

Commodity Credit Corporation, USDA

§ 1464.3

(d) Each program contract, partnership agreement, and supplemental agreement is subject to the regulations in place on the date it is executed.

§ 1464.2 Administration.

(a) The funds, facilities, and authorities of the Commodity Credit Corporation (CCC) are available to NRCS for carrying out RCPP. Accordingly, each reference to NRCS in this part also refers to CCC funds, facilities, and authorities where applicable.

(b) No delegation in this part to lower organizational levels will preclude the Chief of NRCS from making any determinations under this part, re-delegating to other organizational levels, or from reversing or modifying any determination made under this part.

(c) NRCS may use other agency-wide authorities, such as 16 U.S.C. 3842 and 31 U.S.C. 1535, to enter into agreements with other Federal or State agencies, Indian Tribes, conservation districts, units of local government, public or private organizations, and individuals to assist NRCS with implementation of the program in this part.

(d) To assist in the implementation of the program, the Chief may waive the applicability of the limitation in section 1001D of the Food Security Act of 1985 for participating producers if the Chief determines that the waiver is necessary to fulfill the objectives of the program. Section 1001D of the Food Security Act of 1985 does not apply to eligible partners.

(e) NRCS will identify in each State a program coordinator who will serve as the primary point of contact for programmatic implementation of RCPP in that State.

(f) NRCS will establish guidance to assist eligible partners with quantifying conservation benefits of RCPP implementation. Due to the diversity of natural resource issues addressed by an RCPP project and the diversity of conservation activities that a project may undertake, NRCS will work with each partner to develop project-specific outcome approach that will be included in the partnership agreement.

§ 1464.3 Definitions.

The following definitions will apply to this part and all documents issued

in accordance with this part, unless specified otherwise:

Agricultural operation means a parcel or parcels of land whether contiguous or noncontiguous, that is—

(1) Under the effective control of the producer at the time the producer applies for a program contract; and

(2) That is operated by the producer with equipment, labor, management, and production, forestry, or cultivation practices that are substantially separate from other operations.

Applicant means a producer who has requested in writing to participate in RCPP.

Beginning farmer or rancher means a person, Indian Tribe, Tribal corporation, or legal entity who has not materially and substantially operated a farm, ranch, or nonindustrial private forest land (NIPF), or who has materially and substantially operated a farm, ranch, or NIPF for not more than 10 consecutive years, subject to the following conditions:

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

(2) In the case of a contract with an entity or joint operation, all members must materially and substantially participate in the operation of the farm or ranch, and no member may have materially and substantially operated a farm, ranch, or NIPF for more than 10 consecutive years, and material and substantial participation requires that each of the members provide some amount of the management, or labor and management necessary for day-to-day activities, such that if each of the members did not provide these inputs, operation of the farm or ranch would be seriously impaired.

Chief means the Chief of NRCS, USDA, or designee.

Conservation benefits means the improvements in the status of resource concerns, priority resource concerns, and similar project goals resulting from the implementation of eligible activities in an RCPP project area.

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Covered program means the—

(1) Agricultural Conservation Easement Program administered under 7 CFR part 1468;

(2) Environmental Quality Incentives Program administered under 7 CFR part 1466;

(3) Conservation Stewardship Program administered under 7 CFR part 1470, except for the Grassland Conservation Initiative set forth in section 1240L–1 of the Food Security Act of 1985;

(4) Healthy Forests Reserve Program administered under 7 CFR part 625;

(5) Watershed protection and flood prevention programs administered under 7 CFR part 622, except the Watershed Rehabilitation Program set forth in 16 U.S.C. 1012; and

(6) Conservation Reserve Program administered under 7 CFR part 1410.

Critical conservation area (CCA) means a geographical area designated by the Secretary of Agriculture that contains a critical conservation condition that can be addressed through the program.

Effective control means possession of the land by ownership, written lease, or other legal agreement and authority to act as decision maker for the day-to-day management of the operation from the time of application and for the duration of the program contract or applicable terms of a supplemental agreement.

Eligible activity means a practice, activity, land rental, agreement, easement, or related conservation measure that is available under the statutory authority for a covered program, as determined by NRCS.

Eligible land means any land that NRCS determines is eligible under §1464.5.

Eligible partner means an agency, organization, or other entity specified in §1464.5 that NRCS determines the appropriate authority, expertise, and resources necessary to carry out partnership responsibilities.

Historically underserved producer means a person, joint operation, Indian Tribe, or legal entity who is a beginning farmer or rancher, socially disadvantaged farmer or rancher, limited resource farmer or rancher, or veteran farmer or rancher.

Indian Tribe means any Indian Tribe, Band, Nation, Pueblo, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*) that is eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Joint operation means, as defined in part 1400 of this chapter, a general partnership, joint venture, or other similar business arrangement in which the members are jointly and severally liable for the obligations of the organization.

Lead partner means an eligible partner who is the primary signatory of a partnership agreement with NRCS and is identified as the lead partner in that agreement.

Legal entity means, as defined in part 1400 of this chapter, an entity created under Federal or State law that—

(1) Owns land or an agricultural commodity, product, or livestock; or

(2) Produces an agricultural commodity, product, or livestock.

Limited resource farmer or rancher means:

(1) A person who:

(i) Has direct or indirect gross farm sales not more than the current indexed value in each of the previous 2 years (adjusted for inflation using the Prices Paid by Farmer Index as compiled by USDA's National Agricultural Statistical Service), and

(ii) Has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous 2 years (to be determined annually using Commerce Department data); or

(2) A legal entity or joint operation if all individual members independently qualify under paragraph (1) of this definition.

Liquidated damages means a sum of money stipulated that a participant agrees to pay NRCS if the participant fails to fulfill the terms of the program contract. The sum represents an estimate of the expenses incurred by NRCS to service the program contract and reflects the difficulties of proof of loss

and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy.

Natural Resources Conservation Service (NRCS) is an agency of the USDA, which has responsibility for administering RCPP using the funds, facilities, and authorities of the CCC.

Nonlead partner means an eligible partner, other than a lead partner, who has entered into a supplemental agreement with NRCS consistent with the terms of a partnership agreement.

Nonindustrial private forest land (NIPF) means rural land, as determined by NRCS, that has existing tree cover or is suitable for growing trees; and is owned by any nonindustrial private individual, group, association, corporation, Indian Tribe, acequia, or other private legal entity that has definitive decision-making authority over the land.

Participant means a person, legal entity, joint operation, or Indian Tribe who has applied for participation and is receiving a financial assistance payment or is responsible for implementing the terms and conditions of a program contract.

Partnership agreement means a programmatic agreement between NRCS and a lead partner.

Person means a natural person and does not include a legal entity.

Priority resource concern means a natural resource concern located in a CCA that can be addressed through:

(1) Water quality improvement, including source water protection, through measures such as reducing erosion, promoting sediment control, or addressing nutrient management activities affecting large bodies of water of regional, national, or international significance;

(2) Water quantity improvement, including protection or improvement relating to:

(i) Drought;

(ii) Ground water, surface water, aquifer, or other water sources; or

(iii) Water retention and flood prevention;

(3) Wildlife habitat restoration to address species of concern at a Federal, State, or local level; and

(4) Other natural resource improvements, as determined by the Chief, within the CCA.

Producer means a person, legal entity, joint operation, or Indian Tribe who NRCS determines is:

(1) Engaged in agricultural production or forestry management on the agricultural operation; or

(2) The landowner of eligible land for purposes of a program contract or associated supplemental agreement, as determined by NRCS.

Program means the Regional Conservation Partnership Program (RCPP) administered by NRCS under this part.

Program contract means a binding agreement under the program for the transfer of assistance from NRCS to the producer to compensate the producer for the implementation of eligible activities that specifies the rights and obligations of any producer participating in the program.

Project resource concern means a specific resource concern set out in a partnership agreement that is of special importance or significance for the purposes of that partnership agreement.

Proposal means an offer submitted by an eligible partner for consideration and ranking for selection by NRCS to enter into a partnership agreement.

RCPP plan of operations means the document that identifies the location and timing of eligible activities that the participant agrees to implement on eligible land.

Resource concern means a specific natural resource problem that is likely to be addressed successfully through the implementation of the eligible activities.

Socially disadvantaged farmer or rancher means a producer who is a member of a group whose members have been subjected to racial or ethnic prejudices without regard to its members' individual qualities. For an entity, at least 50 percent ownership in the business entity must be held by socially disadvantaged individuals.

State Technical Committee means a committee established by NRCS in a State pursuant to 7 CFR part 610, subpart C.

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Supplemental agreement means a legal document between NRCS and an eligible lead or nonlead partner that is subject to the terms of a partnership agreement and which furthers the purposes of the partnership agreement.

Technical service provider (TSP) means an individual, private-sector entity, Indian Tribe, or public agency either:

(1) Certified pursuant to 7 CFR part 652 and placed on the approved list to provide technical services to participants; or

(2) Selected by USDA to assist in program implementation through a supplemental agreement or otherwise through a procurement contract, contribution agreement, or cooperative agreement with USDA.

Veteran farmer or rancher means a producer who meets the definition in section 2501(a)(7) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (7 U.S.C. 2279(a)(7)).

[85 FR 8137, Feb. 13, 2020, as amended at 86 FR 3744, Jan. 15, 2021]

§ 1464.4 Funding pool allocations.

(a) Of the funds made available for the program, NRCS will allocate:

(1) Fifty percent of the funds to projects based on a State or multistate competitive process; and

(2) Fifty percent of the funds to projects for the CCAs designated by the Secretary.

(b) NRCS will allocate funds under the funding pools identified under paragraph (a) of this section to projects selected on a competitive basis pursuant to partnership agreement proposals submitted under the requirements of subpart B of this part.

§ 1464.5 Program requirements.

(a) *General requirements.*

(1) Program participation is voluntary.

(2) NRCS and lead partners enter into partnership agreements that identify the purposes and scope of RCPP projects under the framework of a partnership agreement.

(3) NRCS and lead partners enter into supplemental agreements to facilitate assistance to producers.

(4) NRCS enters into program contracts with producers to provide program assistance to eligible producers

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to implement eligible activities on eligible land.

(5) NRCS may enter into an alternative funding arrangement with a lead partner for the lead partner to deliver program assistance directly to producers in accordance with § 1464.25 of this part.

(b) *Partner eligibility.* An eligible partner may include:

(1) An agricultural or silvicultural producer association or other group of producers;

(2) A State or unit of local government, including a conservation district;

(3) An Indian Tribe;

(4) A farmer cooperative;

(5) An institution of higher education;

(6) A water district, irrigation district, acequia, rural water district or association, or other organization with specific water delivery authority to producers on agricultural land;

(7) A municipal water or wastewater treatment entity;

(8) An organization or entity with an established history of working cooperatively with producers on agricultural land, as determined by the Secretary, to address—

(i) Local conservation priorities related to agricultural production, wildlife habitat development, and NIPF management; or

(ii) Critical watershed-scale soil erosion, water quality, sediment reduction, or other natural resource concerns; or

(9) An eligible entity as identified by NRCS pursuant to 7 CFR part 1468.

(c) *Producer eligibility.* To be eligible to receive payments or benefits under the program, each producer must—

(1) Be in compliance with the highly erodible land and wetland conservation provisions found at part 12 of this title;

(2) Meet the adjusted gross income payment limitations under part 1400 of this chapter unless waived by the Chief;

(3) Have effective control of the land;

(4) Supply information, as required by NRCS, to determine eligibility for the program, including but not limited to, information that verifies the producer's status as a historically underserved producer, compliance with part