

Subpart B—Contracts and Payments**§ 1466.20 Application for contracts and selecting offers from producers.**

(a) Any producer who has eligible land may submit an application for participation in the EQIP. Applications are accepted throughout the year. Producers who are members of a joint operation may file a single application for the joint operation.

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

- (1) Use of cost-effective conservation practices,
- (2) The magnitude of the environmental benefits resulting from the treatment of the priority natural resource concerns,
- (3) Treatment of multiple resource concerns,
- (4) Use of conservation practices that provide environmental enhancements for a longer period of time,
- (5) Compliance with Federal, state or local regulatory requirements concerning soil, water and air quality; wildlife habitat; and ground and surface water conservation, and
- (6) Other locally defined pertinent factors, such as the location of the conservation practice, the extent of natural resource degradation, and the degree of cooperation by local producers to achieve environmental improvements.

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

(d) The ranking will determine which applications will be awarded contracts. The approving authority for EQIP contracts will be the State Conservationist or designee except that:

- (1) The approving authority for any EQIP contract that contains a structural conservation practice with a cost-share greater than 50 percent is the State Conservationist.

(2) The approving authority for any EQIP contract with total payment greater than \$100,000 is the NRCS Regional Conservationist.

§ 1466.21 Contract requirements.

(a) In order for a participant to receive cost-share or incentive payments, the participant must enter into a contract agreeing to implement one or more conservation practices. Both cost-share payments and incentive payments may be included in a contract.

(b) An EQIP contract will:

(1) Identify all conservation practices to be implemented, the timing of practice installation, and applicable cost-shares and incentive payments allocated to the practices under the contract;

(2) Be for a minimum duration of 1 year after completion of the last practice, but not more than 10 years;

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

(i) Not conduct any practices on the farm or ranch unit under the contract, or agricultural operation of the producer for ground and surface water conservation contracts, that would tend to defeat the purposes of the contract;

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

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

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

(v) Supply information as may be required by NRCS to determine compliance with the contract and requirements of the program.

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

(5) Specify any other provision determined necessary or appropriate by NRCS.

(c) The participant must apply at least one contracted practice within the first 12 months of signing a contract.

§ 1466.22 Conservation practice operation and maintenance.

The contract will incorporate the operation and maintenance of

conservation practices applied under the contract. The participant must operate and maintain each conservation practice installed under the contract for its intended purpose for the life span of the conservation practice as determined by NRCS. Conservation practices installed before the execution of a contract, but needed in the contract to obtain the environmental benefits agreed upon must be operated and maintained as specified in the contract. NRCS may periodically inspect a conservation practice during the lifespan of the practice as specified in the contract to ensure that operation and maintenance are occurring. When NRCS finds that a participant is not operating and maintaining practices in an appropriate manner, NRCS will request a refund of cost-share or incentive payments made for that practice under the contract.

§ 1466.23 Cost-share rates and incentive payment levels.

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

(2) Cost-share rates and incentive payment levels for conservation practices will be established by the State Conservationist or Designated Conservationist with advice from the State Technical Committee and Local Work Groups in consideration of the practice cost-effectiveness, longevity and environmental benefit achieved. The State Conservationist or Designated Conservationist will develop a list of eligible conservation practices with varied cost-share rates and will set:

(i) Cost-share rates and incentive payment levels that reflect a conservation practice cost-effectiveness and innovation,

(ii) Cost-share rates and incentive payment levels for practices based on the degree of treatment of priority natural resource concerns,

(iii) Cost-share rates and incentive payment levels that reflect the number of resource concerns a practice will address,

(iv) Cost-share rates and incentive payment levels that reflect a practice's longevity of beneficial environmental effect, and