Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart A – General Information

Subpart B – Responsibilities

Subpart C – Reserved Subpart D – Information and Outreach

Subpart E – Appeals

Subpart F – Program Eligibility

Subpart G – Fund Allocation

Subpart H – Contract Application Acceptance and Evaluation

Subpart I – EQIP Schedule of Operations

Subpart J – Conservation Practice and Technical Assistance Payments

Subpart K – Contracts, Payments, and General Administrative Requirements

Subpart L – Related and Associated Programs

Subpart M – Reserved Subpart

N – Exhibits

Subpart O – Glossary

Part 515 – Environmental Quality Incentives Program

Subpart A – General Information

515.0 Purpose and Availability

A. Program Purpose

(1) As provided by legislation cited in section 515.1, the Environmental Quality Incentives Program (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 national regulatory requirements concerning soil, water, and air quality; wildlife habitat; surface and ground water conservation; energy conservation; and 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 costeffective and environmentally beneficial manner.

(2) Priorities of the EQIP program include consolidating and streamlining conservation planning and regulatory compliance processes to reduce administrative burdens on producers and the cost of achieving environmental goals. Specific program priorities are listed in section 515.3.

(3) EQIP provides technical and financial assistance to eligible agricultural producers to implement conservation practices and activities based upon an NRCS-approved EQIP plan of operations.

B. Program Availability

The program is available to all eligible agricultural producers in all of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Marianna Islands.

515.1 Source of Authority

A. Legislative Authorities.—Legislative authorities for the policies and procedures contained in this manual, codified in 16 U.S.C. Section 3801 et seq., are as follows:

(1) Public Law 99-198, Title XII, the Food Security Act of 1985
(2) Public Law 104-127, the Federal Agriculture Improvement and Reform Act of 1996
(3) Public Law 107-171, the Farm Security and Rural Investment Act of 2002
(4) Public Law 110-246, the Food, Conservation, and Energy Act of 2008
(5) Public Law 113-79, the Agricultural Act of 2014

B. Federal Regulation

The EQIP regulation is located at 7 CFR Part 1466.

C. Waiver Authority

(1) The Chief may waive nonstatutory discretionary provisions and operational procedures where the Chief determines the waiver will further the purposes of EQIP implemented through RCPP only.

(2) The Deputy Chief for Programs may waive administrative or procedural provisions in this manual—
   (i) Unless prohibited by statute or regulation.
   (ii) If the waiver is justified and will not defeat the purposes of EQIP or any other conservation program administered by USDA.

Note: The above administrative relief is discretionary and is separate from the appeal provisions governing EQIP found at 7 CFR Part 614.

(3) For waiver requests to be reviewed by the Chief or Deputy Chief for Programs, State Conservationists may submit requests for policy waivers in writing to the Deputy Chief for Programs (refer also to Title 440, Conservation Programs Manual (CPM), Part 512, Subpart A, Section 512.0K).

D. Delegation of Authority

NRCS officials may delegate responsibilities on items for which they have responsibility, unless specifically prohibited by statute, regulation, this manual or other agency policy guidance. These delegations of authority will be managed according to 440-CPM, Part 512, Subpart A.

515.2 Purpose and Use of the Manual

A. Purpose of Manual

This manual contains NRCS policy guidance and operating procedures for the administration and implementation of EQIP in accordance with 7 CFR Part 1466 and statute. In the event guidance in this manual conflicts with provisions of statute or regulation, statute or regulation shall prevail.

B. Knowledge by Employees

NRCS personnel assigned EQIP responsibility must have a working knowledge of this manual; 440-CPM, Part 512; and 7 CFR Part 1466.

C. Use of Manual

This manual will be used in conjunction with the conservation program contracting procedures in 440-CPM, Part 512, to provide—

(i) Policy implementation guidance and operating procedures for NRCS.
(ii) A reference and training tool for—
- NRCS employees.
- Conservation districts.
- State Technical Committee and local working group members.
- Personnel from cooperating agencies and organizations.
- Technical service providers (TSPs).
- Tribes.
- Others with authority or responsibility for support of the program.

D. Supplements to Manual

State policy supplements to this manual may be approved by the State Conservationist with written concurrence from the Deputy Chief for Programs, unless specifically prohibited by statute, regulation, or agency policy guidance. A copy of all State supplements to this manual must be submitted to the Deputy Chief for Programs for review and approval. State supplements, including bulletins, must not conflict with or be less restrictive than national policy or provisions of statute and regulation. Final approved versions of all State supplements must be posted in the eDirectives system in accordance with Title 120, Directives Management Manual, Part 503.

E. Use of Terminology in Manual

(1) As provided by section 1241 of the Food Security Act of 1985, as amended, the funds, facilities, and authorities of the Commodity Credit Corporation (CCC) are available to NRCS for carrying out EQIP. The Chief of NRCS is a vice president of the CCC. Accordingly, the mention of NRCS in this manual also refers to CCC's funds, facilities, and authorities, where applicable.

(2) Although technical assistance funds can be used in several agreement types to secure services of a technical service provider (TSP), EQIP regulation requires that financial assistance funds must only be used for TSP services through conservation program contracts with producers. Accordingly, TSP use in this manual means a certified TSP as identified in 7 CFR Part 652.

515.3 Program Priorities

National Priorities

(1) The EQIP rule has established national priorities to help provide direction to the State and local levels for implementing EQIP to achieve its purposes to address soil, water, wildlife, air quality, energy conservation, and related natural resource concerns on eligible land. National priorities that may be used for ranking and program targeting include the following:

(i) Reductions of nonpoint source pollution, such as nutrients, sediment, pesticides, or excess salinity in impaired watersheds, consistent with total daily maximum loads (TMDLs), where available; the reduction of surface and groundwater contamination; and reduction of contamination from agricultural point sources, such as animal feeding operations (AFO)

(ii) Conservation of ground and surface water resources that result in water savings

(iii) Reduction of on-farm emissions, such as particulate matter, nitrogen oxides, volatile organic compounds, and ozone precursors and depleters that contribute to air-quality impairment violations of National Ambient Air Quality Standards or other State or local air quality regulations

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

(v) On-farm energy conservation

(vi) Promotion of at-risk species habitat conservation including development and improvement of wildlife habitat

(2) National priorities are used to help NRCS target program resources to achieve purposes of the program as follows:

(i) National priorities are used to help establish EQIP ranking questions.

(ii) In conjunction with recommendations from State Technical Committee, Tribal conservation advisory council, local working groups, and other stakeholders, State Conservationists will utilize national priorities to help target EQIP opportunities to address the following:

- Identification of conservation practices and activities that maximize conservation benefits.

- Develop State EQIP fund allocation formula that integrates national, State, local priorities.
- Comply with the statutory mandate to nationally target at least 60 percent of available financial assistance to livestock related conservation practices.
- Comply with the statutory mandate to target at least 5 percent of available financial assistance to socially disadvantaged producers and at least 5 percent to beginning farmers and ranchers.
- Comply with the statutory mandate to target at least 5 percent of the available financial assistance to conservation practices related to wildlife habitat.
- Help leverage technical and financial resources from partners and others to optimize environmental benefits and opportunities to collaborate in regional efforts to implement EQIP.

(3) Utilize opportunities through EQIP to promote development of comprehensive nutrient management plans (CNMPs), and other conservation activity plans (CAPs) to support quality plans of operations to implement practices through EQIP contracts.

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

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

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

(iii) Periodically review and update the national priorities, utilizing input from the public and affected stakeholders to ensure that the program continues to address national resource needs.

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart B – Responsibilities

515.10 NRCS

A. NRCS has overall leadership for EQIP and any other related programs using the authority of EQIP to deliver financial and technical assistance to eligible producers. NRCS is responsible for establishing policies, guidelines, and priorities for EQIP financial and technical assistance.

B. This section defines NRCS responsibilities for National Headquarters (NHQ), State offices, and field offices.

(1) National Headquarters, Chief

- The Chief and Associate Chief provides national leadership for— Making policy and program regulatory decisions.
- Making fund allocation and reallocation decisions.
- Maintaining working relationships within USDA and with external groups and partners to foster effective and efficient use of EQIP.
- Waiving nonstatutory discretionary provisions and operational procedures where the Chief determines the waiver will further the purposes of EQIP when funded through the Regional Conservation Partnership Program (RCPP).
- Waiving adjusted gross income (AGI) eligibility requirements when necessary to support projects funded through RCPP.

(2) Regional Conservationists

The Regional Conservationists provide national leadership for—

- Coordination of landscape-scale special initiatives in the region.
- Reviewing and approving contracts as determined through a quality assurance process.
- Managing and reviewing requests to the Chief for AGI waivers for projects associated with RCPP.
- Quality assurance in program implementation at the State level.
- Review and oversight of State Conservationists to implement EQIP according to policy requirements.
- Enforcement of provisions of EQIP and the contracting policy, including support and development of payment schedules, timely program announcements, use of agency business tools such as ProTracts, and other responsibilities delegated by the Chief.

(3) NHQ, Deputy Chief for Programs

The Deputy Chief for Programs provides national leadership for—

- Program development and implementation, including rulemaking.
- Making fund allocation and reallocation recommendations.
- Waiving administrative procedures as specified in Title 440, Conservation Programs Manual (CPM), Part 515, Subpart A, "General Information."
- Providing support for development of payment schedules including quality assurance activities and in accordance with 440-CPM, Part 512, Subpart D.
- Coordinating with appropriate agencies and organizations at the national level.
- Oversight for implementation of EQIP including appropriate reports
- Coordination and support from other Programs divisions or specialists to help manage and implement EQIP.
- Other responsibilities delegated by the Chief.

(4) NHQ, Deputy Chief for Strategic Planning and Accountability

The Deputy Chief for Strategic Planning and Accountability provides national leadership for—

- Policy and technical support for program payment schedules, in accordance with 440-CPM, Part 512, Subpart D,
- Development of data and reports used by internal and external customers.
- Other responsibilities delegated by the Chief.

(5) NHQ, Deputy Chief for Science and Technology

The Deputy Chief for Science and Technology provides national leadership for—

- Oversight and implementation of the Conservation Innovation Grants (CIG) component of EQIP.
- Developing appropriate technical standards for EQIP support, in accordance with 440-CPM, Part 512, Subpart D.
- Analysis and evaluation support for EQIP.
- Providing support for development of payment schedules including quality assurance activities.
- Development of appropriate technical criteria to support implementation of conservation activity plans (CAPs) and other associated conservation planning activities.
- Other responsibilities delegated by the Chief.

(6) NHQ, Deputy Chief for Soil Survey and Resource Assessment

The Deputy Chief for Soil Survey and Resource Assessment provides national leadership for—

- Developing technology for EQIP support.
- Analysis and evaluation support for EQIP.

- Other responsibilities delegated by the Chief.

(7) NHQ, Director, Financial Assistance Programs Division (FAPD) The Director, FAPD, provides overall national leadership for—

- Operational leadership and management for EQIP.
  Maintaining liaison and working relationship with Farm Service Agency (FSA) program leaders, other NRCS division directors, and NRCS national technical service centers.
- Program training.
- Overall program evaluation and assessment.
- Recommending and developing policies and regulation content, and appropriate supporting procedures.
- Developing user requirements for program-related software, including coordination and involvement with business and information technology specialists on testing, training and maintaining software to support EQIP activities.
- Program information sharing.
- Updating eligibility criteria in response to statutory changes.
- Developing and updating the EQIP manual to reflect program policies and procedures.
- Providing leadership and support for development of payment schedules in accordance with 440-CPM, Part 512, Subpart D.
- Working closely with FSA to ensure access to client farm records, such as AGI and highly erodible land conservation and wetland conservation compliance data through Web service; Service Center Information Management System (SCIMS) or Business Partner Database; and other pertinent records, according to the memorandum of understanding between NRCS and FSA.
- Other responsibilities, as assigned by the Chief and Deputy Chief for Programs.

(8) State Offices, State Conservationist

The State Conservationist provides leadership for EQIP including, but not limited to the following responsibilities:

- Ensuring that all program activities are implemented and in compliance with program statute, regulation, and policies
- Supplementing the EQIP manual with State policy as needed to ensure appropriate actions are taken to verify applicant eligibility in meeting program requirements such as irrigation history, land eligibility, and other program requirements
- Seeking recommendations and advice from the State Technical Committee and Tribal conservation advisory council to ensure EQIP implementation addresses priority natural resource issues in the State and region

- Establishing State policies, natural resource concerns, and priorities using recommendations of State Technical Committee and Tribal conservation advisory council according to provisions of 440-CPM, Part 501
- Developing additional guidelines for conservation needs assessment per 440- CPM, Part 500
  Establishing State program management policies, procedures, and program performance indicators to support EQIP national priorities
- Maintaining program and fund integrity and accountability
- Delegating authority to certify and approve payments consistent with agency policies by State supplement to Title 130, General Manual (GM), Part 400
- Approving the payment schedule payment percentages used in the State in accordance with 440-CPM, Part 512, Subpart D
- Conducting statewide public outreach and information activities
- Developing internal deadlines for eligibility, ranking and prioritization, selection of applications for funding, and obligating contracts within each fiscal year and established deadlines
- Establishing and publication of a list of eligible practices each fiscal year for each program opportunity
- Determining fund allocations within the State and establishing statewide subaccounts to address priority natural resource concerns and initiatives
- Coordinating across State lines with other State Conservationists
- Approving local EQIP priorities and application screening procedures to ensure the local program complies with NRCS regulations and policy guidance and that USDA civil rights responsibilities are met
- Granting waivers for—
  - Starting a practice prior to the contract approval
  - All or part of recovery costs
  - Liquidated damages
  - Commencing a financially assisted practice in the first 12 months of a contract
- Contracting responsibilities, as defined in 440-CPM, Part 512, Subpart A
- Posting EQIP application and funding information for each fiscal year program opportunity to the NRCS State Web site in accordance with 440-CPM, Part 515, Subpart D
- Advancing payments to eligible historically underserved producers
- Determining an acceptable watershedwide project
- Coordinating with State foresters for determination of acceptable forest management plans

- Targeting at least 5 percent of the allocated EQIP financial assistance funds for socially disadvantaged farmers or ranchers and an additional 5 percent for beginning farmers and ranchers
- Grouping applications to the extent possible by similar crop, forestry, and livestock operations for evaluation purposes
- Managing and reviewing requests for waivers to the Chief or Deputy Chief for Programs
- Providing support for development of and quality assurance for payment schedules

  Entering into agreements with Federal or State agencies, Indian Tribes, conservation districts, units of local government, public or private organizations, and individuals, in order to assist with implementation of the program
- Other responsibilities, as assigned by the Chief or Regional Conservationist

(9) Field Offices, Designated Conservationist

Designated conservationists provide leadership and administration of EQIP in their local area of authority, as delegated by the State Conservationist. Responsibilities include, but are not limited to the following:

- Providing leadership for administration and implementation of EQIP at the local level
- Serving as a member of the local working group, as outlined in 440CPM, Part 501, by providing support and advice concerning technical issues, program statutes and regulations, and other matters relating to conservation program delivery
- Fulfilling the responsibility of the conservation district, as outlined in 440-CPM, Part 501, where a conservation district is not present or chooses not to fulfill those responsibilities
- Providing recommendations to the State Conservationist, considering the advice of the local working group on program delivery as outlined in 440-CPM, Part 502, including, but not limited to—
  - Local natural resource concerns and priorities using conservation needs assessments
  - Recommended conservation practices
  - Local screening tools and ranking questions
- Providing leadership in carrying out public outreach and information activities locally and documenting activities according to national outreach policy
- Analyzing performance indicators and ProTracts reports
- Monitoring, evaluating, and reporting program impacts on natural resources

- Providing leadership for developing cooperative agreements with local conservation partners for approval by the State Conservationist
- Implementing policies and procedures
- Announcing application periods cutoff dates in accordance with State and national guidance
- Accepting all applications and entering into ProTracts
- Verifying and documenting applicant and land eligibility, including signature authority
- Ranking applications and selecting applications approved for funding
- Uploading all approved contract items into ProTracts from an NRCS certified Customer Service Toolkit conservation plan
- Participating in appeal processes, as appropriate
  Ensuring that contracts and payments are not approved in excess of allocations and payment limitations
- Ensuring that appropriate time and effort is provided to check out and certify implemented practices, unless TSP services are contracted for certification
- Processing payment requests on Form NRCS-1245, “Practice Approval and Payment Application,” in accordance with 440-CPM, Part 515, Subpart F, including establishment of a practice payment cap if payment to the participant is received from another USDA program
- Conducting spot checks on State-office-selected limited-resource producers and beginning farmers or ranchers for verification in accordance with 440-CPM, Part 515, Subpart F
- Monitoring and informing applicants of payment limitations
- Monitoring contract expiration dates in order to inform and assist participants in completion of all required work prior to contract expiration
- Maintaining an effective working relationship with local FSA county office
- Determining acceptability of the EQIP plan of operations and ensuring that the EQIP plan of operations is approved by a certified conservation planner
- Implementing contract responsibilities as defined in 440-CPM, Part 512
- Preparing information for support of programmatic waivers to be submitted through appropriate administrative channels
- Preparing information for waivers requested from the State Conservationist that are associated with starting a practice prior to contract approval, commencing a practice in the first 12 months of a contract, cost recovery, and liquidated damages

- Documenting the case file in accordance with Title 180, National Planning Procedures Handbook, Part 600; 440-CPM, Part 515, Subpart I; and State procedures
- Other responsibilities, as assigned by the State Conservationist

515.11 Farm Service Agency (FSA)

A. Introduction

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

B. State FSA Committee

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

C. State FSA Office

The State executive director may participate on the State Technical Committee, which provides advice to the State Conservationist.

D. County FSA Committee

The county FSA committee may participate in the local working group and in the appeals process in accordance with 440-CPM, Part 510.

E. County Offices

(1) The county executive director may participate in the local working group.
(2) FSA staff should facilitate effective working relationships with NRCS.
(3) FSA staff should establish farm records for NRCS program applicants and complete producer eligibility determinations and certifications in accordance with the memorandum of understanding between NRCS and FSA.

515.12 Tribal Conservation Advisory Council, State Technical Committee, and Local Working Group

A. The responsibilities of the State Technical Committee and local working group are as identified by 7 CFR Part 610 and 440-CPM, Part 501.

B. The Tribal conservation advisory council will have on Tribal lands the same responsibilities as the State Technical Committee outlined in 440-CPM, Part 501.

515.13 State Conservation Agencies and Associations

A. State conservation agencies and associations may serve on the State Technical Committee, as identified in 440-CPM, Part 501.

B. State conservation agencies and associations may enter into agreements with NRCS in order to assist with implementation of the program.

515.14 Local and Tribal Conservation Districts

A. Local conservation districts are legal subdivisions of State government and are charged by State law with providing leadership for the conservation of soil, water, and other natural resources within conservation district boundaries. Tribal conservation districts are appointed by Tribal government or formed under Tribal resolution.

B. Local and Tribal conservation districts may enter into agreements with NRCS to assist with implementation of the program.

C. Local and Tribal conservation districts assist with the local work group in accordance with the operating procedures outlined in 440-CPM, Part 501.

515.15 Responsibilities Assigned to Other Agencies and Tribes

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

(1) Serving as a member of the State Technical Committee, local working group, or both

(2) Assisting NRCS with information and outreach activities

(3) Providing technical assistance where appropriate

B. The Bureau of Indian Affairs (BIA) may assist with implementation of EQIP on Indian lands subject to their jurisdiction as provided in the NRCS-FSA-BIA memorandum of understanding, including assisting NRCS in determining whether a producer has the requisite control of land for participation as provided herein.

C. State foresters work with State Conservationists to determine acceptable forest management plans.

Part 515 – Environmental Quality Incentives Program

Subpart C – Reserved

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart D – Information and Outreach

515.30 General

A. While information and outreach are frequently managed similarly and may have common purposes and activities, a distinction is made in EQIP because of the statutory limitations placed on education assistance. The statute authorizes the Secretary of Agriculture to provide "the producer with information and training to aid in implementation of the plan." The authority provides that the agency must provide such information or training needed by a program participant for timely implementation of scheduled practices and may include in program practice payments certain costs for training. The guidance for use of financial assistance to provide training is provided elsewhere in this subpart and also in Title 440, Conservation Programs Manual (CPM), Part 512, Subpart D.

B. Procedures must adhere to public information and outreach policy guidance in General Manual (GM), Title 260, Part 400, and 230-GM, Part 406. Following are general explanations of information, outreach, and training.

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

(2) Outreach includes activities to develop, produce, and deliver general news, knowledge, and facts about the program to a specific audience. Outreach efforts are typically aimed at producers who have been historically underserved, have not historically participated in conservation programs, or who require special emphasis or accommodations.

(3) The intent of outreach activities is to ensure that the targeted producers are aware and informed of program opportunities and have access to program participation. Special outreach efforts could include, but not be limited to—

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

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

- Using language spoken by the intended audience
- Using appropriate media sources to reach the intended audience

(4) Training includes activities to develop, produce, and deliver 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.

C. NRCS will ensure that the outreach provided will not limit participation because of size or type of operation, or production system, including specialty crop and organic production. D. The official USDA nondiscriminatory statement must be included on all information and announcements to the public.

515.31 Information and Outreach

A. General

(1) NRCS will establish program outreach activities at the national, State, and field levels to ensure that potential participants who control eligible land are aware and informed that they may be eligible to apply for program assistance. Special outreach will be made to eligible producers with historically low participation rates, including but not restricted to historically underserved producers, Indian Tribes, Alaska Natives, and Pacific Islanders.

(2) The Chief will ensure that outreach and technical assistance are available and that program specifications are appropriate so as not to limit producer participation because of size or type of operation, or production system, including specialty crop and organic production.

B. National-Level Outreach

The Financial Assistance Programs Division director will work in partnership with the NRCS Outreach and Advocacy Division to locate and provide outreach efforts to targeted groups. Those efforts will include—

(i) Issuing press releases to announce activities to universities, colleges, and grassroots organizations specifically identified with a protected group. All press releases must list a contact person for obtaining further information.

(ii) Submitting information for publication in national newsletters and magazines serving historically underserved populations.

C. State-Level Outreach

State Conservationists will continue making special efforts to distribute information regarding EQIP that reach all potential participants through various means that could include—

(i) Undertaking significant outreach efforts through media outlets appropriate to the targeted audience.

(ii) Distributing personal mailings to historically underserved producers, such as socially disadvantaged farmers or ranchers, beginning farmers or ranchers, veteran farmers or ranchers, limited-resource farmers or ranchers, or other identified groups or individuals.

(iii) Ensuring language-appropriate communications.

(iv) Ensuring that the diversity of residents, landowners, and land operators in an area are provided the opportunity to be represented in the locally led process. The locally led process at the service centers level is essential, providing for input from a broad range of agencies, organizations, businesses, and individuals with an interest in natural resource management.

D. Indian Tribes

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. All consultations are to be open and candid so that all parties may evaluate for themselves the potential impact. Consultation will—

- 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.

515.32 Public Notice of Program Information

A. National headquarters must post specific information for public use on the agency's Web site. This information includes, but is not limited to the following:

(1) Program description
(2) National priorities
(3) General application information

Note: Although related, the requirements in this section for transparency and public notification of program opportunities is not the same requirements related to establishment of deadlines and processing of program applications as cited in section 515.70.

B. State Conservationists must provide at least 30 days' notice for all application periods and ranking cut-off deadlines. In addition, the following information must be made available on the State's Web site at time of announcement of any EQIP program opportunity:

(1) Program description for the current fiscal year opportunity
(2) National and State natural resource priorities
(3) General application information, including continuous signup, application period, cut-off dates, other program related deadlines, and where to apply
(4) Producer and land eligibility requirements
(5) Screening and ranking criteria
(6) Eligible practices approved prior to application period announcement
(7) Payment rates approved prior to application period announcement
(8) Participant responsibilities
(9) Notification that starting a practice prior to written contract approval will result in the ineligibility of that practice for EQIP assistance unless a waiver has been approved (see 440-CPM, Part 512, Subpart E)
(10) State's outreach to encourage application by historically underserved individuals and groups
(11) That EQIP is open to all eligible agricultural producers without discrimination or bias (Note: Statutory requirements, such as priority for veteran farmers or ranchers, are allowed preferences).

Note: Although NRCS may accept program applications on a continuous basis, States may not establish an application period or deadline prior to publication of the previous information. Applicants must be provided the opportunity to know which practices are available, approved payment rates, and the screening or ranking criteria that will be used to evaluate their application. Since program applicants may not modify or change their applications once submitted, all applicants must be provided an equal opportunity to make informed decisions regarding their choices for selection of practices prior to the end of the application period.

C. Designated conservationists must provide outreach of program information in their geographic area by posting or publishing program information in public areas, local newspapers, producer organization newsletters, conservation district newsletters, or other local media easily accessible by the general public. This outreach effort must include, but is not limited to the following:

(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) Link to the State NRCS Web site or where to find additional information cited in section 515.32B.

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart E – Appeals

515.40 Reserved 515.41

Appeals

Appeals Process

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

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart F – Program Eligibility

515.50 General

A. To allow evaluation and consideration for funding, all EQIP applications must meet the criteria for producer eligibility, land eligibility, and the proposed project must address at least one natural resource concern.

B. In addition to EQIP eligibility, refer to Title 440, Conservation Programs Manual, Part 512, Subpart C (440-CPM-512-C), for procedures on accepting applications and requirements for documentation of contract eligibility.

C. NRCS is responsible for documenting and determining producer and land eligibility, as well as other program eligibility requirements and certifications. NRCS must provide timely notification to applicants for determinations of program eligibility. If the determination is made that the applicant does not meet the eligibility criteria, the applicant must be provided appeal rights in accordance with 7 CFR Part 614 and 440-CPM-510.

(1) Program eligibility determinations must be documented in the case file and ProTracts.
(2) When all program, producer, land, and other eligibility requirements have been met for an application, the designated conservationist must complete the "Other Eligibility" check box in the ProTracts applicant information screen. The "Other Eligibility" box must not be checked until all the program eligibility determinations have been completed and verified. For documentation and guidance, refer to the "Eligibility Checklist" in section 515.152.

515.51 Producer Eligibility

A. General Producer Eligibility Criteria.—To be eligible to participate in EQIP, an applicant must meet all of the following criteria:

(1) Be an agricultural producer. To be considered a producer, the applicant must be—
  (i) A person, legal entity, Indian Tribe, native corporation, or joint operation with signature authority.
  (ii) Engaged in agricultural production or forestry management or have an interest in the agricultural or forestry operation associated with the land being offered for enrollment in EQIP. Interest in the agricultural operation means one of the following:
    - Owner or renter of the land in the agricultural operation
    - Have an interest in the agricultural products, commodities, or livestock produced by the agricultural operation
    - A member of a 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
(2) Have control of the land for the term of the contract period.
(3) Be in compliance with the provisions for protecting the interests of tenants and sharecroppers, including the provisions for sharing EQIP payments on a fair and equitable basis.
  (i) NRCS must not approve contracts with landlords who—
    - Do not give tenants and sharecroppers an opportunity to participate in EQIP.

- Reduce the number of tenants and sharecroppers in anticipation of EQIP participation.

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

(iii) Landlord and tenant or sharecropper provisions do not apply when either of the following apply:

- The tenant or sharecropper was removed for cause in accordance with State law, as determined by the Office of the General Counsel regional attorney.
- The tenant or sharecropper left the farm voluntarily without any coercion from the landlord.

(4) Be in compliance with the highly erodible land and wetland conservation compliance provisions at 7 CFR Part 12.

(5) Be within appropriate payment limitation requirements, as specified in the amendments to EQIP made by the Agricultural Act of 2014 and in accordance with 440-CPM-515-J-515.92, “Payments and Payment Limitations.”

Exception: Federally recognized Indian Tribes are exempt from payment limitation requirements and contract limitations.

(6) Beginning in fiscal year 2015, be in compliance with adjusted gross income (AGI) requirements, as specified in 7 CFR Part 1400 (FY 2014 EQIP contracts are exempt from AGI eligibility requirements).

Exception: Federally recognized Indian Tribe applicants are exempt from adjusted gross income requirements.

Note: NRCS must not establish or use any additional criteria for determination that an applicant is an agricultural producer other than criteria that is cited in in this section. Use of the following criteria to determine eligibility as an agricultural producer is **prohibited**:

- Kind of operation or agricultural enterprise (e.g., horse boarding operation, subsistence producers, organic, aquaculture operation, etc.)
- Size of operation (e.g., forest land less than x acres in size)
- Location of operation (e.g., back yard production in urban-zoned area)
- Income – profit or loss (e.g., applicant must sell $1,000 worth of product)

B. Documenting Producer Eligibility

The applicant is responsible for providing documentation to establish producer eligibility for EQIP. The eligibility determination and applicable documentation must be filed with the appropriate local USDA service center, as outlined in 440-CPM-512-C. See also the “EQIP Eligibility Documentation Checklist” found in 440-CPM-515-N for exhibits containing a list of acceptable documentation.

C. Eligibility Clarification

(1) Indian Tribes

A federally recognized Indian Tribe is an eligible producer if it owns or has control of the land being offered for enrollment in EQIP and meets applicable eligibility criteria in 440-CPM-515-F-515.51A.

(2) Indians – Individual Applicants

An individual Indian is eligible for EQIP on Tribal or non-Tribal land if he or she meets the eligibility criteria in 440-CPM-515-F-515.51A. Individual Indian applicants are subject to all EQIP eligibility requirements.

(3) Organic, Transitioning, or Exempt Organic Producers Applying for the EQIP Organic Initiative

(i) Producers applying for the EQIP Organic Initiative must meet the eligibility requirements in 440-CPM-515-F-515.51A, and agree to implement conservation practices or 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). Organic system plans certified by non-USDA groups or other agencies are not acceptable.

(ii) Specifically—

- USDA-certified organic producers must implement conservation practices funded through EQIP that are consistent with their OSP. Certified organic producer applications will be evaluated in the "Certified Organic" subaccount in ProTracts.
- Producers who are transitioning to organic production (including participants who are exempt from USDA certification), will develop an OSP and implement conservation practices funded through EQIP that are consistent with OSP requirements and purposes of the program. Transitioning to organic and exempt organic producer applications will be evaluated in the "Organic Transition" subaccount in ProTracts.

  Note: Exempt organic operations are organic producers selling less than $5,000 a year in organic agricultural products. They are exempt from USDA organic certification (7 U.S.C. Secs. 6501 to 6522).

- Although certified-organic and transitioning-to-organic EQIP participants are not required to provide a copy of their OSP, it is the responsibility of the participant to provide information to NRCS as needed by NRCS to allow development of an EQIP plan of operations that identifies practices or activities that are consistent with the requirements of an OSP.
- When developing an EQIP schedule of operations to support organic operations, NRCS or TSP will address National Organic Program (NOP) requirements in the practice design to ensure that planned practices are consistent with OSP standards.
- The designated conservationist will annually determine whether the participant is implementing practices consistent with an OSP. If a participant is not implementing practices according to schedule or is not consistent with an OSP, the contract may be subject to termination.

(4) Subsistence Producer Applicants

Producers engaged in agricultural production for subsistence purposes are eligible for EQIP if they meet the requirements of 440-CPM-515-F-515.51A. No program eligibility requirement may be established related to size or type of subsistence operation or whether the producer incurs expenses, losses, or generates income from a subsistence operation.

(5) Squatters or Tenants by Sufferance

Squatters or tenants by sufferance, by definition, are not eligible for EQIP because they cannot provide documentation or evidence showing control of land.

(6) Minors

Refer to 440-CPM-512-C-512.22, "Eligibility."

(7) Foreign Individuals and Entities

Refer to 440-CPM-512-C-512.22, "Eligibility."

(8) Agricultural Income and Other Eligibility Factors

(i) Eligibility for participation in EQIP may not be limited or determined based upon whether the agricultural operation actually generates any income or financial losses associated with producing agricultural products, livestock, or forest-related products. Program eligibility or financial assistance payments may not be limited based upon the size of the operation, type of operation, geographic location, or other factors not expressly cited in program authority.

(ii) States may not establish any other income eligibility requirements for determining participation in the program. States may not set an income eligibility requirement for access to certain funding pools or subaccounts, other than what is expressly provided for in statute or regulation.

D. Ineligible Entities

(1) 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 for EQIP; however, land owned by these entities may be eligible if leased to an eligible applicant. See 440-CPM-515-F-515.52.

(2) Agricultural support businesses, such as agricultural supply buyers and sellers, are not eligible to participate in EQIP unless they meet all of the eligibility criteria outlined in 440-CPM-515-F-515.51A.

(3) NRCS will not approve any contract or financial assistance payment to any producer who is producing marijuana or engaged in controlled substance activities on any part of their agricultural operation in violation of Federal law, even if the requested assistance does not relate to the field or other part of the agricultural operation that is under the unlawful production of a controlled substance.

515.52 Land Eligibility

A. To be eligible for EQIP, the land being offered for application into the program must meet all of the following criteria:

(1) Be agricultural land, nonindustrial private forest land, Tribal land, or other land on which agricultural products, livestock, or forest-related products are produced.

(i) Agricultural products or commodities as recorded on the application in ProTracts include, but are not limited to the following:

- Barley
- Corn
- Cotton
- Forage, hay, or pasture
- Oats
- Oil seed
- Rice
- Sorghum
- Soybeans
- Wheat
- Peanuts
- Potatoes

- Tobacco
- Trees (including orchards, Christmas trees, etc.)
- Berries
- Coffee
- Grapes (including vineyards)
- Fruits
- Nuts
- Ornamental plants (including flowers and bulbs)
- Ginseng
- Grass seed
- Sod
- Sugarcane
- Sugar beets
- Sugar maple
- Vegetable
- Other crops (including plant materials gown in greenhouses or seasonal high tunnels, crops for subsistence, or other crops identified by the State conservationists)

(ii) Livestock production is defined as agricultural operations involving the production, growing, raising, or reproducing of domestic livestock or livestock product as recorded on the application in ProTracts, include, but are not limited to the following:

- Beef
- Dairy
- Goats
- Horses (regardless of type of operation)
- Poultry
- Sheep
- Swine
- Aquaculture products (including fish, bivalves, or other animals raised through aquaculture methods)
- Bees (domesticated honey bees)
- Bison
- Deer
- Elk
- Llamas
- Mules
- Rabbits
- Turkeys
- Alpacas
- Emus
- Ratites
- Other livestock (all other domesticated livestock or fowl produced identified by the State conservationist)

(iii) Nonindustrial private forest (NIPF) land is rural land that meets both of the following criteria:

- Has existing tree cover or is suitable for growing trees
- Is owned by any nonindustrial private individual, group, association, corporation, Indian Tribe, or other private legal entity

(iv) Permanently submerged lands may be eligible only if all of the following apply:

- The EQIP practices to be implemented are land-based
- The Farm Service Agency establishes farm records, common land unit (CLU) information, and completes highly erodible land and wetland conservation determinations for the submerged land area
- The proposed EQIP practices address an identified natural resource concern

Note: By statute and regulation (16 U.S.C. Secs. 3839aa-1 and 7 CFR Sec. 1466.8), EQIP may only be used to implement practices or support activities on eligible land. As such, areas of water in which no land-based conservation practices will be implemented are not eligible.

(2) NRCS determines that the land included in the EQIP application is one of the following:

(i) Privately owned land

(ii) Eligible publicly owned land. Publicly owned land may be eligible if it meets all of the following criteria:

- The land is a working component of the participant's agricultural or forest land operation.
- The participant has control of the land for the term of the contract.
- 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. Land that meets any of the following criteria is considered Indian land:

- 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

(3) The applicant provides written permission from the landowner to allow implementation of a structural or vegetative practice on land not owned by the applicant.

(4) NRCS determines that the planned practices will address an identified natural resource concern.

Note: EQIP may be used to implement conservation practices that are compatible with beneficial, cost-effective changes in production systems (i.e., change in agricultural land use) provided that all the criteria in 440-CPM-515-I-515.81D(4), are met.

(5) Have irrigated 2 out of the last 5 years to install an irrigation-related practice with a purpose of water conservation. The requirement for documentation of irrigation history applies when the purpose of the practice is to conserve water and addresses the "Insufficient Water" natural resource concern. Refer to guidance in the "EQIP Eligibility Documentation Checklist" exhibit in section 515.152 for acceptable documentation of irrigation history.

(i) **Drought Exception**.—Applicants who have been impacted by prolonged drought may still meet the irrigation history requirement without having to request a waiver provided all of the following conditions are met:

- The land must still meet the "2 out of the last 5 years" criterion, but it is based on the timeframe prior to the onset of the drought.
- The drought, as determined by the U.S. Drought Monitor Classification, is at least a D2 "Severe Drought" or higher.
- NRCS certifies that the current irrigation system is in working condition (aside from the lack of water resulting from the drought).
- The irrigation system improvement will result in a significant gain in irrigation efficiency once the drought has ended.

(ii) **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**.—A written request for waiver of the irrigation history requirement submitted by an applicant to the State conservationist may be approved by the Chief or designee (follow request and approval procedures in section 515.1C(3)) if the agency determines the applicant is—

- A socially disadvantaged or limited-resource farmer or rancher and the following criteria can be met:
  - The applicant does not have an existing or functional irrigation system.
  - The applicant cannot meet the irrigation history requirement for reasons beyond his or her control.
  - The land has been in active agricultural production (cropped, hayed, or grazed) 4 of the last 6 years.
  - The applicant can demonstrate a legal right to access and use water for irrigation purposes, meeting one of the following criteria depending upon location:
    -- For surface water diversions east of the 100th meridian, a legal right to use surface water must be in possession of the applicant. The surface water source would need to be documented as meeting all other legal water rights 8 out of the last 10 years.
    -- For surface water diversions west of the 100th meridian, the surface water source must be shown to have met all State designated beneficial uses for which legal rights are held 5 out of the last 10 years.
  - The irrigation system will be used to address soil quality or erosion resource concerns through the successful establishment of a sustainable agricultural production method, such as establishment of cover crops to ensure a positive trend in the soil condition index as part of the producer's no-till or organic production systems, or the establishment of another sustainable agricultural system identified by the agency.
  - The project will not, individually or cumulatively, significantly adversely impact available surface water or groundwater supplies. The impacts upon water supplies may be based on, but not necessarily limited to, the following criteria:
    -- For groundwater systems, the aquifer must not be declining in elevation or in yield.
    -- The project area has not been subject to water shortages. NRCS may consider whether the project area has been listed as a short-term D2 "Severe Drought" (or higher) or long-term D1 "Moderate Drought" (or higher), as identified on the U.S. Drought Monitor (http://droughtmonitor.unl.edu/) in the 90 days prior to the application ranking.
    -- NRCS also may consider whether the project area has been subject to any other identified water shortages, either natural or imposed by State or local regulations within the prior full irrigation season. Producers in the area received a relatively normal amount of water for a reasonable amount of the irrigation season.
- An Indian Tribe and the following criteria can be met:
  - The Tribal applicant does not have an existing or functional irrigation system.
  - The Tribal applicant cannot meet the irrigation history requirement for reasons beyond its control.

- The land has been in active agricultural production (cropped, hayed, or grazed) 4 of the last 6 years.
- The land has not been designated by the Bureau of Indian Affairs (BIA) as “permanently nonassessable” or otherwise identified as permanently nonirrigable lands. NRCS may also consider whether there are existing irrigation delivery facilities or whether the land is considered presently assessable.
- The Tribe can provide evidence that legal water rights are secured and that for surface waters, established Tribal water rights are such that they would have resulted in full-volume delivery 5 out of the last 10 years.
- The irrigation system will be used to address soil quality or erosion resource concerns through the successful establishment of a sustainable agricultural production method, such as cover crops to ensure a positive trend in the soil condition index as part of the producer’s no-till or organic production systems, or the establishment of another sustainable agricultural system identified by the Chief.
- The project will not, individually or cumulatively, significantly adversely impact available surface water or groundwater supplies. The impacts upon water supplies may be based on, but not necessarily limited to the following criteria:
  -- For groundwater systems, the aquifer must not be declining in elevation or in yield.
  -- The project area has not been subject to water shortages. NRCS may consider whether the project area has been listed as a short-term D2 “Severe Drought” (or higher) or long-term D1 “Moderate Drought” (or higher), as identified on the U.S. Drought Monitor (http://droughtmonitor.unl.edu/) in the 90 days prior to the application ranking.
  -- NRCS also may consider whether the project area has been subject to any other identified water shortages, either natural or imposed by State or local regulations within the prior full irrigation season. Producers in the area received a relatively normal amount of water for a reasonable amount of the irrigation season.

Note: Refer to BIA National Irrigation Handbook, Chapter 10 “Land Designation and Assessment” as authorized per 25 CFR Part 171.

B. Documenting Land Eligibility

The applicant is responsible for providing documentation to help establish and document land eligibility for EQIP. The eligibility determination must be recorded in ProTracts as “Other Eligibility,” and applicable documentation must be filed in the case file. See the “EQIP Eligibility Documentation Checklist” exhibit in section 515.152 for guidance and examples of acceptable documentation.

C. Ineligible Land

(1) Land enrolled in other conservation programs may be ineligible for EQIP.

(i) EQIP does not pay for the same practice on the same land that has received payment or other benefit from any other EQIP contract or any other USDA conservation program. If an overlap exists for any part of the same practice, that practice would be considered a duplicative practice and not authorized under EQIP. See 440-CPM-515-I, for exceptions and policy restrictions on management practices.

(ii) Land enrolled in the Conservation Reserve Program (CRP) may only be offered for enrollment in EQIP during the last year of the CRP contract, and no EQIP practice or activity may be implemented on that land until after the CRP contract has expired or has been terminated.

(iii) Land enrolled in the Agricultural Conservation Easement Program (ACEP) under the wetland reserve easement component or its predecessor, the Wetlands Reserve Program, is not eligible for enrollment in EQIP.

Note: Land enrolled in ACEP under the agricultural land easement component or its predecessor programs, the Farm and Ranch Lands Protection Program or Grassland Reserve Program may be eligible for enrollment in EQIP.

(2) Land is not eligible for EQIP if the conservation practices requested in the application schedule of operations do not address an NRCS-identified natural resource concern or result in improved conservation benefit.

(3) Permanently submerged lands where no land-based conservation practices will be implemented are not eligible.

(4) Land that is not agricultural land, nonindustrial private forest land, Indian land, or other land on which agricultural products, livestock, or forest-related products are produced.

515.53 Waiver Authority

A. Adjusted Gross Income (AGI) Waiver.—The authority to approve a waiver for the eligibility requirement for the AGI limitation for EQIP payments was eliminated by the amendments made by the Agricultural Act of 2014. However, the 2014 Act provided AGI eligibility waiver authority for EQIP projects administered through the Regional Conservation Partnership Program (RCPP). See section 515.110 for requirements of the RCPP AGI waiver.

B. Waiver authority for other policy requirements may be found in 440-CPM-512.

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart G – Fund Allocation

515.60 Reserved

515.61 Allocation Process

A. EQIP is subject to the general allocation process outlined in Title 440, Conservation Programs Manual (CPM), Part 512, Subpart I, applicable to all financial assistance programs.

B. National Allocation for Distribution to States

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

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

(ii) State assessments of priority resource concerns, conservation targets, and assistance needed to address identified natural resource concerns.

(iii) The ways the program can best assist producers in complying with Federal, State, local, and Tribal environmental laws or in addressing agency conservation priorities, quantified where possible.

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

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

(2) NRCS will target nationally—

(i) At least 5 percent of available funds to assist socially disadvantaged farmers and ranchers.

(ii) At least 5 percent of available funds to assist beginning farmers and ranchers,

(iii) At least 5 percent of available funds to wildlife habitat related practices.

(iv) At least 60 percent of available funds to livestock-related practices.

C. State Allocation Distribution and Management

(1) The State Conservationist, considering the advice of the State Technical Committee or Tribal conservation advisory council, must develop a formal allocation formula for allocating funds to address program and national priorities, natural resource concerns, priority geographic locations within the State or Tribal lands, to ensure that funding is targeted to appropriate priorities. State-developed allocation formulas are subject to annual review and concurrence by applicable Regional Conservationists and must reflect the following factors to determine how to manage EQIP and allocate funds within a State:

(i) The nature and extent of priority resource concerns at the State and local level, including statutory requirements cited in this section related to historically underserved participants, livestock, and wildlife priorities.
(ii) Goals, objectives, and solutions, quantified when and where possible, for the natural resource concerns to optimize the conservation benefits to be delivered with the authorized Federal dollars.
(iii) Science-based background data, quantified when and where possible, on the environmental status and needs, soils information, demographic information, and other available technical data that illustrate the nature and extent of natural resource concerns.
(iv) The availability of human resources, other program support, financial assistance, educational programs, and on-farm research programs from public, private, and Tribal sources, to assist with the activities related to the priority resource concerns.
(v) The existence of nationally established initiatives, regional collaborative efforts, multistate collaborative efforts, or both, to address priority resource concerns.
(vi) Program performance and results.
(vii) The degree of difficulty that producers face in complying with environmental laws.
(viii) The presence of additional priority resource concerns and specialized farming operations, including, but not limited to, specialty crop producers, and organic producers.

(2) Target at least 5 percent of the available financial assistance for socially disadvantaged farmers or ranchers and an additional 5 percent for beginning farmers and ranchers. Refer to 440-CPM, Part 512, Subpart I, for requirements to establish subaccounts to support this program opportunity.

(3) In consultation with State Technical Committees and local work groups, State Conservationists are encouraged to target at least 60 percent of available financial assistance to livestock-related conservation practices. State Conservationists must ensure that applications are properly associated with an appropriate “livestock type” per guidance cited in section 515.52(1)(ii).

(4) The amendments made by the Agricultural Act of 2014 requires NRCS to focus financial assistance to applicants and conservation practices that benefit wildlife habitat. In consultation with State Technical Committees and local work groups, State Conservationists are responsible for the following:

(i) Funding.—State Conservationists are encouraged to target financial assistance to conservation practices related to wildlife habitat, including practices with purposes to address the following:

- Upland wildlife habitat
- Wetland wildlife habitat
- Habitat for threatened and endangered species
- Fish habitat

- Habitat on pivot corners and other irregular areas of a field
- Other types of wildlife habitat, as determined by the State Conservationist

(ii) Core Practices.—To help establish, maintain, or enhance wildlife habitat opportunities, State Conservationists are encouraged to offer, but are not limited to, the following core practices, which have a primary purpose related to wildlife habitat:

- CP 327 – Conservation Cover
- CP 390 – Riparian Herbaceous Cover
- CP 391 – Riparian Forest Buffer
- CP 395 – Stream Habitat Improvement and Management
- CP 396 – Aquatic Organism Passage
- CP 422 – Hedgerow Planting
- CP 472 – Access Control
- CP 580 – Streambank and Shoreline Protection
- CP 643 – Restoration and Management of Rare or Declining Habitats
- CP 644 – Wetland Wildlife Habitat Management
- CP 645 – Upland Wildlife Habitat Management
- CP 646 – Shallow Water Development and Management
- CP 647 – Early Successional Habitat Development/Management
- CP 657 – Wetland Restoration
- CP 658 – Wetland Creation
- CP 659 – Wetland Enhancement

(iii) Supporting and Facilitating Practices.—State Conservationists may offer additional supporting or facilitating practices in support of core practices. In conjunction with core practices, additional practices that may provide wildlife habitat benefits include, but are not limited to, the following:

- 314 – Brush Management
- 315 – Herbaceous Weed Control
- 328 – Conservation Crop Rotation
- 338 – Prescribed Burning
- 340 – Cover Crop
- 342 – Critical Area Planting
- 378 – Pond
- 380 – Windbreak/Shelterbelt Establishment
- 382 – Fence
- 384 – Woody Residue Treatment /Forest Slash Treatment
- 386 – Field Border
- 393 – Filter Strip
- 394 – Firebreak
- 430 – Irrigation Pipeline
- 449 – Irrigation Water Management

- 490 – Tree/Shrub Site Preparation
- 511 – Forage Harvest Management
- 512 – Forage and Biomass Planting
- 516 – Livestock Pipeline
- 528 – Prescribed Grazing
- 548 – Grazing Land Mechanical Treatment
- 550 – Range Planting
- 560 – Access Road
- 561 – Heavy Use Area Protection
- 574 – Spring Development
- 575 – Trails and Walkways
- 578 – Stream Crossing
- 582 – Open Channel
- 584 – Channel Bed Stabilization
- 587 – Structure for Water Control
- 595 – Integrated Pest Management (IPM)
- 612 – Tree/Shrub Establishment
- 614 – Watering Facility
- 642 – Water Well
- 649 – Structures for Wildlife
- 654 – Road/Trail/Landing Closure and Treatment
- 655 – Forest Harvest Trails & Landings
- 666 – Forest Stand Improvement

(iv) Program Requirement.—In addition to nationally established initiatives designed to help meet statute requirements to focus EQIP funding to establish, maintain, or enhance wildlife habitat opportunities, State Conservationists are encouraged to create at least one wildlife-related subaccount each fiscal year supported with appropriate funding and practices. For each subaccount established to support wildlife-related projects or development of wildlife habitat, STCs must assign the account type "**Wildlife 5%**."

(5) In distributing fiscal year funds in ProTracts for obligation in CPCs, STCs will—

(i) Determine the amount for the fiscal year's nationally created State reserve subaccount. Only this subaccount will be used for making adjustments to contracts for payments in excess of planned quantities, for funding the indexed payment rate to applicable prior-year contracts, or for modifications to contracts for correcting errors in the initial conservation planning and contracting. These may include omissions of required practices or in scope design changes. STCs will establish protocols for requesting and distributing from the reserve.

(ii) Distribute EQIP-General FA funds into the conservation innovation grants (CIGs) State component subaccount if a State CIG is being offered. The

State CIG subaccount is a placeholder to ensure that these funds are not used for other EQIP obligations.

(iii) Distribute funds from State CIG subaccounts back up to the State EQIP general account immediately prior to when State CIG agreements are obligated in FMMI.

(iv) Establish protocols for distributing technical assistance funds for participant-acquired TSP contract items.

(v) Establish appropriate subaccounts to support the allocation process as identified in 440-CPM, Part 515, Subpart G.

(vi) Establish State-level procedure for managing distributions at the area level, field level, or both.

(vii) Distribute funds to all subaccounts.

515.62 Funding Requirements

A. Obligations limited to authorized funds.

See 440-CPM, Part 512, Subpart I.

B. Overobligation is prohibited.

See 440-CPM, Part 512, Subpart I.

C. Immediate pay.

See 440-CPM, Part 512, Subpart G.

D. Unobligated fiscal year EQIP funds.

See 440-CPM, Part 512, Subpart I.

E. Deobligation of prior-year funds.

See 440-CPM, Part 512, Subpart I.

F. Requirements of the Commodity Credit Corporation.

See 440 CPM, Part 503.

G. “Partial Payments” for incomplete practices is prohibited.

See 440-CPM, Part 512, Subpart G, Section 512.67.

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart H – Contract Application Acceptance and Evaluation

515.70 Applications

A. The following requirements are to ensure that all program applications are accepted, evaluated, and administered in a fair, transparent, and consistent process. To ensure that application evaluation is conducted in a manner that meets the intent of the program and such processes can be defended under appeal, State Conservationists must establish internal processes and deadlines that are consistent, uniform, and enforced for each offered program opportunity. Although related, the requirements in this subpart are to establish policy for management of program applications and are not the same as policy requirements related to transparency and public notification as cited in section 515.32.

B. Continuous Application Acceptance

(1) Application Periods.—EQIP applications will be accepted on a continuous basis. To provide consistency in opportunities for program applicants, National Headquarters (NHQ) will establish standard application periods that may be offered in each State. State Conservationists (STC) must select and announce one or more application periods to support the process of prioritization, evaluation, ranking, and funding of eligible applications.

(i) For nationally established landscape or program initiatives, guidance may be issued that requires STCs to offer specific application periods to support the initiative. Absent national guidance to establish a specific application period, STCs may select and announce appropriate periods to support the initiative.

(ii) For State-offered program opportunities, STCs must select and announce one or more of the standard application periods established annually by NHQ.

(2) Application Announcement.—See section 515.32 for guidance for public announcement requirements for program opportunities.

C. Application Management

(1) Accepting Applications.—See Title 440, Conservation Programs Manual (CPM), Part 512, Subpart C “Application for Assistance,” for guidance in accepting, processing, evaluating, approving program applications, and ProTracts operations. Subpart C also includes applicant requirements such as signature authority for individuals, entities, and other business types.

(2) Establishing Deadlines.—To provide adequate time to process, evaluate, rank, and obligate program contracts, STCs must establish internal agency cutoff and deadline dates that include, but are not limited to, the following:

(i) Application period cutoff or deadline for submission of application date by eligible producer. See also section 515.32.

(ii) Deadline date for completing eligibility determinations.
(iii) Deadline date for completing screening and entering application priority status into ProTracts. May include deadline for assignment of appropriate subaccounts for each eligible application as selected by the applicant (see sections 512.24B(4) and 512.83).
(iv) Deadline for completion of evaluation, ranking by priority, and entering scores into ProTracts. May also include deadline for printing and archive of subaccount ranking sheets (see 440-CPM, Part 512, Subpart C, Section 512.25E).
(v) Deadline for upload of Customer Service Toolkit (CST) plans for eligible applications into ProTracts. See section 512.10A.
(vi) Deadline for selecting and approving applications for funding.
(vii) Deadline for obligation.

515.71 Historically Underserved and Veteran Applicants

A. Historically Underserved (HU) Producers

The term "historically underserved producer" means an eligible person, joint operation, legal entity, NIPF landowner, or Indian Tribe who self-certifies as meeting the requirements for a beginning farmer or rancher (BF/R), socially disadvantaged farmer or rancher (SDF/R), limited-resource farmer or rancher (LRFR), or a veteran farmer or rancher (VF/R) who also self-certifies as a BF/R. Applicants seeking designation as HU must self-certify their status when submitting an EQIP application on Form NRCS-CPA-1200. Participants eligible for EQIP and meeting the requirements of any of the HU designations as outlined in 440-CPM, Part 512, Subpart A "General Information," are eligible for the following:

(i) Increased Payment Rate.—HU participants must be awarded the applicable payment rate and an additional rate that is not less than 25 percent above the applicable rate, although the rate established may not exceed 90 percent of the estimated incurred costs, as documented in an approved payment schedule. Increased payment rates are assigned to program participants by selection of the appropriate "HU" designated scenario in the payment schedule cost list uploaded to ProTracts.
(ii) Advance Payment.—HU participants may be issued advance payments for a portion of the anticipated amount of the costs incurred for the purpose of purchasing materials or services to implement a conservation practice. Additional policy guidance and procedure for advance payments is outlined in section 515.92E and 440-CPM, Part 512, Subpart G, Section 512.67.

B. Veteran Farm or Rancher (VF/R)

(1) The term "veteran farmer or rancher" means a producer who meets the definition in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (7 U.S.C. Section 2279(e)). Given the

potential to misunderstand the criteria, self-certification as a VF/R does not automatically qualify the applicant for increased payment rate or eligibility for advance payments. A VF/R must **also** self-certify as a beginning farmer or rancher to qualify for increased payment rate or for advance payment because the definition of VF/R incorporates the criteria for BF/R. Applications received after February 7, 2014 (date of enactment), are also subject to veteran farmer or rancher provisions as follows in (2) below.

(2) VF/R Program Preference.—The 2014 amendments to EQIP made clear that in addition to potential qualification for increased payment rates or advance payments, the agency must provide "preference" to eligible VF/R by assigning higher priority in screening and ranking. STCs must manage applications from eligible VF/R applicants considering the following:

(i) No new or separate fund accounts may be established in ProTracts for evaluation of veteran applicants.

(ii) Preference.—If an eligible VF/R application is evaluated—

- In any beginning farmer or rancher subaccount, such applications must be assigned "High" priority in ProTracts and must be ranked along with all other high-priority applications.
- In any socially disadvantaged farmer or rancher subaccount, if the applicant is both SDF/R and BF/R, such applications must be assigned "High" priority in ProTracts and must be ranked along with all other high-priority applications.

(ii) No-Preference.—If an eligible VF/R application is evaluated in any other subaccount (regardless of also self-certifying as BF/R or SDF/R), such applications must be screened and ranked in the same manner as any other eligible application evaluated in that subaccount.

515.72 Application Ranking

A. General

(1) Refer to 440-CPM, Part 512, Subpart C, Sections 512.23 to 512.25, for additional guidance in accepting, managing, processing, and evaluating applications.

(2) Within the Application Evaluation Ranking Tool (AERT), States are required to distribute 25 percent of the total ranking points to national questions. The remaining 75 percent will be divided with 10 percent to the efficiency score, at least 25 percent to local questions, and the balance of the 75 percent to State questions.

B. Application Screening and Ranking – Minimum Requirements

(1) Screening and ranking criteria in the form of questions must be used to establish priority and application scores. Screening criteria may be used to manage workload and determine which applications will be ranked. If screening factors are used to designate a higher priority for ranking, all

eligible applications with a higher priority and that address an eligible resource concern are ranked and considered for funding before ranking or considering for funding applications that are a lower priority.

(2) When developing screening tools, the STC or designee must use criteria that are consistent with the approved ranking criteria listed in section 515.72C. The purpose of screening is to identify quickly applications that would receive a "High" ranking score based on the ranking criteria established for a given funding pool. This screening allows NRCS to streamline the evaluation process and identify those applications that will maximize conservation benefits more efficiently. It is not appropriate to develop or use screening criteria that undermine the ranking process and are not consistent with the approved ranking criteria.

(i) In addition to the approved ranking criteria, a STC may consider the use of the following criteria as it is tied to the likelihood that the applicant will implement the contract and maintain the installed practices in a manner that achieves the purpose of the program:

- Applicant's failure to properly operate and maintain practices installed with program assistance that resulted in the re-emergence of the resource concern originally addressed when there have been no other substantial changes in the operation.
- Applicants who have been notified of 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 administration action to enforce the contract.
- Applicants who have had a previous contract terminated within the past 3 years for reasons within their control

(ii) Examples of inappropriate screening criteria include (but are not limited to)—

- Actions outside of the producers' controls, such as the ability for NRCS to develop a conservation plan or provide completed practice designs
- Whether or not the participant has previously held an EQIP contract
- Type of livestock or crop operation

Note: If a screening tool is used to establish a workload priority, such priority must be recorded in ProTracts and used to determine which applications will be ranked.

(3) Ranking criteria must be used to determine and assign a numerical score to each eligible application that is ranked. Unless otherwise authorized, all ranking criteria must be based upon the approved ranking criteria at section 515.72C.

(4) All application ranking will be performed using the AERT accessed through ProTracts (see 440-CPM, Part 512, Subpart C, Section 512.25).

C. Ranking Criteria

(1) The following factors must be used to establish ranking criteria for applications:

(i) The degree of cost effectiveness of the proposed conservation practices.

Note: The ProTracts AERT cost-effectiveness score will evaluate each application based upon broad averages of the typical cost of practice implementation and conservation benefits of each practice based upon positive Conservation Practice Physical Effects (CPPE) values.

(ii) The magnitude of the expected conservation benefits resulting from the conservation treatment and the priority of the natural resource concerns that have been identified at the local, Tribal, State, and national levels (not size of operation).

(iii) How effectively and comprehensively the planned conservation practices address the identified natural resource concerns. The degree of conservation benefit expected from application of a practice may be determined by positive effect values documented in the CPPE database or other agency-approved evaluation tools, such as RUSLE2, WINPST, etc.

(iv) Use of approved conservation practices and activities posted to the FOTG that provide long-term conservation benefit.

(v) Compliance with Federal, State, local, and Tribal regulatory requirements concerning soil, water, and air quality; wildlife habitat; and ground and surface water conservation.

Example: Producer’s property is located within an Environmental Protection Agency designated 303d-listed watershed and the contract practices will address priority water quality resource concerns. Note: Higher ranking may be given to plans that will help producers avoid regulatory requirements or meet regulatory requirements.

(vi) Willingness of the applicant to complete all conservation practices in an expedited manner, such as completing all practices within 3 years. Note: This criteria may not be appropriate for all funding pools, such as funding pools reserved for HU producers, or where priority practices involve infrastructure construction, as these producers or projects may need a longer implementation schedule due to financial constraints. State Conservationists should evaluate the purpose for all funding pools and determine if this ranking criteria would be a benefit or a detriment to the potential applicants.

(vii) Ability to improve existing conservation practices or systems that are in place at the time the application is accepted or that complete a conservation system.

Note: Points may be awarded for planned and funded practices that achieve a higher level of environmental benefit. For example, additional ranking points could be awarded to a participant who wants to install a single pipeline practice that would complete a reorganization of an existing irrigation system and achieve more water conservation benefit.

(viii) 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.

(2) For application subaccounts that include water conservation or irrigation related practices that address the “Insufficient Water” resource concern, the STC will give priority to applications in which, consistent with the State law in which the producer’s eligible land is located, there is a reduction in water use in the agricultural operation, or where the producer agrees not to use any associated water savings to bring new land under irrigation production, other than incidental land needed for efficient operations.

A producer who brings new land under irrigated production may be excluded from this condition if the producer is participating in a watershedwide project that will effectively conserve water. The STC must designate eligible watershedwide projects that effectively conserve water, in which—

- The project area has a current, comprehensive water resource assessment.
- The project plan has demonstrated effective water management strategies.
- The project sponsors have consulted relevant State and local agencies.

Note: This section of policy is designed to establish priority of applications to address water conservation through screening and ranking and not related to the separate program land eligibility requirements for irrigation history cited in section 515.52(5) or practice eligibility cited in section 515.81E(1).

(3) If the STC determines that the conservation benefit of two or more applications for payments are comparable, the STC may not assign a higher priority to the application solely because it would present the least cost to the program. The EQIP statute prohibits bidding down. Additional actions that are considered bidding down include certain efforts by producers to increase the chances of an EQIP application to be approved for funding or inappropriate ranking criteria, and these are not allowed. Examples of bidding down prohibited in EQIP include, but are not limited to—

(i) Ranking criteria that awards points for conservation practices or activities that will not be financially assisted in the EQIP contract.

(ii) Participant acceptance of reduced financial assistance (e.g., agrees to reduce extent or a lower payment percentage).

(iii) Approval or prioritization of an application over another because the application provides the least cost to the program.

(iv) Changing or adjusting practices or extents after the application has been submitted for evaluation to achieve a better ranking score.

D. Processing Applications

Guidance for processing and ranking eligible applications is found in 440-CPM, Part 512, Subpart C, Sections 512.24 and 512.25. The evaluation (ranking) process for EQIP may include—

(i) Grouping applications to the greatest extent possible by similar crop, forestry, or livestock operations for evaluation purposes or otherwise evaluating each application relative to other applications of similar agricultural operations. Subaccounts may be developed to address a specific resource concern, geographic area, or type of agricultural operation; however, to promote efficient and timely delivery of program assistance, States should limit creating subaccounts in ProTracts to the minimum number needed to effectively rank and approve applications.

(ii) Using evaluation criteria based on identified resource concerns, developing suites of practices based on treatment levels in which applicants choose a package of practices they agree to plan and implement.

(iii) The Regional Conservation Partnership Program (RCPP) may allow the establishment of minimum levels of ranking to expedite application approval or automatic approval of applications for applicants participating in a RCPP project area.

E. Avoid Bias in the Ranking and Screening Process

(1) The evaluation process, including ranking criteria and any screening tools, must be size- and class-neutral and must avoid criteria that may cause a bias for or against any individual, group, or size of operation. Otherwise-eligible program applications may not be determined ineligible or deferred based upon the size or extent of the producer ownership, area proposed for treatment, or extent of practice or activities to be addressed. Examples of inappropriate criteria:

(i) Criteria that creates an eligibility restriction based upon the size of operation, such as “Operations that are 5 acres or less are not eligible for CP 106 FMP practice.”

(ii) Criteria that limits benefits to certain classes of producers that is not authorized by the program, such as “Horse operations with only 3 animals are not eligible.”

(iii) Criteria that limits benefits to HU producers versus non-HU participants, such as “HU producers less than 5 acres are not eligible for the CP 643, Well.”

(2) Controls for payment should be managed through development of appropriate program percentages limiting costs in payment schedules, scenario descriptions for specific kinds of typical resource conditions, and by establishment of practice payment caps.

(3) Maximum practice payment caps or cost caps are managed through the ProTracts system per 440-CPM, Part 512, Subpart G, Section 512.60F. If appropriately noted and advertised during the period of program application,

States may establish a maximum practice payment cap or cost cap, but a maximum extent limitation for any practice or activity may not be established. For example, States may not establish a maximum number of acres to be supported through EQIP for any practice, except for practices supported by an interim practice standard. The use of cost caps to limit payments should be used judiciously and for the primary purpose to control costs associated with typically expensive practices. It is not appropriate to establish cost caps for all practices offered simply for the goal of maximizing the number of approved contracts or to ensure specific levels of program participation. Nor is it appropriate to establish a lower payment cap for historically underserved producers versus non-HU participants.

(4) Contract payment limits may not be established other than what is authorized by statute or regulation (the current EQIP program payment limit and contract limit is $450,000 per person or legal entity). Generally, the agency is obligated to make payments to participants for the extent of practice certified and the payment rate approved at the time of contract obligation. Examples of prohibited actions include the following:

(i) States may not establish a $25,000 maximum payment cap for any contract.

(ii) States may not establish a maximum payment associated with multiple application of the same practice within a contract (e.g., three contract item number (CIN) applications of CP 340 Cover Crop, but total payment allowed will only be $xxx amount in combination for all practices applied).

F. Application Funding

The STC or designated conservationist, as delegated, will periodically select the highest-ranked eligible applications (based on the NRCS ranking process) for funding. Eligible applications within a subaccount must not be skipped to allow funding of a lower-ranked application. If two or more applications have the same ranking score, a tracking code number may be generated and assigned to assist in selection of applications. It is **not** appropriate to assign a tracking code to applications unless needed to help differentiate between applications with the same ranking score.

G. Deferred Applications

See 440-CPM, Part 512, Subpart C.

H. Disposition of Applications Not Selected for Funding See 440-CPM, Part 512, Subpart C.

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart I – EQIP Schedule of Operations

515.80 General Information

A. Purpose and Use of Schedule of Operations

(1) Both statute and regulation use the term “plan of operations.” For the purpose of clarity and consistency, this manual refers to the plan of operations as the “EQIP schedule of operations.” The EQIP schedule of operations is recorded on Form NRCS-CPA-1155, “Conservation Plan or Schedule of Operations.” This document identifies the conservation practices to be implemented, timing of the implementation, practice location, and payment rates.

(2) The EQIP schedule of operations is derived from the participant’s NRCS conservation plan certified by NRCS or other approved planner that is recorded in Customer Service Toolkit (CST).

(i) The EQIP schedule of operations uploaded to ProTracts will only include practices that are planned to be financially supported through EQIP and developed in accordance with Title 440, Conservation Programs Manual (CPM), Part 512, Subpart B, “Conservation Plan Schedule of Operation.” Only financially supported practices will be evaluated through the Application Evaluation Ranking Tool (AERT) in ProTracts to determine the ranking score of the application.

(ii) The conservation plan recorded in CST may include practices in addition to the practices in the EQIP schedule of operations. An NRCS conservation plan certified by NRCS includes all the practices, regardless of the program’s financial assistance that the participant has agreed to adopt in his or her operation, as indicated in Title 180, General Manual (GM), Part 409, and Title 180, National Planning Procedures Handbook (NPPH), Part 600.

B. Technical References and Approval

(1) The EQIP schedule of operations (NRCS-CPA-1155/1156) must be developed and carried out in accordance with the applicable NRCS conservation planning and technical guidance. Technical references for planning and implementing conservation practices are the following:

(i) 180-GM, Part 409

(ii) 180-NPPH, Part 600

(iii) Field Office Technical Guide (FOTG)

(iv) 450-GM, Part 401

(v) Title 450, National Handbook of Conservation Practices

(2) The selection of practices or activities documented on the EQIP schedule of operations must be based upon an agency approved conservation plan developed using NRCS planning procedures and technical standards. The approved conservation plan and practices selected for program financial

assistance must meet the following requirements. Specifically, the practices in the schedule of operations must—

(i) Address an identified natural resource concern. The natural resource concerns to be addressed must be identified and documented on Form NRCS-CPA-52, "Environmental Evaluation."

(ii) Meet the quality criteria and technical standard that will address the identified natural resource concern. Only practices listed in the Conservation Practice Standards (CPS) database may be approved for EQIP.

(iii) Result in conservation benefit as determined by the Conservation Practice Physical Effects (CPPE) or other agency approved evaluation tool (RUSLE2, WINPST, etc.).

(iv) Be a land-based conservation practice implemented on eligible land to address a resource concern related to agricultural production.

(v) Meet the requirements of applicable Federal, State, or local regulations, laws, ordinances.

(3) An EQIP schedule of operations recorded on Form NRCS-CPA-1155 or revision using CPA-1156 is part of the contract agreement and must be approved in the following order:

(i) Approved by a certified conservation planner

(ii) Signed and dated by the participant

(iii) Signed and dated by the NRCS approving official

C. Schedule of Operations Requirements

(1) The EQIP schedule of operations must meet all the requirements of 440CPM, Part 512, Subpart B, "Conservation Plan Schedule of Operation" and Subpart E, "Contracting."

(2) Contract periods are as follows, but see additional guidance for contract management, completion, and establishment of expiration dates in 440-CPM, Part 512, Subpart E, "Contracting":

(i) Contracts Approved Prior to the 2014 Act.—The contract period must be a minimum duration of 1 year after the completion of the last scheduled practices but cannot exceed 10 years.

(ii) Contracts Approved During Fiscal Year 2014 and Later.—The contract period will last, at a minimum, from the date of obligation through the last scheduled practice, but must not exceed 10 years.

Note: States may not establish a minimum contract period that is longer than necessary to implement and certify the contracted practices. Example: States may not require that the contract expire 12 months after the last implemented practice to facilitate a "maintenance" period.

(3) All conservation practices and activities funded through EQIP must be implemented in accordance with approved standards and specifications cited in the NRCS FOTG. Refer to 440-CPM, Part 512, Subpart A, Section

512.11C, and Subpart G, Section 512.65. Also, see section 515.81A for additional requirements.

(4) If an EQIP schedule of operations includes animal waste storage or treatment facility on an animal feeding operation (AFO), the participant must develop and provide a copy of an NRCS approved comprehensive nutrient management plan (CNMP) prior to implementation of any waste storage and handling facility or nutrient management activities. This plan includes any conservation practice planned for an AFO associated with storing, treating, application, or handling (transfer) of animal waste or organic byproducts, such as animal carcasses.

(i) The requirement for development of a CNMP only applies to an AFO operation where animals are kept and raised in confined situations. As defined in EQIP regulations, AFOs congregate animals, feed, manure, dead animals, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures, field, or on rangeland. An AFO is a lot or facility (other than an aquatic animal production facility) where both of the following conditions are met:

- Animals have been, are, or will be stabled or confined and fed or maintained for 45 days or more in any 12-month period.
- Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(ii) Implementation of all practices cited in a CNMP is required by the end of the contract period, regardless of financial assistance provided.

(5) If an EQIP schedule of operations includes forest-related practices on nonindustrial private forestland, the participant must implement conservation practices 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 approved by the State Conservationist (STC). 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 STC.

(6) If the contract is funded through the EQIP Organic Initiative, the EQIP schedule of operations must include conservation practices that are consistent with an organic system plan. See sections 515.51C(3) and 515.92B(4) for additional guidance regarding organic-related applications and operations.

(7) A participant may receive assistance to implement an EQIP schedule of operations for water conservation if the assistance will facilitate a reduction in ground and surface water use on the agricultural operation, unless the producer is participating in a watershedwide project approved by the STC that will effectively conserve water. See also section 515.52A(5).

(8) If an EQIP schedule of operations includes practices that promote a change in production systems (see section 515.81D(4)), the conservation program contract must contain an appropriate supporting management practice to ensure that environmental benefits will be achieved (such as prescribed grazing to ensure that a pasture planting will not be overgrazed).
(9) The STC, considering advice from the State Technical Committee, may develop additional requirements through a State supplement of this manual to be included in the EQIP schedule of operations. A copy of all State supplements to this manual must be submitted to the Deputy Chief for Programs for review and approval. See section 515.2D for further instructions and requirements.
(10) The EQIP schedule of operations must include at least one financially assisted practice planned within the first 12 months of signing a contract. If the participant is unable to commence a financially assisted practice they may request a waiver consistent with 440-CPM, Part 512, Subpart E, Section 512.45C.

D. Supporting Documentation

Refer to 440-CPM, Part 512, Subpart B, Section 512.10, and Subpart E, “Contracting.”

515.81 Conservation Practices and Planning Activities

A. A land-based conservation practice is one or more conservation improvements or conservation activities that are applied to eligible land, subject to the following:

(1) Improvements include structural, management, vegetative, and other improvements that achieve program purposes as approved in FOTG.
(2) Conservation practices include the development of conservation activity plans (CAPs) meeting the approved planning criteria in FOTG. A CAP is the conservation practice associated with the development of a plan by a certified technical service provider for which payments are made directly to EQIP participants. CAPs eligible for financial assistance through EQIP are approved by NRCS each fiscal year. CAPs eligible for EQIP financial assistance must meet the requirements outlined in 440-CPM, Part 512, Subpart D.
(3) As approved by the Deputy Chief for Programs, a conservation activity funded through EQIP is a practice that includes the actions and activities using acceptable tools and protocols necessary for the development of a plan appropriate to address either of the following:
   (i) Measurement and evaluation of the effectiveness of currently implemented on-farm conservation practices adopted through EQIP
   (ii) Adapting existing or new conservation practices to achieve a conservation benefit
(4) Approved conservation activities are subject to the following:

(i) Conservation activities with a lifespan of 1 year, as documented in the national CPS database, may be supported through EQIP with up to nine separate payments for each activity application during the term of the contract.

(ii) Conservation activities with a lifespan of 2 or more years, as documented in the national CPS database, may be supported through EQIP following the same policy requirements associated with structural practices per guidance in section 515.81D(2).

Note: With the exception of CAPs and conservation activities as defined, EQIP may only be used to implement a conservation practice that is supported by a practice standard as defined and approved through 450-GM, Part 406, "Conservation Practice Standards."

B. Conservation practices, including CAPs and approved activities, for EQIP will be made available within each State based on—

(1) Approval by the STC, considering the advice from the State Technical Committee.

(2) Other practices or activities (if not already approved) that are needed to support nationally approved initiatives, as determined by national headquarters.

C. The list of eligible practices and activities must be posted on the State's Web site to support current fiscal year program opportunities. See section 515.32 for guidance. Conservation practices and activities approved for financial assistance through EQIP must meet the following criteria:

(1) Approved in FOTG and meet the purpose and definition of the practice or conservation activity standard.

(2) Meet the intent of the program and be designed to address at least one identified natural resource concern.

(3) Include appropriate operation and maintenance requirements in the practice design to allow the participant to successfully implement the practice to standards and specifications for the practice lifespan as recorded in the Conservation Practice Standards (CPS) database.

(4) Meet the requirements outlined in 440-CPM, Part 512, Subpart B, "Conservation Plan Schedule of Operation," and 440-CPM, Part 515, Subpart I, "EQIP Schedule of Operations."

D. Eligible Conservation Practices

(1) Management Practices

(i) Management practices are those associated primarily with management techniques, methods, and support activities to implement the practice.

(ii) As established in 440-CPM, Part 502, Subpart A, "Common Terms," and 440-CPM, Part 512, Subpart D, "Program and Payment Schedules," management practices have a maximum lifespan of 1 year, as documented in the national CPS database. Contracting and program policy establish that payments for management practices are limited to a maximum of three separate payments during the term of a contract.

Exception: Payments for conservation practice (340) Cover Crop are limited to a maximum of five separate payments during the term of a single contract on the same land unit 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) Within a single active contract, management practices that address an identified resource concern may be implemented again up to the maximum three payments on the same land unit. Producers also may apply for a subsequent new EQIP 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 from the original contract.

(2) Structural and Vegetative Practices

(i) Structural practices are those that 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.

(ii) Structural and vegetative practices have a lifespan of 2 or more years, as documented in the national CPS database. Installation of structural or vegetative practices on land not owned by the applicant requires written permission from the landowner before the contract can be approved and obligated.

(iii) Retrofitting of structural practices is allowable, provided that a higher level of conservation benefit (e.g., irrigation water conservation or water savings) can be documented and is supported by the practice standard. Retrofitting will only be allowed if it is more cost efficient than an alternative replacement system and meets the minimum requirements of the practice standard. Payment schedule scenarios that support retrofitting must be approved through the national payment schedule process prior to contracting. Retrofitting is not allowed to replace components that are required to be maintained for normal operation of the system within the approved practice lifespan.

(iv) Multiple payments (not to exceed three payments) may be allowed for the successive implementation of Brush Management (314) and/or Herbaceous Weed Control (315) provided the following conditions have all been met:

- The State has consulted with the national rangeland management specialist to ensure the targeted plants for control require multiple-year treatment.
- The desired plant species in the plant community are resilient in said treatment regime.
- A site specific technical determination determines 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."

(3) New Technology

The STC may approve, with advice from the State Technical Committee, new innovative conservation practices where warranted. Interim CPS will be developed before they are authorized for use, and interim practices will be evaluated in accordance with procedures outlined in 450-GM, Part 401, Subpart B. Payment schedules developed to support interim conservation practices are subject to the same review and approval process as any other practice or activity.

(4) Changes in Production System

(i) Practices that facilitate a beneficial cost-effective change in production system (e.g., change in agricultural land use), provided that all of the following criteria are met:

- The change in production system results in a higher level of conservation benefit, such as a lower intensity land use.
- The producer will implement a management practice that supports the change in production system.
- The practices are necessary to address a natural resource concern that is associated with the new production system. Cost-effectiveness can be documented.

Example 1.—Producer is transitioning highly erodible cropland to grazed pasture. The operation currently does not support or maintain livestock, but transitioning to grazed pasture will address erosion-related resource concerns and result in a higher level of conservation benefit. Program support is allowed to implement fencing (CP 382), watering facility (CP 614), prescribed grazing (CP 528) and other facilitating practices that are necessary to establish the new production system and address the resource concern.

Example 2.—Producer is transitioning cropland to pastureland to address a resource concern resulting from overgrazing on part of the operating unit. At a minimum, the EQIP schedule of operations must include prescribed grazing (CP 528) to address resource concerns associated with livestock on the cropland being converted to grazing land. Other supporting or facilitating practices likely to be needed include forage and biomass planting (CP 512), watering facility (CP 614), fence (CP 382), or other practices identified that are necessary to address resource concerns associated with the conversion from cropland to grazing land. The conversion of cropland production system to a grazing production system reduces impact to the existing operating unit and also moderates erosion by lowering the intensity of use on the converted cropland field.

(5) Animal Feeding Operations – New and Expanding Operations

(i) Financial assistance may be provided to implement conservation practices if the following basic program requirements are met:

- The purpose of the project or practice is not exclusively for a production-related purpose.
- The participant is an agricultural producer.
- The land associated with the EQIP contract is eligible.
- The project will address an identified natural resource concern and result in conservation benefit.
- The NRCS approved land-based conservation practice will address the resource concern in a cost-effective manner.

(ii) **New AFOs**.**—**EQIP financial assistance **may not** be used to implement practices needed to establish a new AFO or livestock operation as such support does not meet basic program requirements.

Exception: A new facility may be constructed using EQIP assistance when it is determined that resource concerns associated with an existing facility cannot be adequately addressed in the original location. The original facility must be completely removed to ensure that it does not pose an ongoing resource concern. For example, EQIP assistance may be used to relocate an existing AFO that is located within a floodplain that is frequently inundated.

(iii) **Expanding AFOs**.**—**EQIP financial assistance **may** be used to implement practices needed to expand an existing established AFO or livestock operation. Such assistance is consistent with previously cited EQIP program requirements.

- EQIP financial assistance may be used to assist producers expanding an operation to address existing and new resource concerns that will be associated with expanded production activities. Such assistance may also include expansion that results in necessary changes to production systems and land use consistent with section 515.81D(4). Expansion is not limited to land that is contiguous with the existing operation. For example, expansion of an existing operation to a noncontiguous location is permitted, regardless of the distance between the old and new location.
- STCs may not limit such assistance based upon a certain increase of the number of animal units (e.g., animal unit increase of greater than 25 percent or more), extent of resource concerns or practice that may be needed, or limit contracts to a maximum dollar amount. STCs may establish appropriate screening and ranking that may help prioritize need based upon geographic location or severity of resource concerns to be developed. Also, to manage limited funding, STCs may consider establishment of practice payment cap or “cost cap” per 440-CPM, Part 512, Subpart G, Section 512.60F.

E. Ineligible Practices

(1) Ineligible practices are those—

(i) In which the purpose is to enhance production without providing an identifiable conservation benefit or does not address a natural resource concern. Examples include—

- Water Well (642) used to bring new land under irrigation or to replace an existing well is an ineligible practice. Domestic wells to provide water to a residence are prohibited. The establishment of a well does not address a water conservation (savings) resource concern on cropland.

  Exception: Water Well (642) installed for irrigation purposes on cropland may be eligible if—

  -- Evaluation of the project documents finds that the new well will increase water conservation or provide water savings of an existing irrigation system on cropland.

  -- The STCs determines the producer is participating in an approved watershedwide project that will effectively conserve water in the project area (e.g., reduces aquifer overdraft).

- Fence (382) or Access Control (472) is ineligible if the primary purpose is to—

  - Separate ownership or exclude domestic livestock from transportation networks or residential, commercial, or industrial areas.
  - Exclude pests, including invasive or noninvasive, native or nonnative, species such as deer, feral hogs, wild animals, predators, rodents, or other animals, or other organisms from cropland.

  Exception: Boundary fence (property line fence) or perimeter fence is eligible—

  -- On expired or expiring Conservation Reserve Program (CRP) land to establish a grazing operation; however, practices may not be implemented until the CRP contract has expired. See section 515.52C regarding eligibility for EQIP on CRP.

  -- On land to protect, restore, or enhance an environmentally sensitive area, such as a riparian area or wetland.

  -- On land to facilitate a change in production systems per the requirements of section 515.81D(4).

Note: The EQIP regulation states (7 CFR Section 1466.1, "Applicability"): "The purposes of EQIP are to promote agricultural production, forest management, and environmental quality as compatible goals, and to optimize benefits." This purpose should not be interpreted to mean that EQIP may pay for production-related practices or activities when there will be no conservation benefit. The correct understanding of this program purpose is that EQIP recognizes that implementing conservation practices that address a natural resource concern may be compatible with production operations.

(ii) That the producer has already implemented to address an identified resource concern on a specific land unit unless waived by the Chief or designee, and according to 440-CPM, Part 515, Subpart F, Section 515.52C. However, within a single active contract, management practices that address a higher-level quality concern may be implemented again on the same land unit. Producers also may apply for EQIP financial assistance to implement a management practice that has not been previously implemented to address a resource concern on land within the operation. Note: EQIP also may be used to reapply a structural or vegetative practice where a resource concern has been identified and the previously implemented conservation practice is past the established lifespan.

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

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

(iii) Practices that were commenced or implemented prior to contract obligation by the NRCS approving official, unless waived by the STC in accordance with 440-CPM, Part 515, Subpart B, “Responsibilities,” and 440-CPM, Part 512, Section 512.45C.

(iv) That the participant is obligated to implement as requirement established by court order proclaimed, signed, and issued by a judge through civil actions. Such orders may include a court-issued cease and desist order, consent decree, injunction, writ, or similar documents. Certain legal actions, such as suspension or debarment actions or actions related to criminal violations, are not addressed in this policy. Actions brought by an administrative body (Federal, State, or local agency or commission, board, etc.) or agency that may involve civil actions, criminal violations, notice of violations, or regulatory requirements, do not preclude eligibility for EQIP assistance to implement a required conservation practice. Being accused of violating a law or regulation or requirements to implement a practice, other than by judicial order, **does not** make an applicant ineligible. Practices that are required to be implemented to comply with laws, regulations or permit may still be supported through EQIP. Compulsory actions requiring practice implementation that are still eligible for EQIP support include, but are not limited to the following examples:

- Practices and contracts associated with Highly Erodible Land compliance plans
- Compliance with a “cease and desist order” issued by an administrative body or State agency
- State or local agency permit or regulatory requirement
- “Agreed to order” from a State administrative or regulatory agency

Note: Per 7 CFR Section 1466.1 of the EQIP rule, a program purpose is to provide “financial and technical assistance helps producers comply with environmental regulations and enhance agricultural and forested lands in a cost-effective and environmentally beneficial manner.”

(v) Water conservation or irrigation-related practices on land that has not been irrigated 2 out of the last 5 years unless granted a waiver per section 515.52A(5).

(vi) Practices or activities where the primary purpose is renewable energy production (e.g., generation of electricity or biofuel practices).

(vii) Conservation practices or activities that defeat the purpose of EQIP or other conservation program contracts are ineligible.

(viii) Practices or activities that do not address a resource concern directly tied to eligible land, such as a practice implemented entirely within a water area and that does not address a resource concern related to the submerged land.
Example: Application of a chemical in a pond or reservoir for the purpose to kill or eliminate an invasive fish species.

(2) In addition to ineligible practices, there are costs associated with practice implementation that are prohibited from payment. Practice payment schedules will be developed in accordance with 440-CPM, Part 515, Subpart J, “Conservation Practice and Technical Assistance Payments,” and 440-CPM, Part 512, Subpart D, “Program Payment Schedules.”

515.82 Quality Assurance and Oversight for EQIP Planning and Implementation

A. Procedure

Quality assurance will be performed by the STC and designated conservationist as part of the ongoing quality assurance programs that provide technical and financial assistance.

B. Technical References

References for quality assurance of conservation planning and application include the following:

(i) 180-NPPH, Part 600
(ii) FOTG
(iii) 450-GM, Part 407
(iv) State quality assurance plan
(v) 340-GM, Part 404

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart J – Conservation Practice and Technical Assistance Payments

515.90 Payment Schedules

Policy guidance regarding payment schedules is located in Title 440, Conservation Program Manual (CPM), Part 512, Subpart D. The process for developing payment schedules is outlined in Title 300, Payment Schedule Handbook, Part 600.

515.91 Determining Eligible Payment Schedule Costs and Rates

A. Eligible Costs.—EQIP is authorized to make payments to implement conservation practices based generally upon the estimated cost incurred for planning, design, materials, equipment used for installation, installation and labor costs, management and training costs as well as the estimated income foregone by the producer associated with practice implementation. These payment costs are estimated and incorporated into the payment schedules developed in accordance with 440-CPM, Part 512, Subpart D.

(1) Payment rates are limited to the least-cost alternative to meet quality criteria and the minimum practice standards and specifications needed to address the resource concerns. The least-cost-alternative limitation is only applicable to payment rates and does not limit choice of treatment options. However, treatment options must meet NRCS standards and specifications, address the identified resource concern, and be approved by an individual with NRCS job approval authority.

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

(2) The participant is responsible for the expense of conservation practice installation. The participant receiving the program benefit must also be directly incurring the cost of the practice installation.

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

(4) When setting payment rates with regard to income foregone for EQIP, the State Conservationist may accord greater significance to conservation practices that promote soil health; water quality and quantity improvement; nutrient management; pest management; air quality improvement; wildlife habitat development, including pollinator habitat; invasive species management; and other resource issues of regional or national significance as

determined by NRCS. Greater significance may be established by either one of two methods:

(i) By establishing a higher priority to these practices in the screening and ranking process

(ii) By assigning a higher program payment percentage in the foregone income cost category of a payment schedule (not to exceed 100 percent) to priority practices and a reduced program payment percentage assigned to low-priority practices.

(5) Any practice in which used materials are used may be eligible for payment in accordance with criteria set forth in Title 210, National Engineering Manual, Part 512, Subpart C.

(6) All estimated incurred costs and income foregone associated with an EQIP payment must be documented in an approved payment schedule. Only costs that are associated with components and items needed for implementation of a conservation practice and the practice standard may be included in the payment. See 440-CPM, Part 512, Subpart D, for additional information.

(7) Renewable energy production that is related to a conservation benefit (excluding energy conservation), such as—

(i) Managing feedstock or other biomass to address soil conservation.

(ii) Converting biogas to address air quality.

(iii) Hydropower to address water quantity.

(iv) Renewable power source (such as solar panels or windmills) that address multiple resource concerns in remote regions of rangeland.

B. Ineligible Costs

The following are examples and categories of ineligible costs that may not be included in program payment schedules. Such costs are usually ineligible, as they may have no environmental or conservation benefit, are not allowed by the practice standard, their primary purpose may be considered a production related activity, or for which there may be no statutory authority to provide program support:

(i) Production costs associated with the normal production activities are prohibited. Examples of ineligible costs include, but are not limited to, the following:

- Subsurface drainage installed solely to obtain better yields.
- Any pest control or treatment solely for crop production. Costs associated with control, suppression, or management of invasive or noninvasive plants, animals, pests, insects, rodents, feral hogs, deer, birds, or other wildlife on cropland. Costs associated with control, suppression, or management of invasive or noninvasive animals, insects, rodents, feral hogs, deer, birds, or other wildlife on noncropland is prohibited. See Section 515.91B(1)(iii), “Pest Management,” following.

- Costs that are not directly related to implementing an NRCS-approved conservation practice or not allowed according to the NRCS practice standard.
- Costs that are not incurred by the program participant, such as value of donated materials or labor.
- Costs for education or training that is not directly related to implementation, operation, or maintenance of a conservation practice. Costs for travel, lodging or hotel, transportation, fuel, food or per diem are not allowed.
- Costs associated with risk of agricultural operations, such as the potential loss of yield or production resulting from—
  - Weather related conditions or events
  - Cultural activities
  - Wildfires
  - Animal, pest, or other wildlife damages to crops
  - Lack of operation and maintenance of practices or equipment
- Costs associated with agricultural enterprise changes where there is no identified resource concern to be addressed (see section 515.81D(5) for an exception).

Note: Risks and costs associated with the agricultural operation must be borne by the producer.

(ii) Permits, fees, certifications, and miscellaneous production or operation related expenses not directly related to implementation of a practice

- County earthmoving or NPDES permits
- Building permits
- Administrative costs or fees assessed by water, electricity, or other utility companies or suppliers
- 404 permits or other regulatory permit costs
- Confined animal feeding operation (CAFO) permit
- Organic certification fees
- Administrative and overhead costs associated with agricultural operations, such as telephone, drinking water, fuel and lubricants for farm vehicles, replacement parts, electricity, photocopy, and similar activities
- Repair costs of equipment used to construct conservation practice
- Structures and components that are not part of the appropriate conservation practice standard, such as installing a composting facility under the heavy-use, protection-area standard or drilling a well as part of the pipeline standard.

(iii) Pest Management

- A program payment for control or management of noxious or invasive weeds, insects, diseases, rodent, nematodes, predators, including native or nonnative species, or other pests is prohibited. (Pest as defined in 190-GM, Part 414, “Invasive Species,” and agency policy in 190-GM, Part 404, “Pest Management.”)

Example Ineligible Cost.—Costs associated with a practice (e.g., CP 382 Fence) to exclude animals from cropland field is prohibited.

Example Eligible Cost.—Costs associated with CP 382 Fence established to protect a sensitive area containing threatened or endangered plant species.

Exception.—Payments for suppression of noxious and invasive weeds on noncropland is allowed as part of the incurred cost to facilitate implementation of an NRCS-approved conservation practice. For example, costs associated with management or control of invasive or noxious plant species to support success of a range planting, critical area planting, or tree and shrub planting on noncropland is allowed.

(iv) Equipment

As defined in 440-CPM, Part 502, “Terms and Abbreviations Common to All Programs,” equipment is the tools, machinery, or similar items needed to implement the practice to design standards. As noted in 440CPM, Part 503, “Commodity Credit Corporation Procedures,” CCC and program authority provide financial assistance to implement conservation practices, but not for purchase of equipment to implement practices. Examples of equipment that may not be purchased using EQIP financial assistance include, but are not limited to the following:

- Equipment to haul or apply manure
- Spray or pesticide application equipment
- Tillage or cultivation equipment
- Global Positioning Systems (GPS)
- Monitoring cameras or GPS systems attached to equipment used for practice implementation or to animals (cameras attached to permanently installed practices, such as pumps, to meet safety requirements may be eligible).
- Costs associated with telephone, radio, or similar transmission or communication services. (e.g., phone or data services are ineligible).
- Other equipment not specifically addressed as being eligible for EQIP funding or as determined by the NRCS conservation practice standard

Note: EQIP allows for use of financial assistance to purchase materials that are typically required by the conservation practice standard to address a resource concern. Materials are components used to make, develop, or implement a practice; such as sand, gravel, grass seed, soil amendments, plants, pipe, concrete, sensors and required water measurement devices, and similar products and devices cited as needed in the practice standard or design requirements.

(v) Portable Equipment

- Engines, motors, pumps, and pumping equipment not affixed to a land-based practice
- Motorized vehicles, such as trucks, trailers, and tractors, whether on or off agricultural land
- Spray equipment
- Monitoring equipment or components that are not affixed to a landbased practice.

Exception.—Engine and motor replacement or retrofit may be allowed for an approved NRCS practice and identified resource concern (e.g., Pumping Plant (533) to replace an inefficient, polluting engine to meet water conservation, air quality, or energy conservation).

Note: Portable equipment raises important accountability issues in terms of providing program benefits to address an identified resource concern on eligible land as well as statutory requirements. For documentation of benefit through required ranking, NRCS must be able to associate the conservation benefit with a specific land unit where the practice is implemented. If the practice standard includes portable equipment, it may only be relocated to land that meets land eligibility requirements and that is included in the original contract.

(vi) Energy production, generation, or practices associated with residential buildings.

(vii) Electric Power

- Running electrical lines from any power source to power equipment unless specified in the practice standard
- Portable generators
- Payment for electricity generated or needed to run equipment
- Services needed to operate or maintain practices or equipment
- Fuel to run or operate generators or other energy equipment

(viii) Transportation costs associated with hauling or transporting manure, animal waste, organic byproducts, or animal carcasses offsite.

(ix) Extents greater than technically needed to meet the minimum practice standards.

Note: The least-cost standard must be applied to support payments for practices to achieve the conservation objective. At the request of a participant, NRCS may provide design and technical assistance for implementation of a practice with extents greater than what is needed to address the resource concern; however, expense and costs associated with the extra extent are the responsibility of the producer and may not be reimbursed through program financial assistance.

Examples:

- Fencing specifications call for two strands of wire, and the producer installs a four-strand fence, in which case EQIP will only pay based on two-strand fence.
- A concrete-walled manure storage structure where a less expensive earthen structure would serve the resource need.
- Constructing a bridge instead of a stream crossing where a stream crossing is more cost effective.

(x) Property Rights and Access

- Payments for obtaining an easement or right-of-way.
- Payments for river access. (xi) Buildings
- Any part of a building used solely for livestock housing, feeding, or animal comfort.

Exception.—Buildings determined by the State Conservationist to be a necessary component of an animal waste facility on an AFO are eligible if identified in a CNMP.

(xii) Renewable energy production—

- That is not related to a conservation benefit, such as—
  - Managing feedstock or other biomass for biofuel for the purpose of renewable energy production.
  - Converting biogas for renewable energy production.
  - Hydropower for renewable energy production unless such component or material is an integral part of an irrigation system practice.
- For extents greater than what is required to address the identified resource concern.
- Renewable power sources when other sources of electricity are available.

C. Reviewing and Revising Payment Rates See

440-CPM, Part 512, Subpart D.

515.92 Payments and Payment Limitations

A. Eligibility for Payments

(1) Requests for payment must meet the requirements found in 440-CPM, Part 512, Subpart C.

(2) A comprehensive nutrient management plan (CNMP) is required for an AFO – see section 515.80C(4) for guidance.

(3) If an EQIP plan of operations includes practices that address forestland related resource concerns, the participant must develop and provide NRCS a copy of a forest management plan prior to implementation of any forest management conservation practice. See section 515.80C(5) for guidance.

B. Contract and Program Payment Limitations

(1) Contracts enrolled after February 7, 2014, are considered **"2014 Farm Bill Contracts,"** and each contract will be limited to no more than $450,000 in financial assistance. There is no authority to waive the $450,000 payment limitation.

(2) Contracts enrolled between October 1, 2008, and February 7, 2014, are considered **"2008 Farm Bill Contracts,"** and each contract will be limited to no more than $300,000 in financial assistance. The Chief may waive the $300,000 payment limitation up to a maximum of $450,000 for projects of special environmental significance that include anaerobic digesters or other innovative technology that will result in significant environmental improvement. To qualify for this waiver, the application must meet all of the following criteria:

(i) Site-specific evaluation documents have been completed, documenting that the project will have substantial positive impacts on critical resources on or near the project area.

(ii) The project clearly addresses a national priority as well as State, Tribal, or local priorities, as applicable.

(iii)The project assists the participant in complying with Federal, State, and local regulatory requirements.

(3) Contracts enrolled between July 15, 2002, and October 1, 2008, are considered **"2002 Farm Bill Contracts,"** and the sum total of all contract payments during this period will be limited to no more than $450,000 in financial assistance.

(4) Regardless of year enrolled, program payments for contracts associated with the Organic Initiative are limited to $20,000 per fiscal year or $80,000 during any 6-year period for persons or legal entities. Producers receiving payment under this provision must be pursuing organic certification or must be in compliance with the Organic Foods Production Act. There is no authority to waive the annual payment limitation of $20,000 or the total payment limitation of $80,000.

(5) Technical assistance payments for technical service providers do not count against the financial assistance aggregate payment limitation or the contract financial assistance payment limitation.

(6) Total contract payment limits may not be established other than what is authorized by statute as cited in this section. For example, State Conservationists may not establish a $25,000 maximum payment cap for any contract.

C. Aggregate Payment Limitation for Persons and Legal Entities

(1) Payment limitations will be monitored and tracked through ProTracts.

(2) For "2014 Farm Bill Contracts" the total amount of payments to a person or legal entity under this part may not exceed an aggregate of $450,000, directly or indirectly, for all contracts, enrolled in EQIP beginning February 7, 2014,

through fiscal year 2018. Payments received for technical assistance are excluded from this limitation.

(i) Payments for conservation practices related to organic production to a person, or legal entity, directly or indirectly, may not exceed in aggregate $20,000 per fiscal year or $80,000 during any 6-year period. Payments received for technical assistance are excluded from this limitation.

(ii) All program payments must be attributed to persons or legal entities who either received an EQIP payment directly or who are considered to have received a payment indirectly by holding an interest in an entity that received the EQIP payment. EQIP payments must be tracked by entity tax identification numbers and Social Security numbers. In certain situations, payments may be tracked using a unique identification number.

(3) For "2008 Farm Bill Contracts," the total amount of payments to a person or legal entity under this part may not exceed an aggregate of $300,000, directly or indirectly, for all contracts, including prior-year contracts, entered into during any 6-year period. Payments received for technical assistance are excluded from this limitation. These payment limitation rules also apply to contracts enrolled in EQIP during the beginning of fiscal year 2014, prior to February 7, 2014.

(i) The Chief may waive the $300,000 payment limitation, allowing up to $450,000 per person or legal entity for projects of special environmental significance.

(ii) Payments for conservation practices related to organic production to a person or legal entity, directly or indirectly, may not exceed in aggregate $20,000 per fiscal year or $80,000 during any 6-year period. Payments received for technical assistance are excluded from this limitation. The Chief is not authorized to waive the payment limitation for the organic initiative.

(iii) All program payments must be attributed to persons or legal entities who either received an EQIP payment directly or who are considered to have received a payment indirectly by holding an interest in an entity that received the EQIP payment. EQIP payments must be tracked by entity tax identification numbers and Social Security numbers. In certain situations, payments may be tracked using a unique identification number.

(4) Persons or legal entities who are members of joint operations, partners in a general partnership, or participants in a joint venture may be eligible for a separate $450,000 payment limitation if all of the following apply:

(i) Each individual has a separate and distinct interest in the land or the agricultural, forestry, or livestock production involved.

(ii) Each individual exercises separate responsibility for such interest.

(iii) Each individual maintains funds or accounts separate from that of any individual or entity for such interest.

(5) Members of a Tribe (business type 20) or not-for-profit organization (business type 10) do not receive any direct or indirect benefits from EQIP and are not

required to attribute EQIP payments received to individual members. EQIP payments paid to the entity or organization will be tracked only to the entity's tax identification number. Payments to an entity or organization are limited to the payment limitations that were current as of the time the contract was enrolled.

(6) Contracts with an Indian Tribe are not subject to contract or payment limitations. However, payments made to individual Tribal members may not exceed payment limitations. Such payments may only be made to the Tribal member if a Bureau of Indian Affairs or Tribal official certifies in writing that no one individual will receive more than the payment limitation. The Tribal participant must also provide annually a listing of individuals who received program payments, by tax identification number or other unique identification number, during the previous year to verify that payment limitations to individuals has not been exceeded. If verification indicates that excess payments were made to individuals above allowable payment limitations, recovery of funds may be required.

(i) Federally recognized Native American Indian Tribes or Alaska Native corporations (business type 20) are exempt from the adjusted gross income payment limitations regardless of the number of contracts entered into by the Indian Tribe or Alaska Native corporation.

(ii) Where a Tribal official is the only authorized representative to approve contracts for Tribes, EQIP contract obligations and payments will be attributed to the Tribal entity or individual to receive payment.

D. Inherited Land

With respect to inherited land under EQIP contracts, payment limitations will not apply to the extent that the payments from any contract on the inherited land cause an heir who is a party to an EQIP contract on other lands prior to the inheritance to exceed the applicable payment limitation. See 7 CFR Section 1400.100.

E. Advance Payments

(1) Contracts Approved Prior to the 2014 Act

Applications accepted from historically underserved groups are eligible to receive an increased payment rate, advance payments, or be evaluated under special subaccounts, as specified in individual program regulations and policies. Historically underserved EQIP participants may receive an advance of up to 30 percent of the total EQIP practice payment to purchase materials or services to implement a practice associated with a contracted practice installation.

(2) Contracts Approved During FY 2014 and Later

Historically underserved EQIP participants may receive an advance of up to 50 percent of the total EQIP practice payment to purchase materials or services to implement a practice associated with a contracted practice installation. If funds provided in advance are not expended during the 90-day period beginning on the date of receipt of the funds, the funds must be returned to the agency in a reasonable time as determined by the State Conservationist.

F. Waiver Authority

For EQIP contracts enrolled through the Regional Conservation Partnership Program (RCPP), waiver policy for AGI may be found at 440-CPM, Part 515, Subpart F, Section 515.53.

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart K – Contracts, Payments, and General Administrative Requirements

515.100 Compliance With Laws and Regulations

All contracts will be administered in accordance with Federal, State, and local laws and ordinances as well as other applicable agency policy, departmental regulations and other requirements specified in the Appendix of the contract agreement.

515.101 Environmental Services Credits for Conservation Improvements

A. NRCS recognizes that environmental benefits will be achieved by implementing conservation practices funded through EQIP. These environmental benefits may result in opportunities for the program participant to sell environmental credits. These environmental credits must be compatible with the purposes of the program contract. NRCS asserts no direct or indirect interest in these credits. However, NRCS retains the authority to ensure that operation and maintenance (O&M) requirements for EQIP-funded improvements are met.

B. When activities may impact the land and conservation practices under an EQIP contract, participants are highly encouraged to request an O&M compatibility assessment from NRCS prior to entering into any credit agreement. This assessment would be a simple evaluation to determine if the actions to be taken would jeopardize compliance with an EQIP contract, including O&M requirements of a practice or system funded by NRCS. This assessment will be documented in the assistance notes and a letter (see sample letter in Title 440, Conservation Programs Manual (CPM), Part 512, Subpart J, Section 512.91) provided to the client. These assessments should be conducted the same as those done for contract reviews (see 440-CPM, Part 512, Subpart F, Section 512.55).

C. The EQIP contract may be modified to address participants desire to earn environmental credits in accordance with provisions of 440-CPM, Part 512, Subpart F, if such modifications comply with O&M requirements of a practice and the contract continues to meet the purposes of the program.

515.102 Contract Modifications

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

515.103 Equitable Relief

Follow requirements in 440-CPM, Part 509.

515.104 Canceling and Terminating Contracts

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

515.105 Recovery of Costs

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

515.106 Payment Procedures

All EQIP payments will be processed in accordance with requirements in 440-CPM, Part 512, Subpart G.

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart L – Related and Associated Programs

515.110 Regional Conservation Partnership Program

The Regional Conservation Partnership Program (RCPP) promotes coordination between NRCS and partners to deliver conservation assistance to producers and landowners. NRCS provides assistance to producers through partnership agreements and through RCPP's covered programs, including EQIP. RCPP addresses the purposes formerly addressed by the Agricultural Water Enhancement Program (AWEP), the Chesapeake Bay Watershed Program (CBWP), the Cooperative Conservation Partnership Initiative (CCPI), and the Great Lakes Basin Program. Like these former programs, the RCPP uses the authority of EQIP to provide financial and technical assistance to eligible producers to promote collaborative efforts with approved partners.

(1) Title XII of the Food Security Act of 1985 was amended to establish RCPP and use covered programs such as EQIP to deliver program financial and technical assistance to eligible producers through partnership agreements. RCPP guidance will address policy, guidance, and procedures for administration of EQIP through RCPP.

(2) To assist in the implementation of RCPP, the Chief may waive the eligibility requirement for the AGI limitation on a case-by-case basis, in accordance with policy and processes cited in 7 CFR Part 1400. Requests for AGI waivers are made in writing by the State Conservationist, through the Regional Conservationist (RC) office, to the Chief. See Title 440, Conservation Programs Manual (CPM), Part 512, Subpart C, "Applications for Assistance," for additional policy and procedures on AGI and AGI waivers.

515.111 Conservation Innovation Grants

See 440-CPM, Part 526, Subpart B, for policy guidance on Conservation Innovation Grants.

515.112 Legacy Programs

A. Agricultural Water Enhancement Program (AWEP)

Legacy contracts approved with funding provided by the Agricultural Water Enhancement Program (AWEP) are administered with the same policy guidance in 440-CPM, Part 515, for EQIP. Existing AWEP partnership agreements may continue to be supported by partner sponsors per existing active partnership agreements, but no new program contracts with producers may be approved or obligated.

B. Cooperative Conservation Partnership Initiative (CPPI)

Legacy EQIP contracts approved with funding provided through the authority of CCPI are administered with same policy guidance in 440-CPM, Part 515, for EQIP. Existing CCPI partnership agreements may continue to be supported by partner sponsors per existing active partnership agreements, but no new program contracts with producers may be approved or obligated.

C. Chesapeake Bay Watershed Program (CBWI)

Legacy EQIP contracts approved with funding provided through the authority of CBWI are administered with same policy guidance in 440-CPM, Part 515, for EQIP. Existing CBWI agreements may continue to be supported by partner sponsors per existing active partnership agreements, but no new program contracts with producers may be approved or obligated.

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart M – Reserved

515.130 Reserved

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart N – Exhibits

515.150 Forms

See Title 440, Conservation Programs Manual (CPM), Part 512, Subpart J.

515.151 Conservation Practice Lifespan

A. Conservation Practice Lifespan

(1) See 440-CPM, Part 512, Subpart B, Section 512.11D, for contract requirements related to practice lifespan. Conservation practice lifespans are established by the national discipline leader and recorded in the Conservation Practice Standards (CPS) Web application. States may not change or modify nationally established lifespan for any practice unless an approved variance is provided by the director of the Conservation Engineering Division or the director of the Ecological Sciences Division. See Title 450, General Manual, Part 401, Subpart B, Section 401.15, for more detail.

(2) Lifespan is the period of time specified in the contract during which the conservation practice or conservation system is to be maintained and used for the intended purpose. See 440-CPM, Part 502, definitions. The CPS practice lifespan values are used to support administration of EQIP as follows:

(i) Lifespan values are used in the ProTracts Application, Evaluation, Ranking Tool (AERT) to calculate the cost effectiveness value part of the ranking score.

(ii) A lifespan value of 1 year is used to designate which practices are classified as management practices.

(iii) Lifespan values are printed on Form NRCS-CPA-1245, "Practice Approval and Payment Application," to inform participants of their responsibilities for operation and maintenance of implemented practices.

B. EQIP Contract Payment Item Codes See 440-CPM, Part 512, Subpart D.

C. Natural Resource Concerns

See Title 180, National Planning Procedures Handbook, Part 600.

515.152 EQIP Eligibility Documentation Checklist

Click here for a copy of the "EQIP Eligibility Documentation Checklist."

515.153 EQIP Irrigation History Waiver Checklist

Click here for a copy of the "Irrigation History Waiver Checklist."

Part 515 – Environmental Quality Incentives Program (EQIP)

Subpart O – Glossary

515.160 Glossary of Terms

A glossary of terms and definitions associated with financial assistance programs can be found at Title 440, Conservation Programs Manual (CPM), Part 502, Subpart A.

515.161 Glossary of Abbreviations

A glossary of abbreviations associated with financial assistance programs can be found at 440-CPM, Part 502, Subpart B.