

agreement, producers and participants are highly encouraged to request an O&M compatibility determination from NRCS prior to entering into any environmental credit agreements.

## PART 1465—AGRICULTURAL MANAGEMENT ASSISTANCE

### Subpart A—General Provisions

Sec.

- 1465.1 Purposes and applicability.
- 1465.2 Administration.
- 1465.3 Definitions.
- 1465.4 National priorities.
- 1465.5 Program requirements.
- 1465.6 AMA plan of operations.
- 1465.7 Conservation practices.
- 1465.8 Technical services provided by qualified personnel not affiliated with USDA.

### Subpart B—Contracts

- 1465.20 Applications for participation and selecting applications for contracting.
- 1465.21 Contract requirements.
- 1465.22 Conservation practice operation and maintenance.
- 1465.23 Payments.
- 1465.24 Contract modifications, extensions, and transfers of land.
- 1465.25 Contract violations and terminations.

### Subpart C—General Administration

- 1465.30 Appeals.
- 1465.31 Compliance with regulatory measures.
- 1465.32 Access to operating unit.
- 1465.33 Equitable relief.
- 1465.34 Offsets and assignments.
- 1465.35 Misrepresentation and scheme or device.
- 1465.36 Environmental services credits for conservation improvements.

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### Subpart A—General Provisions

#### § 1465.1 Purposes and applicability.

Through the Agricultural Management Assistance program (AMA), the Natural Resources Conservation Service (NRCS) provides financial assistance funds annually to producers in 16 statutorily designated States to: Construct or improve water management structures or irrigation structures; plant trees to form windbreaks or to

improve water quality; and mitigate risk through production diversification or resource conservation practices including soil erosion control, integrated pest management, or the transition to organic farming. AMA is applicable in Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming.

#### § 1465.2 Administration.

(a) Administration and implementation of AMA's conservation provisions for the Commodity Credit Corporation (CCC) is assigned to NRCS, using the funds, facilities, and authorities of the CCC. Accordingly, where NRCS is mentioned in this part, it also refers to the CCC's funds, facilities, and authorities, where applicable.

(b) NRCS will:

- (1) Provide overall management and implementation leadership for AMA;
- (2) Establish policies, procedures, priorities, and guidance for implementation;
- (3) Establish payment limits;
- (4) Determine eligible practices;
- (5) Develop and approve AMA plans of operation and contracts with selected participants;
- (6) Provide technical leadership for implementation, quality assurance, and evaluation of performance;
- (7) Make AMA allocation and contract funding decisions; and
- (8) Issue payments for completed conservation practices.

(c) No delegation in this part to lower organizational levels will preclude the Chief of NRCS from determining any issues arising under this part or from reversing or modifying any determination made under this part.

#### § 1465.3 Definitions.

The following definitions apply to this part and all documents used in accordance with this part, unless specified otherwise:

*Agricultural land* means cropland, grassland, rangeland, pasture, and other agricultural land on which agricultural or forest-related products or

livestock are produced. Other agricultural lands may include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of agricultural land used for production of livestock.

*Agricultural operation* means a parcel or parcels of land whether contiguous or noncontiguous, which the producer is listed as the operator or owner/operator in the Farm Service Agency (FSA) record system, which is under the effective control of the producer at the time the producer applies for a contract, and which is operated by the producer with equipment, labor, management and production, forestry, or cultivation practices that are substantially separate from other operations.

*AMA plan of operations (APO)* means the document that identifies the location and timing of conservation practices that the participant agrees to implement on eligible land in order to address the resource concerns and program purposes. The APO is part of the AMA contract.

*Applicant* means a person, legal entity, joint operation, or Indian Tribe that has an interest in an agricultural operation, as defined in 7 CFR part 1400, who has requested in writing to participate in AMA.

*Beginning farmer or rancher* means a person or legal entity who:

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

(2) 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 or ranch is located.

(3) 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. Material and substantial participation requires that each of the members provide some amount of the management, or labor and manage-

ment 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, United States Department of Agriculture (USDA), or designee.

*Conservation district* means any district or unit of State, Tribal, or local government formed under State, Tribal, or territorial law for the express purpose of developing and carrying out a local soil and water conservation program. Such district or unit of government may be referred to as a "conservation district," "soil conservation district," "soil and water conservation district," "resource conservation district," "natural resource district," "land conservation committee," or similar name.

*Conservation practice* means one or more conservation improvements and activities, including structural practices, land management practices, vegetative practices, forest management, and other improvements that achieve program purposes.

*Contract* means a legal document that specifies the rights and obligations of any participant accepted into the program. An AMA contract is an agreement for the transfer of assistance from USDA to the participant to share in the costs of applying conservation practices.

*Designated conservationist* means an NRCS employee whom the State Conservationist has designated as responsible for AMA administration in a specific area.

*Historically underserved producer* means an eligible person, joint operation, or legal entity who is a beginning farmer or rancher, socially disadvantaged farmer or rancher, limited resource farmer or rancher, or non-industrial private forest landowner who meets the beginning, socially disadvantaged, or limited resource qualifications set forth in this section.

*Indian Tribe* means any Indian Tribe, band, nation, 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.

*Indian land* is an inclusive term describing all lands held in trust by the United States for individual Indians or Tribes, or all lands, titles to which are held by individual Indians or Tribes, subject to Federal restrictions against alienation or encumbrance, or all lands which are subject to the rights of use, occupancy, and benefit of certain Tribes. For purposes of this part, the term Indian land also includes land for which the title is held in fee status by Indian Tribes and the United States Government-owned land under the Bureau of Indian Affairs (BIA) jurisdiction.

*Joint operation* means, as defined in 7 CFR part 1400, 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.

*Legal entity* means, as defined in 7 CFR part 1400, 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.

*Lifespan* means the period of time in which a conservation practice should be operated and maintained and used for the intended purpose.

*Limited resource farmer or rancher* means:

(1) A person with direct or indirect gross farm sales of not more than \$155,200 in each of the previous 2 years (adjusted for inflation using the Prices Paid by Farmer Index as compiled by the National Agricultural Statistics Service), and

(2) 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).

*Liquidated damages* means a sum of money stipulated in the AMA contract that the participant agrees to pay NRCS if the participant fails to adequately complete the terms of the contract. The sum represents an estimate

of the technical assistance expenses incurred to service the contract and reflects the difficulties of proof of loss and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy.

*Livestock* means all animals produced on farms and ranches, as determined by the Chief.

*Natural Resources Conservation Service* is an agency of USDA which has responsibility for administering AMA using the funds, facilities, and authorities of the CCC.

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

*Operation and maintenance* means work performed by the participant to keep the applied conservation practice functioning for the intended purpose during the conservation practice lifespan. Operation includes the administration, management, and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice, repairing damage, or replacement of the practice to its original condition if one or more components fail.

*Operation and maintenance (O&M) agreement* means the document that, in conjunction with the APO, specifies the operation and maintenance responsibilities of the participants for conservation practices installed with AMA assistance.

*Participant* means a person, legal entity, joint operation, or Indian Tribe that is receiving payment or is responsible for implementing the terms and conditions of an AMA contract.

*Payment* means the financial assistance provided to the participant based on the estimated costs incurred in performing or implementing conservation practices, including costs for planning, design, materials, equipment, installation, labor, maintenance, management, or training, as well as the estimated income foregone by the producer for the designated conservation practices.

## Commodity Credit Corporation, USDA

## § 1465.5

*Person* means, as defined in 7 CFR part 1400, an individual, natural person and does not include a legal entity.

*Producer* means a person, legal entity, joint operation, or Indian Tribe that has an interest in the agricultural operation, according to 7 CFR part 1400, or who is engaged in agricultural production or forestry management.

*Resource concern* means a specific natural resource problem that represents a significant concern in a State or region and is likely to be addressed successfully through the implementation of the conservation practices by participants.

*Secretary* means the Secretary of USDA.

*Socially disadvantaged farmer or rancher* means a farmer or rancher who has been subjected to racial or ethnic prejudices because of their identity as a member of a group without regard to their individual qualities.

*State Conservationist* means the NRCS employee authorized to direct and supervise NRCS activities in a State, Caribbean Area, or Pacific Islands Area.

*Structural practice* means a conservation practice, including a vegetative practice, that involves establishing, constructing, or installing a site-specific measure to conserve and protect a resource from degradation, or improve soil, water, air, or related natural resources in the most cost-effective manner. Examples include, but are not limited to, animal waste management facilities, terraces, grassed waterways, tailwater pits, livestock water developments, contour grass strips, filterstrips, critical area plantings, tree plantings, establishment or improvement of wildlife habitat, and capping of abandoned wells.

*Technical assistance* means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses. The term includes the following:

(1) Technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices; and

(2) Technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.

*Technical Service Provider (TSP)* means an individual, private-sector entity, or public agency certified by NRCS to provide technical services to program participants or in lieu of, or on behalf of NRCS.

### § 1465.4 National priorities.

(a) The Chief, with advice from State Conservationists, will identify national priorities to achieve the conservation objectives of AMA.

(b) National priorities will be used to guide annual funding allocations to States. (c) State Conservationists will use national priorities in conjunction with State and local priorities to prioritize and select AMA applications for funding.

(d) NRCS will undertake periodic reviews of the national priorities and the effects of program delivery at the State and local levels to adapt the program to address emerging resource issues.

### § 1465.5 Program requirements.

(a) Participation in AMA is voluntary. The participant, in cooperation with the local conservation district, applies for practice installation for the agricultural operation. NRCS provides payments through contracts to apply needed conservation practices within a time schedule specified in the APO.

(b) The Chief determines the funds available for financial assistance according to the purpose and projected cost for which the financial assistance is provided in a fiscal year. The Chief allocates the funds available to carry out AMA in consideration of national priorities established under § 1465.4.

(c) To be eligible to participate in AMA, an applicant must:

(1) Own or operate an agricultural operation within an applicable State, as listed in 1465.1;

(2) Provide NRCS with written evidence of ownership or legal control for