

## **Alaska Policy**

### **Environmental Quality Incentives Program (EQIP)**

This document clarifies the Environmental Quality Incentives Program (EQIP) policies as they are implemented by NRCS in Alaska. Although it is for internal use by NRCS Alaska employees, it is posted for public viewing. Questions regarding NRCS programs should be directed to the local field office.

The State Conservationist is responsible for implementing EQIP by directing and supervising NRCS activities and delegating the responsibilities for management of these programs at the state level in accordance with Title 440, Conservation Programs Manual (CPM), Part 512, Subpart A. The EQIP federal regulation is located at 7 CFR Part 1466. NRCS personnel assigned EQIP responsibility must have a working knowledge of this policy; 440 CPM Part 512; and 7 CFR Part 1466. This policy is to be used in conjunction with the conservation program contracting procedures in 440 CPM Part 512.

### **Eligibility**

The land and the applicant must meet all program eligibility criteria. EQIP is specifically targeted toward land which is managed for food or fiber production. See Conservation Programs Manual checklist Part 515.152.

With respect to acceptable evidence of control or ownership to determine program eligibility, in special cases, such as land subject to multiple owners, the Designated Conservationist will determine eligibility with the concurrence of the State Conservationist. EQIP applications will be accepted throughout the year according to policy in CPM Part 515.70 (1) <http://policy.nrcs.usda.gov/viewerFS.aspx?hid=25514> and 517.23 B <http://policy.nrcs.usda.gov/viewerFS.aspx?hid=25590>.

### **EQIP Agricultural Producer Eligibility Criteria in Alaska**

General Producer Eligibility Criteria. To be eligible to participate in EQIP, an applicant must meet the following criteria per 515.51A:

1. Be an agricultural producer OR
2. Be a person, legal entity, Indian Tribe, native corporation, or joint operation with signature authority OR
3. Be engaged in agricultural production or forestry management or have an interest in the agricultural products, commodities, or livestock produced by the agricultural operation or have an interest in the agricultural or forestry operation associated with the land being offered for enrollment in EQIP OR

4. Be 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 AND
5. Have control of the land for the term of the contract period -own or rent the land in the agricultural operation AND
6. 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 AND
7. If a landlord, not be a landlord who:
  - a. Does not give tenants and sharecroppers an opportunity to participate in EQIP.
  - b. Reduced the number of tenants and sharecroppers in anticipation of EQIP participation.
  - c. Is in dispute with a tenant or sharecropper. NRCS will not approve an EQIP contract until the landlord and tenant or sharecropper resolve their dispute.
    - i. Note: Landlord and tenant or sharecropper provisions do not pertain when either of the following apply:
      1. The tenant or sharecropper was removed for cause in accordance with State law, as determined by the Office of the General Counsel regional attorney.
      2. The tenant or sharecropper left the farm voluntarily without any coercion from the landlord AND
8. Be in compliance with the highly erodible land and wetland conservation compliance provisions at 7 CFR Part 12 AND
9. 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 Part 515, Subpart J, Section 515.92, "Payments and Payment Limitations." Exception: Federally recognized Indian Tribes are exempt from payment limitation requirements and contract limitations AND
10. 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.) Federally recognized Indian Tribe applicants are exempt from AGI requirements AND
11. Obtain a Dun and Bradstreet Data Universal Numbering System (DUNS – <http://fedgov.dnb.com/webform/>) number and register the number in the System for Award Management ([www.SAM.gov](http://www.SAM.gov)) database as required of entity-participants in 7 CFR Part 1466. The DUNS number, registration in SAM, and yearly renewal are required to obligate program contracts and to establish payment eligibility. Refer to 440 CPM Part 512, Subpart C, Section 512.20C for additional guidance and documentation requirements.

## Land Eligibility

Eligible land includes agricultural land, nonindustrial private forest land, Tribal land, or other land that agricultural products, livestock, or forest-related products are produced. Land must be producing as follows:

1. Any agricultural product or other crops listed in 515.52A(1)(i), including but not limited to agricultural products include but are not limited to grains or row crops, seed crops, vegetables or fruits, hay, forage, or pasture, orchards or vineyards, flowers or bulbs, ornamentals, and trees. Crop acreage reports from FSA may be used to document crop history. Designated Conservationists may also certify production on the land by visual assessment and documentation in the case file. OR
2. Any livestock type documented by visual observation as listed in 440 CPM Part 515, Subpart F, Section 515.52A(1)(ii) including but not limited to alpacas, beef cattle, bison, dairy cattle, fish or other animals raised through aquacultural methods, horses, llamas, ratites, poultry, sheep or goats, swine, and turkeys. Livestock is defined as agricultural operation involving the production, growing, raising, or reproduction of domestic livestock or livestock products. OR
3. Any nonindustrial private forest land (NIPF) is eligible that meets the following criteria:
  - a. Has existing tree cover or is suitable for growing trees, and
  - b. Is owned by any nonindustrial private individual, group, association, corporation, Indian Tribe, or other private entity. OR
4. Any subsistence lands supporting habitat for hunting, fishing, or gathering for customary and traditional substance food and fiber.
  - a. Note - Federal law, Title VIII of ANILCA, section 803, defines subsistence uses as the “customary and traditional” uses of wild resources for various uses including food, shelter, fuel, clothing, tools, transportation, handicrafts, sharing, barter, and customary trade.

For leased land, the owner may provide a letter or other signed document or the landowner must sign the contract documents and be assigned 0 percent shares. NRCS requires a copy of the lease to demonstrate land control for the duration of the contract period.

The resource concern for each land unit to be considered for contract must be recorded on the NRCS-CPA-52 and in the Application Evaluation Ranking Tool (AERT) in ProTracts.

According to CPM Part 515.81 B (i) and 515.91 B, practices are ineligible for incentive payments where the sole purpose is to enhance production without an identifiable conservation benefit or natural resource concern. Payments will not be authorized to clear or bring land into cropland or pastureland production. EQIP cannot be used to convert land to agricultural production.

References: 440 CPM Part 512, Subpart B, Section 512.11A and 440 CPM Part 515, Subpart F, Section 515.52A(4).

## **Resource Concern Priorities**

EQIP has established national and state priorities to guide program implementation.

### **EQIP National Priorities**

To provide direction to the state and local levels for implementing EQIP, NRCS has established national priorities; see below. In addition, energy conservation is considered a component of all national priorities in the context of applying conservation practices in an energy conserving manner. There is no priority order of importance to the listing of national priorities. All priorities receive equal consideration for ranking and funding.

1. Reductions of nonpoint source pollution, such as nutrients, sediment, pesticides, or excess salinity in impaired watersheds, consistent with total daily maximum loads, where available; the reduction of surface and groundwater contamination; and reduction of contamination from agricultural point sources, such as concentrated animal feeding operations.
2. Conservation of ground and surface water resources.
3. Reduction of 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.
4. Reduction in soil erosion and sedimentation from unacceptable levels on agricultural land.
5. Promotion of at-risk species habitat conservation.

NRCS has identified specific measures to address national priorities and statutory requirements more efficiently. These measures include identifying and implementing conservation practices that:

1. Increase overall environmental benefits; for example, by addressing multiple resource concerns, ensuring more durable environmental benefits, and limiting adverse ancillary impacts.
2. Encourage innovation.
3. Comply with the statutory mandate to target nationally 60 percent of available financial assistance to livestock-related conservation practices.
4. Employ appropriate tools to more comprehensively serve EQIP purposes; such as: comprehensive nutrient management plans, integrated pest management plans, forest management plans, irrigation water management plans, and grazing management plans.
5. Target 10 percent of available funding to beginning or socially disadvantaged producers.

NRCS will review these priorities and measures annually and make revisions, as required, to address current and emerging resource issues. NRCS will:

1. Use the national priorities to guide the allocation of EQIP funds to the state NRCS offices.
2. Use the national priorities in conjunction with state and local priorities to assist with prioritization and selection of EQIP applications.
3. 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.

### **EQIP Alaska Statewide Priorities**

Through consultation with the State Technical Committee, the NRCS Alaska State Conservationist has named the following as EQIP statewide priorities. There is no priority order of importance to the listing of state priorities. All priorities receive equal consideration for ranking and funding.

1. Reduction of non-point source pollution; including soil erosion control and, containment and utilization of manure and waste resulting from animal confinement.
2. Grazing land health.
3. Forestland health.
4. Protection and enhancement of traditionally and culturally utilized resources while protecting ecological functions and values.

### **EQIP Local Priorities**

Local work groups have been established in each field office service center area to give guidance in establishment of local priorities. The following resource priorities are reflected in ranking of applications:

1. Natural resource concerns.
2. Locally identified wildlife species of concern.
3. Priority local subsistence species.
4. Locally identified noxious or invasive species of concern.
5. Priority conservation practices.

State Conservationists will also utilize recommendations from the State Technical Committee, Tribal Conservation Advisory Councils, and Local Working Groups to include state and local priorities that may be considered in the ranking evaluation process.

Where a natural disaster has created a natural resource concern, the State Technical Committee, Tribal Conservation Advisory Councils, and Local Working Groups may recommend a resource concern as a priority for EQIP assistance to help producers implement conservation practices to prevent future occurrences.

## Handling and Processing of Applications

In order for an EQIP application to be submitted, applicants must establish farm records with the Farm Service Agency (FSA). The forms needed to establish farm records are listed below. Contact FSA with any questions about completing these forms. Landowners must provide FSA with a legal description of the property (lot, subdivision, section, township, range).

1. Forms required for individuals and entities to establish farm records:
  - a. **AD-1026** HELC and WC Certification, one for each applicant and landowner. Regarding Part B, if applying for a high tunnel or other agricultural practice, then landowners likely have land that produces or could produce an agricultural commodity. If questions 6 or 7 are answered yes and a valid NRCS CPA 026 is not on file, Wetland and Highly Erodible Land determinations of the land will be required. FSA will request NRCS to make the determinations.
  - b. **CCC-941** AGI Certification and Consent to Disclosure of Tax Information Form, one for each applicant who will receive payment. Indian tribes and Alaska Native Corporations are exempt from AGI eligibility requirements, but need to supply an AGI compliance statement.
  - c. **CCC-901** Member Information, provides member and land information for entities.
  - d. **CCC-902** Farm Operating Plan **(I)** Individual or **(E)** Entity, one for each applicant. The Individual version requires Sections A, B, and F to be completed by EQIP applicants. Contact FSA if the CCC-902E (entity) or CCC-902I Long form (extensive farm operation) is needed.
  - e. **AD-2106** USDA Compliance with Civil Rights Laws, a questionnaire to ensure agencies' civil rights compliance. One form requested for each applicant.
  - f. **AD-2047** Customer Data Worksheet, required so FSA can enter an applicant into the Farm.
2. After a farm record is established and a farm and tract number exist for the subject land, the EQIP application is made by completing the NRCS-CPA-1200 form. All questions on the NRCS-CPA-1200 must be answered completely before submission.
3. NRCS staff enter the application into ProTracts as pending.
4. NRCS collects all pertinent land ownership/control and signature authority information from the applicant. See the Conservation Program Contracting Manual for further clarification, 440 CPM Part 512.20.
5. All applicants are screened using the Alaska Statewide Screening Worksheet for eligibility and past contract performance. If warranted, the application is moved to eligible in ProTracts and all eligibility documents are uploaded into the Document Management System (DMS). (Part 1 of the application checklist)

6. NRCS planners complete the conservation planning process with the applicant and collect a signed conservation plan, signed job sheets, specifications, and designs as needed. The planner must ensure that all required compliance, permitting, and authorizations are in order as well as complete a cultural resources and environmental evaluation for the project.
7. All applicants are ranked using the Protracts Ranking Tool. This analysis will be based upon a Conservation Plan developed in Customer Service Toolkit. The Plan must be approved by a Certified Conservation Planner and agreed to by the landowner.
8. The planner completes the Alaska Statewide Screening Worksheet for a completed application and moves the application to preapproved in ProTracts. (Part 2 of the application checklist)
9. The Assistant State Conservationist for Programs, ASTC-P, sorts and selects applications for funding based on Alaska NRCS current year allocation.
10. If an application is tentatively selected for funding, the ASTC-P will notify the Hub Leader that the application can be approved and contracted. Contract form NRCS-CPA-1202 and schedule of operations form NRCS-CPA-1155 are required; signatures should be pursued.
11. Signed documents are noted in ProTracts and uploaded in DMS. (Part 3 of the application checklist)
12. The Assistant State Conservationist for Programs obligates the contract and the field office notifies the participant of the obligation and execution of the agreement.

Application Cut-Off Dates/Timeframes are set annually. Timelines and policies are subject to change. When a new Farm Bill is enacted all unapproved applications will be immediately placed on hold until rules have been established for implementation of the new Farm Bill.

### **EQIP Conservation Activity Plans**

EQIP financial assistance may be used for payment of the development of conservation activity plans (CAPs) appropriate for eligible land of a program participant. 440 CPM Part 512.34

Conservation activity plans must meet the minimum requirements of the planning criteria issued by the Science and Technology Deputy Area (FOTGs), Section III. States may not modify the CAP planning criteria.

CAPs are special applications that contain only one CAP and no other practice. The application type is always "Planning." CAP applications shall be processed under the most appropriate subaccount and ranking tool. All CAP applications are ranked and funded as soon as they can be processed and funds remain available.

## **Documentation Guidance**

Conservation practices eligible for financial assistance are listed in the Alaska EQIP Payment Schedules. CPM Part B. and Part 512.33. Conservation Program Contract (CPC) case files will be assembled and maintained in the field office. The CPC includes the customer's conservation plan six-part folder, Toolkit documentation, and ProTracts records. All contracts will be reviewed with the participant by the Designated Conservationist a minimum of once per fiscal year. CPM Part 515.55.

All contract documents must be uploaded to the official Document Management System (DMS) and labeled in a consistent, logical manner.

EQIP contract maps shall contain at a minimum the program acronym and contract number.

Every contract item number (CIN) on the NRCS-CPA-1155 will be identified on the contract map at the field level. Label example: (CIN 3)

## **Alaska Native Tribes and ANSCA Corporations**

For the purposes of NRCS Financial Assistance Programs, an Indian Tribe means: any Indian tribe, band, nation, pueblo, or other organized group or community, including an Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act. 43 U.S.C. 1601 et seq. 7 CFR Part 1400

## **Payment Limitations and Tribes**

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 payment 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.

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

Where a tribal official is the only authorized representative to approve contracts for a tribe, EQIP contract obligations and payments will be attributed to the tribal entity or individual to receive payment. 440 CPM Part 515.92 C6.

## **EQIP Socially Disadvantaged, Limited Resource Producers, Beginning Farmers, and Veteran Farmer/Rancher**

Payment rates for limited resource producers and beginning farmers are higher for all practices except certain management practices which provide a flat rate incentive payment. Any applicant seeking to qualify as either Beginning or Limited Resource Farmer must certify eligibility in block 2 when they submit the NRCS-CPA-1200. Upon request, applicants that certify eligibility as a Beginning or Limited Resource Farmer will be required to provide all records necessary to support their certification. Annual spot checks will be completed on a statewide basis.

Socially disadvantaged groups include any groups whose members have been subject to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. 440 CPM Part 512.5 B. These groups consist of the following:

1. American Indians and Alaskan Natives
2. Asians
3. Black or African Americans
4. Native Hawaiians and other Pacific Islanders
5. Hispanics

Limited resource producer status is open for entities as well as individuals. This requires certification at the time of application that all members of the entity meet the definition of Limited Resource Producer. An entity can apply to the State Conservationist for a waiver of this requirement. This should be in the form of a letter with documentation supporting the claim that Limited Resource Producer designation is justified. 440 CPM Part 512.5 C.

A Beginning Farmer is defined as an eligible agricultural producer who has operated a farm or ranch 10 consecutive years or fewer. 440 CPM Part 512.5 D.

The term "Veteran Farmer or Rancher" means a farmer or rancher who:

1. Served in the active United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof, and
2. Was discharged or released from the service under conditions other than dishonorable and
3. Has not operated a farm or ranch; or has operated a farm or ranch for not more than 10 consecutive years.

A legal entity or joint operation can be a Veteran Farmer or Rancher only if all individual members independently qualify. Participants who self-certify eligibility as a Veteran Farmer or Rancher may be requested to provide records to justify their claim. It is the responsibility of the participant to provide accurate data.

<b>Operation Type</b>	<b>Authorized Signature</b>	<b>Acceptable Evidence of Authority</b>	<b>Acceptable Signature Examples</b>
<b>Individual</b>	FSA-211 CCC-902I	None Needed	<i>Joe Smith</i>
	Spouse	Note: Spouses must have a POA for the program applicant in order to sign program documents, unless both of the spouses sign all of the application and contract documents together. The spouse may accept either a percentage of the program payments or zero program payments.	<i>by Mary Smith</i>  <i>Joe Smith by Mary Smith</i>  <i>by Mary Smith, POA</i>  <i>Mary Smith for Joe Smith</i>
	Attorney-in-Fact or Agent	FSA-211	<i>by Linda Rose,</i>  <i>by Linda Rose, POA (or Agent)</i>  <i>Linda Rose, POA for Joe Smith</i>
<b>General Partnership</b>	Any member of a general partnership may sign for the general partnership and bind all members unless the Articles of Partnership are more restrictive	Articles of partnership identifying the members.  IRS documents, such as a form 1065 Schedule K-1, showing members and their respective shares.  Properly executed affidavit filed prior to July 20, 2004.  FSA-211 signed by all.  CCC 901 and 902E	<i>by Ed Forrest,</i>  <i>by Ed Forrest, Partner 3F Farms,</i>  <i>by Ed Forrest by Jonathon Johnson, Agent</i>  <i>3F Farms by Jonathon Johnson, Agent</i>  <i>Jonathon Johnson, Agent for 3F Farms</i>
	Agent	FSA-211 signed by all members FSA-211 signed by a member authorized to sign for the partnership, unless re-delegation is prohibited.	

Operation Type	Authorized Signature	Acceptable Evidence of Authority	Acceptable Signature Examples
<b>Joint Venture (JV)</b>	Member, Attorney-in-Fact, or Agent	<p>JVs with a Tax ID number: All members must sign the document or it may be signed by an agent if designated by a FSA-211 signed by all members.</p> <p>CCC 901 and 902E</p>	by Liza Mills, POA, for Hurricane Farms Joint Venture
		<p>JVs without a Tax ID number: Each member (or their attorney-in-fact) must sign for their individual interest. An agent for the JV, as granted by a FSA-211 signed by all members, may sign only for the JV's interests.</p>	Ken Oaks, member Mae Oaks, member Ken Oaks, member Mae Oaks by Ken Oaks, Spouse
<b>Corporation, Limited Partnership, Limited Liability Company &amp; Other Similar Entities</b>	Authorized Officer or Member	<p>Signed corporate minutes. The corporate charter, bylaws, or partnership agreement. A resolution by a corporation's board of directors. Properly executed affidavit filed prior to July 20, 2004</p> <p>CCC 901 and 902E</p>	Sleepy Hollow Farms Inc. by Leigh White By Leigh White, President By Leigh White Jeff Woods, Agent, for Sleepy Hollow Farms, Inc. By Jeff Woods, Agent
	Attorney-in-Fact or Agent	<p>FSA-211 signed by all officers/members. FSA-211 signed by an officer/member with authorization to re-delegate. Resolution by a corporation's board of directors designating the agent.</p>	
<b>Estate, Trust, Conservatorship or Guardianship</b>	<p>Note: These positions do not require specific signature authority designation.</p> <p>Administrator, executor, trustee, guardian, receiver, or conservator</p>	<p>Documents signed or certified by an officer of the issuing court that the evidence is in full force and effect.</p> <p>Orders of appointment.</p> <p>Court-approved certificate or letter of administration.</p> <p>Trust agreement or last will and testament that establishes the trust.</p> <p>Similar document approved by OGC.</p>	<p>Note: For a bankruptcy or receivership, the signature must include the signatory's name, capacity, and name of the bankrupt.</p>
	Attorney-in-Fact or Agent	<p>FSA-211 signed by authorized individual.</p> <p>CCC 901 and 902E</p>	

## **Incentives Payments**

EQIP payment schedules will be used for all contracts. Use of a payment schedule does not require submission or review of project costs; however, the Designated Conservationist should obtain actual installation costs whenever possible as documentation for future payment schedules.

EQIP Manual 440 CPM Part 515.91 G and H clearly delineates eligible and ineligible costs. The following are specific guidelines for Alaska NRCS, but are not meant to supersede NRCS policy as stated in the EQIP Manual.

### *Ineligible Costs:*

1. Permit fees and time to obtain permits.
2. Electrical power hook-up. Payment is only allowed for electric power sources which address a national or state priority resource concern, utilize a renewable power source such as solar or wind, and are an integral part of an approved electric fence design, or livestock or wildlife water delivery system where other power sources are impractical or energy conservation measures are in place. In no case will NRCS assist to provide a power supply that requires installing above ground or buried electric power lines.
3. Practices whose sole purpose is to enhance production.
4. Residential use water supplies.
5. Berm row removal.
6. Forestland that is planned to be developed for cropland. Applicant may apply for EQIP once area has been developed as cropland.
7. Boundary or perimeter fences (exception for expired CRP acreage, 440 CPM Part 515.52C).
8. Used seasonal high tunnels.

Only costs associated with the direct installation of the practice are eligible. Indirect costs and management fees are not eligible costs. Miscellaneous supplies, such as gloves, are not eligible. Purchase and or use of landowner personal tools, such as hand saws or power tools, are not expenses eligible for reimbursement.

## **Advance Payments**

Contracts in which all the participants with greater than zero payment shares have self-certified as belonging to a historically underserved group may be approved to receive payment advances to assist in completing financial assistance conservation practices included in an approved CPC. Advance payments also may be approved for contracts if at least 50 percent of the participant payment shares are designated to socially disadvantaged participants. 440 CPM Part 515.67

1. Advance payments may only be provided for anticipated out-of-pocket costs associated with purchasing materials, supplies, equipment, and services required for practice implementation. Management practices and conservation activity plans do not meet the

requirements set forth for advance payments. Advance payment requests are only to cover the immediate needs of the CPC participant.

2. The entire amount of the payment must be spent within 90 days and only on conservation practice costs. Appropriate costs include site work by an earthwork contractor or by machine rental, payment on structures from manufacturer or vendor, or lumber or other required material for the structure. NRCS requires receipts for all expenditures. Consumables and infrastructure, such as gloves, hoses, hose bibs or frost free hydrants do not qualify.
3. Contracts that are cancelled or terminated will have all outstanding partial or advance payments reconciled. Advance payments will be recovered if a contract is cancelled or terminated.

### **Certification of Practices**

It is the responsibility of the State Conservationist to develop and issue policy regarding certification of practices and accepting the work of those outside of NRCS when performing self-certification to ensure interpretive continuity concerning documentation certification.

Responsibility for practice compliance with applicable standards and specifications rests with the line officers or Hub Leaders in Alaska. Hub Leaders, within their assigned area, will be held accountable for the quality of practices installed with NRCS

All practices must be part of a conservation plan developed and maintained in Customer Service Toolkit. It is NRCS policy to obtain, record and file information on the exact location, quantity and extent of practice units installed, and to verify that all practices completed meet approved standards and specifications. These requirements are the same whether or not the practice is certified by qualified NRCS personnel, a certified technical service provider (TSP), or a program participant authorized to complete a self-certification. Every practice certified shall require at least one on-site inspection and verification by NRCS personnel that is documented in the case file. Documentation required for practice certification at a minimum shall include:

1. Data in the form of GPS coordinates sufficient to determine the location of the practice.
2. Linear or polygonal practices shall require GPS data or other measurements as appropriate to the specific practice, sufficient to determine the extent of the practice.
3. Sufficient photographic and/or video evidence which substantiate the location, extent and compliance of the practice installation with all specifications, job sheets, or other prescriptive requirements.
4. Complete, legible and understandable supporting data in the form of receipts, measurements, notes, spreadsheets, or vegetative plot data. Receipts or invoices constitute good supporting documentation, but alone are never adequate to justify practice certification.
5. A signed statement certifying that the installation is in full compliance with all specifications, drawings, job sheets, or other prescriptive requirements.

Only in exceptional circumstances, when it is of benefit to the agency, may someone outside of NRCS be authorized to self-certify completed practices. The decision whether or not to authorize a non-NRCS person to self-certify shall be granted in writing, with proper justification,

on a case-by-case basis by the Hub Leader. Exceptional circumstances may include very remote projects completed late in the fall where, for safety or budgetary reasons, NRCS cannot reasonably visit the site until the following spring. Self-certification shall not be authorized on the road system or anywhere a site visit is planned by NRCS during the field season when the practice is completed. Convenience is never a proper justification.

The authorization letter shall specify the practice and contract item number with specific requirements concerning required documentation. The person(s) granted the authority must be both willing and able to collect and submit all of the required information and supporting documentation. Receipts, measurements, notes, spreadsheets, or vegetative plots data need not be in the same format used by NRCS, but must be complete, legible and understandable. The on-site inspection and verification of all self-certified practices shall be arranged by the Hub Leader no more than one year past the practice self-certification date and documented in the file.

### **Cancellations and Terminations**

The purpose of this supplement is to briefly define procedures and required documentation for contract cancellation and terminations. 440 CPM Part 512.57.

A cancellation is an equitable remedy that allows both parties to the contract to end the contractual relationship. A recovery of financial assistance payments may or may not be appropriate, depending upon the circumstances. Liquidated damages will not be assessed for contract cancellations.

A contract is subject to termination as a result of a material breach of the terms and conditions in the CPC. A contract termination is an adverse action and will usually result in an assessment of liquidated damages for recovery of costs associated of the breached contract as well as recovery of financial assistance payments

The following are acceptable reasons for cancelling or terminating a contract:

<b>Contract Cancellation</b>	<b>Contract Termination</b>
Natural disaster	Violation of the terms of the contract
Documented hardships including: death*, major illness, bankruptcy, and destruction of farm property	Failure to apply or maintain scheduled practices
Environmental or archeological concerns	NRCS employee is denied access to property or personal safety is in jeopardy
In the public interest and beyond the participant's control (eminent domain).	Participant becomes ineligible
Substantial change in operation	Land becomes ineligible
Removal of resource concern	Participant transfers land by sale or otherwise by choice loses control of the land
Other acceptable personal or financial hardship	Scheme, device or fraudulent representation
	Knowingly misrepresented any fact affecting a program determination

\*For situations where a participant has died, cancellation will occur automatically unless the estate representative notifies NRCS that an eligible successor in interest is willing to assume contract requirements.

Procedures contained in 440 CPM Part 512.58 Recovery of Cost and Liquidated Damages will be used by the State Conservationist to determine if repayment of funds are to be made by contract participants who cancel or have a contract termination.

All requests for terminations or cancellations will be forwarded through the appropriate Hub Leader for review and concurrence. All documentation listed below will then be submitted to the Hub Program Assistant who will draft the termination or cancellation letter for signature by the State Conservationist. Once the Program Assistant has completed the letter, the Hub Leader and Assistant State Conservationist for Programs will review it. The Executive Assistant will complete a final review prior to the letter's submission to the State Conservationist.

#### *Required Documentation*

*Cancellation requests must have the following documents:*

1. A dated copy of the participant's written request to cancel the contract including the reason for the cancellation. Form NRCS-CPA-153 is available for this request or personal correspondence is accepted.

2. A completed Alaska Contract Cancellation/Termination Worksheet, AK 300, including a recommended outcome including the reason for the recommendation.

*Termination requests will have the following documents:*

1. A completed Alaska Contract Cancellation/Termination Worksheet AK 300, including a list of any established conservation practices and those not yet established with payment amounts and dates, and written documentation that supports the reason(s) for contract termination with a recommended outcome and reason for the recommendation.
2. Copies of advance notification letter(s) used to inform the participant that the contract is in potential violation.

*Processing Terminations and Cancellations*

1. All requests for Terminations or Cancellations will originate from the Designated Conservationist, be reviewed by the Resource Conservationist and approved by the State Conservationist. The Resource Conservationist will submit the request and documentation to the Executive Assistant for delivery to the State Conservationist.
2. The Hub Program Assistant will pull a copy of the contract folder from DMS and type a draft letter of Termination/Cancellation stating the outcome to the participant. Upon completion of the letter, all documentation and the contract folder will be supplied to the Assistant State Conservationist for Programs for review and a concurrence signature.
3. The Executive Assistant will give the finalized letter to the State Conservationist for approval signature.
4. Upon approval, the Executive Assistant will date stamp, scan, and e-mail the letter to the Hub Program Assistant, Hub Leader and Designated Conservationist. The Hub Program Assistant will upload the letter to DMS.
5. When the e-mailed copy of the letter is received, the Designated Conservationist will submit a Termination/Cancellation modification in ProTracts and inform the Assistant State Conservationist for Programs via e-mail that the modification is ready. The date of the approval letter from the State Conservationist for Termination/Cancellation will be cited in ProTracts by the Designated Conservationist.
6. The Assistant State Conservationist for Programs will approve the modification for Termination/Cancellation once all information is entered into ProTracts and will inform the Budget Officer of the action to verify that funding has been de-obligated in FFIS.
7. The Budget Officer stamps closed, initials, and dates the modification page and files it.

## **Guidance Related to Specific Circumstances**

### *Payment Schedule: Conservation Practices Qualifying for Payment*

1. Practices and activities eligible for payment are those listed on the NRCS Field Office Service Area's EQIP Payment Schedules. 440 CPM Part 512.11 B. and 512.33.
2. All practices scheduled in a contract must provide natural resource enhancement and conservation. They must meet the intent of the program, and provide benefits toward identified natural resource concerns, and meet NRCS technical requirements. Practices which do not address a resource concern are not eligible.
3. Beginning in FY 2008, NRCS began utilizing a payment schedule for practice payments, rather than a cost list. Rather than being reimbursed a certain percentage of their implementation cost; participants earn payments for installation of a practice, based upon a typical scenario for installation of the practice.
4. Payment schedule scenarios represent a typical installation based on the parameters outlined in the scenario description. Not every site situation will be addressed; therefore, planners should read the scenario descriptions for the conservation practice they are planning and select the one that is the best fit. Scenario descriptions can be found on the FOTG Section I Cost Data tab.
5. Payment is limited to the least cost alternative to address a specific resource concern.

### *Wildlife Habitat Evaluation Guides (WHEG)*

Completion of Wildlife Habitat Evaluation Guide or other species-specific evaluation tool is required for supporting the planned activity, when wildlife resource concern and benefits are claimed when ranking an EQIP application.

### *At-Risk Species, Species of Concern*

At risk species are defined as any plant or animal species listed as threatened or endangered; proposed or candidate for listing under the Endangered Species Act (ESA); species likely to become candidates for listing; species listed as threatened or endangered under State Law or tribal law on tribal land; State or tribal land species of conservation concern; or other plant or animal species or community, as determined by the State Conservationist, with advice from the State Technical Committee and State Conservation Tribal Advisory Council for tribal land, that has undergone, or is likely to undergo, population decline and may become imperiled without direct intervention.

### *Locally Identified Species*

Locally Identified Species are those wildlife (including fish and insects) and plant species, identified at the local level by the Local Workgroup. These species constitute species of local importance for project or resource concern assistance, planning and potential funding. Locally

identified species receive weighted scoring consideration in the Local Criteria section of Alaska's Farm Bill Program Ranking Tools (Automated Electronic Ranking Tool, AERT).

These species may or may not be "at-risk" species as identified above. When locally identified species also meet criteria as "at-risk" species, they may receive additional resource consideration under national and/or state ranking criteria.

#### *Policy for Horse Operations*

The NRCS State Conservationist, in consultation with the State Technical Committee, has determined for NRCS will offer assistance to equine owners who meet the producer eligibility and land eligibility requirements of the EQIP program as described in 440 CPM Part 515.51 and 515.52.

The Alaska State Conservationist has determined that horses may be considered as "Other animals as identified by the Chief." 440 CPM Part 515.51 F (8) (iii)

#### *Policy for Brush Management*

Brush Management shall be in accordance with Alaska NRCS Standard 314, Brush Management. This practice applies only to existing pasture land being used as part of a prescribed grazing system, hayland being used as part of a prescribed grazing system, cultivated cropland being converted to pasture, or hayland as part of a conversion to a prescribed grazing system.

#### *Policy for Grazing*

##### *Eligible Land*

Improved pasture land or land where adapted native and/or introduced forage species support hayland and pasture functions that meet the grazing history, prescribed grazing plan and brush management criteria described in this policy.

##### *Grazing History*

The State Conservationist may require written certification or other documentation to validate grazing history.

##### *Prescribed Grazing Plan*

All applications applying for conservation practices for grazing operations shall be supported by documentation of grazing history and a required contracted prescribed grazing plan developed in accordance with Alaska NRCS Practice Standard 528, Prescribed Grazing. If the grazing acreage has previously received EQIP payments for prescribed grazing, then contracted prescribed grazing is not required.

### *Policy for Mulching*

NRCS does not provide financial assistance for synthetic or natural mulch in high tunnel systems. Synthetic mulch may only be used on new tree or shrub plantings, irrigated orchards or vineyards, or annual and perennial specialty crops. Synthetic mulch may be used for annual and perennial specialty crops only where water quantity and soil moisture are a documented resource concern. Documenting water quantity savings by using NRCS tools is required prior to contracting. NRCS does not provide financial assistance for plastic mulch systems, such as roll out plastic barrier strips because plastic mulch system is a production practice and is considered part of the costs associated with growing the crop.

### *Policy for Multi-Purpose Buildings*

This policy is based on the requirements of 440 CPM Part 515.91 B, Ineligible Costs.

Livestock buildings are ineligible. Any building or part of a building used for livestock housing or feeding and other uses is not eligible for payment. A producer can, at his or her own expense, construct a livestock building adjacent to a covered heavy use area (HUA) and put stalls in it for housing or feeding.

A roofed HUA that provides more than incidental livestock housing is ineligible. This means that at least 75 percent of the building must be solely for waste storage or water quality concerns.

The State Conservationist may determine that a certain building is a necessary component of a CNMP or prescribed grazing system and would be eligible for payment. In addition, certain multi-purpose buildings may be eligible. For multi-purpose buildings, the payment rate will be pro-rated at the amount of the least-cost alternative to that portion of the building primarily used for animal waste handling or to achieve water quality purposes. For the purposes of this policy, a multi-purpose building is any facility that is utilized by livestock (HUAs) or is normally used seasonally or occasionally, for example, a composting facility or a non-liquid waste storage facility.

As per the policy on CNMPs, a completed, approved CNMP must be in place before any payment will be allowed on structural components.

### *Policy for Private, Non-Industrial Forestland*

Private non-industrial forestland is eligible for EQIP financial assistance according to 440 CPM Part 515.52 B. See 440 CPM Part 515.51 F for determining eligibility of producers with forest land.

Components of a forest management plan may be eligible for EQIP financial assistance if they are consistent with EQIP policies and program objectives. Eligibility shall be determined by NRCS on a case by case basis. The following guidelines may be used by NRCS to evaluate eligibility.

Structural and management practices for forestland shall be considered for payments under EQIP when the practices are included in a forest management plan prepared by an Alaska Technical Service Provider Forester. A TSP Forester must meet the requirements of the Alaska State Division of Forestry for delivery of Forest Stewardship Services. Individuals with associated experience and a recognized forestry degree from a college or university accredited by the Society of American Foresters will be considered on a case by case basis. The plans must be developed in accordance with Alaska NRCS Standard 106, Forest Management Plan, or an Alaska Forest Stewardship Plan and associated Conservation Plan Supplement. Practice eligibility shall be determined by NRCS in consultation with the forester preparing the plan and after review by the NRCS Alaska State Resource Conservationist. The primary purpose(s) of the practice(s) must be consistent with one or more of the purposes listed in the NRCS Alaska practice standards. Practices whose sole purpose is to enhance production are not eligible for EQIP payment.

### *Practice Payment Caps*

Several conservation practices have payment caps which limit the total dollar amount which the landowner can receive. There are payment caps for the following practices:

1. 590 Nutrient Management: \$10,000 per year for a maximum of 3 years.
2. 528 Prescribed Grazing: \$10,000 per year for a maximum of 3 years.
3. 325 High Tunnel: \$17,300 per CIN, high tunnel.

### *Comprehensive Nutrient Management Plans (CNMP)*

If the EQIP plan of operations includes the handling/storage/treatment/application of animal waste produced on the subject farm, a CNMP is required to be completed before payment is approved on any waste storage or waste handling structures or nutrient management activities. This plan is an integral part of facility planning and design, and should be in place before beginning structural designs. When modification of an existing contract entails changes to any contract item or component related to a waste storage or handling facility in an existing CNMP, the CNMP must be updated or reviewed by someone with the appropriate job approval authority.

### *Marijuana*

Alaska is one of several states that have legalized marijuana production. Although it is legal in the state, marijuana production continues to be a Federal crime. As outlined in National Bulletin 300-14-36, employees may encounter growers who may be legally or illegally producing marijuana. NRCS will not provide technical assistance or financial assistance on any field that is producing marijuana or other controlled substances in violation of Federal law, even if the cultivation of such controlled substances are lawful under State law and even if the producer requesting assistance is not responsible for the production of the controlled substance.

Additionally, NRCS will not provide any financial assistance to any producer who is producing marijuana or engaged in controlled substance activities on any part of their agricultural operation in because it is in violation of Federal law. Reference documents: Alaska Bulletin AK-300-15-01, 440 CPM Part 512-B, and EQIP M440-515-F.

#### *Replacement of Previously Contracted Conservation Practices*

Failure to operate and maintain conservation practice(s) installed with any Farm Bill program assistance that results in the re-emergence of the resource concern originally addressed within the contract will result in a “low” screening determination for any future applications. 440 CPM Part .515.72.B(2)(i).

#### *Policy for Water Rights*

It is imperative that every engineer, conservation planner, and program specialist read and understand GM Part 405, Subpart A, Section 405.1 D and E.

Applications for any practice(s) that uses water is required to have an existing State of Alaska adjudicated water right, a permit to use water from a specified source as a precursor to adjudicated water right, or a written letter from DNR-Division of Water clearly stating that DNR has determined in accordance with Alaska law that the producer does not need a permit or water right for the conservation practice being proposed. The aforementioned requirements must be met prior to listing the application as pre-approved in ProTracts. See DNR Water right fact sheet [http://dnr.alaska.gov/mlw/factsht/wtr\\_fs/wtr\\_rqht.pdf](http://dnr.alaska.gov/mlw/factsht/wtr_fs/wtr_rqht.pdf).

#### *Policy for Irrigation Practices*

Refer to 440 CPM Part 515.52 for the complete national policy.

If the resource concern being addressed is insufficient water, a participant will be eligible for incentive payment for irrigation related structural and land management practices only on land that has been irrigated for two of the last five years prior to application for assistance. Producers requesting assistance with irrigation practices must provide a signed statement certifying this fact. If the stated resource concern is insufficient water, incentive payment for irrigation related structural, vegetative, or land management practices will only be provided if there is a documented net savings in ground or surface water.

An application that includes any irrigation structure must also include practice standard 449, irrigation water management.

Any application not meeting the above criteria will not be eligible for ranking and the status shall not be set to “Pre-approved” in ProTracts. For additional technical guidance on IWM contact the Alaska State Conservation Engineer.

See above Policy for Water Rights.

### *Policy for Wells*

Wells for livestock are rarely a cost-effective alternative compared to other conservation measures and are generally not eligible for incentive payments. If a justifiable scenario arises, contract payment of a well for livestock may be allowed by the State Conservationist only after it has been determined to be the least-cost alternative to address a priority resource concern, and is a vital part of a prescribed grazing plan or efficient irrigation system.

Wells for irrigation are eligible under very limited circumstances per national program policy.

See above Policy for Water Rights.

### Reference Citations

440 CPM Part 502 Definitions, Terms and Abbreviations common to all conservation programs.

512.5 A Definitions and descriptions of Historically Underserved Individuals and Groups.

512.5 E Definition of "Indian Tribe" for purposes of Farm Bill programs.

512.22 Eligibility:

512.25 Evaluating Applications

### Screening

512.33 Payment Rates

512.40 Participant Responsibilities

512.43 Customer Case File and Components of Contract File Assembly 512.50, 51

### Modifications

512.55 Annual Contract Reviews

512.57 Cancellations and Terminations

512.62 Assignment of Payments 512.70, 71 Contract Violations

512.90 Forms Summary