530.41 Approval Process

A. Preapproval of Applications.—When NRCS selects an application for funding as described in subpart D, “Application Processing,” of this manual, the State program manager, or others with delegated authority and appropriate business tool permissions, will—

- (1) Set the application status to “preapproved” and use subpart O, exhibit 530.141C, “Intent to Proceed Letter,” of this manual, to notify the applicant. NRCS field staff uses this letter, along with subpart O, exhibit 530.142E, “Conservation Program Application Checklist” of this manual to—
  - (i) notify an applicant that NRCS ranked their application high enough for funding consideration and determine their interest in moving forward with a contract; and
  - (ii) provide the applicant an opportunity to finalize their eligibility and to request any other documentation needed for contract development.
- (2) If NRCS determines the applicant eligible and the applicant fails to respond by the date requested, NRCS may defer the application. However, if NRCS has not made an eligibility determination and the applicant fails to respond or provide required information by the date requested, NRCS may determine the application ineligible. Refer to subpart C, section 530.23G of this manual for guidance related to ineligible applicants.
- (3) Establish a vendor code for each participant receiving a payment share. The vendor code establishes the connection between the participant’s tax identification number and the Internal Revenue Service (IRS), so that NRCS can report a participant’s payments to the IRS. The applicant must have an “active” vendor code and direct deposit information entered before NRCS can approve an application. Refer to section 530.41B(3), below, for additional guidance on designating payment shares.

**Note:** Contract approval is based on availability of funds.

B. NRCS will complete the following actions prior to application approval:

- (1) Conservation Plan and Plan Map.—Finalize the conservation plan and plan map to delineate contracted acres and conservation practice or activity extent and locations. Refer to subpart D, “Application Processing,” of this manual for additional planning guidance.
- (2) Schedule of Operations.—Finalize and verify that Form NRCS-CPA-1155, “Conservation Plan or Schedule of Operations,” is accurate and complete and in accordance with program-specific requirements. Refer to applicable program-specific subparts of this manual. The following requirements apply to all programs:
  - (i) Planners must work with the applicant or participant to schedule conservation practices or activities that are part of a system in sequence to allow for timely completion and payment certification of each item individually regardless of whether the participant has implemented the entire system.
  - (ii) Form NRCS-CPA-1155 only contains conservation practices or activities included in the assessment and applicable ranking pool.
  - (iii) Payment caps.—Refer to subpart F, section 530.50G of this manual for additional information on when to apply payment caps to a contract item.
  - (iv) Planners will schedule at least one conservation practice or activity that the participant must implement within the first 12 months of the contract. The State conservationist may

- approve a waiver to extend this timeframe if NRCS determines that the participant is unable to complete the conservation practice or activity for reasons beyond their control.
- (3) Form NRCS-CPA-1202, “Conservation Program Contract.”—Confirm that the applicant has identified the following items and that they appear correctly on Form NRCS-CPA-1202.
- (i) Payment Shares.—Verify that contract payment shares reflect what the applicants requested. When there is more than one participant on a contract, the payment shares should be distributed the same way across all USDA programs. Applicants must not adjust payment shares to work around payment limitations or other program requirements. Refer to subpart G, “Modifications,” of this manual if the participant requests a different payment share distribution after contract obligation.
  - (ii) Decision Maker.—When there is more than one applicant, verify that the person identified as the decision maker for the contract is consistent with the person listed as the decision maker on the Form NRCS-CPA-1202 signature page. The decision maker is the point of contact for all contract-related correspondence.
  - (iii) Participant Signatures for Modification and Payments.—When there is more than one applicant, Form NRCS-CPA-1202 may identify the following:
    - Signatures required for modifications. NRCS requires signatures on Form NRCS-CPA-1156, “Revision of Plan/Schedule of Operations or Modification of a Contract,” and Form NRCS-CPA-152, “Conservation Program Contract Transfer Agreement,” for all participants checking “yes” on Form NRCS-CPA-1202.
    - Signatures acceptable for payments. Form NRCS-CPA-1245, “Practice Approval and Payment Application,” requires a signature from one participant identified as “yes” on Form NRCS-CPA-1202 or Form NRCS-CPA-152.
- Note:** If Form NRCS-CPA-1202 does not indicate whether participant’s signature is required for modifications or acceptable for payment, all participants must sign modification or payment documents.
- (4) Refer to the eligibility sections of the program-specific subparts of this manual to confirm that the applicant meets all “Other Eligibility” requirements.

### C. Approval of Applications

- (1) The designated conservationist may approve an application once the following requirements are met:
- (i) All required documents are developed
  - (ii) The applicant meets all eligibility requirements
  - (iii) NRCS confirms adequate funds are available
  - (iv) The designated conservationist has certified the technical adequacy of the planned conservation practices or activities in accordance with NRCS planning policy
- Note:** The application does not become an official contract until the NRCS approving official obligates funds to the contract.
- (2) NRCS field office staff will use subpart O, exhibit 530.141F, “Application Approval Letter,” of this manual to notify the applicant that NRCS approved their application and to provide the applicant an opportunity to review all contract documents prior to signing and returning the documents to NRCS.
- (3) NRCS field office staff will complete the program-specific preobligation checklist or State equivalent for each application before the NRCS approving official obligates the contract. Refer to the exhibit section in the program-specific subparts for program-specific preobligation checklists and subpart H, “Contract Reviews and Quality Assurance,” of this manual for additional guidance.

#### D. Signing Contract Documents

- (1) The State conservationist or delegated approving official must use designated business tools to sign official contract documents. Refer to subpart O, exhibit 530.143K, “Business Tools Quick Reference,” of this manual for a list of applicable business tools.
- (2) The approving official must verify that the designated conservationist signed Form NRCS-CPA-1155, certifying the technical adequacy of the conservation treatment in accordance with NRCS conservation planning policy.
- (3) All participants receiving a share of the contract payment must sign Form NRCS-CPA-1202, and the applicable contract appendix after NRCS signs to certify technical adequacy. Only the designated decision maker is required to sign Form NRCS-CPA-1155. Refer to subpart C, section 530.24 “Signatory Authority,” of this manual for additional guidance.
- (4) For business participants (legal entities or joint operations), only the signature of the authorized business representative is required and accepted on these documents.

**Note:** This does not apply to joint operations without an Employer Identification Number unless the joint operation has Form FSA-211, “Power of Attorney,” filed with FSA.

- (5) Enter the date the participant signs the contract documents in the contracting tool.

**Note:** In the event the participant signs the contract documents on different dates or where multiple participants on the contract sign the contract documents on different dates, enter the latest date into the contracting tool.

#### E. Contract Obligation

- (1) NRCS staff with the role “Fund Manager Obligation Approval” will complete the second-level obligation review. The reviewer approves or rejects the obligation based on available funding. If the reviewer rejects the obligation, the designated conservationist must correct the problems that caused the rejection and repeat the applicable steps described above prior to reapproving an application. Refer to subpart H, “Contract Reviews and Quality Assurance,” of this manual for additional guidance.
- (2) The NRCS approving official signs the contract to obligate funding.
- (3) NRCS will maintain a copy of Form NRCS-CPA-1202, with the signature of the approving official in the case file.

### 530.42 Contract Components

#### A. Contract Document Management

- (1) Subject to paragraph (B) below, States are required to identify the location of the official case file, which may be either the electronic file, the hard copy, or a combination of the two. The State conservationist must provide guidance to their staff identifying the applicable location of the official case file for the State.
- (2) NRCS must protect applicant and participant privacy by ensuring that the documents that contain personally identifiable information (PII) are securely stored. Documents containing PII must not be left unattended in open spaces and must be kept under reasonable custodial control. In addition, NRCS must not transmit documents containing unencrypted PII through email, SharePoint, or any other unsecure method. The following forms, when applicable, are part of the official case file, but may be stored in a separate location to protect PII. In these instances, the case file should reference the location of these documents.
  - (i) Standard Form (SF) 1199A, “Direct Deposit Sign-Up Form,” or Form NRCS-FNM-060, “Electronic Funds Transfer Hardship Waiver Request,” with original signatures of participants receiving a payment.

- (ii) Form CCC-901, “Members Information,” or Form CCC-902, “Farm Operating Plan,” for businesses, along with any required documents supporting signature authority of the business representative.
  - (iii) Form CCC-902I, “Farm Operating Plan for an Individual,” if used by individual participants and provided to NRCS.
  - (iv) Payment assignments using Form CCC-36, “Assignment of Payment,” with original signatures.
  - (v) NRCS-CPA-1200, “Conservation Program Application,” unless the user covers the applicant’s tax identification number.
- (3) If the field office uses a six-part folder, refer to subpart O, exhibit 530.142 B, “Conservation Program Contract File Checklist,” of this manual.

B. Critical Contract Documents.—At a minimum, States must maintain the following documents used to support program contracts in the electronic case file. NRCS may save other supporting documents to the electronic case file as needed or requested by either NRCS or the participant.

- (1) Form NRCS-CPA-1200, “Conservation Program Application”
- (2) Standard Form 1199 A, “Direct Deposit Sign-Up Form”
- (3) Form NRCS-CPA-1155, “Conservation Plan or Schedule of Operations”
- (4) Form NRCS-CPA-1202, “Conservation Program Contract”
- (5) Appendix to Form NRCS-CPA-1202, “Conservation Program Contract”
- (6) Conservation plan and plan map that contains a record of the participant decisions and includes the schedule of new conservation practices or conservation activities to be installed.
- (7) Form NRCS-CPA-1156, “Revision of Plan/Schedule of Operations or Modification of a Contract”
- (8) Form NRCS-CPA-152, “Conservation Program Contract Transfer Agreement”
- (9) Form NRCS-CPA-1245, “Practice Approval and Payment Application”
- (10) Refer to subpart O, exhibit 530.142B, of this manual, for other documents that may be maintained electronically in the appropriate business tool.
- (11) Any other documentation as determined by the State conservationist.

**Note:** It is not necessary to routinely scan and save copies of handwritten conservation assistance notes to the electronic case file; however, options for electronically recording and saving conservation assistance notes exist in applicable business tools.

C. Contract Appendix

- (1) By entering into the contract, the participant and NRCS agree to comply with the terms and conditions contained in the general and supplemental provisions sections of the contract appendix.
- (2) The general provisions provide the terms and conditions applicable to all financial assistance programs contracts.
- (3) The supplemental provisions provide program-specific requirements.
- (4) NRCS may provide applicants with a copy of the appendix for awareness of program requirements at the time of application; however, the participant must only sign the contract appendix after contract approval. Refer to section 530.41D(3) above.

D. Contract Document Distribution.—Contract documents must be distributed as follows:

- (1) The office that administers the contract will maintain the contract documents according to section 530.42 A through B, above.
- (2) NRCS must provide a copy to the participant designated as decision maker for the contract.
- (3) NRCS may provide copies to other participants who are signatory to the contract, if requested.

E. Filing and Disposition

Title 120, General Manual (GM), Part 408, Subpart D, “Records Guide,” and National Instruction (NI) 120-357, “Disposition of Land Treatment Program Contract Documents,” contain program contract filing and disposition policy. The records guide and NI provide detailed disposition information for—

- (i) Completed, expired, canceled, or terminated program contracts after final payment.
- (ii) Original, signed copies of all canceled, deferred, disapproved, or ineligible applications.
- (iii) Records relating to policy, procedure, and implementation of the conservation program, such as ranking criteria, cost lists, payment schedules, and general operating instructions for a given year.

### 530.43 Contract Requirements

A. General

NRCS will administer all contracts in accordance with program statute and regulation, other applicable Federal law, regulation, and agency policy, departmental regulations, and other requirements specified in the contract appendix.

B. Contract Period

- (1) The contract starts when the NRCS approving official signs the Form NRCS-CPA-1202, to obligate the funds.
- (2) The contract shall have a term not to exceed the regulatory contract length; however, the expiration date must be after the date the last conservation practice or activity is scheduled in the contract. Refer to the appropriate program-specific subpart for the regulatory contract length for each program.
- (3) The contract expiration date will be displayed on Form NRCS-CPA-1202, Form NRCS-CPA-1155, and Form NRCS-CPA-1156.
- (4) The State conservationist may establish an expiration date several years after the scheduled date of the last practice, not to exceed regulatory limits, for certain conservation practices that have a long lifespan and high cost. This provides NRCS additional time to monitor the contract and ensure the participant conducts required operation and maintenance protecting Federal investment in these conservation practices.
  - (i) When using this provision, State conservationists must issue guidance through a bulletin, supplement to the manual, or other State directive that identifies the applicable conservation practices and the required contract length to ensure consistent treatment of all participants within the State.
  - (ii) Refer to subpart H, “Contract Reviews and Quality Assurance” of this manual for guidance related to annual contract reviews.

C. Program Implementation Requirements

- (1) Participants are required to follow the contract requirements included in the contract appendix and implement conservation practices or activities according to the schedule of operations.
- (2) The participant may implement the scheduled conservation practices or activities ahead of schedule. However, payments for items completed ahead of schedule are subject to annual funding and program payment limits if they exist. Refer to the program-specific subparts of this manual for additional guidance.

## Title 440 – Conservation Programs Manual

- (3) If the participant is behind schedule implementing conservation practices or activities, or otherwise not in compliance with the provisions of the contract, follow guidance in subpart I, “Contract Violations” of this manual.
- (4) States must notify participants of the items scheduled for completion during the current year using subpart O, exhibit 530.141G, “Annual Schedule of Operations Letter” of this manual.

### D. Contract Completion and Expiration

- (1) Although contracts may show as “completed” in the business tools once the participant has successfully installed or implemented all scheduled conservation practices and activities, the contract remains active until the expiration date.
- (2) If an expired contract has an incomplete item, NRCS must determine whether the participant completed the item prior to contract expiration and earned a payment or whether NRCS must deobligate the funds.

**Note:** With proper contract administration, contracts should not expire with open obligations.

- (3) The contract ends once it passes the expiration date and neither the participant nor NRCS has any further responsibilities under the contract. Contracts expire at midnight on the expiration date stated in the contract.

## Part 530 – Working Lands Conservation Programs Manual

### Subpart F – Payments

#### 530.50 Payment Requirements

A. This subpart provides policy related to payment requirements for conservation program payments. NRCS approves conservation program payments to participants upon satisfactory implementation of contracted conservation practices or activities.

#### B. Direct Deposit

- (1) NRCS requires direct deposit for all program payments per the Omnibus Consolidated Rescissions and Appropriations Act of 1996 unless the participant requests to invoke a waiver as described in “Management of Federal Agency Disbursements” under 31 CFR Section 208.4(a).
- (2) The National Finance Center (NFC) will establish vendor records based on a participant-invoked hardship waiver for a one-time payment waiver. After payment with the one-time payment waiver, NFC deactivates the vendor file. Participant must complete and sign Form NRCS-FNM-60, “Electronic Funds Transfer Hardship Waiver Request,” available in USDA eForms, to invoke a direct deposit hardship waiver. NRCS will then establish the direct deposit waiver within the business tool vendor screen prior to approving the payment. Refer to subpart O, exhibit 530.144A, “Summary of Forms Used” of this manual.

#### C. Immediate Pay

NRCS processes all conservation program payments as “immediate pay.” These payments are not subject to the Prompt Payment Act, 31 U.S.C. Sections 3901 to 3907. Participants typically receive payment within 5 business days after NRCS approves the payment.

#### D. Internal Revenue Service (IRS) Reporting

- (1) The NFC reports payments made to participants to the IRS on Form 1099-MISC. Section 126 of the Internal Revenue Code of 1954, as amended (26 U.S.C. Section 126), provides that certain payments made to persons under conservation programs may be excluded from the recipient’s gross income for Federal income tax purposes. IRS Publication 225, “Farmer’s Tax Guide,” provides information about eligible conservation programs under “Soil and Water Conservation Expenses.”
- (2) NRCS employees must not advise participants on the tax implications of conservation payments.
- (3) Title 180, General Manual (GM), Part 403, “Federal Tax Treatment of Soil and Water Conservation Expenditures,” contains NRCS policy related to 26 U.S.C. Section 175.

#### E. Payment Limitations

- (1) Contracts enrolled under the 2018 Farm Bill are subject to contract and payment limitations described in the program-specific subparts of this manual. For prior Farm Bill contract payment limitation information, refer to the policy manuals in place at the time of contract obligation.
- (2) If applicable, the contracting tool automatically reduces payment amounts at the time of payment to enforce statutory payment limitations. Form NRCS-CPA-1245, “Practice Approval and Payment Application,” reflects any reduced payments. Refer to exhibit 530.143K, “Business Tools Quick Reference” of this manual for a list of applicable business tools.

- (3) Technical assistance (TA) payments for technical service providers (TSPs) do not count against programmatic payment limitations or the contract limitations.
- (4) When NRCS approves a legal entity as a contract participant, all payments will be made to the legal entity. For payment limitation purposes, NRCS attributes payments to both the legal entity and to eligible entity members according to the ownership share filed with the Farm Service Agency (FSA) on Form CCC-901, "Member's Information," or Form CCC-902 "Farm Operating Plan for an Entity." The legal entity is responsible for distributing payments to its members.
- (5) Unless otherwise authorized in the program-specific subparts of this manual, States do not have authority to establish payment or contract limits.

#### F. Payment Rates

Refer to subpart B, section 530.13, "Program Payment Schedules," of this manual, for information on establishing payment rates.

#### G. Payment Caps

- (1) States may use payment caps to limit—
  - (i) A practice payment if the participant receives payment from another USDA program.
  - (ii) Payments to producers who would otherwise exceed contract limits. The field office should work with the producer to identify which contract items to cap. During the contract period, it may be necessary for the field office to adjust payment caps based on changes made to the contract items during payment certification or through contract modification. The field office must modify the contract to adjust the payment cap in the applicable business tool.
- (2) States must not establish a maximum payment cap for any contract except as authorized by specific programs.
- (3) Refer to the program-specific subparts for additional payment cap guidance.

### 530.51 Processing Payment Applications

A. Once the participant notifies NRCS of the completion of a conservation practice or activity, NRCS will take the following actions:

- (1) Complete the conservation practice or activity checkout and documentation, as required in Title 450, General Manual, Part 407, "Documentation, Certification, and Spot Checking." NRCS will certify and document the actual extent performed in the applicable business tool which records the certification on Form NRCS-CPA-1245

**Note:** Certified quantities resulting in payment increases of less than \$1,000 per contract item do not require a modification.

**Note:** When NRCS certifies items for less than the planned amount, the remaining funds are automatically deobligated from the contract.

- (2) Prior to generating Form NRCS-CPA-1245 verify the participant's name, address, payment shares, signatory authority, and direct deposit information.
- (3) Obtain the participant's signature on Form NRCS-CPA-1245 including payments for participant-acquired TSP services included in the contract.

**Note:** When a TSP completes technical assistance, the participant must provide NRCS with required supporting documentation including invoices from the TSP to receive payment for contracted TA items.

**Note:** Prior to approving payment for TSP TA items, NRCS must confirm that the TSP was certified and registered in accordance with subpart E, section 530.40C of this manual, at the time the TSP provided the technical assistance.

- (4) NRCS must complete a second-level review of all payments using the “Payment Review Checklist” found in subpart O, exhibit 530.142C, of this manual, or an equivalent State checklist, prior to approving the payment. Refer to subpart A, section 530.2, “Responsibilities” of this manual.
- (5) The NRCS official with the appropriately delegated authority approves the payment in the applicable business tool, which affixes an NRCS signature to Form NRCS-CPA-1245. The field office must maintain a copy of this form per subpart E, section 530.42, “Contract Components,” of this manual for audit purposes. Participants do not sign this version of the form, but the participant’s signature page along with the electronic signature of the NRCS approving official become the complete document.
- (6) Under limited circumstances, NRCS may approve a payment for a conservation practice or activity which is destroyed as a result of a natural disaster or by vandalism before NRCS is able to evaluate and certify that the participant completed the conservation practice or activity in accordance with NRCS technical requirements. In these cases, the NRCS approving official must carefully evaluate the circumstances and any available supporting documentation prior to approving a payment, such as invoices for materials or services and any on-site indications of practice completion. States should consult with NRCS National Headquarters (NHQ) if they need additional guidance.

#### B. Receipts

- (1) NRCS makes conservation program payments based on payment rates as described in subpart B, section 530.13, “Program Payment Schedules,” of this manual.
  - (i) NRCS does not require the participant to provide receipts or bills when using payment rate or flat rate methods.
  - (ii) NRCS may request receipts to support the certified quantity of an installed conservation practice or activity or to assess the need for adjustments to the current cost data. NRCS will not file receipts collected for the latter purpose in the contract case file.
- (2) NRCS requires receipts for TSP 900-series TA items.

#### C. Use of Other Funds

- (1) A participant is not eligible for payments for conservation practices or activities when the participant receives payments or other benefits under any other conservation program administered by USDA for the same practice or activity on the same land. NRCS field personnel must monitor payment activity across all programs to ensure that there are no duplicate payments across NRCS programs.
- (2) Refer to the program-specific subparts of this manual for guidance related to potential reduction in NRCS funding as a result of the participant receiving funds from other USDA programs.
- (3) The participant certifies on Form NRCS-CPA-1245 that they have not received other USDA funds for the completion of the conservation practice or activity.

### 530.52 Payment Types

#### A. Conservation Practice or Activity Payments

NRCS approves conservation practice or activity payments once NRCS certifies that the completed contract items meet required technical criteria and that the participant installed them

according to the design, job sheet, guide sheet, etc. Refer to program-specific subparts for additional payment guidance.

**B. Incremental Payments**

NRCS may make incremental payments to help participants break a large conservation project into smaller units when each completed unit independently meets the NRCS standards and specifications. If these smaller units are not set up during the initial planning phase, NRCS must modify the contract to create two or more contract items according to subpart G, section 530.60, “Contract Modifications,” of this manual in order to make payments for the completed units. For example, NRCS may modify a contract that includes one contract item for 100 acres into two 50-acre contract items in order to make payments for each unit separately, provided the individual contract items can function independently.

**C. Partial Payments**

NRCS prohibits partial payments and cannot make payments to a participant for individual components or anything less than a complete conservation practice or activity.

**D. Advance Payments**

NRCS may issue advance payments, as authorized, prior to practice implementation to help offset costs related to purchasing materials or contracting. Advance payments are only authorized for Environmental Quality Incentives Program (EQIP) contracts with historically underserved participants. Refer to subpart R, “Environmental Quality Incentives Program (EQIP),” of this manual.

**E. Annual Payments**

- (1) Annual payments are payments NRCS makes once during a fiscal year. Refer to subparts Q, “Conservation Stewardship Program (CSP),” and R, “Environmental Quality Incentives Program (EQIP),” of this manual for additional payment guidance.
- (2) May be based upon participant’s self-certification on Form NRCS-CPA-1245, with verification of supporting data by the designated conservationist.

**F. Technical Assistance Payments**

Participants may be eligible to receive payments for using a TSP for the design, installation, or checkout of contracted conservation practices or activities. Refer to subpart E, section 530.40C, of this manual for additional information about using a TSP for technical assistance.

**G. Payments to Deceased and Incapacitated Participants**

- (1) NRCS can make payments to a deceased or incapacitated participant when they completed a conservation practice or activity, and the participant or someone with a valid power of attorney (POA) signed Form NRCS-CPA-1245 prior to the participant’s death or incapacitation. Refer to subpart O, exhibit 530.143F, “Diagram for Deceased or Incapacitated Participants,” of this manual for guidance related to requesting a deceased participant override to process the payment.
- (2) When NRCS determines that the participant was eligible and completed the conservation practice or activity in accordance with applicable standards, specifications and site-specific designs prior to their death or incapacitation, but the participant had not yet signed the NRCS-CPA-1245, NRCS must identify who is authorized to act on behalf of the deceased or incapacitated participant before processing the payment.

**Note:** All POAs expire upon the death of the person assigning the POA.

- (i) The estate or authorized representative may sign on behalf of the participant if such person is identified by operation of State law, in a court-approved document, or a will. The term “estate” also refers to heirs where the operation of law allows them to receive the payments. Refer to 7 CFR Section 707.3, “Death,” for acceptable order of precedence. The State office may consult with the Office of General Counsel (OGC) as necessary to determine who may act on behalf of the deceased participant.
  - (ii) There is no time limit for making a proper payment to accommodate the establishment of an estate or other authorized representative when a participant is deceased. The NRCS field office must always notify the second-level payment reviewer when a participant has died, so that the second-level reviewer can verify that a payment is proper. By following normal annual contract review requirements, the NRCS field office should document the death of the participant upon notification and no later than one year after death.
- (3) NRCS cannot make payments to a deceased participant when the participant did not complete a practice or activity prior to death or incapacitation. However, an estate representative or surviving spouse or heir may complete the conservation practice or activity within the same fiscal year that the participant died or became incapacitated. Per 7 CFR Section 1400.210, the estate representative may be authorized to act on behalf of the deceased participant for the remainder of the fiscal year and may qualify as an eligible transferee in the fiscal year following the participant’s death or else transfer the contract to an eligible transferee within 60 days of the new fiscal year. Refer to subpart O, exhibit 530.143L, “Table for Deceased or Incapacitated Participants,” of this manual for guidance for this situation. Follow policy in subpart G, “Modifications,” of this manual to determine transferability of the contract. Whether the estate or other transferee assumes responsibility under the contract, the transferee and NRCS must execute a contract modification using Form NRCS-CPA-152, “Conservation Program Contract Transfer Agreement.”
- (4) When the participant is either a legal entity or joint operation with an Employer Identification Number (EIN), and a member of the legal entity or joint operation dies before a payment is made, NRCS follows the determinations made by FSA under 7 CFR Part 1400 if the person was a valid member of the legal entity or joint operation for payment purposes for the fiscal year the payment was earned. The legal entity must update their records with FSA to receive subsequent payments for a practice or activity completed after a member’s death.
- (5) Documentation Requirements.—NRCS must use subpart O, exhibit 530.144C, Form NRCS-CPA-125, “Application for Payments to Deceased or Incapacitated Participants,” of this manual to document who is requesting the payment and is authorized to act on behalf of the deceased participant. The authorized representative must submit supporting documentation which may include a will, trust documents, court order, etc. NRCS uses these documents and OGC advice, if applicable, to validate who is authorized to receive the payment. NRCS must keep copies of any documentation in the case file. Refer to subpart O, exhibit 530.143F, “Diagram for Deceased or Incapacitated Participants,” and exhibit 530.143L, “Table for Deceased or Incapacitated Participants,” of this manual.

**Note:** NRCS requires Form NRCS-CPA-125 only when the deceased participant earned a payment and not for a transfer only situation where proper documentation exists.

- (6) When NRCS makes payments from a deceased participant’s contract to a successor, these payments will not count toward the successor’s payment limitation balance. Successors may request a special payment for inherited contract payments when the successor has other program contracts in order to avoid an erroneous payment limitation reduction due to the inherited contract.
  - (7) If NRCS transfers a contract as a result of the death of a program participant, the successor cannot receive payments that exceed the amount the deceased participant would have been entitled to receive.

## H. Special Payments

- (1) Special payments occur when NRCS cannot make payments following normal procedures. Special payments must comply with program statutory and regulatory payment limitation requirements. Refer to subpart O, exhibit 530.143B, “Indicators of Erroneous Payment,” of this manual for a list of erroneous payment indicators.
- (2) Types of Special Payments.—There are four types of special payments encountered in program contracts:
  - (i) Erroneous Underpayment.—Covers situations in which NRCS has already approved payment, but the participant did not receive all or a portion of the payment. It also includes miscalculations of units or extent planned or implemented or a software error caused an erroneous payment reduction. Erroneous underpayment does not include situations in which there is no contractual obligation for payment, or the payment requested is out of the scope of the contract.
  - (ii) Judicial or National Appeals Division (NAD) Directive.—A final judicial decision (in Federal court) or NAD determination directs the agency to issue a payment in an amount or for a purpose not authorized in a participant’s contract. NRCS must have the final NAD determination or judge’s order instructing NRCS to issue a payment prior to submitting a special payment request.

**Note:** The only supporting documentation required for this type of request is the final NAD determination. Refer to section 530.52H(3) below.
  - (iii) Equitable Relief (ER).—This is applicable to program applications or contracts in which the State conservationist, NRCS Chief, or NAD Director has approved equitable relief in accordance with 7 CFR Part 635 and Title 440, Conservation Programs Manual, Part 509, “Equitable Relief From Ineligibility for Conservation.” The equitable relief determinations must be approved prior to submitting a special payment request.

**Note:** The only supporting documentation required for this type of request is the final ER determination. Refer to section 530.52H(3) below.

**Note:** If NRCS or NAD granted ER for reapplication of failed conservation treatment according to subpart G, section 530.64 of this manual, the participant must install the conservation treatment according to NRCS standards and specifications prior to requesting the ER special payment through the applicable business tool.
  - (iv) Other Circumstances Approved by the Deputy Chief for Programs.—All other circumstances where a special payment is required, such as, incorrect obligation, or other legitimate errors and omissions from NRCS or the participants.
- (3) Submitting Special Payment Requests
  - (i) For all special payment requests, the State office must submit the request using the applicable business tool. Refer to NI-440-311, “Submitting and Processing State Requests using the Financial Assistance Programs Division (FAPD) SharePoint Site,” for instructions regarding special payment submission.
    - It is critical to—
      - Include a detailed explanation of why the State is requesting a special payment,
      - Obtain State conservationist concurrence, and
      - Include the amount requested and nature of the request.
    - In addition, the State must upload supporting documentation to the document management system including—
      - The contract signature page from Form NRCS-CPA-1202, “Conservation Program Contract,” or Form NRCS-CPA-152, “CPC Contract Transfer Agreement;” Form SF-1199A, “Direct Deposit Sign-up Form;”

- Final equitable relief or NAD determination, if applicable; signatory documents; OGC opinion, if applicable; and
  - Any other documents determined necessary by the State or requested by NHQ.
  - States must follow State-level policy for documenting State conservationist concurrence.
- (ii) NHQ staff will—
- Review and verify that the State cannot process the payment request through the applicable business tools. NHQ will return any requests that the State can process in the applicable business tool with instructions.
  - Verify the adequacy of documentation supporting the payment request, as outlined above in section 530.51, “Processing Payment Applications.”
  - Approve or deny erroneous underpayment, judicial or NAD directive, and equitable relief special payment requests. In such circumstances, the Deputy Chief for Programs delegates this authority to the Financial Assistance Programs Division (FAPD) branch chiefs to review the recommendation and decide whether to approve the special payment request.
  - Review and make a recommendation for special payment requests that are “other circumstances approved by the Deputy Chief for Programs” to the Deputy Chief for Programs. The Deputy Chief for Programs or designee will review the recommendation and decide whether to approve the special payment request.
  - If the branch chief or Deputy Chief for Programs approves the request, NHQ staff will enter a new “special payment” contract item in the contract and notify the State that the payment can be completed using conventional payment processes for the special payment item.
  - In some cases, NRCS must process a special payment outside of the contracting tool. For these cases, NHQ staff will provide States with instructions on how to request assistance with the payment.
- (iii) FAPD will upload a copy of the signed special payment approval document to the business tool once completed. States will then print the signed special payment document and follow the payment instructions listed on the document. States must maintain a copy of the signed document in the case file.
- (iv) States must maintain records for all special payments processed outside of the contracting tool to ensure they do not violate the applicable program maximum payment limitation.

## I. Payment Assignments

### (1) Assignment Process

Any participant (assignor) receiving contract benefits may assign payments to another individual or business (assignee) by filing Form CCC-36, “Assignment of Payment,” with NRCS. Form CCC-36 is used by FSA and NRCS and States can access this form on USDA eForms or through a link included in subpart O, exhibit 530.144B, “Assignment of Payment,” of this manual. The contract participant is responsible for providing the direct deposit information for an assignee. NRCS reports payments made to an assignee to the IRS as if NRCS made them to the assignor. The assignor will also receive the deduction from the available payment limitation.

**Note:** Only the assignee can revoke a signed assignment of payment.

**Note:** NRCS no longer uses Form NRCS-CPA-1236 for new assignments. However, NRCS will honor previous assignments made on Form NRCS-CPA-1236 prior to March 2020.

(2) Amount and Timing of Assignments

- (i) Participants authorize assignments as a fixed dollar amount which remains in effect until either that dollar threshold is disbursed to the assignee, or the assignment is revoked by written request signed by the assignee. Assignments may be established any time after contract fund obligation, including when a participant files a payment application.

**Note:** Refer to subpart O, exhibit 530.143H of this manual for additional instructions on completing Form CCC-36 for assignment to FSA.

**Note:** Assignments are dollar specific, not contract item specific. Recording assignments prior to certifying the specific contract item may result in payments for other contract items being processed to the assignee. If the participant desires an assignment to be made associated with the installation of a specific conservation practice or activity (for example, “irrigation system, sprinkler”) in a contract containing multiple conservation practices or activities, enter the payment assignment just prior to processing the payment application.

- (ii) NRCS should review any assignment to verify the expiration date and amount prior to all payments to ensure the correct amounts are paid to the assignee.

(3) Number of Assignments

There is no limit to the number of assignments a participant can make on a contract.

Assignments are only limited by the dollar amount in the contract. Assignments are paid in the order they are entered.

### 530.53 Disapproval of Payment Applications

Payment applications that are incomplete or incorrect will be rejected by the second-level payment reviewer. If this occurs—

- (1) The second-level payment reviewer will notify the designated conservationist or program support specialist of the deficiencies.
- (2) The designated conservationist will—
  - (i) Obtain and submit additional documentation requested by the second-level payment reviewer.
  - (ii) Undo certification in the business tool from the payment application if changes are needed.
  - (iii) Correct deficiencies in the payment application.
  - (iv) Notify the participant and obtain new signatures on the NRCS-CPA-1245.
  - (v) Reapprove the payment application.

### 530.54 Payments not Authorized

A. Payment is not authorized for conservation practices or activities for which there is no contractual obligation in the contract document, unless NHQ approves a special payment on a case-by-case basis.

B. Participants will be notified in writing, and payments will not be authorized for any of the following:

- (1) Implementation that does not meet NRCS standards and specifications for completed conservation practice or activity. Refer to subpart D, section 530.31, “Planning,” of this manual for guidance on planning conservation practices and activities.

**Note:** The participant must be informed in writing of the actions required to correct the deficiencies. Refer to subpart I, “Contract Violations,” of this manual. Form NRCS-CPA-

## Title 440-Conservation Programs Manual

- 153, “Agreement Covering Non-Compliance with Provisions of Contract,” may be used for this purpose.
- (2) Conservation practices or activities started before the contract was obligated, unless a waiver was approved in accordance with subpart C, section 530.23B, “Early Start Waiver,” of this manual.
  - (3) Conservation practice or activity started before the contract was modified to add the new or substitute conservation practice or activity, including services of a TSP.
  - (4) Any payment application that would result in duplicate payments.
  - (5) A financial assistance payment that would result in total payments exceeding the program contract or applicable payment limitations.
  - (6) Conservation practices or activities that are completed after the expiration date.
  - (7) Reapplication of a failed conservation practice or activity that is still within its lifespan where the participant failed to comply with required operation and maintenance. For exceptions to this policy, refer to subpart G, section 530.64, “Reapplication of Failed Conservation Treatment,” of this manual.
- C. Exceptions apply to conservation practices or activities that failed due to no fault of the participant. Refer to section 530.51A(6) above, and subpart G, section 530.64 of this manual.

## Part 530 – Working Lands Conservation Programs Manual

### Subpart G – Modifications

#### 530.60 Contract Modifications

##### A. General

- (1) This subpart provides policy related to contract modifications applicable to all programs. Refer to the applicable program-specific subpart and business tools guides for additional guidance. Subpart O, Exhibit 530.143K, “Business Tools Quick Reference,” of this manual provides the list of applicable business tools.
- (2) A contract modification changes an existing contract but retains the overall purpose and original intent. Changes to a contract must be consistent with the program purpose and may be necessary as a result of conservation practice or activity design changes, management changes, land transfers, or other operational changes that would otherwise interfere with achieving the purposes of the program.
- (3) Field offices should work with a participant to modify contracts as needed prior to the participant incurring a contract violation.
- (4) A concise, but complete summary of the changes made when modifying or revising the contract must be explained in the modification basis section of Form NRCS-CPA-1156, “Revision of Plan/Schedule of Operations or Modification of Contract.”
- (5) The NRCS designated approving official must approve the modification before a participant begins work related to the subject of the modification, except as allowed under section 530.61 below. The effective date of a contract modification is the date it is electronically signed by the NRCS approving official.
- (6) When completing a modification, planners do not need to re-rank the contract. However, States must continue to follow applicable policy in determining whether a modification is appropriate.

##### B. Acceptable and Unacceptable Contract Modifications

- (1) Contracts allow participants to address identified resource concerns through the implementation of conservation practices or activities in a cost-effective manner. NRCS may approve contract modifications when the modification is within the objectives of the original contract. This determination is based upon three closely related considerations, including whether the original need for the contract continues, the Agency purpose for the contract remains the same, and the modified contract has the same objectives as the original contract. Examples of acceptable modifications include, but are not limited to—
  - (i) Extending the contract period within the program regulatory contract length shown in the applicable program-specific subparts of this manual if it is mutually agreed to by the participant and NRCS.
  - (ii) Correcting an error to accomplish the objectives of the original contract.
  - (iii) Adjusting the schedule of operations due to operational or design changes.
  - (iv) Removing land no longer under the control of the participant, provided that the original objectives and minimum program requirements continue to be met.
- (2) NRCS may not approve a contract modification if the modification is not within the objectives of the original contract as described above. Unacceptable modifications are outside of the original objectives of the contract if they add land, substantially change contract requirements, or if they change or add resource concerns that are not necessary to

meet the original objectives of the contract. Examples of unacceptable modifications include, but are not limited to—

- (i) Deleting contract items for reasons other than as allowed by policy in section 530.60D(2) below, or repeatedly rescheduling contract items to avoid a contract violation.

**Note:** Rescheduling contract items to avoid loss of payments due to violation of highly erodible land conservation (HELC) and wetland conservation (WC) compliance provisions is unacceptable. Refer to subpart I, “Contract Violations,” of this manual for additional guidance.

- (ii) Changing payment share distribution to avoid payment limitations.
- (iii) Changing the cost list or payment schedule scenario associated with a contract item to the current fiscal year’s cost list or payment schedule unless authorized by program-specific requirements.
- (iv) Approving multiple minor modifications to avoid the review process for modifications requiring NRCS approving official’s signature. Refer to section 530.60C, “Minor and Major Modifications,” below.
- (v) Adding newly acquired or eligible land to a contract. This includes adding transferred acres to an existing contract. In order to maintain the contract’s fund integrity, transferred acres and conservation practices or activities that need to be implemented on those acres must be maintained in a separate contract. Refer to section 530.60D(4)(ii) below for transfer of land guidance.

#### C. Minor and Major Modifications

- (1) Minor Modifications.—NRCS does not require the participant’s signature on Form NRCS-CPA-1156 when the change does not affect the participant’s responsibilities under the contract. There are two types of minor contract modifications:
  - (i) Administrative modifications that do not change the obligation amount. Modifications of this nature are in accordance with the planned objectives of the contract and do not change the participant’s responsibility. This includes, but is not limited to, changes to livestock or crop type and bank account information.
  - (ii) Minor changes that increase the current obligation by \$1,000 or less per contract item. Minor modifications will be recorded in the applicable business tools, noted in the conservation assistance notes, and may be reflected on Form NRCS-CPA-1245, “Practice Approval and Payment Application,” for changes made at the time of payment.
- (2) Major Modifications:
  - (i) Major contract modifications are defined as changes made to a contract that change the participant responsibilities or that increase the current obligation by more than \$1,000 per contract item.
  - (ii) Major modifications require the signatures of the participant and an NRCS approving official on form NRCS-CPA-1156.
  - (iii) Examples of major modifications include, but are not limited to, rescheduling a contract item, adding or deleting a contract item, removing acres no longer under the participant’s control, transferring land under contract, correcting an error or omission that changes the responsibilities of the participant, extending the contract period, and changing payment share distributions.

**Note:** Refer to subpart I, section 530.82B of this manual for guidance on contracts with items one year behind schedule.

#### D. Modification Reasons

- (1) Adding a Contract Item

- (i) A new contract item may be added to substitute a conservation practice or activity when the originally scheduled item is infeasible in order to address the original resource concerns or maintain performance levels as determined at the time of obligation.
  - (ii) A new contract item may be added to correct an error made at the time of obligation.
  - (iii) A new contract item may be added to authorize the participants to use the services of a technical service provider (TSP) prior to beginning any work. Refer to subpart E, section 530.40C of this manual for additional guidance related to using TSPs.
- (2) Deleting a Contract Item
- (i) Contract items may be deleted for reasons that are not averse to the Government's interest and the conservation objectives.
  - (ii) Contract items may be deleted if the conservation practice or activity is not technically feasible or necessary to address the resource concern or there is no substitute conservation practice or activity that is feasible.
- (3) Adding or Removing Land
- (i) Under limited circumstances, adding land to a contract may be authorized if needed to correct an error or to otherwise accomplish the objectives of the original contract.
  - (ii) If the participant loses control of some of the land in the contract, the land lost, and associated conservation practices or activities must be removed from the contract unless there is an eligible transferee willing to assume the contract responsibilities for such acres. Refer to the following section of this subpart for land transfer guidance.
  - (iii) Loss of control includes changes in a participant's ownership structure or corporate form that results in a change in the tax identification number or other unique identifier. In this case, participants must comply with the notice and transfer provisions included in this section.

**Note:** If the participant's tax identification number has not changed, then no change has occurred in the nature of the participant's interest in the acreage under the contract including control of the land.

- (4) Land Transfers
- (i) Land transfers are permitted when all parties agree to the transfer terms. If the participant loses control of all or part of a land unit under contract, one or more eligible transferees may assume the responsibilities of the contract with respect to the lost acreage. Refer to section 530.62E below for documentation requirements.
  - (ii) There are two types of land transfers—entire or partial contract assumption.
    - For entire contract assumptions the existing contract number and period of performance will not change.
    - For partial contract assumption the description of the acreage transferred and all conservation practices or activities to be carried out by the transferee must be included in a new application and contract. Also, the transferee is required to maintain all conservation practices or activities previously installed on the transferred land.

**Note:** A new contract will be created for the remaining years of the original contract.

**Note:** The transferee may change the scheduled dates for the assumed conservation practices or activities in accordance with program-specific requirements.

**Note:** When NRCS approves a contract transfer, the transferee accepts all rights and responsibilities, including the right to payment.
  - (iii) Notice and Transfer Provisions
    - The participant must notify NRCS within the time specified in their contract appendix of any transfer of the participant's interest in the land under the contract

and identify a potential transferee. If the participant notifies the Farm Service Agency (FSA) of the transfer of interest, NRCS may accept this as timely notification if it is received by FSA within the timeframe specified in the contract appendix. If the participant does not identify a transferee when they notify FSA, NRCS must give them an opportunity to promptly identify a transferee.

- NRCS requires written notice such as email, formal letter, FSA records, etc., or NRCS must document any verbal notification in the conservation assistance notes.
- (iv) If the participant fails to notify NRCS of the loss of control of land within the required timeframe, refer to subpart I, “Contract Violations,” of this manual.
- (v) NRCS will follow up with the transferee as designated by the participant to make eligibility determinations. The transferee must meet eligibility requirements for the fiscal year the transfer is approved and must meet program-specific payment limitation requirements to be a program participant. If the transferee is ineligible at the time of the transfer request, NRCS will provide written notice to the transferee allowing up to 30 calendar days to file the necessary eligibility forms. Refer to subpart O, exhibit 530.141C, “Intent to Proceed Letter,” and exhibit 530.142E, “Conservation Program Application Checklist,” of this manual.
- (vi) The transferee is not a program participant until NRCS approves the transfer. Therefore, conservation practices or activities completed before contract transfer approval by NRCS are not eligible for program payment unless the work was completed by the estate or authorized representative of a deceased participant as stated in 7 CFR Part 1400 and subpart F, section 530.52G, “Payments to Deceased and Incapacitated Participants,” of this manual.
- (vii) All terms and conditions of the contract appendix signed at the time of original obligation continue to apply for successors in interest to all contracts. The date of succession to the contract determines the program year to be listed on the applicable adjusted gross income (AGI) certification form. The AGI form must be filed for the transferee in the year of the contract transfer. Use the AGI form applicable for the original year of contract obligation. Refer to subpart C, section 530.22C of this manual for additional guidance related to AGI.
- (viii) Deceased or Incapacitated Participants
- Upon learning of a participant becoming deceased or incapacitated, the NRCS will notify the estate or other authorized representative of the existence of all active contracts. The NRCS will provide the estate or authorized representative the full amount of time (as specified in the contract appendix) to request that the contract be transferred to an eligible successor or cancelled. Refer to subpart O, exhibit 530.141Q, “Deceased Participant Notification Letter” of this manual.
  - If the estate or authorized representative fails to notify NRCS of their intent within the timeframe provided, the NRCS will cancel the contract. Refer to subpart F, section 530.52G, “Payments to Deceased and Incapacitated Participants” of this manual regarding payment eligibility.

### **530.61 Contract Increases**

A. Modifications that increase obligations by more than \$1,000 per contract item require a two-part review. The NRCS employee processing the obligation change is responsible for making the determination that the change is within the objectives of the original contract. This information is used by the State designated second-level obligation reviewer to ensure that the correct funding year is used, especially when annual year or limited-use funds are to be used.

B. NRCS may approve an obligation increase after the participant starts or completes a conservation practice or activity already in the contract when—

- (1) The additional extent of the same conservation practice or activity was unknown at the time of contracting, or
- (2) A new scenario within the same conservation practice or activity is needed to address the original resource concern.

**Note:** It is best to avoid this situation by making necessary modifications when the need becomes evident prior to starting a conservation practice or activity. However, the extent of certain conservation practices or activities such as a water well can be difficult to estimate in advance and may require a late modification. If late approval becomes necessary, States must follow all requirements for a minor modification, major modification, or significant increase, as applicable. The approving official must carefully consider the validity of a late-processed modification.

C. Significant increases in contract obligations must be monitored to ensure the fairness of the basis for which the original contract was funded and otherwise to comply with restrictions on the use of Federal funds. Contract modifications that exceed the lesser of 20 percent of the original obligation or \$10,000 require the approval of the State conservationist or designee.

### 530.62 Documentation Requirements

A. Approved modifications are documented on Form NRCS-CPA-1156 and Form NRCS-CPA-152, “Conservation Program Contract Transfer Agreement,” depending on the type of changes made. The justification for modifying the contract must be clearly documented in the applicable business tool.

B. Participant signature on the NRCS-CPA-1156 must be consistent with signatures on the Form NRCS-CPA-1202, “Conservation Program Contract,” and NRCS-CPA-152.

C. NRCS will maintain two copies of the Form NRCS-CPA-1156, one with the participant’s signature and one with the NRCS approving official signature indicating the date of obligation in the contract case file per subpart E, section 530.43, “Contract Requirements,” of this manual. Participants will not sign this duplicate copy of the form. When NRCS approves a transfer agreement, the new participant must be provided with a copy of all contract documents.

D. Certain contract changes require supporting documentation prior to NRCS approving the modification. They are—

- (1) Contract Cancellation.—Requires participant’s written request.
- (2) Contract Termination.—Requires justification on Form NRCS-CPA-153, “Agreement Covering Non-Compliance with Provisions of Contract,” or other written notification from NRCS to the participant. Requires NRCS to provide formal documentation with appeal rights to the participant. Refer to subpart I, “Contract Violations,” of this manual for additional guidance.
- (3) Reapplication of Failed Conservation Treatment.—Requires a technical trip report documenting information required in section 530.64 below.
- (4) Reactivating a Canceled or Terminated Contract.—Requires written justification from NRCS. The final determination of an appeal or mediation may serve as written documentation.

**Note:** Contracts reactivated by modification require a subsequent modification to add new obligations.

**Note:** State conservationists must only reactivate contracts as agreed to through mediation or appeal when new information becomes available that changes the basis for the termination, to

implement a National Appeals Division (NAD) determination, or to implement equitable relief.

**Note:** States do not have authority to reactivate an expired contract.

- (5) Changing Participant Direct Deposit Information.—The participant must submit a signed Standard Form (SF)-1199A, “Direct Deposit Signup.”
- (6) Changing Contract Participants or Adjusting Participant Payment Shares.—Such changes must be documented on Form NRCS-CPA-152.

E. Documentation for Land Transfers

The transferee assumes all contract rights and obligations for the transferred acres by signing Form NRCS-CPA-152 and the original copy of the contract appendix which serve as the contract documents. Signatures from all participants receiving a payment share for the contract are required. Refer to subpart C, section 530.24, “Signature Authority,” of this manual for additional guidance.

F. For situations where FSA changes the participant name or business type, but the tax identification number remains the same, NRCS may document this change by completing Form NRCS-CPA-152 and have the participant sign as both transferor and transferee. This is not considered a change that requires new control of land verification.

### **530.63 Destruction of Conservation Practices or Activities under an Active Contract**

A. NRCS Approval

NRCS may approve a contract modification to allow a contract participant to destroy a completed conservation practice or activity during the contract term that is within the lifespan by replacing the destroyed conservation practice with an equivalent conservation practice or activity at the participant’s own cost. The participant must first file a written request to the State conservationist and receive written approval before altering a conservation practice or activity implemented or maintained with NRCS’s financial assistance.

B. Prior to approval the State conservationist must ensure that proposed actions will—

- (1) Achieve the contract conservation objectives.
- (2) Complete treatment actions without NRCS’s financial assistance within the term of the contract.

### **530.64 Reapplication of Failed Conservation Treatment**

Requirements

- (1) Active or completed contracts may be modified to provide for reapplication of a financially assisted conservation practice or activity that was completed and failed, provided all the following conditions are met:
  - (i) Failure was caused by circumstances beyond the participant’s control such as through natural disaster or vandalism, as documented in a technical trip report. Failure of a conservation practice or activity because of circumstances within the control of a participant, such as lack of required maintenance, constitutes a violation of the terms and conditions of the contract. Refer to subpart I, “Contract Violations,” of this manual for additional guidance.
  - (ii) The contract has not expired.

## Title 440 – Conservation Programs Manual

- (iii) The payments do not exceed the applicable program payment limitations.
  - (iv) The participant meets all eligibility requirements.
  - (v) Program funding is available.
- (2) NRCS will add the reapplied conservation practices or activities to the contract through a modification.
- (i) For the 2008 Farm Bill and Agricultural Management Assistance Program (AMA) contracts, the new contract item uses the original fund source.
  - (ii) For the 2014 or 2018 Farm Bill contracts except AMA, NRCS may use the original or current year funds. AMA contracts will use the original fund source.
  - (iii) NRCS will reference the original contract item number in the “Basis for Modification” section of Form NRCS-CPA-1156.
- (3) NRCS requires a new contract for reapplication if the failed conservation practice or activity is part of an expired contract. Process an application and rank according to normal procedures. The program used to fund the new contract does not have to be the same as the original fund.
- (4) If equitable relief (ER) has been approved under 7 CFR Part 635, “Equitable Relief from Ineligibility,” for the reapplication of a failed conservation practice or activity and payment is approved for up to 100 percent of the cost, the reapplication may be funded:
- (i) Through a new special payment obligation if the contract has not expired; or
  - (ii) With a new contract using current-year funds. Refer to Title 440, Conservation Programs Manual, Part 509, “Equitable Relief from Ineligibility for Conservation.”
- Note:** Contact NHQ for assistance in implementing the ER determination.
- (4) The State conservationist or designee must approve these modifications and the State conservationist cannot delegate this authority below the State program manager level.

## Part 530 – Working Lands Conservation Programs Manual

### Subpart H – Contract Reviews and Quality Assurance

#### 530.70 General

- A. This subpart provides policy related to contract reviews and quality assurance.
- (1) Contract Reviews.—NRCS conducts contract reviews as part of ongoing contract management to ensure participants implement their contract consistent with the contract provisions.
  - (2) Quality Assurance.—NRCS conducts quality assurance activities during application evaluation and throughout the life of a contract to ensure compliance with program policy.
- B. The State conservationist must conduct contract reviews and quality assurance activities as part of an ongoing quality assurance process for all programs. Reports are available in the business tools to assist States in identifying contracts for applicable reviews. Refer to subpart O, exhibit 530.143K, “Business Tools Quick Reference,” in this manual, for a list of applicable business tools.
- C. States must keep copies of completed contract review and quality assurance checklists within the applicant or participant case file.

**Note:** This includes preobligation and payment checklists.

- D. Control of Land.—States must verify that the participant has control of the contracted land at the time of enrollment, during annual contract reviews, and prior to approving a modification or payment.

**Note:** When conducting a control of land review as part of the annual contract review, NRCS is confirming that the participant has maintained control of the contracted land to date and is not required to verify that the participant has control of the land for the entire contract period.

**Note:** If needed, a letter template is available in subpart O, exhibit 530.141I of this manual, to request information from the participant regarding control of land.

- (1) States must document the information reviewed using conservation assistance notes or Form NRCS-CPA-13, “Contract Review.”

**Note:** NRCS does not need to retain copies of any lease or related control of land documentation reviewed in the applicant or participant case file.

- (2) States should use Farm Service Agency (FSA) records such as the Producer Farm Data Report, to verify the participant’s interest in the land as an owner, operator, or other tenant. In the absence of adequate FSA records, NRCS may use other reliable documentation such as survey maps, tax parcel data, official land use maps, lease agreements, etc., to verify control of land.

#### 530.71 Review Types

- A. Preobligation Reviews

- (1) States must complete the program-specific preobligation checklist, or State equivalent, at the field level for each application before the NRCS approving official obligates the contract. Refer to subpart Q, exhibits 530.320A, “CSP Preobligation Checklist;” and 530.320B, “CSP-GCI Preobligation Checklist”; subpart R, 530.420A, “EQIP Preobligation Checklist”; and 530.420B, “EQIP Incentives Preobligation Checklist,” of this manual.

**Note:** No preobligation review is required for Agricultural Management Assistance Program (AMA) contracts.

- (2) States must update any State-developed preobligation checklists whenever the national preobligation checklist is updated and must include, at a minimum, the items from the national program-specific checklists.
- (3) At a minimum, the State or area office must conduct preobligation quality assurance reviews for each funding period by reviewing three approved applications or 5 percent of the approved applications per field office, whichever is greater.

#### B. Second-level Reviews

- (1) The State-designated second-level obligation reviewer ensures that the funds are within the period of availability and that there are enough funds to record the obligation. The second-level obligation reviewer confirms that the correct funding year is used for modifications.
- (2) States also conduct second-level reviews to ensure that NRCS can approve a payment against an existing obligation. Refer to subpart F, section 530.51A(4) in this manual for additional guidance on payment reviews.

**Note:** To ensure that a payment is proper, the field office must notify the second-level payment reviewer if the participant has died.

#### C. Administrative Review of Participant Certifications

- (1) During the first year of the contract (before payment is made), the State office randomly selects at least 5 percent of contract participants who self-certified as each of the following:
  - (i) Limited-resource farmer or rancher
  - (ii) Beginning farmer or rancher
  - (iii) Veteran farmer or rancher
- (2) Definitions for these designations can be found in 440-CPM, Part 502, Subpart A, “Common Terms.” Failure of the participant to provide adequate information necessary to verify eligibility may result in a contract violation. Refer to subpart I, “Contract Violations,” of this manual for additional information.

**Note:** To verify a participant’s self-certifications, NRCS must review participant documentation from the time of application, as detailed in subpart O, exhibits 530.141J through L, “Administrative Review” letter templates, of this manual. NRCS uses these letter templates to notify participants that they have been selected as part of the quality assurance review.

**Note:** There is no validation process for participants who self-certify as belonging to a socially disadvantaged group. NRCS employees will not attempt to verify a person’s self-certification as a member of a socially disadvantaged group.

- (3) In addition, NRCS will review additional participants when it receives a complaint or otherwise has information that a participant’s self-certification may be incorrect.

#### D. Annual Contract Reviews

- (1) NRCS will review all contracts at least annually and record findings in the applicable business tool, in the conservation assistance notes, and if needed, on Form NRCS-CPA-13. At a minimum, NRCS will—
  - (i) Confirm that the participant still controls all land under contract.
  - (ii) Confirm that the participant has implemented conservation practices or activities as scheduled.

- (iii) Confirm that, at a minimum, the participant continues to maintain the benchmark level of treatment or performance levels agreed to at the time of obligation. Further guidance can be found in the program-specific subparts of this manual.
  - (iv) Discuss conservation practices or activities scheduled for upcoming implementation, any changes to extent, location, and implementation schedule, and any need for technical assistance.
  - (v) Determine whether the participant is implementing conservation practices or activities to comply with organic certification requirements, if applicable.
  - (vi) Review any special circumstances, such as waivers, that have been granted for adjusted gross income or payment limitations which require follow-up to ensure that the basis or justification for the waiver has been adequately addressed in the implementation of the contract. NRCS will complete reviews to ensure the producer complied with the terms of the waiver.
- (2) When NRCS determines a contract is in noncompliance, including situations where a participant is off schedule in implementing planned conservation practices or activities, NRCS must complete Form NRCS-CPA-13. Refer to subpart I, “Contract Violations,” of this manual for additional guidance. The form includes—
- (i) Status of conservation practices or activities not completed.
  - (ii) Reasons for lack of progress.
  - (iii) Need for revision of the conservation plan and schedule of operations. Refer to subpart G, “Modifications,” or subpart I, “Contract Violations,” of this manual.
  - (iv) Description of any potential violations of the terms and conditions of the contract.
- (3) States should complete reviews early enough in the fiscal year to allow time for NRCS or the participant to complete any necessary administrative or corrective actions before the end of the fiscal year.
- (4) If NRCS finds during the annual review that the participant provided information inconsistent with available FSA records, NRCS will document the findings in the case file and work with the FSA and the participant to resolve discrepancies.
- (5) States may use subpart O, exhibit 530.141G, “Annual Schedule of Operations Letter,” of this manual in addition to the annual contract review to notify participants of the items scheduled for completion during the current year and any conservation practices or activities that may be behind schedule.

#### E. Other Administrative Reviews

- (1) Advance Payments.—NRCS must follow-up to confirm the participant expended the advanced funds within statutory requirements and that the participant is implementing those conservation practices consistent with the contract appendix and schedule of operations. Refer to subpart R, section 530.405, “EQIP Contracting and Contract Management,” of this manual for additional guidance.
- (2) Payment Review.—Refer to subpart F, section 530.51, “Processing Payment Applications,” and subpart O, exhibit 530.142C, “Payment Review Checklist,” of this manual, for additional information.
- (3) AGI Determination.—Refer to National Instruction 440-308, “Adjusted Gross Income (AGI) Determination Changes for Programs Managed in ProTracts,” for instructions related to these determinations.

### 530.72 Quality Assurance

- A. The State conservationist is responsible for managing the State quality assurance process. State conservationists must develop a quality assurance plan and assign responsibilities to appropriate staff

## Title 440 – Conservation Programs Manual

for monitoring and oversight of all applications and active contracts to ensure proper contract obligation and administration.

B. Conservation treatment installed under contracts must be evaluated as specified in Title 450, General Manual (GM), Part 407, “Documentation, Certification, and Spot Checking.”

## Part 530 – Working Lands Conservation Programs Manual

### Subpart I – Contract Violations

#### 530.80 General

- A. This subpart provides policy for handling contract violations, canceling or terminating contracts, recovery of costs, assessment of liquidated damages, and debt collection.
- B. States should work with participants to manage contracts, including taking appropriate action to modify contracts before the participant becomes noncompliant. Refer to subpart G, “Modifications,” of this manual for additional guidance.
- C. Contract violations may also be referred to as “noncompliance.” Contract violations occur when a participant fails to adhere to the terms and conditions of the contract.
- D. When NRCS determines that a participant has violated the contract terms, NRCS must provide a reasonable time not to exceed 12 months, as determined by the State conservationist, for the participant to correct the violation or face contract termination. If the nature of the violation does not allow for a reasonable time to regain compliance, NRCS may immediately terminate the contract.
- Note:** NRCS allows more flexibility in resolving issues that arise as a result of circumstances beyond the participant’s control as described in section 530.82, below.
- E. Noncompliance may include, but is not limited to, the following situations:
- (1) The participant fails to complete conservation practices or activities as scheduled in the contract.
  - (2) The participant loses control of land under contract.
  - (3) A conservation practice or activity fails within its lifespan and prior to contract expiration.
  - (4) The participant fails to meet other contract provisions outlined in the contract appendix.
- F. States must develop protocols to ensure consistent and equitable handling of noncompliance situations.

#### 530.81 Documenting Noncompliance

- A. NRCS must review the circumstances related to the noncompliance to determine appropriate course of action.
- B. The NRCS field office must complete a contract status review using Form NRCS-CPA-13, “Contract Review.” Refer to subpart H, section 530.71D, “Annual Contract Reviews,” of this manual.
- C. States may use subpart O, exhibit 530.143J, “Noncompliance Flowchart,” of this manual to assist them in determining how to proceed once they identify that a contract is in noncompliance.

#### 530.82 Addressing Noncompliance and Violations

- A. NRCS may handle noncompliance situations either with or without completing Form NRCS-CPA-153, “Agreement Covering Non-compliance with the Provisions of Conservation Program Contract (CPC),” depending on the specific circumstances of the noncompliance as described below.
- B. Without Form NRCS-CPA-153 for circumstances beyond the participant’s control.

- (1) Circumstances beyond the participant’s control may include—
  - (i) Natural disasters.
  - (ii) Involuntary loss of land included in the contract.
  - (iii) Lack of timely technical assistance or conservation practice or activity designs.
  - (iv) Other hardship not present at the time of contract enrollment.
- (2) When NRCS determines that noncompliance is a result of circumstances beyond the participant’s control, the field office will work with the participant to find a remedy that allows for contract modification or cancellation. In these situations, NRCS may—
  - (i) Modify the contract to bring the contract back into compliance including rescheduling planned contract items as necessary.

**Note:** When contract items are 1 year or less behind schedule (due to circumstances beyond the participant’s control), it is not necessary to reschedule the items if the participant will complete them within the next year. In these cases, the field office may use subpart O, exhibit 530.141G, “Annual Schedule of Operations Letter,” of this manual, along with a copy of Form NRCS-CPA-13, to inform producers of the practices behind schedule.

**Note:** It may be necessary for the field office to reschedule other contract items that are not currently behind schedule in order to help the participant remain in compliance going forward.

- (ii) Modify the contract to reapply a failed practice. Refer to subpart G, section 530.64, “Reapplication of Failed Conservation Treatment,” of this manual.
  - (iii) Cancel the contract without cost recovery. Refer to section 530.84, “Cancellation and Termination of Contracts,” below.
- (3) The field office must thoroughly document the specific circumstances and planned corrective action in the participant case file.

C. With Form NRCS-CPA-153 or through written notification

- (1) Except for the circumstance identified above in section 530.82B, the field office must document contract violations using Form NRCS-CPA-153, or through written notification, and reschedule applicable contract items through a modification.

**Note:** Completing Form NRCS-CPA-153 identifies the corrective actions and the consequences for failing to remedy the violation, so rescheduling contract items to reflect the current contract status does not in itself bring the contract back into compliance. The contract remains out of compliance until the participant completes the rescheduled items, resolving the terms of the NRCS-CPA-153.

- (2) NRCS must document the—
  - (i) Specific basis for the noncompliance.
  - (ii) Action(s) needed for the participant to regain compliance.
  - (iii) Timeframe to complete the corrective action(s), not to exceed 1 year.
  - (iv) Consequences for failing to remedy the violation.
- (3) The NRCS approving official and the participant(s) must sign Form NRCS-CPA-153. If used, the NRCS approving official must sign any written notification. NRCS will provide a copy of the signed form to the participant and retain in the case file.
- (4) If the participant cannot or will not complete the corrective actions as agreed to on Form NRCS-CPA-153 or as detailed in other written documentation, follow the policy below in section 530.84, “Cancellation and Termination of Contracts,” unless (5) below applies.
- (5) The State conservationist may waive the term of the initial Form NRCS-CPA-153 by issuing a new Form NRCS-CPA-153 to extend the terms of a previously approved Form NRCS-

CPA-153 for up to 1 additional year only if the participant has made a good faith effort to comply with the terms of the Form NRCS-CPA-153 but has been unable to complete the corrective actions within the agreed-to timeframe due to circumstances beyond the participant's control. The State conservationist cannot further delegate extension of a Form NRCS-CPA-153 for an additional year. Refer to subpart O, exhibit 530.143N, "Delegation of Authority," of this manual.

### **530.83 Other Violations**

- A. Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Violations
- (1) When the Farm Service Agency (FSA) makes a determination that a participant is ineligible due to an HELC or WC violation during the course of a conservation program contract, NRCS must complete Form NRCS-CPA-153 and provide the participant a reasonable time, not to exceed 1 year, to regain eligibility.
  - (2) If the participant requests good faith relief from FSA, the participant should continue to implement all NRCS contract items as planned, but NRCS must not issue payments while the participant remains ineligible.
  - (3) If FSA grants good faith relief, the participant may be entitled to receive payment for contract items completed during the period of ineligibility.
  - (4) If FSA does not grant good faith relief, the participant is ineligible to receive payments for contract items implemented during the period of ineligibility, regardless of whether they regain eligibility in accordance with an approved Form NRCS-CPA-153.
  - (5) NRCS must terminate the contract in accordance with section 530.84C, below, if the participant fails to complete the agreed-to corrective action outlined in an approved Form NRCS-CPA-153.
- B. Misrepresentation, Scheme, or Device
- (1) The participant is not entitled to receive payments, or any other benefits made under the contract, if NRCS determines that a participant has—
    - (i) Erroneously represented any fact affecting a program determination with respect to the contract or the applicable program regulations,
    - (ii) Adopted any scheme or device which tends to defeat the purposes of the program or contract,
    - (iii) Made any fraudulent representation with respect to the program or contract,
    - (iv) Adopted any scheme or device for depriving any tenant or sharecropper of the payments to which such person would otherwise be entitled under the program, or
    - (v) Made changes to the operation for the sole purpose of working around payment or contract limitations.
  - (2) Once NRCS determines misrepresentation, scheme, or device, the State conservationist will terminate the contract and require that the participant refund all payments received under the contract and pay applicable liquidated damages, in accordance with the provisions of the applicable contract appendix and program regulation.
  - (3) In cases where NRCS suspects a participant has committed misrepresentation, scheme, or device, the State conservationist may request an investigation by the USDA Office of Inspector General (OIG).
    - (i) The State conservationist must submit a detailed written explanation along with the findings of fact and supporting evidence to the regional conservationist and the appropriate deputy chief for concurrence.
    - (ii) The State conservationist may consult OIG, the Office of General Counsel, or both, in making the determination.

- (iii) The Chief will make the final determination.

**Note:** NRCS must not disclose information concerning the existence of an ongoing OIG investigation unless OIG has notified NRCS in writing that NRCS may confirm the existence of an ongoing investigation, or information provided. Any publicity about the allegations OIG is investigating, or even about the existence of a planned investigation, may interfere with the inquiry or with necessary legal, administrative, contractual, or personnel actions.

**Note:** NRCS must not terminate or take other administrative action on a contract while it is under investigation.

- (4) Participants may still be subject to applicable civil or criminal fraud statutes, including suspension and debarment.

#### C. Nonprocurement Suspension and Debarment List

- (1) Conservation program contract violations so serious as to affect the integrity of the agency may serve as the basis for a suspension and debarment action by NRCS. The State conservationist will provide documentation to the Chief for a suspension and debarment determination when warranted.
- (2) The System for Award Management website (<https://www.sam.gov>), otherwise known as SAM.gov, is the official notification site of suspension and debarment. Until the involved agency files the official paperwork, secures the suspension from the agency, and the action appears in SAM.gov, NRCS does not have enough legal basis to stop processing applications, contracts, or payment related to contracts other than the application or contract under which the scheme or device occurred. SAM.gov lists suspended agreements under the “excluded” search. Because these instances are rare, States should contact National Headquarters for guidance in these matters.

## 530.84 Cancellation and Termination of Contracts

### A. Cancellations and Terminations

- (1) A contract may be either canceled by agreement of both parties or terminated for cause by NRCS. Once canceled or terminated, neither NRCS nor the participant has any further responsibilities under the contract and the participant forfeits all rights to any additional payments as described in the contract appendix.
- (2) Cancellations and terminations are effective once the NRCS approving official signs the cancellation or termination letter, regardless of whether the agency completes the cancellation or termination within the applicable business tool.
- (3) NRCS may not approve payments after canceling or terminating the contract, except for extreme or rare occurrences. Follow the process outlined in subpart F, section 530.52H, “Special Payments,” of this manual.

### B. Cancellation.—An equitable remedy that allows NRCS and the participant(s) to mutually end the contractual relationship.

- (1) Participants must request a contract cancellation in writing, provide reasons for the cancellation, and, if applicable, provide information on any new producer willing to assume the contract.
- (i) For situations where a participant is deceased or becomes incapacitated and no eligible successor is identified within the required timeframe, NRCS will cancel the contract. Refer to subpart F, section 530.52G, “Payments to Deceased and Incapacitated Participants,” of this manual.

- (ii) When the basis for a cancellation request is hardship related, NRCS may request documentation from the participant to substantiate that the hardship is new or worsened after contract obligation.
  - (2) Cost recovery of payments previously made may or may not be appropriate, depending upon the circumstances.
- C. Termination.—NRCS unilaterally ends the contractual agreement as a result of a material breach of the terms and conditions of the contract.
- (1) Prior to initiating a contract termination, NRCS must provide participants an opportunity to remedy the violation, when applicable, as required by the specific program regulation. Refer above to section 530.80, “General.”
  - (2) NRCS will usually seek cost recovery of payments previously made and assess liquidated damages. Refer to section 530.85, “Recovery of Costs and Liquidated Damages,” below.
  - (3) Contract terminations meet the definition of an adverse action in accordance with 7 CFR Section 11.1, “National Appeals Division Rules of Procedure.” Refer to section 530.88, “Equitable Relief, Appeals, and Mediation,” below.
- D. NRCS Decision and Participant Notification

The State conservationist, or designee, makes the decision and if approved—

- (i) Notifies the participant in writing of the decision, identifies any associated cost recovery or liquidated damages, and provides applicable appeal rights. Refer to subpart O, exhibits 530.141M, “Cancellation without Cost Recovery Letter,” 530.141N, “Cancellation with Cost Recovery Letter,” or 530.141O, “Termination with Cost Recovery Letter,” of this manual.

**Note:** Mutually approved cancellation actions where NRCS has waived cost recovery is not an adverse action and does not require providing any appeal rights.

**Note:** NRCS does not assess liquidated damages for a contract cancellation.

- (ii) Approves the cancellation or termination modification in the applicable business tool.

## **530.85 Recovery of Costs and Liquidated Damages**

### **A. Applicability of Cost Recovery of Program Payments**

- (1) NRCS may seek recovery of all or part of the financial assistance paid to a participant in accordance with the provisions of the contract appendix and applicable program regulations when a contract is either terminated or canceled.
- (2) State conservationists have discretion on the amount of cost recovery sought, including waiving 100 percent of the cost recovery if justified by the unique circumstances of the specific contract. State conservationists must consider all the following when determining the applicability and amount of cost recovery:
  - (i) Whether the previously installed conservation practices and activities can function independently
  - (ii) Whether the previously installed conservation practices and activities will be affected by the violation or the absence of other conservation practices or activities that would have been installed under the contract
  - (iii) Whether the participant agrees to operate and maintain the installed conservation practices and activities for their lifespan
  - (iv) The participant’s good faith effort to comply with the terms of the contract.
- (3) NRCS must address these considerations in the notification letter to the participant.

B. Liquidated Damages

- (1) “Liquidated damages” means a sum of money as stipulated in the contract appendix that the participant agrees to pay NRCS if the participant fails to adequately complete the terms of the contract.
- (2) With respect to a terminated contract, State conservationists must assess liquidated damages at a rate of 10 percent of the total financial assistance funds obligated, excluding any technical assistance funds obligated, as allowed by applicable program regulations.
- (3) The State conservationist may waive liquidated damages at their discretion in accordance with the applicable program regulation. States must apply decisions to waive liquidated damages consistently.

C. Other Considerations

- (1) The State conservationist should consider waiving cost recovery or liquidated damage assessments that total \$1,000 or less as being in the public interest.
- (2) The State conservationist may only consider waiving or reducing cost recovery for payments that NRCS properly made.
- (3) The facts in the specific contract case file must support the State conservationist’s decision to request cost recovery or assess liquidated damages and must also be fully supported by, and documented separately in, the participant notification letter. Refer to 440-CPM, Part 510, “Appeals and Mediation,” for more guidance.
- (4) Any improper payment is subject to debt collection, and the State conservationist cannot cancel a debt except as described below in section 530.86G, “Handling of Small Debts.” NRCS must provide appeal rights when seeking collection of improper payments. Refer to section 530.88 below.
- (5) The State conservationist may determine if equitable relief is appropriate. Participants may request, or NRCS may initiate on the participant’s behalf, equitable relief in accordance with the equitable relief provisions found in 7 CFR Part 635.
- (6) State program staff must work with the State financial resource specialist and submit a copy of the notification letter to the appropriate Farm Production and Conservation (FPAC) Business Center (BC) team when the letter is mailed to the participant. Interest begins to accrue on the total amount of cost recovery and liquidated damages if the participant does not pay the amount requested within 30 days. Interest continues to accrue until the agency receives payment in full or the debt is otherwise canceled.

D. Disposition of Recoveries

When a participant repays program payments, contract management business tools do not account for this, so NRCS must use case file documentation when evaluating future payment limitation issues or other program eligibility requirements.

## **530.86 Claims, Debt Collections, and Offsets**

A. Collection of Debts

NRCS will follow procedures of the Debt Collection Improvement Act of 1996 (DCIA) to collect amounts due from agency-administered contracts, including cost recovery, assessment of liquidated damages, or collection of other debts such as improper payments. 7 CFR Part 3 authorizes debt settlement policies and procedures. NRCS will send the initial program notification letter to participants, identifying the contract number, amount owed, and reason for collecting these funds. Refer to subpart O, exhibits 530.141H, “Debt Collection Letter;” 530.141N, “Cancellation with Cost Recovery Letter;” or 530.141O, “Termination with Cost Recovery Letter,” of this manual. The State conservationist or Chief may cancel debts in certain

limited circumstances—refer to paragraph G, below. Federal claims collections standards require aggressive agency collection activity.

B. Receivables

NRCS must provide a copy of the notification letter and all required supporting documentation to the applicable FPAC BC team when the letter is mailed to the participant.

C. Debt Collection and Interest

Collection of amounts due will follow DCIA procedures and will accrue interest at the current value of funds rate published in the Federal Register by the U.S. Government.

D. Appeals

(1) When a participant appeals an NRCS decision that includes cost recovery or assessment of liquidated damages, the State program staff must work with the State financial resources specialist to place a hold on the debt collection.

**Note:** Placing the debt on hold does not prevent accrual of interest on the debt.

(2) If the NRCS decision is upheld on appeal, NRCS must remove the hold on the debt and collection procedures resume.

(3) If the NRCS decision is overturned on appeal, NRCS must cancel both the debt and any accrued interest associated with the debt.

E. Commodity Credit Corporation (CCC) Debt Register

If a participant receiving a payment is on the CCC debt register but the National Finance Center (NFC) has yet to submit the indebtedness to Treasury Offset Program (TOP), the only option to offset the payment is to use Form CCC-36, “Assignment of Payment.” In this circumstance, the participant will assign his or her payment to the applicable USDA agency. The CCC debt register allows payments to be offset for other USDA agency debt when NRCS sends the initial notification letter.

F. Offsets to Payments Made by the U.S. Department of the Treasury (Treasury Department)

If a participant receiving a payment is indebted to another Federal agency (for example, IRS) or USDA, and the DCIA collection procedures resulted in a debt being referred to TOP, the Treasury Department will reduce the compensation due the participant by the amount owed the U.S. Government. Offsets to payments made pursuant to this section do not deprive the participant of any rights to contest the indebtedness. When offsets are made by the Treasury Department against payment, payment records reflect full payment to the participant. The Treasury Department will not notify NRCS of any offset, but NRCS or FPAC BC staff can ask the NFC payments branch to determine if an offset was applied to a payment.

G. Handling of Small Debts

(1) Debts Less than \$25

(i) NRCS must record all debts; however, NRCS may cancel debts of less than \$25 under any of the following situations, unless otherwise specified by legislation or program policy:

- The producer is deceased, incompetent, or cannot be located.
- The cost of further collection efforts, including the costs incurred to obtain the facts establishing liability or the costs to establish or locate the liable party, will exceed the amount recovered.
- There is no possibility of imminent collection.

- (ii) A memorandum of justification is not needed, and this policy applies if the debt is the initial amount or the balance of a reduced debt.
- (2) Exceptions

NRCS must not cancel debts of less than \$25 under any of the following situations:

- There is evidence that the participant has violated civil or criminal fraud statutes.
- Program policy mandates that NRCS cannot write off small balances.
- Program operations would be adversely affected.
- Several small amounts involving the same facts or basis of liability can be included in a single billing or demand, if collection is imminent.
- It would not be in the best interests of USDA to cancel the debt.

- (3) Accepting Voluntary Payments

A participant may voluntarily repay debts of any amount by submitting payment as instructed in the debt collection notice sent from NFC.

### 530.87 Unauthorized Commitments

A. An unauthorized commitment is a nonbinding agreement or contract made by an NRCS representative who lacked the authority to enter into that agreement or contract on behalf of the Federal Government or who failed to follow the proper obligation or modification process.

**Example:** The district conservationist informs a participant that they may proceed with installation and will receive a program payment for a practice not included in their approved contract.

B. NRCS employees must ensure they do not knowingly or inadvertently make verbal or written promises or agreements that purport to bind the Federal Government to unauthorized program payments. An employee who makes an unauthorized commitment may ultimately be held personally liable for any payments or actions related to the commitment.

C. Program provisions require that contract implementation and modifications conform to statute, regulation, and policy. NRCS may ratify unauthorized commitments associated with conservation program contracts through the equitable relief provisions found in 7 CFR Part 635.

**Note:** The agency has discretionary authority to take disciplinary action against an employee who makes an unauthorized commitment as part of a corrective action plan.

D. Processing Approved Ratifications.—Contracts that are ratified through approved equitable relief determinations will be processed as follows:

- (1) Active contracts.—NRCS will follow the modification process in subpart G, “Contract Modifications,” of this manual to add conservation practices or activities for approved ratifications on active contracts in which the participant has not yet completed the work.
- (2) Expired, cancelled, or terminated contracts.—NRCS will fund conservation practices or activities with a new contract for approved ratifications in which the original contract is expired, cancelled, or terminated and the participant has not yet completed the work.
- (3) NRCS will process payments following policy in subpart F, section 530.52H, “Special Payments,” of this manual for approved ratifications on any contract in which the participant has already completed the work.

## **530.88 Equitable Relief, Appeals, and Mediation**

A. NRCS must provide appeal rights for any adverse decision. Refer to subpart O, exhibit 530.143M, “Appeal Rights,” of this manual.

B. Refer to the NRCS appeals regulation at 7 CFR Part 614 and the NRCS Equitable Relief regulation at 7 CFR Part 635. Appeals and mediation policy is found at 440-CPM-510, and in National Instruction 440-302, “Mediation Policy and Procedure.” Equitable Relief policy is found at 440-CPM, Part 509, “Equitable Relief from Ineligibility for Conservation,” and in NI 440-304, “Guidance for Processing Equitable Relief Cases for the Chief’s Consideration.”

**Note:** Submit ER requests for the Chief’s consideration to the ER mailbox at [equitablerelief@wdc.usda.gov](mailto:equitablerelief@wdc.usda.gov).

## **Part 530 – Working Lands Conservation Programs Manual**

### **Subpart J – Program Evaluation**

#### **530.90 Purpose**

A. This subpart outlines agency requirements for the continuous improvement of conservation programs and program delivery, using data and feedback mechanisms from employees and stakeholders.

#### **530.91 References**

- A. Government Performance and Results Modernization Act of 2010 (GPRMA)
- B. Office of Management and Budget (OMB) Circular No. A-11, “Preparation, Submission and Execution of the Budget,” July 2020
- C. The Foundations for Evidence-Based Policymaking Act (Evidence Act)
- D. Program Management Improvement Accountability Act of 2016 (PMIAA)
- E. Title 440, Conservation Program Manual (CPM), Part 500, “Locally Led Conservation” (440-CPM-500)
- F. Farm Production and Conservation (FPAC) Learning Agenda for Evidence Act Implementation Policy Guidance

#### **530.92 Definitions**

- A. Refer to OMB Circular A-11, Section 200 for definitions of the following terms related to preparing, submitting, and executing the budget:
  - (1) Actionable information data of significant value,
  - (3) Evaluation,
  - (4) Program, and
  - (5) Program activity.
- B. Program Monitoring.—The active and periodic review and analysis of program performance data for continuous improvement of program efficiency and effectiveness.
- C. Program Portfolio Reviews (in accordance with PMIAA).—Reviews of programs conducted in coordination with USDA’s strategic reviews.
- D. Program Reporting.—The provision of program performance and evaluation data for the purposes of monitoring, evaluating, or providing evidence on program results.

#### **530.93 Background**

- (1) The GPRMA requires that agency managers routinely use evidence and actionable data to make decisions to improve agency results and efficiencies.
- (2) The Evidence Act and related OMB guidance on evidence and evaluation requires NRCS and other Federal agencies to use evidence-based policy making to improve agency policy, program, budget, operational, and management decision-making.

- (3) The PMIAA aims to improve program management and accountability as part of the broader Federal performance framework.
- (4) Timely monitoring of program performance and taking corrective actions maintains a focus on the priorities and ensures objectives are accomplished efficiently and effectively.
- (5) External audiences for program reporting include the USDA, Performance Improvement Council, Program Management Improvement Council, OMB, Congress, and the public.
- (6) Internal program monitoring and reporting for agency managers includes more detailed reports, scorecards, and dashboards to be used for decision-making and improving results and efficiency.
- (7) Frequent monitoring and reporting of an agency's actionable data necessitates the use of agency-wide business tools for capturing and reporting program data.

### **530.94 Responsibilities**

- A. The Chief ensures agency compliance with program monitoring and reporting aspects of the GPRMA.
- B. The Associate Chief monitors program performance for deputy chiefs and ensures the use of evidence in decision-making and program evaluation.
- C. Deputy chiefs monitor program performance within their deputy area and oversee the use of evidence in decision making and program evaluation.
- D. The Deputy Chief for Programs
  - (1) Develops agency policy for program evaluations and reporting.
  - (2) Develops agency strategy for the use of evidence and evaluation for program continuous improvement.
  - (3) Assures timely, actionable program information is available to other deputy chiefs and the regional conservationists.
  - (4) Provides program reports to track agency results.
  - (5) Monitors program efficiency and effectiveness and reports accomplishments to the NRCS Chief.
  - (6) Assigns data owners and data stewards for program data.
- E. Regional Conservationists
  - (1) Monitor program performance in their regions and take corrective actions as needed.
  - (2) Verify the use of evidence in program evaluation and reporting.
  - (3) Ensure that State conservationists conduct frequent data-driven reviews that guide decisions and actions to improve program outcomes, manage risk, and reduce costs.
- F. State Conservationists
  - (1) Oversee the monitoring and reporting of programs within the State.
  - (2) Conduct frequent data-driven reviews that guide decisions and actions to improve program outcomes, manage risk, and reduce costs.
  - (3) Ensure that evidence is used in program evaluations and reporting within the State.
  - (4) Assigns State data owners and data stewards for State program data.
- G. Designated Conservationists
  - (1) Monitor programs within the service area and take action as necessary.
  - (2) Ensure the quality of the data within their service area and certify it as complete and accurate.
  - (3) Provide input to State managers during program evaluations and monitoring for continuous improvement. Input may also be derived from—

- (i) Feedback during local working group meetings, or other partnership events, or directly received from customers.
- (ii) Issues discovered during annual contract status reviews.

### **530.95 Policy**

- A. Programs, as defined above, must have defined critical success factors with program evaluation metrics defined, documented, and provided to decision makers with data visualization tools.
- B. NRCS must monitor programs at an appropriate frequency with data, measures, and indicators that comply with Title 340, General Manual (GM), Part 403, “Performance Measurement” (340-GM-403).
- C. Program data and metrics must have identified data stewards and data owners.
- D. When metrics indicate NRCS needs to make improvements in program delivery (efficiency and effectiveness), the agency must use continuous process improvement (CPI) standard practices to ensure customer input and data-driven decisions.
- E. Program reports must be—
  - (1) Consistent and reliable so that agency managers can develop and carry out plans for improvement.
  - (2) Transparent and repeatable, including documentation required by 340-GM-403, Subpart B, “Development of Performance Measures.”
  - (3) Limited to a small set (<10) of measures of significant value for focusing priorities.
- F. NRCS must use standardized methods and business tools for program monitoring and reporting.

## Part 530 – Working Lands Conservation Programs Manual

### Subpart K – Management of Contracts Obligated Prior to Fiscal Year 2020

#### 530.100 General Information

A. This subpart provides guidance on the appropriate use of 440-CPM for the following parts for management of contracts obligated prior to fiscal year (FY) 2020, which are hereafter referred to as “existing parts:”

- (1) Part 507, “Conservation Stewardship Program” (CSP)
- (2) Part 508, “Conservation Stewardship Program (CMT Supported Contracts)”
- (3) Part 512, “Conservation Program Contracting”
- (4) Part 515, “Environmental Quality Incentives Program” (EQIP)

**Note:** NRCS archived Part 521, “Agricultural Management Assistance” (AMA), in February 2021. Refer to subpart P of this manual for all AMA guidance, including for contracts obligated prior to fiscal year 2021.

B. All contracts, regardless of obligation date, must follow the regulations that were in effect on the date of obligation and the requirements specified in the contract appendix. Part 530, subparts A through O, of this manual implement streamlined procedures for the administration of contracts as required by the 2018 Farm Bill and are applicable to all new contracts as well as contracts obligated prior to FY 2020, subject to the exceptions identified in this subpart. When guidance in part 530 conflicts with the applicable regulation or contract appendix, the user should follow guidance found in the appropriate existing parts referenced above, which may include the specific program part, plus part 512 as referenced. Part 530 does not apply where the requirements of this manual would result in a determination more adverse to a participant’s rights or responsibilities than would application of the policy in place at the time of contract obligation.

C. Use of Existing Parts for Contracts Obligated Prior to FY 2020

- (1) Part 507.—To verify CSP eligibility requirements for land, participants, and guidance on completing Conservation Activity Evaluation Tool (CAET) modifications.
- (2) Part 508.—To verify CSP eligibility requirements for land, participants, and guidance on completing Conservation Measurement Tool (CMT) modifications.
- (3) Part 512.—To provide further guidance when reference to part 512 is made from one of the existing program parts and part 530 is determined to be in conflict with the applicable regulation and contract appendix.
- (4) Part 515.—To verify EQIP eligibility requirements for land and participants.

D. Existing parts are not to be used for general information. Follow part 530, subpart A, “General Information,” of this manual.

E. Use professional judgement when considering exceptions to the use of part 530 and document the basis for determinations in case of appeal or audit. If in doubt consult National Headquarters (NHQ) for guidance.

**Note:** This subpart may be updated periodically to address policy needs during the transition to the 2018 Farm Bill until existing parts become obsolete and can be archived.

#### 530.101 Managing Funds

Existing parts are not to be used for managing funds. Follow part 530, subpart B, “Managing Funds,” of this manual.

### 530.102 Application for Assistance

A. For audits and quality assurance, use existing parts to determine if States followed application procedures in effect at the time of application. Use part 530 to determine whether the State has authority to take an administrative action to correct a deficiency. If no authority is specified, request NHQ assistance to address a deficiency.

B. Follow eligibility requirements in effect at the time of obligation. Use the existing parts to determine eligibility requirements when adding new participants or land to a contract. Follow Part 530, subpart C, “Application for Assistance,” of this manual for waivers and exceptions to eligibility requirements.

C. For changes to entity membership or signature authority, follow current procedures found in part 530, subpart C, of this manual.

### 530.103 Application Processing

For audits and quality assurance, use the existing parts to determine if States followed application procedures in effect at the time of application. Use part 530 to determine whether the State has authority to take an administrative action to correct a deficiency. If no authority is specified, request NHQ assistance.

### 530.104 Contract Development and Requirements

Part 530, subpart E, “Contract Development and Requirements,” of this manual, and the program-specific subparts, apply to contracts obligated prior to FY 2020. Please note the following special circumstance:

CSP contracts obligated in FY 2019 or earlier require that the participant adopt contracted enhancements by the third year of the contract. If participants fail to adopt an enhancement by the third year of the contract, follow policy in part 530, subpart I, “Contract Violations,” of this manual.

**Note:** An enhancement is considered adopted when the participant has implemented the enhancement on at least a portion of the operation.

### 530.105 Payments

Follow part 530, subpart F, “Payments,” of this manual except for the following:

- (1) For prior Farm Bill contract payment limitation information, refer to the policy in place at the time of contract obligation.
- (2) For successors to prior Farm Bill contracts, participants must file the following Farm Service Agency (FSA) forms:
  - (i) For successors to 2002 Farm Bill contracts.—Form CCC-526C, “Payment Eligibility Average Adjusted Gross Income Certification for Certain Conservation Reserve Program Contracts Approved Before October 1, 2008”
  - (i) For successors to 2008 Farm Bill contracts.—Form CCC-931C, “Average Adjusted Gross Income Certification and Consent to Disclosure of Tax Information for Successors to Conservation Program Contracts and Agreements Only”
  - (iii) For successors to 2014 Farm Bill contracts.—Form CCC-941, “Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information”

**Note:** This includes all contract participants, entity members, and successors to these contracts. Changes in the members or in member shares of an entity must be documented by the entity submitting a revised Form CCC-901, “Members

Information,” or CCC-902E, “Farm Operating Plan for an Entity,” to FSA. Failure to update the FSA business file will result in a mismatch between business tools, which will prevent obligation and payment.

**Note:** 2014 Farm Bill AGI provisions do not apply to CSP and EQIP contracts obligated in FY 2014. This includes all contract participants and entity members and successors of these contracts. AGI compliance also does not apply to AMA, Agricultural Water Enhancement Program, or Wildlife Habitat Incentive Program contracts obligated between October 1, 2013, and February 7, 2014.

### **530.106 Modifications**

(A) Follow part 530, subpart G, “Modifications,” of this manual and the program-specific subparts of this manual to determine acceptable and unacceptable modifications. This includes modifications to keep contracts in compliance and avoid contract terminations. If a contract appendix states that a contract must be terminated due to a loss of control of land or failure to notify NRCS in a timely manner, follow policy in this manual to determine if a modification may be completed to keep the contract in compliance.

B. In addition, for CSP contracts obligated in FY 2019 and earlier, the following applies:

- (1) Use part 507 for guidance on completing modifications using the CAET.
- (2) Use part 508 for guidance on completing modifications using the CMT.

### **530.107 Contract Reviews and Quality Assurance**

Follow part 530, subpart H, “Contract Reviews and Quality Assurance,” of this manual for all contracts.

**Note:** When conducting a control of land review as part of the annual contract review, NRCS is confirming that the participant has maintained control of the contracted land to date and that the participant expects to maintain control.

### **530.108 Contract Violations**

Follow part 530, subpart I, “Contract Violations,” of this manual for all contracts.

### **530.109 Program Evaluation**

Follow part 530, subpart J, “Program Evaluation,” of this manual for all contracts.

### **530.110 Program Exhibits**

Follow part 530, subpart O, “Exhibits,” of this manual, and program-specific subparts of this manual, for all contracts.

## Part 530 – Working Lands Conservation Programs Manual

### Subpart O – Exhibits

#### 530.140 Exhibit Uses

A. Exhibits Information.—This subpart contains exhibits that support subparts A–J of this manual including letter templates, checklists, charts, references, and forms. Refer to the specific program subparts for additional program-specific exhibits.

B. Letter Templates.—Use applicable templates according to the preceding subparts.

- (1) Editing Letter Templates.—Each template includes information in brackets to indicate where States must include specific information to complete the letter, so it clearly communicates the intended message. Certain letters may require additional editing in order to ensure the message is clear and concise. States should not substantially revise the standard language in template letters to the extent it changes the purpose intended in policy. However, States may adjust the response period when needed to accommodate short deadlines. Standard language for appeal rights, when provided, should only be edited to include the applicable contact information. Refer to Title 120, General Manual (GM), Part 402, Subpart A, Section 402.7, “Writing,” for additional information on writing correspondence.
- (2) Certified Mail.—States must send letter templates where “Via Certified Mail: Return-Receipt Requested” is indicated in the header through certified, return-receipt mail or through another service, such as the U.S. Postal Service or FedEx, to document the date the applicant or participant receives the correspondence. This is critical when communicating in writing to applicants or participants that a response is required by a certain date or when NRCS makes an adverse decision and provides appeal rights.

**Note:** If the certified mail is returned because the participant refused to sign or did not accept the certified letter, NRCS should follow up by resending the letter through standard mail and document other attempts to contact the participant about the decision.

- (3) Appeal Rights.—NRCS must include appeal rights with any adverse decision sent to a participant using exhibit 530.143M “Appeal Rights,” below.
- (4) Official Correspondence Through Electronic Means.—It is generally acceptable to send general correspondence to participants through electronic means such as email or through customer portals through NRCS business tools if the participant has provided an email address or created a USDA account. Correspondence requiring action from the participant and adverse decisions should still be sent through mail. An electronic message may also be sent as a courtesy copy.

C. Checklists.—Checklists are provided to facilitate communication and ensure certain steps are taken when completing the checklist for purpose. States may edit checklists for local use (e.g., making a fillable form, additional items to verify, etc.) but should not remove any items from the exhibit checklist.

D. Charts and References.—Charts and references are provided as supplemental information to the preceding subparts and referenced in the applicable section. Charts and references are generally large diagrams or lists of information that do not otherwise fit within the formatting of the manual text.

E. Forms.—Forms are developed per guidelines in the 120-GM, Part 403, “Directives and Forms.” States must not edit or develop alternative forms for the exhibits referenced in this manual.

### **530.141 Letter Templates**

- A. Application Deferral Letter
- B. Ineligibility Determination for Conservation Program Contract Letter
- C. Intent to Proceed Letter
- D. Early Start Waiver Approval Letter
- E. Early Start Waiver Disapproval Letter
- F. Application Approval Letter
- G. Annual Schedule of Operations Letter
- H. Debt Collection Letter
- I. Administrative Review Control of Land Letter
- J. Administrative Review Beginning Farmer or Rancher Letter
- K. Administrative Review Veteran Farmer or Rancher Letter
- L. Administrative Review Limited Resource Farmer or Rancher Letter
- M. Cancellation without Cost Recovery Letter
- N. Cancellation with Cost Recovery Letter
- O. Termination with Cost Recovery Letter
- P. General Waiver Letter
- Q. Deceased Participant Notification Letter
- R. Unfunded Notification for Partially Funded Application Letter

### **530.142 Checklists**

- A. Checklist to Address NRCS Customer Eligibility Issues
- B. Conservation Program Contract File Checklist
- C. Payment Review Checklist
- D. AGI Waiver Worksheet
- E. Conservation Program Application Checklist

### **530.143 Charts and References**

- A. Transfer of Land Conditions
- B. Indicators of Erroneous Payment
- C. Program Eligibility Matrices for Individuals, Entities, and Joint Operations
- D. Schedule of Operations Review
- E. Annual Administrative Reviews
- F. Diagram for Deceased or Incapacitated Participants
- G. Crosswalk of Terminology

- H. Assignment of Payment to FSA
- I. Food Security Act of 1985, as Amended
- J. Noncompliance Flowchart
- K. Business Tools Quick Reference
- L. Table for Deceased or Incapacitated Participants
- M. Appeal Rights
- N. Delegation of Authority
- O. Veteran Farmer or Rancher Determination Matrix for Historically Underserved Payment Rate and Veteran Preference

### **530.144 Forms**

- A. Summary of Forms Used
- B. CCC-CPA-36, “Assignment of Payment”
- C. NRCS-CPA-125, “Application for Payment to Deceased or Incapacitated Participant”
- D. NRCS-CPA-1257, “Landowner Concurrence Form to Install Structural or Vegetative Conservation Activities”
- E. NRCS-CPA-1270, “Consent to Release or Receive Information for NRCS Program Participation”

## Part 530 – Working Lands Conservation Programs Manual

### Subpart P – Agricultural Management Assistance (AMA)

#### 530.200 General

##### A. Purpose

- (1) The policy in this subpart applies to all AMA contracts. If conflicts between this subpart and other subparts of part 530 exist, the policy in this subpart will prevail.
- (2) The purpose of AMA is to—
  - (i) Construct or improve watershed management structures or irrigation structures.
  - (ii) Plant trees to form windbreaks or to improve water quality.
  - (iii) Mitigate financial risk through production or marketing diversification or the implementation of resource conservation practices including soil erosion control, integrated pest management, or the transition to organic farming.

##### B. Authority

###### (1) Statutory Authority

The statutory authority for the policy and procedures contained in this subpart is section 524(b) of the Federal Crop Insurance Act, as amended.

###### (2) Federal Regulation

The Federal regulation for AMA is located at Title 7 of CFR Part 1465.

- (3) This subpart is effective for new enrollments during fiscal year 2020 and forward until superseded. States will continue to administer contracts enrolled prior to 2020 in accordance with the regulations and contract appendix in effect on the date of obligation.

##### C. Applicability

AMA is available in 16 States in which Federal Crop Insurance Program participation is historically low, as determined by the Secretary of Agriculture. These States are Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming.

##### D. Responsibilities

NRCS, Risk Management Agency (RMA), and Agricultural Marketing Service (AMS) administer the AMA program.

- (i) NRCS is responsible for administration and implementation of AMA's conservation provisions.
- (ii) NRCS will work with the Farm Service Agency (FSA) to ensure land offered for AMA is not currently enrolled in the Conservation Reserve Program or the Grassland Reserve Program.

#### 530.201 AMA Funds Management

A. Section 524(b) of the Federal Crop Insurance Act authorizes \$10 million of Commodity Credit Corporation (CCC) funds each fiscal year for AMA. The President's Budget, adjustments made to mandatory funds (changes in mandatory programs or "CHIMPs"), or annual appropriations law may affect the authorized funding level. The administering agencies receive a percentage of the authorized funds as follows:

- (1) NRCS—50 percent
- (2) RMA—40 percent
- (3) AMS—10 percent

B. National Priorities and National Measures

- (1) To provide guidance to the State and local levels toward achieving the program purposes, NRCS has established the following national priorities:
  - (i) Reductions of nonpoint source pollution, such as nutrients, sediment, pesticides, or excess salinity in impaired watersheds consistent with total maximum daily loads (TMDLs), where available, as well as the reduction of surface and ground water contamination
  - (ii) Conservation of ground and surface water resources
  - (iii) Reduction of emissions, such as particulate matter, nitrogen oxides (NO<sub>x</sub>), 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 high levels on agricultural land
  - (v) Promotion of at-risk species habitat conservation
- (2) NRCS uses the national priorities to guide annual funding allocations to States and for prioritizing AMA applications for funding.

### 530.202 AMA Eligibility

A. Producer Eligibility Criteria

To be eligible to participate in AMA, an applicant must meet eligibility criteria as outlined in subpart C, “Application for Assistance,” of this manual, with the following exception: AMA is not subject to the highly erodible land and wetland conservation provisions of the Food Security Act of 1985, as amended (16 U.S.C. Sections 3801–3824).

B. Land Eligibility

To be eligible for AMA, the land offered must meet land eligibility criteria as outlined in subpart C, “Application for Assistance,” of this manual.

### 530.203 AMA Planning

A. Improvements available through AMA include structural practices, management practices, vegetative practices, forest management practices, and other improvements that achieve program purposes.

B. The State conservationist will determine the eligible conservation practices for AMA. Those conservation practices approved by the State conservationist must meet the following criteria:

- (1) Approved in the Field Office Technical Guide (FOTG) and meet the purpose and definition of the conservation practice standard.
- (2) Provide beneficial natural resource conservation or environmental enhancements.
- (3) Meet the intent of the program and identified natural resource concerns.
- (4) Include appropriate operation and maintenance requirements in the conservation practice design to allow the participant to successfully implement the conservation practice to standards and specifications for the practice life span as determined by the Conservation Practice Data Entry System (CPDES) database.

C. Eligible Conservation Practices

- (1) Management Conservation

- (i) Land management conservation practices are those associated with management techniques and methods to implement the conservation practice. These conservation practices have a life span of 1 year. Under this program, NRCS limits management practices that address an identified resource concern on the same land unit to a maximum of three separate payments during the term of a contract.

**Exception:** NRCS limits payments for Conservation Practice Standard (CPS) Cover Crop (Code 340) to a maximum of five separate payments during the term of a single contract on the same land unit when the participant plans and applies CPS Cover Crop (Code 340) as a component of a complete conservation system to address resource concerns related to soil health (such as soil erosion and soil quality degradation).

- (ii) Producers may apply for a new AMA contract to apply the same management practice on the same land units if the implementation of the practice will result in a higher level of quality or conservation benefit.
- (2) Structural and Vegetative Practices

Structural practices primarily involve the establishment, construction, or installation of a site-specific measure to conserve, protect from degradation, or improve soil, water, or related natural resources in a cost-effective manner. By program definition, structural practices also include vegetative conservation practices.

- (3) Structural and vegetative practices have a life span of 2 or more years as documented in the national CPDES database.

NRCS allows a participant to retrofit structural practices provided that the improvement will result in a documented higher level of conservation benefit (e.g., improved irrigation water conservation efficiency) and when it is supported by the practice standard. NRCS will only allow retrofitting if it is more cost efficient than an alternative replacement system and meets the minimum requirements of the conservation practice standard. A payment scenario that supports retrofitting must be available in the cost list in order for the planner to include it in a contract. NRCS does not allow retrofitting to replace components that the producer is required to maintain for normal operation of the system within the approved practice lifespan.

#### D. Ineligible Conservation Practices

Ineligible conservation practices are those—

- (i) Where the sole purpose is to enhance production without an identifiable conservation benefit or does not address a natural resource concern.
- (ii) That the producer has already installed to address an identified resource concern on a specific land unit. However, land management practices that address a higher level quality concern may be implemented again on the same land unit. Producers may also apply for AMA financial assistance to implement a management practice to address a resource concern on land within the operation where the producer has not previously implemented the practice.
- (iii) Structural or vegetative practices for which the producer received payment on the same land under the same AMA contract unless destroyed for reasons beyond the participant's control. Refer to subpart G, section 530.64, "Reapplication of Failed Conservation Treatment," of this manual.

### 530.204 AMA Application Processing

NRCS accepts AMA applications on a continuous basis throughout the year. Refer to subparts C, "Application for Assistance," and D, "Application Processing," of this manual for additional information.

### 530.205 AMA Contracting

The AMA regulatory contract limit is up to 10 years. AMA does not have a minimum contract length.

### 530.206 AMA Payments and Payment Limitations

#### A. Eligibility for Payments

Participants who share in the cost of installing the conservation practices required by the AMA contract are eligible to receive AMA financial assistance, with the following exceptions:

- (i) Federal and State agencies, political subdivisions, and entities thereof,
- (ii) Cooperative associations of producers that market commodities or provide services for producers,
- (iii) Producer organizations and cooperatives that provide support to agricultural producers.

#### B. Payment Rates

AMA payment rates are up to 75 percent of the estimated incurred cost and up to 100 percent of the estimated income forgone. Historically underserved producers may be eligible for a higher payment rate that is not less than 25 percent of the standard payment rate, provided the increase does not exceed 90 percent of the standard payment rate.

#### C. Program Payment Limitation

- (1) Total payments made either directly or indirectly to a person or legal entity from NRCS, RMA, and AMS under the program may not exceed \$50,000 in any fiscal year.
- (2) NRCS staff must advise AMA participants that by signing the program contract, they are certifying they will not receive payments from AMA more than the payment limitation of \$50,000 per fiscal year from all sources (NRCS, RMA, and AMS).

**Note:** Members of a Tribe are subject to payment limitations, and the Tribe must certify that no Tribal member will receive more than the payment limitation of \$50,000 per fiscal year.

- (3) To document the producer's self-certification of payments from NRCS, RMA, and AMS, the designated conservationist must have the participant complete Form NRCS-CPA-1263, "Template for Producer Self-Certification – Fiscal Year [enter the current fiscal year] Payments," provided as exhibit 530.220A below, with the following actions:
  - (i) If the answer is "I will not be receiving AMA payments from the RMA or AMS in this fiscal year," the participant is to sign and date the template and NRCS will continue to process the request for payment.
  - (ii) If the answer is "I have received or will be receiving AMA payments from the RMA or AMS in this fiscal year," the participant is to state the amount of payment they have received or expect to receive from AMS and RMA, and sign and date the template. NRCS may then have to reduce the amount of the NRCS payment to comply with the \$50,000 per-fiscal-year-payment limitation, in accordance with subpart F, section 530.50G of this manual.
- (4) NRCS will coordinate with AMS and RMA to determine if an NRCS AMA program participant is also participating in their respective programs. This will ensure that the participant will not receive payments in excess of the \$50,000 per-fiscal-year-payment limitation. Field offices will verify AMA fiscal year program payment amounts. If an NRCS AMA payment to a participant results in total payments over \$50,000, NRCS must take action to collect the overpayment from the participant.

#### D. Exceeding Payment Limitation

## Title 440 – Conservation Programs Manual

- (1) NRCS must seek collection of any overpayment when a payment exceeds the payment limitation when the overpayment is a result of an NRCS error.
- (2) The applicable agency must seek collection of any overpayment when a payment exceeds the payment limitation as a result of an AMS or RMA error.

E. Advance Payments.—Advance payments are not authorized under AMA.

### **530.220 AMA Exhibits**

- A. Form NRCS-CPA-1263, “Template for Producer Self-Certification – Fiscal Year Payments”
- B. AMA Regulation—7 CFR Part 1465
- C. AMA Statute

## Part 530 – Working Lands Conservation Programs Manual

### Subpart Q – Conservation Stewardship Program (CSP)

#### 530.300 General

##### A. Program Purpose

- (1) The policy in this subpart applies to all Conservation Stewardship Program (CSP) contracts, including renewals, unless otherwise stated.
- (2) Through CSP, NRCS provides financial assistance and technical assistance to participants for the conservation, protection, and improvement of soil, water, energy, and other related natural resources and for any similar conservation purpose as determined by NRCS.
- (3) The program encourages producers to address priority resource concerns and improve and conserve the quality and condition of natural resources in a comprehensive manner by—
  - (i) Undertaking additional conservation activities.
  - (ii) Improving, maintaining, and managing existing conservation activities across the entire agricultural operation in a manner that increases or extends the conservation benefits in place at the time NRCS accepts a contract application.
- (4) If conflicts between this subpart and other subparts of part 530 exist, the policy in this subpart will prevail.

##### B. Authority

- (1) This subpart contains NRCS policy, guidance, and operating procedures for the CSP in accordance with the CSP regulation at 7 CFR Part 1470. Refer to exhibit 530.320D, “CSP Regulation—7 CFR Part 1470,” below, and subpart O, exhibit 530.143I, “Food Security Act of 1985, as Amended,” of this manual.
- (2) This subpart is effective for new enrollments during fiscal year (FY) 2020 and forward until superseded, including new Regional Conservation Partnership Program (RCPP) CSP contracts entered into as part of a 2014 Farm Bill RCPP project. States will continue to administer contracts enrolled prior to FY 2020 in accordance with the regulations and contract appendix in effect on the date of obligation.
- (3) Refer to 440-CPM, Part 529, “Regional Conservation Partnership Program,” for additional guidance related to 2014 Farm Bill RCPP projects that include RCPP-CSP contracts.

##### C. Applicability

CSP is applicable in all 50 States, District of Columbia, the Commonwealth of Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

#### 530.301 CSP Funds Management

##### A. Funding Targets and Ranking Pools

- (1) NRCS must target at least 5 percent of available funds to both beginning farmer and ranchers (BFR) and socially disadvantaged farmer and ranchers (SDFR) through the applicable ranking pools and spending plans. Refer to subpart A, section 530.4, “Historically Underserved Individuals and Groups,” of this manual, and 440-CPM, Part 502, “Terms and Abbreviations Common to All Programs,” for additional information and definitions of these historically underserved groups.

- (2) States will receive a separate allocation for organic and transitioning-to-organic producers based on the—
  - (i) Number of organic and transitioning-to-organic operations in the State, and
  - (ii) Organic and transitioning-to-organic acres in the State.
- (3) States may establish ranking pools based on watersheds, geographic areas, or other appropriate regions within the State and may consider high-priority regional and State-level resource concern areas.
- (4) States must establish separate ranking pools and spending plans for the following:
  - (i) BFR
  - (ii) SDFR
  - (iii) Organic and transitioning-to-organic producers

**Note:** States may establish one pool that includes both organic and transitioning to organic producers.

- (iv) CSP renewals
- (v) Agricultural land, including cropland, pasture, or rangeland
- (vi) Nonindustrial private forest land (NIPF)
- (5) States must identify eight priority resource concern categories for each ranking pool. States may select different priority resource concern categories for each ranking pool.

**Note:** Prior to FY 2021, States had to identify five priority resource concern categories for each ranking pool.

- (6) NRCS gives preference to veteran farmers and ranchers (VFR) if they are competing within the BFR or SDFR ranking pools by awarding these applicants with additional ranking points.
- (7) NRCS gives preference to covered farmers and ranchers (BFR, SDFR, and VFR) participating in the Conservation Reserve Program-Transition Incentives Program (CRP-TIP). NRCS will award these applicants with additional ranking points during the period covered by Form CRP-1R, “Conservation Reserve Program Transition Incentives Program Contract.”

#### B. State CSP Preparation Activities

- (1) Develop a list of resource-conserving crops that meet the criteria for implementation of a resource-conserving crop rotation or improved resource-conserving crop rotation.
- (2) Review the Advanced Grazing Management (AGM) conservation activity guide sheet and develop a list that includes only the enhancements offered in the State.
- (3) Review the “Activity List for Participants” and the “Activity List for Planners” provided annually by National Headquarters (NHQ).
  - (i) Adjust the activity lists to only include the conservation activities offered in the State. Refer to guidance in section 530.303B, below, for additional requirements.
  - (ii) Develop required State supplemental information.
  - (iii) States may supplement national guide sheets by adding to the criteria or documentation requirements, to the extent the additions do not conflict with national guidance.
- (4) Identify the State priority resource concerns as described in section 530.301A(5) above.
- (5) Comply with policy in subpart B, section 530.12B, of this manual regarding public notice requirements.

### 530.302 CSP Eligibility

#### A. All CSP applications must meet—

- (1) Applicant eligibility.

- (2) Land eligibility.
- (3) Stewardship threshold eligibility requirement.

B. Other Eligibility.—Per subpart E, section 530.41B(4), of this manual, NRCS must verify applicant, land, and stewardship threshold eligibility in order to indicate that the participant meets “other eligibility” requirements in the applicable business tool.

C. Applicant Eligibility.—To be an eligible participant for CSP, an applicant must—

- (1) Be the operator, owner, or other tenant of an agricultural operation in the Farm Service Agency (FSA) farm records management system.

**Note:** Producers must establish or update records with FSA before NRCS will consider them eligible.

- (2) Share in the risk of producing a crop; share in the crop available for marketing from the farm (or would have shared had the crop been produced); and participate in the daily management, administration, and performance of the operation for the land included in the contract; and
- (3) Have effective control of the land, as defined in the CSP regulation at 7 CFR Part 1470. Refer to section 530.22D(2) of this manual for additional control of land guidance.
- (4) Not have failed to renew a prior CSP contract within 2 years following expiration of that prior existing contract, regardless of the reason for not entering into a renewal contract. This includes when the renewal application does not rank high enough for NRCS to select it for funding. Refer to section 530.304D below for additional guidance on renewal applications and to exhibit 530.320H, “CSP Renewals and the 2-Year Ineligibility Period,” below for examples of how to handle typical scenarios.
- (5) For renewal applications, be in compliance with the terms and conditions of their existing contract at the time of renewal application, as determined by NRCS.

**Note:** This does not mean that the current business tools must show results consistent with the business tools used to evaluate the existing contract (i.e., the same resource concerns met).

#### D. Land Eligibility

- (1) Agricultural Operation
  - (i) An applicant’s agricultural operation includes all eligible and ineligible land as described below, whether contiguous or noncontiguous, that meets both of the following criteria:
    - Under the effective control of the applicant.
    - Operated by the applicant with equipment, labor, management, and production or cultivation practices that are substantially separate from other operations.
      - If the applicant provides NRCS with a written explanation and documentation that supports separate operations based on the criteria outlined in exhibit 530.320G, “Determining Substantially Separate Operations,” below, then NRCS must determine whether an applicant has more than one operation and document the determination in writing.
      - NRCS will keep all documentation that supports the determination in the participant’s case file.
  - (ii) A contract application must include all eligible land associated with an applicant’s agricultural or NIPF operation, except as identified in section 530.302D(4) below.
- (2) Eligible Land.—The following land may be part of the agricultural or NIPF operation, and eligible for enrollment in the program:
  - (i) Private agricultural land (cropland, pastureland, and rangeland)
  - (ii) Agricultural Indian lands (cropland, pastureland, and rangeland)
  - (iii) NIPF

(iv) Associated agricultural land (AAL)

**Note:** AAL must be associated with an agricultural or NIPF operation and cannot be enrolled on its own.

(v) Farmstead

(vi) Public land associated with the land uses described above, if under the effective control of the applicant, and if a working component of the producer's agricultural or NIPF operation

**Note:** Refer to Title 180, National Planning Procedures Handbook (NPPH), Part 600, Subpart A, Section 600.2, "Definitions," for land use designation definitions.

**Note:** An applicant must include AAL and farmstead in the delineation of their operation, but when these lands may be included as part of either an agricultural land or NIPF application, the applicant can only include the land in one of the applications.

- (3) NRCS determines land eligibility based on the land use, condition, and management at the time the producer requests assistance and verifies the determination prior to enrollment in the program.
- (4) Ineligible Land and Other Land Excluded from Enrollment.—The following lands, even if covered by the definition of eligible land, may be part of the agricultural operation, but are ineligible for enrollment in the program:

(i) Land enrolled in the Conservation Reserve Program (CRP), 7 CFR Part 1410.

- **Exception:** If the CRP contract expires at the end of the fiscal year in which the producer will enroll in CSP, the producer may include this land in the CSP application and NRCS assess the land based on the planned future condition.
- NRCS must remove land that participants enroll in CRP after enrollment in CSP in accordance with section 530.305D(4) below.

(ii) Land enrolled in an easement through the Agricultural Conservation Easement Program – Wetland Reserve Easement (ACEP-WRE) or the Wetland Reserve Program (WRP).

**Note:** Land enrolled in an ACEP Agricultural Land Easement (ACEP-ALE), Farm and Ranch Lands Protection Program (FRPP) easement, or in an existing Grassland Reserve Program (GRP) easement or rental agreement may be eligible for CSP, if allowed by these other programs.

(iii) Land enrolled in an unexpired CSP contract, including previously ineligible lands (AAL and farmstead) under the effective control of the applicant at the time of enrollment and considered part of the agricultural operation under contract.

**Note:** A participant may only enroll AAL and farmstead under a new contract if they meet the criteria for newly acquired, not newly eligible, land.

(iv) Land used for crop production on or after December 20, 2018, that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date, unless that land does not meet such requirements because the land—

- Was enrolled in CRP.
- Has been maintained using long-term rotations as determined by the designated conservationist.
- Is incidental land needed for efficient operation of the farm or ranch as determined by the designated conservationist, such as an area of a farm or ranch that was used for structures that have been removed.

**Note:** When available, NRCS may use FSA records or other documentation such as historical aerial photography, producer records, etc., to verify compliance with this crop history requirement.

- (v) Other lands that fail to meet the eligible land described in section 530.302D(2) above.

These include acres in other land uses as defined by 180-NPPH-600-A-600.2.

- (vi) Newly acquired or newly eligible land on which the applicant cannot demonstrate or document their management system.

The newly acquired or newly eligible land will become eligible and a producer can make a separate application once the applicant has established a documented management system on the land.

**Note:** Land not renewed under a prior contract can be considered newly eligible only when included in a subsequent renewal application. Refer to section 530.302C(4) above for eligibility restrictions for new CSP contracts.

- (vii) Leased land for which the applicant does not have effective control for the CSP contract term.

**Note:** NRCS must document the reason an applicant excludes any land from the application in the case file to ensure the land does not become part of the contract.

#### E. Stewardship Threshold Eligibility Requirement

- (1) NRCS uses applicable business tools to assess the resource concerns across an applicant's entire operation based on existing and planned management to determine the stewardship threshold. Refer to exhibit 530.320D, "CSP Regulation—7 CFR Part 1470," below for specific criteria used to establish stewardship thresholds.
- (2) For CSP classic applications, an applicant's documented conservation activities must meet or exceed the stewardship threshold as follows:
  - (i) At least two resource concern categories at the time of contract offer on all land uses included in the operation.
  - (ii) At least one additional resource concern category by the end of the conservation stewardship contract on at least one land use.

**Note:** Refer to section 530.306 below for policy on earning annual payments.

- (3) For CSP renewal applications, a renewal applicant must, by the end of the renewal contract period—
  - (i) Agree to meet or exceed the stewardship threshold of at least two additional priority resource concern categories on the agricultural operation; or
  - (ii) Implement new or improve existing conservation activities to achieve higher levels of conservation performance for a minimum of two priority resource concern categories met or exceeded in the initial contract.

**Note:** Refer to sections 530.302C and D above for additional renewal eligibility requirements.

**Note:** Since renewal applications are a continuation of the existing contract, all land uses included in the operation must meet at least two resource concern categories at time of application.

- (4) An applicant may meet or exceed different resource concern categories for each land use.
- (5) If the applicant fails to meet the required number of resource concern categories at the time of application for any land use, NRCS must determine the entire application ineligible.

## 530.303 CSP Planning

### A. Conservation Stewardship Plan

- (1) The conservation stewardship plan includes a record of the participant's decisions and identifies the new conservation activities the applicant agrees to implement to achieve additional conservation performance through the CSP contract. In addition, the conservation stewardship plan must include the existing activity payment items as described in section 530.303A(4) below. Refer to section 530.305A below for additional guidance on developing the schedule of operations.
- (2) NRCS develops and maintains the conservation stewardship plan using applicable business tools and in accordance with this manual and other national guidance for planning CSP conservation activities.
- (3) When developing the conservation stewardship plan, NRCS may only associate the program code with conservation activities that will receive financial assistance through the contract.
- (4) Planners must schedule two new existing activity payment items, E300EAP1 and E300EAP2, in the conservation stewardship plan. Planners should schedule the EAP items in September beginning the first year of enrollment. Refer to section 530.306 below for additional information on existing activity payments and how to calculate E300EAP1 and E300EAP2.
- (5) NRCS must also develop a conservation stewardship plan map following the guidance in subpart E, "Contract Development and Requirements," of this manual.

### B. Conservation Activities

- (1) General
  - (i) The term "conservation activities" includes conservation systems, conservation practices, enhancements, bundles, management measures, or planning used to address resource concerns.
  - (ii) NHQ will provide the list of conservation activities and guide sheets to the States and the public.
  - (iii) States may only remove conservation activities from the nationally established list if—
    - The State conservation practice database does not include the conservation practice or base conservation practice associated with an enhancement, or
    - When the specific activity is not applicable to the State.
- (2) Enhancements are conservation activities used to treat resource concerns and improve conservation performance. Enhancements address additional considerations or criteria that exceed the minimum requirements of the associated base conservation practice. NRCS identifies the enhancement criteria and implementation requirements in the enhancement guide sheet.
- (3) Bundles are land-use specific and consist of at least three enhancements, for which implementation as a group improves conservation performance and addresses multiple resource concerns in a comprehensive and cost-effective manner. Each bundle is its own conservation activity with a unique bundle code.
- (4) Resource-conserving crop rotation (RCCR) or improved resource-conserving crop rotation (IRCCR)
  - (i) An RCCR is a rotation that includes at least one resource-conserving crop, as determined by the State conservationist, that reduces erosion, improves soil fertility and tilth, interrupts pest cycles, builds soil organic matter, reduces depletion of soil moisture or otherwise reduces the need for irrigation in applicable areas, and may provide protection and habitat for pollinators. NRCS does not consider a fallow crop field a "crop rotation."
  - (ii) An IRCCR must enrich an existing RCCR by including an additional growing year for the perennial resource-conserving crop, substituting a perennial resource-conserving crop

for a row crop, or changing a perennial legume to a perennial grass or grass/legume resource-conserving crop.

- (iii) A resource-conserving crop is a crop that is one of the following:
  - A perennial grass;
  - A legume grown for use as a cover crop, forage, seed for planting, or green manure;
  - A legume-grass or diverse grass-forb mixture comprised of species selected for climate, rainfall, soil, and other region-specific conditions; or
  - A small grain grown in combination with a grass, legume, other forbs, or grass-forb mixture whether interseeded, relay-planted into the resource-demanding crop, or planted in rotation.
- (iv) State conservationists must identify resource-conserving crops for their States and make the list available to the public before a ranking period starts.
- (5) Advanced Grazing Management (AGM)
  - (i) AGM is the use of a combination of grazing conservation activities, as determined by NRCS, which may include management-intensive rotational grazing, that provide for improved soil health and carbon sequestration, drought resilience, wildlife habitat (including pollinator habitat), wildfire mitigation, control of invasive plants, and water quality improvement.

**Note:** An AGM system functions like, but is not, a bundle.
  - (ii) Refer to the AGM conservation activity guide sheet for AGM requirements.
- (6) Comprehensive Conservation Plan
  - (i) A comprehensive conservation plan is a conservation plan that meets or exceeds the stewardship threshold for each priority resource concern identified by NRCS across all land uses included in the operation.
  - (ii) Comprehensive conservation plans, like conservation activity plans (CAPs), require the participant to use a certified technical service provider (TSP) to develop the plan.

### 530.304 CSP Application Processing

A. Agricultural land must compete separately from NIPF. Refer to section 530.301A, “Funding Targets and Ranking Pools,” above for additional guidance.

B. Along with submitting Form NRCS-CPA-1200, “Conservation Program Application,” an applicant must—

- (1) Provide a map that identifies and delineates the boundaries of all eligible land uses and acres included in the operation.
- (2) Identify any ineligible land that is part of the operation as described above in section 530.302D(4).

**Note:** The applicant may provide a map or other documentation that identifies the ineligible land.

C. Producers may apply for another contract when they acquire new land or previously ineligible land becomes eligible; however, any application for “new land” must include all new land in the participant’s operation, under their effective control, that is not covered by any existing contract.

D. Contract Renewal

- (1) During the first half of the fifth year of the existing contract term, NRCS may allow a participant to apply and compete to renew their contract for an additional 5-year period. NRCS must establish the contract renewal application deadline early enough to allow adequate time for evaluation and funding prior to expiration of the existing contract.

- (2) State conservationists must use exhibit 530.320E, “Contract Renewal Notification Letter,” below to notify participants of a contract renewal opportunity.
- (3) Participants applying for contract renewal must submit Form NRCS-CPA-1200, and Form NRCS-CPA-1248, “Contract Renewal Offer Worksheet,” found as exhibit 530.320C below prior to the renewal application deadline.

**Note:** If the participant makes operational changes to the existing contract, after the participant submits the contract renewal application, NRCS may determine the renewal application “ineligible.”

**Note:** If the original participant requests to transfer the contract after they submit a renewal application, the original participant may transfer the renewal application to the new participant if NRCS approves the transfer modification prior to expiration of the existing contract.

- (4) At least one participant on the renewal application must be the same as the existing CSP contract holder.
- (5) Expired CSP contracts are not eligible for renewal.
- (6) A participant may cancel their CSP renewal application at any time prior to obligation. Refer to section 530.302C(4) above for future eligibility considerations.
- (7) Refer to section 530.305E below for additional information related to renewal contracts.
- (8) States must notify all unfunded renewal applicants of their status using exhibit 530.320F, “CSP Unfunded Renewal Notification Letter,” below.

#### E. Application Evaluation Process

- (1) Refer to subpart D, “Application Processing,” of this manual for guidance.
- (2) States must establish ranking criteria based on—
  - (i) The natural resource conservation and environmental benefits that result from the conservation treatment on all State-identified priority resource concerns at the time of application;
  - (ii) The degree to which the proposed conservation activities increase natural resource conservation and environmental benefit; and
  - (iii) Other consistent criteria necessary to address effectively national, State, and local priority resource concerns.

#### F. Field Verification

- (1) NRCS must complete a field verification prior to contract obligation for all CSP contracts to substantiate the accuracy of the information provided by applicants during the application process and to verify applicability of planned conservation activities.
- (2) NRCS may use existing documentation in the case file to substantiate knowledge of the operation and current management system if recently verified during field visits completed for payments, spot checks, annual contract reviews, or random quality assurance reviews.

**Note:** NRCS must complete an onsite field verification for applications that include newly acquired or newly enrolled land or where the applicant has made changes to the management system unless NRCS specifically evaluated the new land or management system during a recent field visit.

**Note:** If NRCS identifies discrepancies between FSA and NRCS records during field verification, NRCS will work with FSA and the applicant to attempt to resolve such discrepancies and document the basis for the final determination.

- (3) NRCS will review applicant records when conducting field verification and document whether the information is accurate in the conservation assistance notes or through another

State-approved method. The designated conservationist does not need to collect, store, or recalculate the data contained in the applicant's records.

- (4) If NRCS finds that applicant records or observations made during field verification do not support information provided by the applicant during the evaluation period, NRCS may determine that the application is ineligible.

### **530.305 CSP Contracting and Contract Management**

#### **A. Schedule of Operations**

- (1) For scheduling the existing activity payment contract items refer to section 530.303A above and section 530.306 below.
- (2) Planners must schedule and implement additional conservation activities as follows:
  - (i) In accordance with the conservation activity lifespan and contracting guidance provided on NHQ's annual "Activity List for Planners," and as appropriate, planners must schedule conservation activities to recur for the remaining years of the contract after the first year scheduled.
  - (ii) A participant must schedule and implement at least one additional conservation activity in the contract. Refer to section 530.306 below for policy on earning annual payments.
  - (iii) When an applicant only meets two resource concern categories at the time of application, the applicant must schedule and implement a conservation activity in order to meet or exceed at least one additional resource concern category by the end of the contract as described in section 530.302E above.
  - (iv) If the applicant has already met the requirement to address one additional resource concern category by the end of the contract, the applicant may choose to schedule and implement additional conservation activities to increase the level of conservation regardless of whether the additional activity meets or exceeds a resource concern category.
  - (v) Applicants who have not yet implemented the base conservation practice may schedule the conservation practice in addition to the enhancement in the CSP contract. If an applicant schedules the conservation practice with an enhancement, they must implement the conservation practice first or in conjunction with the enhancement.
  - (vi) Scheduling Bundles
    - The planner schedules the bundle for the year in which the participant will first implement all enhancements included in the bundle.
    - The planner will only schedule the bundle activity. The planner will not schedule the enhancements included within the bundle individually. Refer to section 530.303B(3) above.
    - The applicant may select and schedule a bundle if the applicant will be newly implementing the majority (more than 50 percent) of the enhancements included within the bundle.
    - The applicant may not plan multiple bundles on the same land if the bundles have any enhancements in common, or if individual enhancements of multiple bundles are incompatible on the same land use.
    - The applicant, working with the NRCS planner, determines the extent of the bundle to schedule on the land use. The applicant will not need to schedule and implement the bundle on the entire land use or land management system.
  - (vii) To adopt an RCCR or IRCCR—
    - NRCS considers an RCCR or IRCCR adopted when the participant plants the resource-conserving crop on at least one third of the rotation acres.

- NRCS schedules all acres of the RCCR or IRCCR beginning in the fiscal year the participant adopts the RCCR or IRCCR and in each subsequent year.
  - The participant must plant the resource-conserving crop on all scheduled acres by the fifth fiscal year of the contract.
- (viii) To adopt an AGM system—
- The applicant must schedule and implement one of the required grazing management enhancements and additional supplemental enhancement as described on the AGM activity guide sheet.
  - The participant must schedule and continue to implement AGM enhancements each year of the contract after adoption, as appropriate.

#### B. Contract Components

- (1) Policy in subpart E, section 530.42, “Contract Components,” of this manual applies to all CSP contracts.

**Note:** For CSP, the conservation plan and plan map described in subpart E, section 530.42B of this manual are the conservation stewardship plan and conservation plan map as described above in section 530.303A, “Conservation Stewardship Plan.”

- (2) Additionally, NRCS must retain copies of assessment documentation in the participant case file to support the stewardship threshold eligibility and existing activity payment components both at the time of enrollment and any updates made through a modification.
- (3) For renewal applications and contracts, NRCS considers Form NRCS-CPA-1248, “Contract Renewal Offer Worksheet,” found as exhibit 530.320C below, a critical contract document.

#### C. Contract Requirements

- (1) CSP contracts are for 5 years.

**Note:** Transition authority provided through the 2018 Farm Bill, authorized NRCS to extend FY 2014 and 2015 contracts for one additional year to allow these participants an opportunity to compete for a renewal contract under the new authority.

- (2) The participant must maintain and manage all—
- (i) Existing conservation activities across the entire agricultural operation to at least meet the level of conservation performance identified at the time of enrollment for the term of the conservation stewardship contract.
  - (ii) Additional conservation activities installed and adopted over the term of the conservation stewardship contract.

#### D. Contract Modifications

- (1) The State conservationist may only approve a modification request that decreases the performance level if the reason for the decrease is beyond the participant’s control. However, the participant must continue to meet the minimum stewardship threshold requirements for program participation and continue to meet as many resource concerns as remain feasible.
- (2) NRCS and the participant may agree to modify the contract to extend the expiration date, not to exceed 5 years from the date of enrollment, in order to implement policy requirements or to perform other administrative actions.
- (3) When NRCS approves a contract transfer from an individual or legal entity to a joint operation, contract limits will not increase due to such a change; however, when a contract transfers from a joint operation to an individual or legal entity, the contract limit will decrease, as applicable. Refer to section 530.306(6)(ii) below.
- (4) If a CSP participant wishes to enroll in CRP, an ACEP-WRE, or other Federal or State program as allowed in the CSP regulation—

- (i) The participant must request to remove acres from the CSP contract. NRCS must approve the request before the participant can enter into a contract for the new program.
  - (ii) The State conservationist must determine if the other Federal or State program provides greater natural resource protection than CSP prior to approving the modification to remove the acres from the CSP contract.
  - (iii) NRCS will modify the CSP contract to adjust the acres and performance level as applicable.
  - (iv) Participants are not subject to liquidated damages or refund of payments received for enrolling land in a program that provides increased natural resource protection.
- (5) Voluntary Land Use Conversion and Changes to Land Management Systems
- (i) To remain in compliance with a CSP contract, participants must request and NRCS approve a land use conversion or change to land management system prior to the participant implementing the change.
  - (ii) NRCS must evaluate the proposed change and may need to complete a new assessment to determine if the land continues to meet or exceed the number of resource concerns met at the time of enrollment and by the end of the contract.
  - (iii) When NRCS approves a land use conversion, the subject acres will retain the contracted land use designation for the life of the contract.
- (6) When the participant continues to retain control of the land, but wishes to remove acres from production, the State conservationist may approve removal of no more than five cumulative acres from the CSP contract during the contract term. The State conservationist may seek cost recovery of payments received on the acres removed and assess liquidated damages in accordance with subpart I, section 530.85, "Recovery of Costs and Liquidated Damages," of this manual.

**Note:** This does not apply to acres removed in accordance with section 530.305D(4) above.

**Note:** This does not apply when the participant involuntarily loses control of land enrolled in the contract. Refer to subpart G, section 530.60D, "Modification Reasons," of this manual.

(7) Partial Land Transfer (PLT) Modifications

For general guidance, refer to subpart G, section 530.60D of this manual. In addition, the following applies when processing PLTs for CSP contracts:

- (i) The new contract for the transferred land must maintain the same number of resource concerns met at time of enrollment as the original contract. The resource concern portion of the existing activity payment (EAP) for both contracts is based on the original contract. NRCS will adjust the land use EAP to reflect the acres and land uses remaining in the original contract and moved to the new PLT contract.
- (ii) When developing the new contract, there are two situations that may occur based on the schedule of implementation for the transferred land:
  - Contract contains only the EAP because no new conservation activities are scheduled on the transferred acres at the time of the transfer. The planner develops a new conservation stewardship plan that includes only the EAP contract items, E300EAP1 and E300EAP2, using the resource concerns met at time of application from the original contract and the land uses and acres included in the PLT contract. NRCS provides applicable documentation from the original contract to the transferee to be used as supporting documentation for the new contract (this includes, but is not limited to, copies of the original stewardship plan where previously adopted activities included on transferred land must be maintained for the life of the contract due to the activities' lifespan).

**Note:** NRCS must ensure that the same payment rate and cost list used in the original contract is used for the new contract.

**Note:** The transferee may not schedule new conservation activities and will not receive an additional activity payment.

- Contract contains EAP and additional activity payment (AAP) because conservation activities are scheduled on the transferred acreage. The planner develops a new stewardship plan and schedules both the EAP contract items (E300EAP1 and E300EAP2) and the additional conservation activities from the original contract that the new producer will implement on the transferred land.

**Note:** NRCS must ensure that the same payment rate and cost list used in the original contract is used for the new contract.

**Note:** The transferee's contract may not include additional conservation activities that were not part of the original contract.

- NRCS planners do not complete a new assessment for land associated with a partial contract assumption. The new contract inherits the assessments from the original contract and the transferee agrees to maintain the same level of conservation performance agreed to by the transferor on the transferred land.
- After NRCS approves a PLT, the agency evaluates any future contract violations based on the land and conservation activities included in each contract.

- (8) NRCS must not delay processing a modification request to transfer land or remove land from a contract in order to make a payment to the initial participant.

**Exception:** When a participant enrolls land in CRP effective October 1, NRCS will delay completing the modification to remove the acres enrolled in CRP in order to make the correct payment for CSP conservation activities completed in the prior fiscal year.

- (9) NRCS must not approve a cancellation or termination of an existing CSP contract for a producer to enroll land in the CSP Grassland Conservation Initiative (GCI).

E. Renewal Contracts.—Contract renewals are subject to the availability of funds, and the participant must meet all renewal requirements as follows:

- (1) NRCS requires renewal contract participants to maintain the level of stewardship achieved by the end of the existing contract term otherwise the contract renewal purpose is not met, and the contract is ineligible for renewal.
- (2) Participants must include land that is part of their operation including—
  - (i) All land that was part of the existing contract that remains under their effective control; and
  - (ii) Any newly acquired or newly eligible land that was not part of the existing contract but is under the participant's effective control.
- (3) The participant must agree to implement and continue to integrate new or improved conservation activities across the entire agricultural operation, demonstrating continued improvement during the additional 5-year period, as determined by NRCS. This requirement means that the participant must implement or maintain conservation activities on each land use, but not necessarily on every acre.
- (4) Participants may not schedule conservation activities adopted in the existing contract as new activities in the renewal contract unless they will implement the activities on land that has not yet received the conservation treatment.
- (5) NRCS must schedule new conservation activities planned in a renewal contract to start after the existing contract expires. Participants must not start any financially assisted conservation

activities in a renewal contract until the existing contract expires. NRCS must not approve early start waivers as described in subpart C, section 530.23B of this manual for renewal applications or contracts.

- (6) NRCS must obligate the renewal contract before the existing contract expires. The renewal contract period of performance begins the day after the existing contract's expiration date; NRCS requires a seamless transition from the existing contract to the renewal contract.

### 530.306 CSP Payment and Payment Limitations

CSP has four specific payment types: annual, supplemental, comprehensive conservation plan, and minimum payments.

#### (1) Annual Payments

##### (i) General

- CSP provides an annual payment comprised of contract items for existing conservation activities and additional conservation activities completed in the previous fiscal year.
- Annual payments may vary from year to year depending on the management system agreed to at the time of enrollment and the extent of additional activities completed each year. The annual payment may not include an additional activity component in years where the participant does not implement additional conservation activities.
  - Additional activity payments will be based on the actual extent of the conservation activity the participant completes each year.
  - Existing activity payments will be the same each year, unless NRCS approves a contract change.

**Note:** A producer enrolled in CSP and earning an EAP does not preclude the producer from receiving payments for conservation practices implemented under other USDA programs.

- The participant must meet the following requirement to earn payments:

Schedule and implement at least one additional conservation activity on a land use included in the contract. If the participant chooses not to schedule an additional activity on a land use, the participant will forego payment for that land use. Refer to section 530.305A above for additional guidance on scheduling conservation activities.

**Note:** To meet this requirement, the participant does not need to implement a conservation activity on the land use each year, but they do need to implement a conservation activity on the land use during the term of the contract.

**Note:** NRCS considers land uses not receiving annual payments enrolled in CSP and the participant must continue to maintain existing activities in accordance with the management system in place at the time of enrollment as documented in the assessment reports.

##### (ii) Determining Annual Payments

- The NRCS Chief establishes the payments rates for the existing conservation activity payment and for the additional conservation activities.
- The EAP is made up of two contract items as described in section 530.303A above. The EAP is comprised of a fixed payment rate per resource concern met at the time of application plus a per acre payment by land use.

- A CSP participant’s payments for existing and additional conservation activities are calculated as follows:
    - **EAP** formula =  $(A \times B) + ((C \times D) + (E \times F) + \dots)$ 
      - Where—
      - A = the number of resource concerns met at the time of application
      - B = standard resource concern payment rate (one standard rate per resource concern)
      - C = acres of land use #1
      - D = land use #1 payment rate
      - E = acres of land use #2
      - F = land use #2 payment rate
- Note:**  $(A \times B)$  is scheduled as contract item E300EAP2 and  $((C \times D) + (E \times F) + \dots)$  is scheduled as contract item E300EAP1 with separate components for each land use included in the operation.
- Note:** “A” is a sum of the resource concern categories met across all land uses included in the operation.
- The additional activity payment formula =  $(Y \times Z)$ 
    - Where—
    - Y = unit (acres, feet, etc.) quantity implemented
    - Z = activity payment rate
- Refer to table 530.306-1 for a summary of CSP payment percentages based on conservation activity or payment type.

**Table 530.306-1: CSP Payment Percentages**

Conservation Activity/ Payment Type	Payment Percentage
Enhancement	100%
Cover crop enhancement	125%
Bundle	115%
Conservation practice	10%
Supplemental payment (RCCR, IRCCR, AGM)	150%

- (iii) Supplemental Payments
  - Subject to the availability of funds, NRCS may provide supplemental payments to a participant receiving annual payments who agrees to implement an RCCR, IRCCR, or AGM during the term of the CSP contract.
  - The supplemental payment is based on the additional labor required to implement an RCCR, IRCCR, or AGM system.
  - Refer to section 530.305A, “Schedule of Operations,” above for additional information on scheduling supplemental payment activities.
- (2) Comprehensive Conservation Plan Payment - Reserved
- (3) Minimum Contract Payment
  - (i) As approved by the Chief, NRCS will pay the participant the difference between the contracted amount and \$1,500 in any fiscal year that a contract’s annual payment amount total is less than \$1,500, except as explained below.
  - (ii) The minimum payment does not apply when a participant with an existing CSP contract applies for a new contract to add newly acquired or newly eligible land that is part of the same operation.

- (iii) Minimum payments are separate contract items and the applicable business tool will automatically generate these items when the total contract amount in a given year falls below the minimum payment amount.
- (iv) Planners are responsible for ensuring that minimum payments are correctly applied and to identify contracts for newly acquired or newly eligible land as such in the applicable business tool.

**Note:** When a participant has a contract for both agricultural land and NIPF, the participant may receive a minimum payment for each contract, except as described in section 530.306(3)(ii) above.

(4) Timing of Payments

- (i) NRCS will make annual contract payments as soon as practicable after October 1 of each fiscal year for conservation activities completed in the previous fiscal year.

**Note:** Participants who enrolled in CSP contracts in FY 2019 or earlier may choose to receive payment in the first quarter of the fiscal year or delay their payment until the next calendar year.

- (ii) If the participant fails to maintain the number of resource concerns agreed to at the time of application and by the end of the contract refer to subpart I, “Contract Violations,” of this manual for guidance on handling noncompliance situations. Once NRCS evaluates the circumstances related to the noncompliance, the State conservationist will determine whether the existing activity payment and additional activity payments can be made as scheduled.

**Exception:** NRCS may make the EAP as scheduled when, due to a significant disaster or related condition (such as drought, wildfire, pestilence, hurricane, or flooding), NRCS determines that the participant cannot fully complete the program requirements. If NRCS makes such determination, NRCS will not issue Form NRCS-CPA-153, “Agreement Covering Non-Compliance with Provisions of Conservation Program Contract (CPC),” and will consider the program requirements met as long as the participant can provide documentation of their stewardship prior to the disaster. NRCS may also pay for any additional conservation practices or activities implemented by the participant prior to the disaster when NRCS either certified completion prior to the disaster or when NRCS determines participant documentation confirms completion. For additional guidance, refer to subpart G, section 530.64, “Reapplication of Failed Conservation Treatment,” of this manual.

- (iii) NRCS may approve payments after contract expiration only if the participant completed the conservation activities and NRCS certified the contract item in the applicable business tool as meeting requirements prior to contract expiration.

(5) Prohibited Payments

- (i) A CSP program payment to a participant must not include compensation for the design, construction, or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations.
- (ii) State conservationists must take the following actions to prevent duplicate payments:
  - Compare all USDA conservation program payment schedules in their State with the CSP activity list and, based on how the conservation activities are used in their States’ programs, compile a list of conservation activities that are, or may be, duplicative between CSP and other USDA conservation programs.
  - Ensure that planners review the enhancement compatibility lists to ensure duplicative enhancements are not planned on the same footprint in the same years.

- Issue State guidance to distribute the list of conservation activities considered duplicative to field personnel to assist in application servicing and contract administration.

(6) Payment Limitations

(i) Person or Legal Entity Payment Limitations

- A person or legal entity may not receive, directly or indirectly, payments that, in the aggregate, exceed \$200,000 for all CSP contracts originally obligated during FYs 2019 through 2023.

**Note:** Contracts obligated during FY 2019 continue to have an annual payment limitation of \$40,000 per year and are included in the \$200,000 payment limitation described above.

- Indian Tribes or Alaska Native corporations with contracts or other special funding arrangements are excluded from the person or legal entity payment limitations. Refer to subpart C, section 530.21B of this manual for additional information regarding payment limitations for Indian Tribes or Alaska Native corporations.
- NRCS may not be able to pay participants with multiple CSP contracts if the participant exceeds payment limitations. If this happens, the participant must still comply with the terms and conditions of all their contracts.
- NRCS monitors and tracks both direct and indirect payment limitations through a payment limitation service run through the applicable business tool. The payment limitation service runs a check on direct and indirect payment limitations when NRCS—
  - Runs payment instructions,
  - Approves a payment, and
  - Approves a modification.
- Payments under the 2014 Farm Bill do not count toward the payment limitations for contracts obligated under the 2018 Farm Bill.

**Note:** Planners are responsible for reviewing Form NRCS-CPA-1245, “Practice Approval and Payment Application,” prior to obtaining participant signature to ensure payments shown reflect the correct amount including any applicable reductions at the time the Form NRCS-CPA-1245 is generated.

(ii) Contract Limitations

- Each conservation stewardship contract with a person or legal entity will be limited to \$200,000 over the term of the initial contract period.
- Conservation stewardship contracts with joint operations (FSA business type 2 or 3) may have a contract limit of up to \$400,000 over the term of the initial contract period.

**Note:** Contracts NRCS obligated during FY 2019 only allowed a higher contract limit for joint operations using an Employer Identification Number (EIN).

- Indian Tribes or Alaska Native corporations are not subject to contract limits. Refer to subpart C, section 530.21B of this manual for additional information regarding contract limits for Indian Tribes or Alaska Native corporations.
- When NRCS approves a contract transfer from a person or legal entity to a joint operation, the contract limitation will not increase due to the change in business type. However, if NRCS approves a contract transfer from a joint operation to a person or legal entity, the contract limit will decrease for the remainder of the contract period. Refer to section 530.305D, “Contract Modifications,” above.

- (7) States must use payment caps as explained in subpart F, section 530.50G of this manual, to keep a contract within the established contract limits. When making these adjustments, States must—
  - (i) First, adjust the EAP contract items, but do not reduce any EAP items to zero dollars.
  - (ii) Second, if the contract requires additional adjustments to meet contract limits, apply practice caps to the additional activities.
  - (iii) Apply payment caps across contract items to allow the participant to receive equal annual payments, to the maximum extent practical.
  - (iv) Ensure that after applying payment caps, the annual payment does not fall below the minimum payment amount as described in 530.306(3) above.

**Note:** States must not cap contract items to front load the annual payments.

### 530.310 CSP Grassland Conservation Initiative (CSP-GCI)

#### A. General

- (1) This section contains policy specific to the administration of CSP-GCI applications and contracts. Unless otherwise stated, this section contains all relevant policy for CSP-GCI.
- (2) NRCS and the FSA share the administration of CSP-GCI.
- (3) NRCS will not rank CSP-GCI applications.
- (4) Land already enrolled in an unexpired CSP contract is ineligible for enrollment in CSP-GCI. Refer to sections 530.310C(1) below, and 530.305D(9) above, of this subpart for additional information.

#### B. CSP-GCI Application for Assistance

- (1) FSA will send letters to producers with potentially eligible land informing them of the opportunity to apply for CSP-GCI and providing an application deadline. NRCS will not announce a signup.
- (2) NRCS may offer producers who receive a letter, or who are associated with land included in a letter, an opportunity to enroll eligible base acres in the CSP-GCI. If NRCS determines that an application is ineligible, follow guidance in subpart C, section 530.23G of this manual to notify the applicant and provide appeal rights.
- (3) NRCS will provide producers a one-time enrollment opportunity; however, producers may choose to enroll in any fiscal year between 2019 and 2023. This means that producers who choose to enroll a portion or all FSA-identified eligible base acres will be ineligible to enroll uncontracted acres in a subsequent enrollment period.

**Exception:** A producer may apply for an additional contract on newly acquired or newly eligible land in a subsequent enrollment period.

- **Example 1.** Eligible base acres exist in an active CSP contract. When the active CSP contract expires, the producer can enroll the acres in a new CSP-GCI contract.
- **Example 2.** FSA identifies additional eligible base acres after the application period ends. The producer can enroll newly identified acres in a new CSP-GCI contract during a subsequent enrollment period.

#### C. Eligibility

- (1) Eligible Land
  - (i) FSA determines which farms or tracts contain base acres that may be eligible for CSP-GCI. This may include eligible land described in section 530.302D(2) above.

**Note:** Land potentially eligible for the CSP-GCI consists of cropland for which FSA has documented that the producer has maintained the base acres as grass, idle, or fallow for at least the period January 1, 2009, through December 31, 2017.

**Note:** The NRCS planner will work with the producer to delineate the acres included in the CSP-GCI application on the eligible farms or tracts.

- (ii) Only base acres FSA determines eligible for CSP-GCI may be enrolled in a CSP-GCI contract; no additional acres may be included in the CSP-GCI contract.

**Note:** States should consult with FSA when eligible base acres are identified on land that is in nonagricultural use (e.g., buildings, parking lots, roads, permanently flooded, etc.).

- (iii) Ineligible land, as described in section 530.302D(4) above, may not be enrolled in CSP-GCI, even if base acres are identified on these lands.

**Exception:** The crop history provision (section 530.302D(4)(iv), above) does not apply to eligible base acres enrolled in the CSP-GCI.

- (iv) Land previously enrolled in a CSP-GCI contract is ineligible for reenrollment. Refer to section 530.310F(6)(iii) below.

(2) Applicant Eligibility

CSP-GCI applicants must meet the applicant eligibility requirements outlined in sections 530.302C(1) through (3) above.

**Note:** For CSP-GCI, NRCS considers land enrolled under a grassland conservation contract during a crop year to be planted or considered planted to a covered commodity (as defined in section 1111 of the Agricultural Act of 2014 (7 U.S.C. 9011)) during that crop year.

D. Planning

- (1) Participants must address resource concerns and maintain the minimum level of resource protection provided by grassland or permanent vegetative cover on CSP-GCI eligible land regardless of whether the producer plants a crop on enrolled land.

**Note:** Permanent vegetative cover for the purposes of CSP-GCI may also include other vegetative and woody species.

- (2) Applicants must identify one priority resource concern that they agree to meet or exceed prior to CSP-GCI contract expiration. Planners must record the priority resource concern identified by the applicant in the conservation stewardship plan and in the applicable business tool.

**Note:** Once contracted, a participant may not change the priority resource concern selected at the time of application.

- (3) NRCS may use visual inspection to verify that the participant has met the priority resource concern and document the determination in the conservation assistance notes in the participant case file.
- (4) NRCS will develop the conservation stewardship plan for the eligible acres and plan conservation activity code E300GCI, "Grassland Conservation Initiative Activity (GCI activity)" as "CSP-GCI". If the enrolled land is cropped, include any additional conservation activities required to meet grassland resource concerns within the conservation stewardship plan.

**Note:** Any additional conservation activities must be planned as "CTA" and the participant must adopt and maintain them to receive a CSP-GCI payment.

E. Application

- (1) Producers interested in enrolling in CSP-GCI must comply with all application requirements in subpart C, section 530.22, “Application Requirements,” of this manual.
- (2) Producers will apply as described in subpart C, section 530.23A, “Submitting Applications,” of this manual.
- (3) NRCS will confirm with FSA that the land the applicant has identified for enrollment meets CSP-GCI land eligibility.
- (4) NRCS must document the land use/cover of the eligible acres prior to contract obligation based on a field visit or working knowledge of the farm.
- (5) If NRCS determines that an applicant or the land requested for enrollment in CSP-GCI, is ineligible, follow guidance in subpart C, section 530.23G of this manual for servicing ineligible applications.

F. Contracting

- (1) Policy in subpart E, section 530.42, “Contract Components,” of this manual applies to CSP-GCI contracts.
- (2) For CSP-GCI contracts, Form NRCS-CPA-1155, “Conservation Plan or Schedule of Operations,” will include only the GCI activity (code E300GCI) scheduled for all 5 years of the contract.
- (3) CSP-GCI contracts are for 5 years with no opportunity for renewal.
- (4) NRCS will conduct annual contract reviews in accordance with subpart H, section 530.71D “Annual Contract Reviews,” of this manual, and ensure that the participant continues to maintain the enrolled land in permanent vegetative cover or is managing enrolled land planted to crops in accordance with their conservation stewardship plan.
- (5) Refer to policy in subpart G, section 530.60D of this manual for guidance related to contract transfers.
- (6) CSP-GCI contract cancellations
  - (i) Participants may request to cancel their CSP-GCI contract either in whole, or in part, at any time and for any reason.
  - (ii) State conservationists must not seek collection of payments previously made through the contract or assess liquidated damages.
  - (iii) If a participant cancels a CSP-GCI contract, the canceled base acreage is ineligible for enrollment in a future CSP-GCI contract.

G. Payment and Payment Limitations

- (1) The CSP-GCI contract payment rate is \$18 per acre, not to exceed the enrolled eligible base acres and NRCS will only pay for conservation activity E300GCI.
- (2) Payments for additional conservation activities required to meet the minimum level of resource protection provided by permanent vegetative cover cannot be contracted through another program. These conservation activities are included within the \$18 per acre CSP-GCI payment rate.
- (3) NRCS will process CSP-GCI payments following policy in subpart F, “Payments,” of this manual, and section 530.306(4), “Timing of Payments,” above.
- (4) Participants enrolled in CSP-GCI are not subject to CSP payment limitations for payments earned through a CSP-GCI contract and no contract limit applies to CSP-GCI contracts.

### 530.320 CSP Exhibits

- A. CSP Preobligation Checklist
- B. CSP-GCI Preobligation Checklist

Title 440 - Conservation Programs Manual

- C. Form NRCS-CPA-1248, “Contract Renewal Offer Worksheet”
- D. CSP Regulation—7 CFR Part 1470
- E. CSP Contract Renewal Notification Letter
- F. CSP Unfunded Renewal Notification Letter
- G. Determining Substantially Separate Operations
- H. CSP Renewals and the 2-Year Ineligibility Period

## Part 530 – Working Lands Conservation Programs Manual

### Subpart R – Environmental Quality Incentives Program (EQIP)

#### 530.400 General

##### A. Program Purpose

- (1) The Environmental Quality Incentives Program (EQIP) provides financial and technical assistance to eligible agricultural and nonindustrial private forest land producers to implement conservation practices and activities.
- (2) EQIP is authorized to promote agricultural production, forest management, and environmental quality as compatible goals, and to optimize environmental benefits by—
  - (i) Assisting producers in complying with local, State, and Federal regulatory requirements concerning soil, water, air quality, wildlife habitat, energy, and other related natural resource concerns.
  - (ii) Providing flexible assistance to producers to implement conservation practices or activities on eligible land that address natural resource concerns in a cost-effective and environmentally beneficial manner.
- (3) If conflicts between this subpart and other subparts of Part 530 exist, the policy in this subpart will prevail.
- (4) Refer to section 530.408 below for policy and guidance specific to EQIP incentive contracts.

##### B. Authority

- (1) This subpart contains NRCS policy, guidance, and operating procedures for EQIP in accordance with the EQIP regulation at 7 CFR Part 1466. Refer to exhibit 530.420D, “EQIP Regulation—7 CFR 1466,” below, and subpart O, exhibit 530.143I, “Food Security Act of 1985, as Amended,” of this manual
- (2) This subpart is effective for new enrollments during fiscal year 2020 and forward until superseded, including new EQIP contracts that are enrolled under the framework of a 2014 Farm Bill Regional Conservation Partnership Program (RCPP) project. States will continue to administer contracts enrolled prior to 2020 in accordance with the regulations and contract appendix in effect on the date of obligation.
- (3) Refer to 440-CPM, Part 529, “Regional Conservation Partnership Program,” for additional guidance related to 2014 Farm Bill RCPP projects that include RCPP-EQIP contracts.

##### C. Applicability

EQIP is available in all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**Note:** Throughout this subpart, use of “2018 Farm Bill” refers to December 20, 2018, through September 30, 2023.

#### 530.401 EQIP Funds Management

A. Refer to subpart B, “Managing Funds,” of this manual for general guidance about setting up and managing program funds, spending limits, and payment schedules.

**Note:** Refer to annual allocation letters for detailed funding information.

B. Funding Targets and Ranking Pools

- (1) States must target at least—
  - (i) 10 percent of available funds to wildlife habitat related practices.
  - (ii) 50 percent of available funds to livestock related practices.
  - (iii) 5 percent of available funds for beginning farmers or ranchers (BFR).
  - (iv) 5 percent of available funds for socially disadvantaged farmers or ranchers (SDFR).

**Note:** Refer to 440-CPM, Part 502, “Terms and Abbreviations Common to All Programs” for additional information and definitions.
- (2) States must set aside funds for conservation innovation grants (CIG) State components, if offered.
- (3) States must establish BFR and SDFR ranking pools.
- (4) NRCS will give preference to veteran farmers or ranchers (VFR), if they are competing in the BFR or SDFR ranking pools. Refer to section 530.404C(4) below for information on veteran’s preference.
- (5) States are encouraged to create at least one wildlife habitat-focused ranking pool supported with appropriate funding and applicable conservation practices and activities.
- (6) Additional guidance to target funding for EQIP national programmatic and landscape conservation initiatives (LCI), and source water protection will be provided through a national instruction or other agency directives.
- (7) Other criteria for creating ranking pools include—
  - (i) Grouping applications to the greatest extent practicable by similar crop, forestry, or livestock operations for evaluation purposes or otherwise evaluating each application relative to similar applications.
  - (ii) Developing ranking pools to address a specific resource concern, geographic area, or type of agricultural operation.
  - (iii) Limiting ranking pools to the minimum number needed to rank and approve applications effectively.

**Note:** Refer to the applicable business tool guidance, and National Instruction 440-310 “NRCS Program Ranking through Conservation Assessment Ranking Tool (CART),” for information on creating ranking pools.

### 530.402 EQIP Eligibility

A. General Eligibility.—Refer to subpart C, “Application for Assistance,” of this manual for general eligibility requirements. For EQIP, the following eligibility requirements must be met:

- (1) Applicant Eligibility
- (2) Land Eligibility
- (3) Resource Concern Eligibility.—At least one natural resource concern must be identified and addressed with an eligible conservation practice or activity.

B. Applicant Eligibility.

- (1) To be an eligible participant for EQIP, an applicant must—
  - (i) Be an agricultural producer according to the policy in subpart C, “Application for Assistance,” of this manual, and
  - (ii) Be within the Applicable EQIP Payment Limitations.—Applicants must be within the applicable payment limitation requirements specified in section 530.406 below.
- (2) Additional eligibility considerations include—
  - (i) Historically Underserved and Veteran Applicants.—Participants who are eligible for EQIP and self-certify as meeting the requirements of any of the HU designations are eligible for the following:

- **Increased Payment Rate.**—HU participants must be awarded the applicable payment rate plus an additional rate that is not less than 25 percent above the applicable rate and that does not exceed 90 percent of the estimated incurred costs, as documented in an approved payment schedule. For landowners applying for EQIP, refer to subpart C, section 530.21A(4) of this manual.
- **Advance Payments.**—HU participants may elect to receive advance payments for a portion of the anticipated costs associated with purchasing materials or services to implement a conservation practice. Advance payments are eligible for assignment to vendors. Refer to subpart F, “Payments,” of this manual, and section 530.406B(2) below for additional information.

**Note:** States must follow the guidance in section 530.401 above to ensure funding targets are met for BFR and SDFR participants.

- (ii) **Water Management Entities.**—A State irrigation district, ground water management district, acequia, land grant-merced, or similar entity that has jurisdiction or responsibilities related to water delivery or management to eligible lands. Water management entities may enter into an EQIP contract if all the following criteria can be met:
- the water management entity is a public or semi-public agency or organization (meaning a private or public company that serves a public purpose such as a public utility); and
  - the water management entity purpose is to assist private agricultural producers with managing water distribution or conservation systems; and
  - the water conservation or irrigation practices support a water conservation project that will effectively conserve water, provide fish and wildlife habitat, or provide for drought-related environmental mitigation.
    - Refer to section 530.404D below, for additional information on requirements for water conservation projects.
    - Refer to section 530.406 below for payment limitation and adjusted gross income (AGI) waiver information specific to water management entities.
- (iii) **Group Project.**—Participants may enroll in group projects according to guidelines established in this subpart. These projects are made up of two or more eligible applicants with two or more operations, intending to pool resources, efforts, finances, or other contributions to address collaboratively, the same resource concerns. Group projects are permitted when resulting in a greater conservation benefit than individual participation, or in a cost savings. Depending on the type of project, NRCS may evaluate and rank a group project:
- As one contract with multiple producers. A single contract may be appropriate if the success or failure of the project depends upon all participants successfully implementing their portion of the project. Additionally:
    - In this instance, should one participant violate the contract, the other participants may be impacted.
    - These contracts may be eligible for a higher contract limit. Refer to section 530.406C below for information regarding contract limitations.

**Examples:** Multiple producers agree to build an anaerobic digester, or to replace an irrigation ditch that services several operations.
  - As individual contracts with each participating producer. Individual contracts may be appropriate if the project can remain successful even if a member does not

complete their contract. These contracts are not eligible for higher contract limits as identified in section 530.406C below.

**Example:** A group of producers recognize that an identified area or region is contributing excess nutrients to a stream. The producers may enter into a group project whereby they all agree to implement conservation practices on their individual operations that will significantly contribute to the reduction of nutrients in the stream. The success or failure of one producer does not impact the ability of the other participants to implement their contracts.

**Note:** State conservationist may accept one application for group projects or separate applications with each member of the group project.

### C. Land Eligibility.

- (1) Land included in the EQIP application must be agricultural or nonindustrial private forestland and one of the following:
  - (i) Privately owned land.
  - (ii) Publicly owned land that meets all the following criteria:
    - The land is a working component of the participant’s agriculture or forest land operation
    - The participant has control of the land.
    - The conservation practices to be implemented on the public land are necessary and will contribute to an improvement in the identified natural resource concern.
  - (iii) Indian land that meets any of the following criteria:
    - Land held in trust by the United States for individual Indians or Indian Tribes.
    - Land, the title to which is held by individual Indians or Indian Tribes subject to Federal restrictions against alienation or encumbrance.
    - Land that is subject to rights of use, occupancy, and/or benefit of certain Indian Tribes
    - Land held in fee title by an Indian, Indian family, or Indian Tribe.
  - (iv) NRCS determines that the planned conservation practices will address a natural resource concern. Refer to section 530.403A below for additional information.

**Exception:** Permanently submerged lands may be eligible if all the following apply: the EQIP conservation practices will be tied to the underlying land; the proposed EQIP conservation practices address an identified natural resource concern; and FSA has established farm records for the submerged land area.

- (2) Irrigation History Requirements.—Land offered for enrollment in EQIP must have been irrigated for at least 2 out of the last 5 years to qualify for irrigation-related conservation practices and activities that improve water conservation. NRCS provides the following exceptions and waiver opportunity:
  - (i) Drought Exception.—Applicants who have been impacted by prolonged drought may still meet the irrigation history requirement without having to request a waiver, if all the following conditions are met:
    - The land must still meet the “2 out of the last 5 years” criteria, but it is based on the years directly preceding the start of the drought.
    - The drought, as determined by the U.S. Drought Monitor Classification, is at the D2 “Severe Drought” level or higher.
    - NRCS certifies that the current irrigation system is in working condition (aside from the lack of water resulting from the drought).

- NRCS can show that the irrigation system improvement will result in a significant gain in irrigation efficiency once the drought has ended.
  - (ii) Conservation Practice Exception.—When an irrigation-related conservation practice is implemented for a purpose of applying liquid waste generated from an animal feeding operation (AFO) to pasture or cropland, the irrigation history requirement does not apply.
  - (iii) Irrigation History Waiver.—Applicants who are an Indian Tribe, or who self-certified as a limited resource or socially-disadvantaged farmer or rancher, may request in writing, a waiver of the irrigation history requirement to the State conservationist. The Chief, or designee, may approve the waiver if the requirements are met as outlined in exhibit 530.420C, “Irrigation History Waiver Worksheet,” below.
- (3) Water conservation or irrigation practices that are the subject of a water conservation project must be implemented on—
- (i) Eligible land of a producer; or
  - (ii) Land that is under the effective control of the water management entity; or
  - (iii) Adjacent to eligible land of a producer, provided the State conservationist determines the adjacent land is necessary to support the installation of a conservation practice or system implemented on eligible land.
  - (iv) Refer to section 530.404D below for additional information on requirements for water conservation projects.

**Note:** Land that is under the effective control of a water management entity may be eligible, even if it is not agricultural land or nonindustrial private forestland. See exhibit 530.420F, “EQIP Water Management Entity Flowchart” below.

#### D. Documenting Land Eligibility

The applicant is responsible for providing documentation to establish and document land eligibility for EQIP. NRCS may certify agricultural or forest land eligibility through a visual assessment with corresponding conservation assistance notes. Documentation should include the following information as applicable:

- (i) The crop type produced.
- (ii) The livestock type produced.
- (iii) If the land has existing tree cover or is capable of growing trees and is owned by any nonindustrial private forest land individual, group, association, corporation, Indian Tribe, or other private entity.

#### E. Ineligible Land

- (1) Land currently enrolled in other conservation programs may be ineligible for EQIP, including the following:
- (i) Land enrolled in the Conservation Reserve Program (CRP) is ineligible.  
**Exception:** Land offered for enrollment in EQIP during the last year of the CRP contract may be eligible, and no EQIP conservation practice or activity will be implemented on that land until after the CRP contract has expired or has been terminated.
  - (ii) Land enrolled in the Agricultural Conservation Easement Program (ACEP) under the wetland reserve easement (WRE) component or its predecessor, the Wetlands Reserve Program (WRP).  
**Exception:** Under reserved grazing rights of the ACEP-WRE, EQIP may be available for certain grazing-related practices not covered by ACEP.
  - (iii) Land enrolled in the Conservation Stewardship Program Grasslands Conservation Initiative (CSP-GCI) is eligible for EQIP only if the proposed conservation practices and

activities address a resource concern different from the resource concern being addressed through the CSP-GCI contract.

- (2) Permanently submerged lands unless they meet the eligibility criteria in section 530.402C(1) above.

### **530.403 EQIP Planning**

#### **A. Eligible Conservation Practices and Activities**

- (1) The planning land unit (PLU) is the minimum treatment area for an EQIP contract. Refer to Title 180, National Planning Procedures Handbook, Part 600 for additional information related to conservation planning.
- (2) Eligible Conservation Practices and Activities.—An eligible land-based conservation practice or activity includes only those listed in the conservation practice database and includes:
  - (i) Structural, management, vegetative, and other improvements that achieve program purposes in accordance with the Field Office Technical Guide (FOTG). Refer to section 530.406 below for information about limits on the number of payments for conservation practices or activities.
  - (ii) Retrofitting of structural practices and activities is allowed, if all of the following criteria are met:
    - Retrofitting is supported by the conservation practice standard.
    - A higher level of conservation benefit (e.g., irrigation water conservation or water savings) will be documented.
    - The resulting conservation practice must be more cost effective than an alternative replacement system.
    - Retrofitting may not be used only to avoid normal operation and maintenance (O&M) of an existing conservation practice.
    - Payment schedule scenarios that support retrofitting must be approved through the national payment schedule process prior to contracting.
  - (iii) Conservation Activity Plans.—Conservation practices include the development of conservation activity plans (CAPs) meeting the approved planning criteria in FOTG and must be developed by a certified technical service provider (TSP).
  - (iv) Conservation Planning Assessment.—A report, as determined by the State conservationist, to assess rangeland or cropland function and that includes conservation activities to enhance the economic and ecological management of the land. The assessment may be incorporated into a comprehensive planning document to assist with conservation program delivery, and is developed by a—
    - State or unit of local government, including a conservation district;
    - Federal agency; or
    - Third-party provider certified to provide technical assistance, including a certified rangeland professional.
  - (v) Conservation measurement and evaluation activities are funded through EQIP, as approved by the Deputy Chief for Programs, and include the actions using acceptable tools and protocols necessary for the development of a plan appropriate to address either of the following:
    - Measurement and evaluation of the effectiveness of currently implemented on-farm conservation practices adopted through EQIP (e.g., edge-of-field water quality monitoring).
    - Adapting existing or new conservation practices to achieve a conservation benefit.

- (3) Producers may apply for conservation practices through EQIP to treat resource concerns when the same land is already enrolled in a CSP contract as long as the conservation practices implemented under EQIP are not duplicative with conservation practices or activities included in the CSP contract.
- (4) Practices that the producer is required to implement to comply with laws, regulations, or permits may still be eligible for EQIP financial assistance and include, but are not limited to:
  - (i) Conservation practices and contracts associated with highly erodible land compliance plans (not associated with land identified as being in noncompliance).
  - (ii) Compliance with a “cease and desist order” issued by an administrative body or State agency.
  - (iii) Federal, State, or local agency permit or regulatory requirement.
  - (iv) “Agreed-to order” from a State administrative or regulatory agency.

B. States will annually review existing conservation practices and activities with input from the State technical committee, and make available conservation practices and activities, including CAPs. All conservation practices and activities, including supporting conservation practices as applicable, must meet the intent of the program and address at least one resource concern. States are required to offer conservation practices and activities that support the national initiatives.

C. Expected Resource Concerns.—In certain situations on existing agricultural or nonindustrial private forest operations, NRCS may provide financial assistance to address resource concerns that are expected to develop over the life of the contract. NRCS must follow the criteria below when evaluating these requests:

- (1) Changes to Production Systems and Land Uses.—Producers may be eligible for conservation practices and activities that facilitate an environmentally beneficial change if all the following criteria are met:
  - (i) The change results in a higher level of conservation benefit as documented on Form NRCS-CPA-52, “Environmental Evaluation Worksheet.”
  - (ii) The conservation practices or activities will treat expected resource concerns associated with the change in production system or land use, and without which the planning criteria cannot be met.
  - (iii) To help ensure the change results in sustained conservation benefit, NRCS may include a corresponding management practice in the contract.
- (2) Conservation Reserve Program (CRP).—Landowners or operators with active CRP contracts may apply for and enroll their land in EQIP beginning on October 1 of the last fiscal year of the CRP contract in order to address the expected resource concerns of the land’s return to production. They may begin the establishment of conservation practices under EQIP at that time; however, they cannot receive payment for those practices until the CRP contract expires.
- (3) Adapting to Changing Environmental Factors.—Producers adapting their operations to changes in the natural environment, such as increased weather volatility, drought, or air quality levels, may apply for EQIP funds to implement conservation practices to address those new resource concerns.
- (4) Adapting to Changing Circumstantial Factors.—Producers adapting their operations to changing circumstances beyond their control, such as new agricultural regulations or changes in the community (e.g., new residential development near the farm, new community farms in existing urban areas, and other changes), may apply for EQIP funds to implement conservation practices to address those new resource concerns.

D. Animal Feeding Operations (AFO).—The requirement to develop a comprehensive nutrient management plan (CNMP) applies only to operations where animals are kept and raised in confined

situations. Refer to section 530.405A below for information regarding CNMP requirements for contract development.

- (1) Expanding an existing AFO is eligible for financial assistance provided all the following requirements are met:
  - (i) The application will address existing and new resource concerns associated with expanding an existing AFO.
  - (ii) The sole purpose of the conservation practices or activities is not exclusively to enhance agriculture production without addressing a natural resource concern.
  - (iii) The project will result in conservation benefits.
  - (iv) The CNMP will be updated to reflect the changes to the AFO.

**Note:** Expansion of an existing AFO is not limited to land that is contiguous with the existing operation, but State conservationists may establish appropriate screening and ranking criteria to prioritize need based on geographic location or severity of resource concerns to be developed.

- (2) Relocating an existing AFO is eligible when—
  - (i) NRCS determines that resource concerns associated with an existing facility cannot be adequately addressed at the existing site, but they can be addressed at the relocated site.
  - (ii) In these cases, the producer must completely remove or repurpose the original facility to ensure that the identified resource concerns do not persist at the original site (e.g., EQIP assistance may be used to relocate an existing AFO facility that is located within a floodplain which has frequent flood events).

**Note:** Expanding an AFO is not covered by any of NRCS’s categorical exclusions (CE). Relocating an AFO out of the 100 yr-floodplain or the breach inundation area of an existing dam or other flood control structure may be covered under CE 6. Site-specific environmental impacts of expansion or relocation of the AFO must be thoroughly analyzed and documented on the Form NRCS-CPA-52, “Environmental Evaluation Worksheet.” If the site-specific impacts of the AFO expansion or relocation cannot meet the criteria for using CE 6 described in Title 190, National Environmental Compliance Handbook (NECH), Part 610, Section 610.46, or exceed the impacts described and analyzed in the programmatic environmental assessment (EA) or other existing EAs or environmental impact statement (EIS) prepared or adopted by NRCS, States must prepare a site-specific EA/EIS, with a Finding of No Significant Impact (for an EA) or Record of Decision (for an EIS) signed by the State conservationist before proceeding. Refer to the NECH, Subpart E, for guidance on preparing National Environmental Policy Act (NEPA) documents. Contact your State environmental liaison for assistance.

**Note:** Refer to 440-CPM-502, “Terms and Abbreviations Common to All Programs,” for the definition of animal feeding operation (AFO).

#### E. High Priority Practice

- (1) NRCS, with input from the State technical committee, may designate up to 10 practices to be eligible for increased payments for conservation practices that—
  - (i) Address specific causes of ground or surface water impairment relating to excessive nutrients;
  - (ii) Address the conservation of water and declining aquifers, and mitigate drought;
  - (iii) Meet other environmental priorities and other priority resource concerns identified in habitat or other area restoration plans; or
  - (iv) Are geographically targeted to address a natural resource concern in a specific watershed.

- (2) States might also consider the following for selection of their high priority practices:
  - (i) Practices identified as a priority through assessments completed at the area or State level;
  - (ii) Practices that have high potential for conservation benefit but are underutilized;
  - (iii) Specific geographic areas where a practice is historically underutilized, or
  - (iv) Practices with an underutilized practice purpose (e.g., over crop purpose is to improve water quality by planting crops that take up excess soil nutrients).

**Note:** See 530.406B, “EQIP Payments” below for high priority practice payment rates.

F. Source Water Protection.—As identified in section 530.401 above the 2018 Farm Bill included specific provisions to protect sources of drinking water by identifying practices that have a significant water quality or water quantity benefit and implementing those practices where source waters can be protected or improved. States, with input from community water systems and the State technical committee, will—

- (1) Identify priority areas for the protection of source waters for drinking water;
- (2) Identify practices that address water quality and water quantity concerns, and that will target identified threats to community water systems; and
- (3) Within the identified priority areas, offer producers increased incentives and higher payment rates as indicated in section 530.406B, figure 530-R1, “Authorized Cost Categories and Maximum Payment Percentages for EQIP,” below.

**Note:** Conservation practices identified as high priority practices, may be the same as the conservation practices identified under source water protection, if the high priority practices meet the criteria for source water protection.

**Note:** Refer to section 530.406 below for information related to higher payment rates.

#### G. Wildlife Habitat

- (1) States will at least annually, consult with State technical committees, Tribal Conservation Advisory Councils, local work groups, and other stakeholders to identify conservation practices that meet appropriate purposes and criteria to address EQIP priorities to establish wildlife habitat including—
  - (i) Upland wildlife habitat;
  - (ii) Wetland wildlife habitat;
  - (iii) Habitat for threatened and endangered species;
  - (iv) Fish habitat;
  - (v) Habitat on pivot corners and other irregular areas of a field; and
  - (vi) Other types of wildlife habitat, as determined by the State conservationist.
- (2) Other eligible wildlife habitat conservation practices may include:
  - (i) Practices that carry out postharvest flooding; or
  - (ii) Practices on up to 2 acres of working cropland that maintain the hydrology of temporary and seasonal wetlands to maintain waterfowl and migratory bird habitat on working cropland.
- (3) States may offer contracts with a term of up to 10 years with one or more annual management practices solely for the purpose of restoration, development, protection, and improvement of wildlife habitat. Refer to section 530.406B(4) below for guidance limitations on contracting management practices.

#### H. Ineligible Conservation Practices and Activities Include Those—

- (1) For which the sole purpose is to enhance production without addressing a natural resource concern. Examples include:

- (i) Conservation Practice Standard (CPS) Water Well (Code 642) used to bring new land under irrigation or to replace an existing irrigation well, unless the criteria above in section 530.403F are met.

**Note:** Domestic wells to provide water to a residence are prohibited.

- (ii) CPSs Fence (Code 382) or Access Control (Code 472) when the sole purpose is to—
  - Function as a boundary fence, separate ownership, or exclude domestic livestock from transportation networks or residential, commercial, or industrial areas.
  - Exclude pests, including species such as deer, feral hogs, wild animals, predators, rodents, or other animals from cropland.

**Exception:** CPS Fence (Code 382) may be eligible if used for—

- Expired or expiring CRP land to establish a grazing operation. Refer to section 530.402E above for additional information.
- To protect, restore, or enhance environmentally sensitive areas, such as a riparian areas or wetlands.
- To facilitate a beneficial change in production system per section 530.403C, “Expected Resource Concerns,” above.

- (2) That the applicant previously implemented, unless the criteria relating to achieving a higher level of quality or conservation benefit are met or waived by the Chief or designee.

**Note:** EQIP may be used to reapply a structural or vegetative conservation practice or activity where a resource concern has been identified and the previously implemented conservation practices or activity is past the established lifespan.

- (3) That were commenced or implemented prior to contract obligation by the NRCS approving official, unless the State conservationist approved an early start waiver according to subpart C, “Application for Assistance,” of this manual.
- (4) Water conservation or irrigation-related conservation practices on land that has not been irrigated at least 2 out of the last 5 years unless the participant receives an approved waiver or exception per section 530.402C above.
- (5) Where the primary purpose is renewable energy production (e.g., generation of electricity or biofuel practices that do not support onsite farm activities).
- (6) That defeat the purpose of EQIP or other conservation program contracts.
- (7) That do not address a resource concern directly tied to eligible land, such as a conservation practice implemented entirely within a water area that does not address a resource concern related to the submerged land (e.g., application of a chemical in a pond or reservoir solely for the purpose of eliminating an invasive or undesirable fish species).

### 530.404 EQIP Application Processing

A. This section provides EQIP-specific guidance regarding application processing and ranking. Refer to subpart A, “General Information,” and subpart D, “Application Processing” of this manual, for processing applications, and 440-CPM-502, “Terms and Abbreviations Common to All Programs,” for additional information and criteria.

#### B. Accepting Applications

NRCS will—

- (i) Accept applications on a continuous basis.
- (ii) Group applications of similar operation-type for evaluation.
- (iii) Accept group projects, on a single application for evaluation, if applicable.

C. Application Ranking

- (1) Refer to subpart D, “Application Processing,” of this manual for additional information for screening, assessment, and ranking.
- (2) NRCS will establish ranking pools to address one or more identified resource concerns by geographic area or operation type.
- (3) NRCS will develop an evaluation process using science-based tools where applicable, considering national, State and local priority resource concerns.
- (4) Ranking Criteria.—May be in the form of questions or based on an assessment of the conservation practices, activities, and resource concerns addressed by the applicant using NRCS business tools. Ranking criteria must be developed with enough factors to establish differentiation among applications.
  - (i) States must use the following factors for developing ranking tools and ranking EQIP applications:
    - How effectively and comprehensively the planned conservation practices or activities address the identified natural resource concerns.
    - The magnitude of the expected conservation benefits resulting from the conservation practices or activities and the priority of the natural resource concerns.
    - The degree of cost-effectiveness of the proposed conservation project
    - Use of approved conservation practices or activities that provide long-term conservation benefit.
  - (ii) States may also consider the following factors when developing evaluation and ranking tools for EQIP applications:
    - Compliance with Federal, State, local, and Tribal regulatory requirements concerning soil, water, and air quality; wildlife habitat; and surface and ground water conservation.
    - Ability to improve existing conservation practices (i.e., achieve a higher level of environmental benefit) or systems that are in place at the time the application is accepted or that complete a conservation system.
    - Adaption to or mitigation against, increasing weather volatility.
    - Drought resiliency.
    - Other locally defined pertinent factors, such as the location of the conservation practice, the extent of the natural resource degradation, and the degree of cooperation by local producers to achieve environmental improvements.
  - (iii) VFR Preference.—For EQIP applications evaluated beginning in fiscal year 2020:
    - NRCS will give preference to VFR applicants if they are competing within the BFR or SDFR ranking pools by awarding these applicants with additional ranking points.
    - VFR applicants evaluated in any ranking pool other than BFR or SDFR may still qualify for HU benefits, including higher payment rates and advance payments, but do not receive preference, and will be screened and ranked in the same manner as any other eligible application evaluated in that ranking pool.
  - (iv) For ranking pools that include water conservation- or irrigation-related conservation practices that address “insufficient water” resource concerns, the State conservationist may give priority to applications, consistent with the State laws in which the applicant’s eligible land is located, when the following criteria is met:
    - The water conservation or irrigation project results in a reduction in water use in the agricultural operation; or
    - The applicant agrees to not use any associated water savings to bring new land (other than incidental land needed for the operation to be efficient) under irrigation

production, unless the applicant is participating in a watershed-wide project approved by the State conservationist that will effectively conserve water.

- (v) Applicants who bring new land under irrigation may be awarded this ranking criterion if participating in a watershed-wide project that will effectively conserve water. Refer to section 530.404D below for requirements for certain water conservation projects.

**Note:** The purpose of this policy is to establish priority of applications to address water conservation through screening and ranking and is not related to program land eligibility requirements for irrigation history as found in section 530.402 above.

- (vi) NRCS gives preference to covered farmers and ranchers (BFR, SDFR, and VFR) participating in the Conservation Reserve Program-Transition Incentives Program (CRP-TIP). NRCS will award these applicants with additional ranking points during the period covered by Form CRP-1R, “Conservation Reserve Program Transition Incentives Program Contract.
- (5) The EQIP statute prohibits bidding down which includes—
- (i) Ranking criteria that awards points for conservation practice or activities that will not be financially assisted in the EQIP contract.
  - (ii) Prioritization of an application over another, only because the application provides the least cost to the program.
  - (iii) Changing or adjusting conservation practices after the application has been ranked to achieve a better ranking score.

**Note:** Refer to the applicable business tool guidance, and National Instruction 440-310, “NRCS Program Ranking through Conservation Assessment Ranking Tool (CART),” for information on application ranking.

D. Eligibility of Water Conservation Projects.—Water management entities may request assistance on a watershed-wide water conservation project.

- (1) NRCS may approve entering into an EQIP contract with a water management entity when such contract is pursuant to a watershed-wide project of the water management entity that effectively conserves water using the following criteria:
  - (i) The project has a current, comprehensive water resource assessment; and
  - (ii) The project plan incorporates one or more of the following practices:
    - Water conservation scheduling, distribution efficiency, or soil moisture monitoring;
    - Irrigation-related structural or other measures that conserve surface or ground water, including aquifer recover practices; or
    - A transition to water-conserving crops, water-conserving crop rotations, or deficit irrigation; and
  - (iii) The project sponsors have consulted relevant State and local agencies.
- (2) Applications from a water management entity for an EQIP contract will be determined ineligible if the State conservationist (or designee) determines that the conservation practices encompassed by the proposed EQIP contract are better suited for implementation under the RCPP or watershed projects under Public Law 566. In making this determination, the State conservationist may consider the following factors:
  - (i) The estimated contract cost for the minimum area required for the EQIP contract greatly exceeds the EQIP payment limitation for water conservation projects,
  - (ii) Potential adverse impacts from the water management entity’s watershed-wide project have not been adequately analyzed under a NEPA review, or the proposed contract practices have not been adequately analyzed in the EQIP Programmatic EA or other existing NEPA document prepared or adopted by NRCS and requires a site-specific EA or EIS.

**Note:** Individual producers who do not qualify as a water management entity, but who are working collaboratively on water conservation or irrigation efficiency practices, may enter into a group contract. Refer to section 530.402B(5) above.

**Note:** Refer to section 530.402D above and section 530.406 below for information related to land eligibility requirements for water conservation projects, and EQIP payment rates and payment limitations for water management entities.

#### E. Application Approval

- (1) The State conservationist or designee will periodically approve the highest-ranked eligible applications for funding based on the NRCS ranking process and established deadlines.
- (2) Prior to approving EQIP applications, complete the checklist in exhibit 530.420A, “EQIP Preobligation Checklist,” or in exhibit 530.420B, “EQIP Incentives Preobligation Checklist,” below.
- (3) Refer to subpart C, “Application for Assistance,” and subpart D, “Application Processing,” of this manual, for more information about accepting, selecting, and approving applications.

### **530.405 EQIP Contracting and Contract Management**

#### A. Schedule of Operations

- (1) The EQIP schedule of operations may be derived from the applicant’s NRCS conservation plan and is certified by NRCS or another approved planner and recorded in NRCS business tools. Refer to subpart D, “Application Processing,” of this manual for general guidance on the schedule of operations, and subpart O, exhibit 530.143K, “Business Tools Quick Reference,” of this manual. Additionally:
  - (i) The EQIP schedule of operations must include a description of the participant’s conservation objectives, including a quantitative or qualitative goal, a description of conservation practices or activities, a schedule, and the information needed to evaluate the effectiveness in achieving the conservation objectives.
  - (ii) The EQIP schedule of operations is used to record HU applicants’ election to receive or not receive an advance payment, on a contract item basis. Additionally, any contract modifications that add conservation practices or activities to HU participant contracts will allow recording of the advance payment. Refer to section 530.406 below for additional information about advance payments.
  - (iii) The contract period will last, at a minimum, from the date of obligation through the last scheduled conservation practice or activity but may not exceed 10 years.
  - (iv) The contract expiration dates may be extended, not to exceed EQIP regulatory limits, to provide additional time to ensure full establishment and sustainability of the project, such as wildlife projects, or for conservation practices with a long lifespan that may need additional monitoring to ensure continued O&M, such as composting facilities. Refer to subpart E, section 530.43, “Contract Requirements,” of this manual for additional guidance.
- (2) If an EQIP schedule of operations includes an animal waste storage or treatment facility on an animal feeding operation (AFO), the participant must have a NRCS-approved comprehensive nutrient management plan (CNMP) prior to implementation of any waste storage or treatment facility or associated nutrient management activities. The CNMP will account for resource concerns and conservation practices and activities planned for an AFO associated with storing, treating, land applying, or handling (transferring) of animal waste or organic byproducts, such as animal carcasses.

- (i) The requirement for development of a CNMP only applies to an AFO where animals are kept and raised in confined situations. Refer to 440-CPM-502, “Terms and Abbreviations Common to All Programs,” for a definition of animal feeding operations.
- (ii) For contracts obligated prior to December 20, 2018, implementation of conservation practices and activities cited in the CNMP is required by the end of the contract period, regardless of financial assistance provided.
- (iii) For contracts obligated after the passage of the 2018 Farm Bill, contract participants may progressively implement conservation practices and activities cited in the CNMP, provided that the following criteria are met:
  - The conservation practices included in the schedule of operations help address or improve a resource concern and are operable and function as intended when implemented.
  - The participant must follow an existing nutrient management plan, or a nutrient management conservation practice is included in the contract that adequately addresses the application of animal waste unless all of the manure is sold or transferred to another operation.
  - The participant must select the conservation practices in the system that will treat the resource concern to a level that meets or exceeds the planning criteria in the FOTG. This means the primary conservation practice and all facilitating conservation practices must meet or exceed the planning criteria.
- (3) If an EQIP schedule of operations includes forest-related conservation practices or activities on forest land, the participant must implement conservation practices and activities consistent with an approved forest management plan. A forest management plan is a site-specific plan that is prepared by a professional resource manager, in consultation with the participant, and is based on criteria approved by the State conservationist. Forest management plans include a forest stewardship plan as specified in section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C Section 2103a), another practice plan approved by the State forester or Indian Tribe, or another plan determined appropriate by the State conservationist.

**Note:** State conservationists must ensure that any approved forest management plan meets the criteria of Title 190, National Forestry Manual, Part 536, “Conservation Planning,” <https://directives.sc.egov.usda.gov/RollupViewer.aspx?hid=27866>.
- (4) A participant may receive assistance to implement an EQIP schedule of operations for water conservation if the assistance will facilitate a reduction in surface and ground water use on the agricultural operation, or the producer is participating in a watershed-wide project approved by the State conservationist that will effectively conserve water.
- (5) If an EQIP schedule of operations includes practices or activities that promote a change in land use the contract may include an appropriate supporting management practice, to ensure the change will result in conservation benefits. For example, converting cropland to pastureland, with CPS Pasture and Hay Planting (Code 512) may include the facilitating CPS Prescribed Grazing (Code 528) to ensure the pasture planting will be properly grazed. Refer to section 530.403C above.
- (6) The State conservationist, considering advice from the State technical committee, may develop additional requirements to be included in the EQIP schedule of operations by publishing a State supplement to this manual. Refer to subpart A, “General Information,” of this manual for guidance related to supplements of the manual.

#### B. Advance Payment Review

- (1) After NRCS makes an advance payment to an HU participant, the designated conservationist must complete a contract review to verify that the participant expended the advance payment within 90 days of receipt of the funds. Refer to subpart H, section 530.71, “Review Types,”

of this manual for information about annual contract reviews and to record the status of the advance payment. Additionally:

- (i) If a participant does not expend the advance payment within 90 days of receipt of the funds, NRCS will notify the participant with an advance payment collection letter that the advance payment funds must be returned. Appeal rights will be provided. The participant must return the funds to NRCS within 90 days of receipt of the collection letter. Refer to exhibit 530.420E below.
- (ii) If a participant does not return the funds within 90 days of receipt of the payment collection letter, NRCS will terminate the contract. Appeal rights will be provided in the contract termination letter.

**Note:** The requirement to return funds not expended within 90 days of receipt is statutory and NRCS does not have the authority to waive cost-recovery of advance payments or to provide additional time to expend the funds.

- (2) Conservation practices for which advance payments have been made must be implemented according to Form NRCS-CPA-1155, “Schedule of Operations,” or Form NRCS-CPA-1156, “Revision to Schedule of Operation,” as agreed to by the participant. Additionally:
  - (i) Participants who are compliant with expending the advance payment but are unable to complete the conservation practice as agreed to according to Form NRCS-CPA-1155 or Form NRCS-CPA-1156, the contract will be considered noncompliant.
  - (ii) In some extreme and very limited circumstances, the State conservationist may waive cost-recovery and allow the participant to retain all or a portion of the advance payment if all the following apply:
    - The participant expended the funds within 90 days of receipt of the funds on goods or services.
    - The participant made appropriate efforts to comply with the practice implementation terms but was unable to do so for reasons beyond their control.
    - The condition that caused the participant’s inability to comply must not have existed at the time the contract was approved.
    - The participant can provide sufficient documentation to support the hardship condition.
    - The decision coincides with the approval of a cancellation request.

**Example:** The participant used the advanced funds to secure goods and services, but during installation, the practice was destroyed by a storm or fire event and the participant does not have the financial resources to reestablish the practice or replace the destroyed materials.

**Note:** This policy cannot be used to waive recovery of an advanced payment in which the participant did not expend the funds for the intended purpose.

- (3) Refer to subpart H, “Contract Reviews and Quality Assurance,” and subpart I, “Contract Violations,” of this manual for information about completing reviews and addressing noncompliance and contract violations.

## 530.406 EQIP Payments and Payment Limitations

### A. General

This section provides program-specific guidance for EQIP payments and payment limitations. Refer to subpart B, “Managing Funds,” and subpart F, “Payments,” of this manual, and Title 300, Land Treatment Programs Handbook (LTPH), Part 600, “Payment Schedules,” for general information regarding program payments.

B. EQIP Payments

(1) Maximum EQIP Payment Schedule Percentages and Authorized Cost Categories

The maximum payment percentages are payment limitations authorized by the Chief or designee within the authority provided through applicable program statute or regulation. The maximum EQIP payment percentages allowed for each cost category are provided in Figure 530-R1 below. Refer to subpart B, “Managing Funds,” of this manual, and 300-LTPH-600 for additional guidance regarding the development of payment schedules for EQIP.

Figure 530-R1: Authorized Cost Categories and Maximum Payment Percentages for EQIP

Cost Category	General Percentage	HU Percentage	High Priority Practice	Source Water Protection
Materials	75%	90%	90%	90%
Equipment for installation	75	90	90	90
Labor	75	90	90	90
Mobilization	75	90	90	90
Acquisition of technical knowledge	75	90	90	90
Income forgone	100	100	100	100

**Note:** Program payment percentages for HU participants must be at least 25 percent above the otherwise applicable program payment percentage, not to exceed a 90-percent rate.

(2) Advance Payments

- (i) Refer to 440-CPM, Part 515, “Environmental Quality Incentives Program Manual,” for provisions pertaining to 2008 and 2014 Farm Bill advance payments.
- (ii) Contracts approved under the 2018 Farm Bill are subject to the following requirements:
  - NRCS must notify HU producers of the opportunity to receive advance payments at the time of application approval, and NRCS must record the producer’s decision to receive or not receive an advance, for each contract item. HU producers may change their decision to receive or not receive an advance payment. Refer to section 530.405B above for requirements to document the producer’s decision to receive advance payments.
  - HU participants may elect to receive an advance payment of not less than 50 percent of the EQIP conservation practice payment amounts to purchase materials or services associated with practice implementation. The National Headquarters will establish maximum limits for the extent of advance payments.
  - Before approving an advance payment, NRCS must explain to the HU participant that they must expend the advance payment within 90 days of receipt of the funds. NRCS does not have authority to provide additional time to expend advance payment funds. NRCS must make sure it has met its responsibility to provide the HU participant with the information necessary to expend the advance payment (e.g., conservation plan, conservation practice design, job sheets, practice requirements), ensuring the greatest likelihood of expending the advance payments and getting the practices implemented “on the ground”.
  - Advance funds must be expended within 90 days from receipt of the funds.
  - The conservation practices or activities associated with advance payments must be completed as scheduled on the EQIP schedule of operations.
  - Contracts with an advance payment must be reviewed to document the status of the advance funds. Refer to section 530.405B above for additional compliance guidance for contracts with advance payments.

- (3) In addition to the policy found in subpart F, section 530.50G of this manual, States may judiciously use payment caps to manage limited funding to control costs associated with expensive practices like anaerobic digesters. When setting payment caps, States must—
- (i) Identify the payment cap for specific conservation practices and publicize this information no later than the EQIP application period announcement.
  - (ii) Not establish an extent cap for any conservation practice or activity, unless otherwise authorized, such as for conservation practices and activities supported by an interim practice standard. This means States may not establish a maximum number of acres that can be contracted for any practice.

**Note:** States may establish a higher payment cap for HU producers versus non-HU producers to ensure the HU producers receive the higher payment rate for which they are eligible.

- (4) Limitations for payments to implement conservation practices and activities on the same land:
- (i) Multiple payments for structural and vegetative practices are generally not allowed for implementing the same practice on the same land or location within the practice lifespan.

**Exception:** Multiple payments for CPSs Brush Management (Code 314) and Herbaceous Weed Treatment (Code 315) are allowed if all the following criteria are met:

- Successive implementation of CPSs Brush Management (Code 314) and/or Herbaceous Weed Treatment (Code 315) will not exceed three payments for either practice on the same land.
  - The State has consulted with the national rangeland management specialist to ensure the targeted plants for control require multiple-year treatment.
  - The targeted plant species is resilient in the plant community of the treatment area.
  - A site-specific technical determination is made that:
    - Additional treatments are necessary to achieve effective control of pervasive plant species through reapplication.
    - The pervasive plant species will ultimately be controlled to a desired level of treatment based on the ecological site description’s “steady state.”
- (ii) Multiple payments for management practices are allowed but are limited to a maximum of three separate payments for the same practice on the same land during the term of the contract. The exception is if a higher level of management will be applied to further increase the conservation benefit.

**Exception:** Payments for CPS Cover Crop (Code 340) are limited to a maximum of 5 separate payments during the term of a single contract on the same land when it is planned and applied as a component of a complete conservation system to address resource concerns related to soil health (such as soil erosion and soil quality degradation.)

- (iii) Multiple payments for conservation measurement and evaluation activities are allowed, but limited based on the practice lifespan according to the following criteria:
  - Conservation measurement and evaluation activities with a lifespan of 1 year may be supported through EQIP with up to 9 separate payments for each practice or activity implemented during the term of the contract on the same land.
  - Conservation measurement and evaluation activities with a lifespan of 2 or more years may be supported through EQIP following the same policy requirements associated with structural and vegetative practices implemented on the same land. Refer to section 530.403A above for additional information.

#### (C) Payment Limitations and Contract Limits

- (1) Person or Legal Entity Payment Limitations

- (i) A person or legal entity may not receive, directly or indirectly, payments that, in the aggregate, exceed \$450,000 for all 2018 Farm Bill contracts entered into during fiscal years 2019 through 2023.
- (ii) 2018 Farm Bill contracts associated with the National Organic Initiative may not exceed \$140,000 in aggregate with no annual payment limitation. The Chief is not authorized to waive the payment limitation for the National Organic Initiative.
- (iii) Indian Tribes or Alaska Native corporations with contracts or an alternative funding arrangement are excluded from the person or legal entity payment limitations. Refer to subpart C, section 530.21, “Producer Types with Additional Considerations,” of this manual for additional information regarding payment limitations for Indian Tribes or Alaska Native corporations.
- (iv) NRCS monitors and tracks both direct and indirect payment limitations through a payment limitation service run through the applicable business tool. The payment limitation service runs a check on direct and indirect payment limitations when NRCS runs payment instructions, when NRCS approves a payment, and when NRCS approves a modification.
- (v) Payments under the 2008 or 2014 Farm Bill do not count toward the payment limitations for contracts obligated under the 2018 Farm Bill.

**Note:** Planners are responsible for reviewing Form NRCS-CPA-1245, “Practice Approval and Payment Application,” prior to obtaining participant signature to ensure payments shown reflect the correct amount including any applicable reductions at the time the Form NRCS-CPA-1245 is generated.

(2) Contract Limitations

- (i) Each EQIP contract with a person or legal entity will be limited to \$450,000 over the term of the contract.
- (ii) EQIP contracts with joint operations (FSA business type 2 or 3) may have a contract limit of up to \$900,000 with an approved waiver from the Financial Assistance Program (FAPD) division director.
- (iii) Group contracts may have a contract limit of up to \$900,000 with an approved waiver from the FAPD division director.
- (iv) Indian Tribes or Alaska Native corporations are not subject to contract limits. Refer to subpart C, section 530.21, “Producer Types with Additional Considerations,” of this manual for additional information regarding contract limits for Indian Tribes or Alaska Native corporations.
- (v) When NRCS approves a contract transfer from a person or legal entity to a joint operation, the contract limitation will not increase due to the change in business type; If NRCS approves a contract transfer from a joint operation to an individual or legal entity, a cost cap may need to be applied to prevent the participant from exceeding their payment limitation. Refer to 530.60D, “Modification Reasons,” of this manual for information on land transfers.

(3) Water Management Entities.—FAPD division director may approve an AGI and payment limitation waiver for eligible projects with water management entities if the waiver is necessary to fulfil the objectives of the project. Approved payment limitation waivers may not exceed an aggregate payment limit of \$900,000 to the water management entity or any individual member thereof, for all contracts entered into under the water conservation project authority during the 2018 Farm Bill period\*. NRCS must consider the following criteria when determining whether to approve a payment limitation waiver for a water management entity:

- (i) The number of producers who will benefit from the water conservation project.

- (ii) The conservation value of the conservation practices and activities involved in the project.
- (iii) The non-Federal assets leveraged for the project.
- (iv) The extent of progressive practice implementation.

**Note:** The FAPD division director may approve an AGI waiver concurrently with a payment limitation waiver for the water management entity, as applicable. If a payment limitation is approved, then the contract limitations should also be waived to a corresponding amount, up to \$900,000.

**\*Note:** The payment limitation associated with water management entities and members thereof is separate and not attributed to the \$450,000 general EQIP payment limitation.

### 530.407 Conservation Innovation Grants

Refer to 440-CPM, Part 526, for policy guidance on Conservation Innovation Grants.

### 530.408 EQIP Incentive Contracts

#### A. General

The 2018 Farm Bill introduced EQIP incentive contracts to expand resource benefits for producers through incentive conservation practices such as cover crops, transition to resource conserving crop rotations, and precision agriculture technologies along with a similarly broad suite of incentive practices for ranchers and nonindustrial private forest operators. EQIP incentive contracts can be a steppingstone for producers between EQIP classic and Conservation Stewardship Program contracts.

#### B. High Priority Areas and Priority Resource Concerns.

State conservationists, in consultation with the State technical committee, will identify priority resource concerns and areas of high priority for each State.

- (i) High priority area. These are areas with identified priority resource concerns that represent a significant concern in a State or region. Additionally:
  - The set of high priority areas must encompass every region within the State.
  - A high priority area may encompass an entire State or overlap with other high priority area such that a given parcel of land may exist in multiple high priority areas.
- (ii) Priority resource concerns.
  - States may identify up to three priority resource concerns for each land use within a given high priority area.
  - The same priority resource concerns may be used for more than one land use within the same high priority area.
  - For each priority resource concern, States will identify the incentive practices that will be available for payment under an incentive contract.

**Note:** Information about EQIP Incentive contracts must be publicized. Refer to subpart A, section 530.5 for specific guidance.

#### C. Incentive Contract Selection

Applications will be accepted and processed in accordance with EQIP policy within this subpart and subpart D, “Application Processing,” and subpart E, “Contract Development and Requirements,” of this manual. Additional requirements for selecting incentive contracts:

- (i) Priority will be given to applications that address eligible priority resource concerns.

- (ii) Applications will be evaluated relative to other applications for similar agriculture and forest operations.
- (iii) Applications must contain at least one qualifying incentive practice.

#### D. Incentive Contract Development

- (1) Incentive contract requirements:
  - (i) The participant must agree to implement one or more incentive practices.
  - (ii) The minimum contract area is the planning land unit (PLU). Refer to Title 180 National Planning Procedures Handbook, Part 600, for additional information related to conservation planning.
  - (iii) A payment for technical services may be included in the contract. Refer to subpart E, section 530.40C of this manual for information related to technical service providers.
- (2) Incentive contract terms. An incentive contract will—
  - (i) Identify all incentive practices to be implemented, the timing of practice installation, responsibilities of the participant, the O&M requirements for the practices, and applicable payments allocated to the practices under the contract.
  - (ii) Specify any other provision determined necessary or appropriate by NRCS to achieve the technical requirements of a conservation practice or purposes of the program.
  - (iii) Be an appropriate contract length to achieve the desired conservation benefits, and not less than 5 years and not more than 10 years. NRCS shall apply science-based criteria to determine an appropriate contract period to achieve desired conservation benefits. Longleaf pine habitat development is an example of a project that may take several years to successfully establish to the desired threshold.
- (3) NRCS may terminate an incentive contract consistent with the provisions of subpart H, “Contract Reviews and Quality Assurance,” and subpart I, “Contract Violations,” of this manual.

#### E. Incentive Contract Payments and Payment Limitations

Two types of payments will be made under incentive contracts. Incentive practice payments will be made for adopting and installing incentive practices and annual payments will be made for managing, maintaining, and improving incentive practices during the contract period.

- (i) Incentive practice payments. The payment rates for implementation of incentive practices will be the same as payment rates for practice implementation. To the extent that purposes overlap, States may offer the higher payment rate for high priority practices and source water protection.
- (ii) Annual payments may be made to compensate the participants for up to 100 percent of the costs of—
  - O&M of the incentive practice; and
  - Income foregone by the participant, including payments to address, as appropriate:
    - Increased economic risk,
    - Loss in revenue due to anticipated reductions in yield, and
    - Economic losses during transition to a resource-conserving cropping system, or resource-conserving land uses.
- (iii) Aggregate payment limitation.
  - The total amount of payments paid to a person or legal entity, directly or indirectly, under all incentive contracts entered into during the period of fiscal years 2019 through 2023, may not exceed an aggregate of \$200,000.
  - Payments received for technical assistance will be excluded from the payment limitation.
  - The payment limitation cannot be waived.

- EQIP incentive contract payments will not apply towards the \$450,000 EQIP payment limitation.
- (iv) Contract Limitations—
- Each EQIP incentive contract with a person or legal entity will be limited to \$200,000 over the term of the contract period.
  - EQIP incentive contracts with joint operations (FSA business type 2 or 3) may have a contract limit of up to \$400,000 over the term of the contract period.
  - Indian Tribes or Alaska Native corporations are not subject to contract limits. Refer to subpart C, section 530.21B of this manual for additional information regarding contract limits for Indian Tribes or Alaska Native corporations.
  - When NRCS approves a contract transfer from a person or legal entity to a joint operation, the contract limitation will not increase due to the change in business type. If NRCS approves a contract transfer from a joint operation to an individual or legal entity, a cost cap may need to be applied to prevent the participant from exceeding their contract limitation. Refer to section 530.406C above.

**Note:** Refer to subpart B, “Managing Funds,” and subpart F, “Payments,” of this manual, and to 300-LTPH-600 for guidance on payment types and payment schedules.

### **530.420 EQIP Exhibits**

- A. EQIP Preobligation Checklist
- B. EQIP Incentives Preobligation Checklist [reserved]
- C. EQIP Irrigation History Waiver Worksheet
- D. EQIP Regulation—7 CFR part 1466
- E. Advance Payment Collection Letter
- F. EQIP Water Management Entity Flowchart
- G. EQIP AGI Applicability and Payment Limitation Waiver Request Worksheet for WMEs