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Subpart A - General Information

517.0 General

A. Introduction

(1) The Wildlife Habitat Incentives Program (WHIP) is administered by the Natural Resources Conservation Service (NRCS). The program offers technical and financial assistance to protect, restore, develop, and enhance wildlife habitat.

(2) For the purposes of this program, the term "wildlife" means non-domesticated birds, fishes, reptiles, amphibians, invertebrates, and mammals. The term "wildlife habitat" means the aquatic and terrestrial environments required for fish and wildlife to complete their life cycles, providing air, food, cover, water, and spatial requirements.

(3) The Chief NRCS may implement WHIP in any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) Policy set forth in this Part is specific to the WHIP. Part 512 provides general policy for Conservation Program Contracting ([440-CPM, Part 512](#)).

B. Purpose

The purpose of WHIP is to help participants develop fish and wildlife habitat on private agricultural land, nonindustrial private forest land, and Indian lands.

C. Objective

The objective of WHIP is to help participants protect, restore, develop, or enhance habitat for upland wildlife, wetland wildlife, threatened and endangered species, fisheries, and other types of wildlife.

D. National Priorities

In order to provide direction to the State and local levels for implementing WHIP to achieve its objective, NRCS has established the following national priorities:

- (i) Promote the restoration of declining or important native fish and wildlife habitats.
- (ii) Protect, restore, develop or enhance fish and wildlife habitat to benefit at-risk species;
- (iii) Reduce the impacts of invasive species on fish and wildlife habitats; and
- (iv) Protect, restore, develop or enhance declining or important aquatic wildlife species' habitats.

E. Source of Authority

The sources of authority for the policies and procedures contained in this manual are as follows:

Section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Farm Bill), 16 U.S.C. 3836a. Section 2502 of the [Farm Security and Rural Investment Act of 2002](#) (the 2002 Farm Bill), Public Law 107-171, repealed the WHIP statute and amended Title XII of the Food Security Act of 1985 (1985 Farm Bill) to add a new section, 1240N, as the authority for WHIP. Section 2602 of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) reauthorized the program.

F. Freedom of Information Act (See [440-CPM, Part 512, Section 512.6, Public Access to Data](#))

G. Related Manuals and Handbooks

The following agency policy and technical references have topics related to WHIP:

- (i) [National Planning Procedures Handbook \(NPPH\)](#)
- (ii) [National Food Security Act Manual \(NFSAM\)](#)
- (iii) [GM-180, Part 409, Conservation Planning Policy](#)
- (iv) [GM-190, Part 410, Compliance with NEPA](#)
- (v) [GM-420, Part 401, Cultural Resources](#)
- (vi) [440-CPM, Part 509, Equitable Relief from Ineligibility for Conservation Programs](#)
- (vii) [440-CPM, Part 510, Appeals and Mediation](#)
- (viii) [440-CPM, Part 512, Conservation Program Contracting](#)
- (ix) [GM-450, Part 407, Documentation, Certification and Spot Checking](#)
- (x) [190-National Biology Manual](#)
- (xi) [210-National Engineering Manual](#)
- (xii) [Field Office Technical Guides \(FOTG\)](#)

H. Technical Assistance

(1) NRCS has responsibility for administering WHIP, including providing technical assistance. Technical assistance means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses. Technical assistance may include, but is not limited to, any of the following activities:

- (i) Technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, conservation practice survey, layout, design, installation, and certification; and information; education; and training for producers.
- (ii) Technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, data, technology, monitoring, and effects analyses;
- (iii) NRCS retains approval authority over certification of work done by non-NRCS personnel for the purpose of approving WHIP payments.
- (iv) Quality assurance reviews of contracts.

(2) NRCS may enter into agreements with Federal and State agencies, Indian Tribes, conservation districts, local units of government, public and private organizations, and individuals to assist with program implementation, including the provision of technical assistance (See [440-CPM, Part 504, Technical Service Provider Assistance](#)). NRCS may make payment pursuant to said agreements for program implementation and for other goals consistent with the program provided for in this Part.

(3) Specifically, the Federal Agencies that may provide technical or financial assistance to program participants in order to achieve the goals consistent with WHIP include the United States Fish and Wildlife Service (FWS), the United States Department of Agriculture's Forest Service (FS), the United States Army Corps of Engineers (COE), the United States Environmental Protection Agency (EPA), and other Federal and State agencies.

(4) Technical assistance does not include research and development.

I. Supplements to this Part (Also see [440-CPM, Part 512, Section 512.0 \(J\) \(K\)](#))

State policy for WHIP must be established by means of supplements to this Part. A copy of all State supplements to this Part must be submitted to the Deputy Chief for Programs for review. State supplements must not be in conflict with or less restrictive than the statutory or regulatory WHIP provisions. The final version of all state amendments must be submitted to the Deputy Chief for Management for posting in the electronic directive system.

J. Distributing IRS Forms (See [440-CPM, Part 512, Section 512.0 \(I\)](#))

[M.440.517.A.0 Amendment 34 - date]

517.1 - Required State Actions

(See [440-CPM, 512.1](#))

[M.440.517.A.1 Amendment 34 - date]

517.2 - Definitions

(See [440-CPM, Part 502](#))

[M.440.517.A.2 Amendment 34 - date]

517.3 - NRCS Responsibilities

(See 440-CPM, [Part 512, Section 512.3](#))

A. National Headquarters

The following table describes the responsibilities of the NRCS National Office.

Position	Responsibilities
NRCS Chief	<p>WHIP will be administered under the general supervision and direction of the Chief, NRCS.</p> <p>Making policy and regulatory decisions</p> <p>Establishing national priorities</p> <p>Determining allocation and reallocation of funds to achieve the WHIP purpose and objective.</p> <p>Limiting program implementation, in response to national, regional, and state fish and wildlife habitat concerns, the Chief may limit program implementation in any given year to specific geographic areas or to address specific habitat development needs.</p> <p>Maintaining working relationships within USDA and externally to foster effective and efficient use of WHIP.</p> <p>Waiving average adjusted gross income (AGI) limitation on case by case basis for projects of special environmentally sensitive significance.</p> <p>Waiving administrative procedures as warranted.</p>
Deputy Chief for Programs	<p>Overseeing program development and implementation, including rulemaking</p> <p>Making fund allocation and reallocation recommendations to the Chief to achieve the program objective.</p> <p>Coordinating with appropriate agencies and organizations at the national level.</p>
Chief Financial Officer	<p>Issuing funds to State Conservationists for initial allocations, reallocations, and modifications when approved by Chief/Associate Chief</p> <p>Maintaining fund accountability, including accounts for cost-overruns.</p> <p>Other responsibilities delegated by the Chief.</p>
Deputy Chiefs for Science and Technology and Soil Survey and Resource Assessment	<p>Developing technology for WHIP support</p> <p>Providing analysis and evaluation support for WHIP including rulemaking.</p>
Regional Assistant Chief (RAC)	<p>The RAC will be the approving official authority for all contracts and agreements when the total contract obligation exceeds \$150,000 (see 440-CPM Part 512, Section 512.46 D).</p>
Financial Assistance Programs Division Director	<p>Providing operational leadership and management for WHIP.</p> <p>Maintaining liaison and working relationship with national Farm Service Agency (FSA) program leaders and other NRCS Division Directors, and NRCS Technical Service Centers.</p> <p>Providing program training.</p> <p>Providing overall program evaluation including program accountability.</p> <p>Recommending policies and regulation content, and establishing supporting procedures.</p>

	<p>Developing user requirements for program related software, including coordination and involvement with business and information technology specialists on testing, issuing, training and maintaining software to support WHIP activities.</p> <p>Sharing program information.</p> <p>Updating eligibility criteria in response to statutory changes.</p> <p>Developing and updating the WHIP manual to reflect approved program policies and procedures.</p> <p>Developing and implementing a natural resource based methodology to support fund allocation recommendations.</p> <p>Working closely with FSA to ensure access to the AGI and HELC/WC compliance data, and access to the Service Center Information Management System (SCIMS) data.</p> <p>Maintaining program integrity to ensure statutory directional intent is maintained.</p> <p>Monitoring the obligation and use of funds.</p> <p>Undertaking other responsibilities as assigned by the Deputy Chief for Programs.</p>
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B. State Conservationists

The State Conservationist will be responsible for implementing WHIP by directing and supervising NRCS activities, and delegating the responsibilities for management of the WHIP at the State level according to [440-CPM, Part 512, Section 512.3](#) and as shown in the following table.

Activity	Details
Chairperson	Chair the State Technical Committee (see CPM 440 Part 501, Section 501.11).
Delegation of Authority	<p>Designate staff and delegates authority to certify and approve payments at State and field office levels consistent with agency policy.</p> <p>Designates the authorized NRCS representative, in writing, to obligate funds, disburse payments, and act as Approving Official as instructed in 440-CPM, Part 512, Section 512.3.</p> <p>Delegate appropriate roles and responsibilities to Designated Conservationists for each jurisdiction of the State.</p>
Leadership	<p>Ensure that all program activities are in compliance with NRCS rules, regulations and policy.</p> <p>Develop additional guidelines for conservation needs assessments.</p> <p>Establish State program management policies, procedures, and program performance indicators to support WHIP national priorities and measures.</p> <p>Maintain program and fund integrity and accountability.</p> <p>Verify accuracy of payment requests and authorize payments.</p> <p>Establish State resource concerns and priorities, and eligible practices.</p>

	<p>Provide leadership for planning and implementation, including the evaluation of qualifications of others that provide technical assistance.</p> <p>Approve and/or revise payment schedules used in the State that provides a cost basis for conservation program payments (see 440-CPM Part 512, Section 512.33) for WHIP.</p> <p>Determine fund allocations within the State.</p> <p>Ensure compliance with appropriate internal controls including "separation of duties" as it relates to contract development, contract obligation and modification, and payment certification.</p> <p>Administer offsets, collections, and claims.</p> <p>Provide program and technical training needed to implement the program effectively.</p> <p>Review the local application process and ranking to ensure program is in compliance with NRCS regulations and policy and that USDA civil rights responsibilities are met.</p> <p>Provide leadership for quality assurance.</p> <p>Sign, on behalf of the Chief, any and all documents necessary to implement the program.</p> <p>Grant waivers or identify designees, as allowed, granting waivers to:</p> <ul style="list-style-type: none"> • Starting a practice prior to application for the program or contract approval. • Waiving all or part of recovery costs. • Other tasks as indicated by policy. <p>Establish program performance goals.</p> <p>Provide recommendations to the Chief on what national priorities should be identified.</p> <p>Grant equitable relief to those participants who are eligible.</p> <p>Post WHIP ranking criteria, signup periods, and other informational materials on NRCS websites to make them available to the public as required by program regulations and policy.</p> <p>Establish contracting responsibilities as defined in CPM-440 Part 512, Section 512.3.</p>
Evaluation	<p>Identifies, monitors, and analyzes performance indicators.</p> <p>Determines appropriate distribution method for WHIP agreements and associated documents, ensuring that records are readily available when required.</p> <p>Evaluates and reports program accomplishments.</p>
Coordination	<p>Coordinates with State and Federal agencies to streamline the permit process such as wetlands and endangered species permits.</p> <p>Will seek recommendations from the State Technical Committee in the implementation of the program and in establishing program direction for WHIP in the applicable State. The State Conservationist has the authority to accept or reject the State Technical Committee recommendation; however, the State Conservationist will give strong consideration to the State</p>

	<p>Technical Committee's recommendation for:</p> <p>Coordination across State lines with other State Conservationists.</p> <p>Participation in the appeal process, as appropriate.</p> <p>Maintain effective working relationship with the USDA Farm Service Agency (FSA).</p> <p>Other responsibilities as assigned by the Chief.</p> <p>Develops an application evaluation and ranking system</p> <p>Develops an eligible practice list for WHIP and associated payment schedules</p> <p>Develops agreements with other agencies and groups for the most efficient use of personnel and other resources, for their roles and responsibilities to meet the WHIP workload demand.</p> <p>Coordinates public outreach and information activities with partners.</p>
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[M.440.517.A.3 Amendment 34 - date]

C. Field Offices

<p>Field Offices</p>	<p>Designated Conservationists will provide leadership for WHIP activities in their area of authority, (as delegated by the State Conservationist) with advice of the Local Working Group, including the following responsibilities:</p> <p>Provide local program leadership.</p> <p>Assess natural resource and environmental conditions and needs.</p> <p>Identify program priorities and resources available.</p> <p>Make program policy recommendations to the State Conservationist.</p> <p>Provide leadership in carrying out public outreach and information activities at the local level and document activities per National Outreach Policy.</p> <p>Determine eligible conservation practices and review the recommended payment schedules, with the advice of the Local Working Group see CPM-440 Part 501, Section 501.02).</p> <p>Analyze performance indicators and reports.</p> <p>Monitor, evaluate, and report program impacts on natural resources.</p> <p>Provide leadership for developing cooperative agreements with local conservation partners.</p> <p>Implement policies and procedures in accordance with NRCS rules and regulations.</p> <p>Develop a process to evaluate WHIP applications based on advice from the Local Working Group and announce application evaluation periods.</p> <p>Accept applications and enter into ProTracts.</p> <p>Verify individual or entity designation of applicants, as necessary.</p>
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	<p>Acquire all necessary signatures on Forms NRCS-CPA-1200, NRCS-CPA-1202 (contract), and CCC-1202 Appendix.</p> <p>Determine producer eligibility, including whether applicant is an agricultural producer.</p> <p>Determine land eligibility and update status in ProTracts</p> <p>Rank and select applications approved for funding and Wildlife Habitat Incentives Program plan of operations (WPO) development.</p> <p>Manage and administer WHIP contracts including initial development, modification and termination as delegated by the State Conservationist.</p> <p>Participate in appeal processes, as appropriate.</p> <p>Document case file per the National Planning Procedures Handbook (NPPH) (see Part 600 NPPH).</p> <p>Ensure that the obligation of funds does not exceed the available fund allocations and that contract payments are not approved in excess of contract obligations.</p> <p>Certify installation and check-out of completed structural practices, unless contracted for completion by a Technical Service Provider (TSP).</p> <p>Monitor and inform applicants of all payment limitations.</p> <p>Monitor contract expiration dates and modify contracts as necessary and consistent with agency policies to carry out program objectives.</p> <p>Maintain effective working relationship with FSA.</p> <p>In the absence of a conservation district, convene the Local Working Group.</p> <p>Determine acceptability of and approve WHIP WPO.</p> <p>Provide contract support as defined in CPM-440 Part 512 Subpart E.</p> <p>Other responsibilities as assigned by the State Conservationist.</p>
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517.4 – Farm Service Agency (FSA) Responsibilities

A. Introduction

This section defines the FSA participation in WHIP in the State. Other FSA assistance may be outlined in interagency agreements developed. See 440-CPM Part 501, Section 501.10 and Section 501.02 for State Technical Committee and Local Working Group responsibilities of FSA.

B. Contracting Responsibilities

(See [440-CPM, Part 512, Section 512.4](#))

C. Appeals

May participate in the appeal process (see CPM-440 Part 512, Section 512.4).

517.5 - Responsibilities of Participants and Other Partners

A. Participant Responsibility (See [440-CPM, Part 512, Section 512.40](#))

B. Conservation Districts

(1) Local Conservation Districts (CD) are legal subdivisions of State government and are charged by State law with providing leadership for soil, water and natural resource conservation within District boundaries. As a result, they have an essential role in the implementation of USDA conservation programs.

(2) Tribal Conservation Districts (TCD) are appointed by a Tribal Government or formed under a Tribal Resolution. The TCD role includes identifying local resource concerns, objectives, and priorities; recommending application and evaluation process and priorities for assistance; and, ensuring local resource priority issues and concerns are being addressed within Tribal District boundaries. CDs and TCDs have the following responsibilities:

- (i) For responsibilities on the USDA Local Working Group see [440-CPM, Part 501, Section 501.15, \(e\)](#).
- (ii) Accept cost-share applications and forward to NRCS.
- (iii) Develop a WHIP plan of operations (WPO) or plans of operation, where appropriate.
- (iv) Provide technical assistance support, where appropriate.
- (v) Provide administrative support for contracts, where appropriate.
- (vi) Assist NRCS with local information and outreach activities.
- (vii) Work with NRCS on issues relating to WPO's and conditions for contract termination.
- (viii) Others as requested by the State Conservationist and consistent with statutory, regulatory, and NRCS policies.

C. Other Agencies and Tribes

(1) Other Federal, State, and local agencies and Tribes may have the following responsibilities:

- (i) Serve as a member of the State Technical Committee and/or Local Working Group.
- (ii) Provide input and recommendations to NRCS for developing program guidelines.
- (iii) Assist NRCS with information and outreach activities.
- (iv) Provide technical assistance where appropriate.

(2) Specific Tribal or BIA responsibilities concerning cost-share agreements on Tribal land may include:

- (i) Provide in writing, certification from the BIA or Tribal official that no one individual will receive more than the payment limitation;
- (ii) Provide, annually, a listing of individuals and payments made, by tax identification number or other unique identification number, during the previous year for calculation of overall payment limitations;
- (iii) Produce proof of payments made to the person or legal entity that incurred costs related to conservation practice implementation.

Note: Tribal Conservation Districts formed under Tribal Resolution or as appointed by Tribal governments are afforded the same responsibilities as indicated in CPM paragraph 517.4B.

[M.440.517.A.5 Amendment __ - date]

517.6 - The Role of the State Technical Committee

- A. The State Technical Committees provides recommendations concerning the implementation of the program and establishing program direction for WHIP in the applicable State. Although State Technical Committees have no implementation or enforcement authority, USDA shall give strong consideration to the Committee's recommendations.
- B. Each State Technical Committee will provide recommendations to establish criteria and guidelines for evaluating petitions by agricultural producers regarding new conservation practices and systems not already described in field office technical guides.
- C. Advise in establishing WHIP State plans and ranking criteria (See [440-CPM, Part 501, Subpart B.](#)).
- D. The State Technical Committees recommends what plant or animal species will be considered at-risk species in their respective States.

[M.440.517.A.6 Amendment __ - date]

517.7 - Responsibilities of the USDA Local Working Group

The purpose of the USDA Local Working Group is to facilitate locally led conservation ([440-CPM, Part 500](#) and 440-CPM Part 501 Subpart B, Section 501.14) and to provide advice to NRCS concerning the implementation of conservation programs including WHIP in accordance with the Federal Advisory Committee Act. The roles and responsibilities of the USDA Local Working Groups, a subset of the State Technical Committee, are found in the Conservation Programs Manual.

[M.440.517.A.7 Amendment __ - date]

517.8 - Establishing State WHIP Plans

A. Purpose

State WHIP plans in conjunction with national priorities and established habitat needs, shall serve as the basis for allocation of WHIP funds to the NRCS State Conservationist. State WHIP plans ensure that resources are targeted to the needs of the highest priority wildlife habitat. The State WHIP Plan will be developed and then published on the State's NRCS website.

B. State Plan Development

The State Conservationist, with recommendation from the State Technical Committee (See 440-CPM, Part 501, Subpart B), will develop and submit to the Regional Assistant Chief (RAC) and the FAPD Division Director a State plan for implementing and administering WHIP every five years, or more frequently if needed. As a minimum, the plan will include the following information:

- (i) State objectives.
- (ii) National and State wildlife habitat priorities, which may be expressed as:
 - Habitat types of special concern.
 - Wildlife species to be targeted.
- (iii) A general description of wildlife habitat improvement practices to be emphasized.
- (iv) Partnership involvement, including the amounts and kinds of resources the partners will provide to support the program. Disclosure of partner financial assistance dollars is optional.
- (v) State application evaluation and ranking process and criteria (may be updated annually).
- (vi) Criteria for measuring program success, performance goals, etc.

C. State Wildlife Priorities

NRCS and partner resources can be used effectively by establishing priority wildlife species or habitats in conjunction with national priorities. Prioritization should be done at the State level. The State Conservationist, with recommendations from the State Technical Committee, may give priority to WHIP projects that will address unique habitats, habitat for at-risk species or special geographic areas identified in the State. Local wildlife priorities, as identified in the conservation needs assessment completed through the locally led process, are forwarded to the State Conservationist. Respective State Wildlife Action Plans may be utilized as a valuable reference.

D. Priority for Certain Conservation Initiatives

In carrying out this section, the Chief may give priority to projects that would address issues raised by State, regional, and national conservation initiatives.

E. Performance Measurement and Accountability

Program implementation will be measured at the State and national level. Specific information will be collected at the field level and forwarded to the State Conservationist. The data will be used to provide information to the Administration, Congress, and the public concerning the general location, extent and types of wildlife habitat developed through WHIP as well as progress of WHIP plans. The performance data and resource information in conjunction with State WHIP plans from the Customer Service Toolkit,

Performance Results System (PRS), Foundation Financial Information System (FFIS), and ProTracts will be used to determine appropriate funding levels for States.

[M.440.517.A.8 Amendment __ - date]

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Subpart B - Conservation Plan Schedule of Operation

517.10 - General Program Requirements

A. Conservation Planning

(1) Conservation planning for fish and wildlife habitat will consider the aquatic and terrestrial environments required for fish and wildlife to complete their life cycles, including air, food, water, and spatial requirements. The Customer Service Toolkit is the official required conservation planning software for NRCS. A conservation plan which at a minimum addresses wildlife habitat as the primary resource concern will be developed and serve as a Wildlife Habitat Incentives Program plan of operations (WPO). The WPO can serve either as:

- (i) The sole conservation plan for the planning area and include other practices selected by the participant in addition to those addressing the primary resource concerns of the wildlife habitat or,;
- (ii) A component of a comprehensive conservation plan that addresses the wildlife resource concerns of the planning area.

(2) The WPO may include relevant “partnership” arrangements needed to implement conservation treatment utilizing WHIP technical and financial assistance.

(3) It is agency policy that technical assistance and the conservation practices identified within the WPO:

- (i) Meet the [standard and specifications](#) developed for the FOTG, including any interim standards recommended by the State Technical Committee and approved by the State Conservationist.
- (ii) Comply with the National Environmental Policy Act (NEPA) [GM 190, Part 410](#) (Endangered Species), including procedures found in [GM 420, Part 401](#) for Cultural Resources.

(4) Permitting (see [440-CPM, Part 512, Section 512.10 D.](#)).

B. WHIP Cost-Share Agreements

(1) NRCS will enter into WHIP cost-share agreements with eligible applicants based on the WPO. WHIP planning data will:

- (i) Be entered into the Customer Service Toolkit as the official conservation planning software for NRCS.
- (ii) Follow procedures as set forth in [440-CPM, Part 512, Subpart E Establishing Conservation Program cost-share agreements in ProTracts, Section 512.42](#). ProTracts is the official NRCS contracting software.

(2) Environmental Services Credits for Conservation Improvements:

USDA recognizes that environmental benefits will be achieved by implementing conservation practices funded through WHIP, and that environmental credits may be gained as a result of implementing activities compatible with the purposes of a WHIP cost-share agreements.

NRCS asserts no direct or indirect interest on these credits. However, NRCS retains the authority to ensure that the requirements for WHIP funded improvements are met and

maintained in accordance with cost-share agreement including the O&M agreement Appendix. WHIP participants are highly encouraged to request a compatibility assessment from NRCS prior to entering into any environmental credit agreement.

C. Forms – (See [440-CPM, Part 512, Subpart J, Exhibits, Section 512.90](#))

D. Technical Assistance Sources

In addition to NRCS, participants may utilize conservation planning, practice implementation, and practice certification services from NRCS approved sources, as determined by the Secretary ([see 440-CPM, Part 504](#)), including from:

- (i) Other Federal, State, or local government sources
- (ii) Private businesses
- (iii) Non-governmental organizations

E. Technical References to Assist in Wildlife Habitat Conservation Planning and WPO Development

- (1) [NRCS Home Page: Technical Resources-Biology](http://www.nrcs.usda.gov/technical/biology.html)
- (2) [Electronic Toolbox for Fish and Wildlife Habitat Management](http://www.whmi.nrcs.usda.gov/technical/etool.html)
- (3) [National Biology Handbook: Aquatic and Terrestrial Habitat Resources](#)
- (4) [NRCS FOTG](#)
- (5) [State Comprehensive Wildlife Conservation Strategies](#)
- (6) [Stream Corridor Restoration Handbook](#)

F. Policy for Guiding Conservation Planning includes, but not limited to the following References

- (1) [National Planning Procedures Handbook \(GM-180, Part 600\)](#)
- (2) [Conservation Planning Policy \(GM-180, Part 409\)](#)
- (3) [Conservation Planning and Conservation Practices \(440-CPM, Part 505, Subpart A\)](#)
- (4) [NRCS National Biology Handbook Part 611, Conservation Planning for Integrating Biological Resources](#)
- (5) [Conservation Programs Cost-share agreements \(440-CPM Part 512, Subpart B\)](#)
- (6) [Compliance with NEPA \(GM-190, Part 410\)](#)
- (7) [Field Office Technical Guide \(FOTG and eFOTG\)](#)
- (8) [National Handbook of Conservation Practices \(NHCP\) \(GM 450, Part 406\)](#)
- (9) [National Food Security Act Manual \(NFSAM\) \(180, Part 510\)](#)
- (10) [Locally Led Conservation \(440-CPM, Part 500\)](#)
- (11) [Cultural Resources \(Title 420, Part 401\)](#)
- (12) [Technical Guides, Developing Interim Standards \(GM 450, Part 401\)](#)

G. Working with Multiple Participants

When appropriate, the WPO plan portion of the cost-share agreement may be used to pool or group participants to accommodate resource conservation practices that overlay lands owned or controlled by more than one participant. Conservation plans with groups must be developed with the consent of all participants. Follow [440-CPM, Part 512, Subpart E, Sections 512.41 and 512.42](#) (See Section 517.22, Group Agreements of this manual).

[M.440.517.B.10]

517.11 - Level of Natural Resource Treatment for the WPO

A. Primary Focus: Resource Concerns

- (1) The WPO portion of the cost-share agreement shall meet identified wildlife resource conservation needs. The WPO may cover all or part of the participant's land base.
- (2) In many cases, the WPO portion of the cost-share agreement may be a part of a complete conservation plan. When participants agree, NRCS should help develop a conservation plan. All conservation practices and management systems, in the WPO must be approved by NRCS and developed and carried out in accordance with the applicable NRCS Field Office Technical Guide (FOTG) for treating soil, water, air, plant, and animal resources and in addition to enhancing wildlife habitat.
- (3) Restoration of native habitats for prioritized wildlife is encouraged.

B. WPO Requirements

- (1) The participant develops a WPO with the assistance of NRCS or other public or private natural resource professionals, who are approved by NRCS. A WPO encompasses the parcel of the land where habitat will be established, improved, protected, enhanced or restored. The WPO shall be approved by NRCS and address at least one of the following:
 - (i) Fish and wildlife habitat conditions that are of concern to the participant;
 - (ii) Fish and wildlife habitat concerns identified in State, regional, and national conservation initiatives; or
 - (iii) Fish and wildlife habitat concerns identified in an approved area-wide plan that addresses the wildlife resource habitat concern.
- (2) The WPO forms the basis for the WHIP cost-share agreement and shall be attached and included as part of the cost-share agreement, along with the O&M agreement. The WPO includes a schedule for installation and maintenance of the conservation practices as determined by NRCS.
- (3) The WPO can be modified in accordance with 440 CPM Part 517, Section 517.50.
- (4) The participant is responsible for the implementation of the WPO.
- (5) The WPO portion of the cost-share agreement must meet the objective of WHIP. The designated conservationist, with the assistance of conservation partners as appropriate, will:
 - (i) Consider the applicant's objectives and goals.

- (ii) Assist the applicant in determining the essential practices, extent, and schedule for applying the practices necessary to establish, improve, protect, enhance, or restore wildlife habitat on the acres under application. This information can be used in the cost-share agreement.
 - (iii) List the estimated payments for installing the planned conservation practices and the approximate payment rates to be provided.
 - (iv) Habitat for fish and wildlife must be the primary purpose of WHIP projects. Education cannot be the primary purpose of WHIP projects. Education in schools should be provided by partners.
 - (v) Cost share agreements that will benefit essential plants will include in the WPO, documentation of the essential wildlife species that will be benefited (see 440-CPM Part 517, Section 517.22 H (vi) and 517.45 B (2) of this manual).
 - (vi) Any other provisions or documentation determined necessary or required according to Part 600.31 of the [National Planning Procedures Handbook \(NPPH\)](#).
- (6) The designated conservationist, with the assistance of conservation partners as appropriate, will complete the following in the WPO:
- (i) Complete a benchmark wildlife habitat inventory and an assessment of wildlife biological requirements (food, cover, and water), identifying only essential needs.
 - (ii) Verify the accuracy of existing wetland determinations and delineations for the acres under application. Any errors found shall be corrected with the applicant.
 - (iii) Identify requirements for preservation of cultural resources where applicable.
 - (iv) Document how habitat will be established, improved, protected, enhanced, or restored over the life of the cost-share agreement. The WPO portion of the cost-share agreement must specify all essential treatment practices.
 - (v) Describe new technologies or interim practices that will be implemented (for example field tested) to establish, improve, protect, enhance, or restore the wildlife habitat over the life of the cost-share agreement. Implementation of new technologies not in the FOTG must have State Conservationist concurrence.

C. WPO Map (See [NPPH 600](#) and [440-CPM, Part 512, Section 512.43, Components and Assembly of Contract File](#))

D. Signature Requirements (See [440-CPM, Part 512, Section 512.46, Signing and Approving Contract Documents.](#))

E. Definition of Conservation Practices ([440-CPM, Part 502](#))

- (i) Commonly used to meet specific natural resource needs.
- (ii) Science-based and field-tested over a number of years and for which standards and specifications have been developed.
- (iii) New information and technologies identified in the FOTG as interim standards and specifications.
- (iv) Part of a conservation system.

Note: New technologies not in the FOTG may be implemented with the concurrence of the State Conservationist and consistent with agency policy for establishing Interim Conservation Practices (see GM 450, Part 401, Section 401.17).

F. Practice Life (See [440-CPM, Part 512, Section 512.11](#))

G. Essential Practices

Essential practices are those that must be included in the WPO portion of the cost-share agreement for the protection, restoration, development, enhancement, or management of identified fish and wildlife habitat components. Essential practices must be:

- (i) Technically feasible, based on the site evaluation.
- (ii) Properly operated and maintained for a duration as determined in the O&M agreement.
- (iii) Identified in the WPO as numbered items.

Note: Recurring practices may be considered essential practices in the WPO, but only on a very limited basis and where there is an identifiable cost to the participant, however, non-cost-shared (N/C) items (e.g. 645 – Upland Wildlife Habitat Management) should be included in the WPO as these items indicate a complete wildlife habitat resource conservation system.

Recurring practices are limited to those that must be applied on a regular, scheduled basis to maintain the ecological or serial stage of wildlife habitat vegetation. An example of this may be the various components of [Brush Management \(Practice Standard 314\)](#) in [Section IV of the FOTG](#).

H. Supplemental Practices

Supplemental treatment practices are not required for protecting, restoring, developing, enhancing, or managing identified fish and wildlife habitat components. However, they may enhance habitat quality. Supplemental practices:

- (i) Are not eligible for WHIP financial assistance, but they may be financed by other partners or other programs (e.g., Conservation Stewardship Program).
- (ii) Are not required to be operated and maintained for the life of the agreement.
- (iii) Must be identified in the plan as non-cost-shared (NC).
- (iv) Must not adversely impact the functioning of essential practices.

Note: Annual food plots may be considered a supplemental practice, but they are not eligible for NRCS cost-share assistance under WHIP.

I. Ineligible Practices

Ineligible practices are those practices that:

- (i) The primary purpose is to promote or enhance agricultural productivity or a goal other than fish or wildlife habitat.
- (ii) Will not meet fish or wildlife habitat needs.
- (iii) Were cost-shared under any other conservation program administered by USDA.
- (iv) Do not meet FOTG standards and specifications.

J. Non-compatible Activities

Non-compatible activities are those determined by NRCS to be in conflict with the purpose and intent of WHIP, the WPO, and the O&M agreement. These activities may be prohibited or limited in timing, intensity, location, or frequency. These activities may include, but are not limited to, the following:

- (i) Haying
- (ii) Burning
- (iii) Grazing
- (iv) Cropping
- (v) Timber harvesting
- (vi) Construction
- (vii) Developed recreational uses, such as boardwalks or permanent blinds
- (viii) Vehicle traffic

[M.440.517.B.11 Amendment __ - date]

517.12 - Reserved

Reserved

[M.440.517.B.12 Amendment __ - date]

517.13 - Reserved

Reserved

[M.440.517.B.13 Amendment __ - date]

Subpart C - Application for Assistance

517.20 - General

(See [440-CPM, Part 512, Section 512.20](#))

[M_440_517_C_20 - Amendment _ - date]

517.21 - Signature Authority for Businesses

(See [440-CPM, Part 512, Section 512.21](#))

[M_440_517_C_21 - Amendment _ - date]

517.22 - Eligibility

A. Who May Be Eligible

To be eligible applicants must meet requirements as set forth in 440-CPM Part 512, Section 512.22, and meet the following additional requirements:

- (1) To participate in WHIP, an applicant must be in compliance with the terms of all other USDA-administered conservation program contracts to which the participant is a party, such as AMA, EQIP, WHIP, CIG, CSP, CRP, CREP, etc.
- (2) Provide NRCS with written evidence of ownership or legal control of private agricultural land nonindustrial private forestland or Indian land for the term of the proposed cost-share agreement, including the operation and maintenance (O&M) agreement. An exception may be made by the Chief in the case of land allotted by the Bureau of Indian Affairs or Indian land where there is sufficient assurance of control.
- (3) Agree to provide all information to NRCS determined to be necessary to assess the merits of a proposed project and to monitor cost-share agreement compliance.
- (4) Agree to grant to NRCS or its representatives access to the land for purposes related to application, assessment, monitoring, enforcement, verification of certifications or other actions required to implement this Part.
- (5) Provide a list of all members of the legal entity and embedded entities along with members' tax identification numbers and percentage interest in the entity. Where applicable, American Indians, Alaska Natives, and Pacific Islanders may use other unique identification number for each individual eligible for payment.
- (5) Supply information, as required by NRCS, to determine eligibility for the program, including but not limited to, information to verify the applicant's status as a limited resource farmer or rancher or beginning farmer or rancher and payment eligibility as established by 7 CFR part 1400, Adjusted Goss Income; and
- (6) With regard to any participant that utilizes a unique identification number as an alternative to a tax identification number, the participant will utilize only that identifier for any and all other WHIP cost-share agreements to which the participant is a party.

B. Acceptable Evidence of Control or Ownership (See [440-CPM, Part 512, Section 512.22](#))

- (1) Acceptable evidence of control or ownership includes, but is not limited to, the following:
 - (i) Title
 - (ii) Land cost-share agreement or deed
 - (iii) County FSA land ownership records
 - (iv) Valid lease for the length of the cost-share agreement
 - (v) Notarized statement signed by the owner that the operator shall have control of the land for the length of the cost-share agreement
 - (vi) History of use, by documents provided, that indicates that future control of the land is likely for the term of the cost-share agreement including the O&M agreement
 - (vii) Other special cases such as power of attorney, executorships, trusteeships, corporations, etc.
 - (viii) An applicant proposing to implement a structural or vegetative practice funded through a WHIP cost-share agreement on rented or leased land must sign the application and submit written concurrence by the landowner at time of application specifically granting the applicant permission to install, operate and maintain the conservation practice for the lifespan of the conservation practices as defined in the cost-share agreement.
- (2) An exception may be made by the Chief for enrollment of Indian land, Bureau of Indian Affairs (BIA) allotted lands, or other special cases.
- (3) In special cases, such as land subject to multiple owners, the designated conservationist will determine eligibility with concurrence of the State Conservationist.
- (4) Acceptable evidence of control of water or other surface and subsurface rights may be required.
- (5) The designated conservationist must document in writing how it is known that the applicant has control of the land and verify that the land is eligible, placing the documentation in the cost-share agreement file. The designated conservationist will also determine if existing easements or rights held by entities other than the participant will place constraints on the proposed WPO objectives.

C. Non-Government Organizations

Non-governmental organizations (NGOs) are eligible to participate in WHIP. If the organization owns the land, an authorized representative must sign all necessary forms. If the organization does not own or control the land, the landowner must provide written documentation signifying the acceptance of responsibility to comply with the WHIP cost-share agreement (see [440-CPM, Part 512, Section 512.22](#))

D. Commercial Enterprises

Commercial hunting, fishing, recreation, and aquaculture enterprises are eligible to participate in WHIP. However, cost-share payments will be limited to essential practices installed to benefit free-ranging wildlife as determined by the State Conservationist.

E. Group Agreements

If the designated conservationist determines that benefits to fish or wildlife habitat would be sufficiently greater if multiple applicants entered into cooperative efforts to install conservation practices, then those applicants may develop a multi-tract or multi-farm WPO to address the larger project. This multiple participant project may be assessed and ranked as one project although separate cost-share agreements must be developed with each applicant. This type of project may be appropriate where a number of adjacent tracts are under separate management (see [Section 517.10G](#)) (see [440-CPM, Part 512, Section 512.41 and 512.42](#)).

F. Participation by NRCS Employees (See [440-CPM Part 512, Section 512.22 B](#))

G. Eligible Land

Lands that are eligible for WHIP are:

(i) Agricultural land;

Means cropland, grassland, rangeland, pasture, and other land determined by NRCS to be suitable for fish and wildlife habitat development, on which agricultural and forest-related products or livestock are or have the potential to be produced. Agricultural lands may include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of land used for production of livestock.

(ii) Nonindustrial private forestland; and

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.

(iii) Indian land.

(i) Land held in trust by the United States for individual Indians or Indian tribes, or

(ii) Land, the title to which is held by individual Indians or Indian tribes subject to Federal restrictions against alienation or encumbrance, or

(iii) Land which is subject to rights of use, occupancy and/or benefit of certain Indian tribes, or

(iv) Land held in fee title by an Indian, Indian family or Indian tribe.

Note: When land is suitable for wetland restoration, and the acreage is eligible for WHIP and for the Wetland Reserve Program (WRP), the wetland should be restored using WRP funds, unless WRP funds are not available.

H. Ineligible Land

(1) Lands that are ineligible for WHIP are:

(i) Publicly owned lands (Federal, State, County, or local government owned lands).

Note: States will consider documenting the portions of stream or river or other water courses that are publicly owned and ineligible for WHIP funding.

(ii) Land currently enrolled in a program where fish and wildlife habitat objectives have been sufficiently achieved as determined by NRCS including:

- Water Bank Program (WBP)

- Emergency Watershed Protection Program (EWP) that are subject to floodplain easements
- Conservation Reserve Program (CRP)
- Wetland Reserve Program (WRP)
- Healthy Forests Reserve Program (HFRP)
- Grassland Reserve Program (GRP)

Exception: The State Conservationist may fund a WHIP cost-share agreement along with a GRP cost-share agreement if the following two requirements are met:

- (a) Wildlife habitat is the primary resource concern; and
- (b) The GRP cost-share agreement is for an easement.

(iii) Lands with onsite or offsite conditions that would undermine the benefits of the habitat development, such as a nearby contaminant source, that would degrade the area, or otherwise reduce its value.

(iv) Lands that are made up of less than the minimum acreage if a minimum acreage has been established by the State Conservationist which may include advice from the State Technical Committee as indicated in the State plan (may consider prioritized habitat needs, connectivity of habitats, etc.).

(v) Lands enrolled in a program where fish and wildlife habitat objectives have been sufficiently achieved.

(vi) Lands where the benefited essential plants in a proposal do not benefit an essential fish or wildlife species (see 517.11 B (x) and 517.45 B (2)).

(vii) Land on which habitat for threatened or endangered species would be adversely affected.

Note: Exceptions may be made by the Director of the Financial Assistance Programs Division.

Note: A WHIP participant may have more than one WHIP cost-share agreement though not on the same acreage. Multiple cost-share agreements may be allowed on the same acreage by the State Conservationist under special circumstances on a case by case basis although the participant will be subject to the annual payment limitation.

[M_440_517_C_22 - Amendment __ - date]

517.23 - WHIP Application Procedure

A. Applications

WHIP participation will be encouraged locally by the NRCS, in cooperation with the Conservation Districts, and other partners through announcements and news releases.

B. Application Process

The WHIP sign-up is conducted on a continuous basis. The NRCS State Conservationist, with recommendations from the State Technical Committee, will:

- (i) Develop and publicize a procedure for processing WHIP applications for funding.
- (ii) Develop a process and timeframe to:

- (a) Review and compare applications.
- (b) Determine which applications will be funded.

C. Who Can Apply

Applications will be accepted from any person or legal entity wishing to apply. Applicants will be required to provide acceptable evidence of ownership or control of the land in accordance with 440-CPM, Part 517, Section 517.22, Eligibility.

D. Submitting Applications (See [440-CPM, Part 512, Section 512.23](#))

E. Required Information (See [440-CPM, Part 512, Section 512.23 A](#))

F. Beginning Practices

(1) A practice initiated prior to application for WHIP or cost-share agreement approval is ineligible for financial assistance. However the State Conservationists or designated conservationist may waive this provision according to [440-CPM, Part 512, Section 512.23 C](#) and when the following requirements are met:

- (i) Practice is included in the WPO.
- (ii) The practice was not started prior to the date the waiver is approved.

(2) Applicants who request a waiver must be notified by NRCS that they may be ineligible to receive payment if any of the following occur:

- (i) Cost-share agreement is not approved.
- (ii) Practice does not meet NRCS standards and specifications.
- (iii) Requested practice is not included in the WPO.

(3) The waiver is approved when the applicant receives an approval letter as shown in [440-CPM, Part 512, Section 512.91 E](#) "Waiver to Begin a Conservation Practice".

G. Additional Information

Additional information determined to be necessary to assess the merits of an application may be required by NRCS to complete the application evaluation. This information may include:

- (i) Wildlife species or habitat of concern.
- (ii) The participant's objective(s).
- (iii) The practice(s) desired.
- (iv) The standing of all other USDA-administered conservation program cost-share agreements to which the applicant is a party.

H. Signature Requirement (See [440-CPM, Part 512, Section 512.23 B.](#))

[M_440_517_C_23 - Amendment __ - date]

517.24 – Processing Applications

A. Processing Applications ([See 440-CPM, Part 512, Section 512.24](#))

B. Evaluation of Eligible Applications ([See 440-CPM, Part 512, Section 512.25](#))

NRCS and/or its designated partner(s), will work with eligible applicants gathering the information needed to evaluate and rank applications following the application process established by the State Conservationist (paragraph Section 517.23 B), using the approved State WHIP ranking criteria (paragraph Section 517.25 D) and agency approved Application Evaluation and Ranking Tool. Partners may be included in the process. See paragraph 440-CPM, Part 512, Section 512.24 for information about notifying applicants.

If the application...	Then NRCS will...
Has the highest ranking or meets or exceeds the minimum ranking threshold established by the State Conservationist.	Approve the application, unless limited by available funding.
Exceeds or over obligates available funds.	Not approve the application

517.25 - Evaluating Applications

(See [440-CPM, Part 512, Section 512.25](#))

A. Purpose

A ranking process will allow NRCS to prioritize WHIP applications at the local level based on ecological, economic, and social factors. Each State will develop a ranking process to ensure consistent and efficient WHIP implementation within the State and will use the agency approved Application Evaluation and Ranking Tool (AERT) to implement the process.

B. State Conservationist's Role

The role of the State Conservationist, which may include recommendations from the State Technical Committee, will be to:

- (i) Coordinate development of ranking criteria based on locally developed conservation needs assessments and other information.
- (ii) Ensure that the ranking process is consistent with National and State wildlife priorities identified in the State WHIP plan.
- (iii) Establish a minimum ranking threshold to identify applications to be funded; i.e., applications that meet a minimum score or are in the top 50 percentile of applications to ensure high quality applications are funded.
- (iv) Rank applications based on documentation received from field offices.
- (v) Develop and implement a quality assurance process to ensure that resources used are consistent with the established ranking process.
- (vi) Ensure use of the agency approved AERT.

C. Designated Conservationist's Role

The role of the designated conservationist will be to:

- (i) Provide leadership for the USDA local working group to conduct and update a conservation needs assessment that considers area-wide wildlife habitat needs. Assessments are forwarded to the State Conservationist as they are completed or revised.
- (ii) Prepare applications for ranking based on a field visit, the ranking worksheet, and the draft WPO portion of the conservation plan.

D. Ranking Criteria

The State Conservationist, which may include recommendations from the State Technical Committee, will identify appropriate ranking criteria and using the Agency-approved AERT will prioritize all eligible applications. Ranking priority shall be given to those applications that complement the goals and objectives of relevant fish and wildlife conservation initiatives at the state, regional, and national levels. Those initiatives may include for example:

- (i) North American Waterfowl Management Plan.
- (ii) National Fish Habitat Action Plan.
- (iii) Greater Sage Grouse Conservation Society.
- (iv) State Comprehensive Wildlife Conservation Strategies (also referred to as the State Wildlife Action Plans).
- (v) Northern Bobwhite Conservation Initiative.
- (vi) Gulf of Hypoxia Action Plan 2008 (and associated annual operating plans).
- (vii) State forest resource strategies.

The point spread on the ranking system should be of sufficient size to differentiate among applications. At a minimum, the process will consider using some or all of the guidelines provided in the following table.

Consideration	Factor
Ecological Considerations	(i) Contribution to resolving an identified habitat problem of national, regional, or state importance including identified state, regional, and national initiatives; (ii) Relationship to any established wildlife or conservation priority area; (iii) Duration of benefits to be obtained from the habitat development practices; (iv) Self-sustaining nature of the habitat development practices; (v) Availability of other partnership matching funds or reduced funding request by the person applying for participation; (vi) Estimated cost of fish and wildlife habitat development

	<p>practices;</p> <p>(vii) Willingness of the applicant to complete all conservation improvements during the first two years of the WHIP cost-share agreement.</p> <p>(viii) Further consideration may be given to WHIP projects that will address unique habitats or special geographic areas identified in the State.</p> <p>(ix) Subsequent cost-share agreement offers that would complement previous cost-share agreements due to geographic proximity if the lands involved or other relationships that may receive priority.</p> <p>ix) Type of habitat improvement to be achieved.</p> <p>(xi) Likelihood of success.</p> <p>(xii) Restoration of native habitats for prioritized wildlife.</p> <p>(xiii) At-risk species (Federal and State listed rare, sensitive, threatened and endangered, candidate and declining species according to State Conservationist which may include advice from the State Technical Committee).</p> <p>(xiv) Other factors determined appropriate by the State Conservationist to meet the objectives of the program.</p>
Other Considerations	Operation and maintenance costs
Optional Considerations	<p>Permanence of the practice(s)</p> <p>Use of high priority practices</p> <p>Cost-share agreement contribution to an existing resource management system</p> <p>Location in relation to lands actively managed for wildlife</p> <p>Percentage of an operating unit to be placed under the cost-share agreement</p> <p>Acres in cost-share agreement</p> <p>Pooling or group agreements</p>

E. Maintaining Ranking Criteria Data

The State Conservationist will maintain the ranking criteria and the associated scores for each offer received for a minimum of one (1) year as provided in the [GM 120, Part 408](#), Subpart D, Exhibits. The filing code shall be Wildlife Habitat Incentives Program, Ranking Criteria, Fiscal Year XX (where XX equals year), Records Guide 300–21–5.

F. Special Projects

(1) The State Conservationist, who may seek recommendations from the State Technical Committee, may approve special projects requested through the Local Working Groups or a similar locally led process provided they meet WHIP purposes (see 440-CPM Section 517.25 D for list of initiative examples).

(2) Special projects may be approved by the State Conservationist in cases where the infrastructure for carrying out the local ranking process is not present, such as when there is no Conservation District or Local Working Group provided they meet WHIP purposes.

[M_440_517_C_25 - Amendment 34 - December 2006]

517.26 - Status of Applications

(See [440-CPM, Part 512, Subpart 512.26](#))

[M_440_517_C_26 - Amendment _ - date]

517.27 - Servicing Unfunded Applications

(See [440-CPM, Part 512, Subpart 512.27](#))

[M_440_517_C_27 - Amendment _ - date]

517.28 - Public Access to Data

(See [440-CPM, Part 512, Subpart 512.6](#))

[M_440_517_C_28 - Amendment _ - date]

517.29 - Appeals

A. Appeal Process

All WHIP appeals will be handled according to [440-CPM, Part 510](#) and, if appropriate, the FSA [Handbook 1-APP](#). The applicable regulations for appeals are: [7 CFR 614, NRCS Appeals Procedures](#); [7 CFR 780, FSA Appeals Procedures](#); and [7 CFR 11, National Appeals Division \(NAD\) Rules of Procedure](#). See also [440-CPM, Part 512, Subpart 512.24](#).

B. Actions Not Appealable

In accordance with the provisions of the Department of Agriculture Reorganization Act of 1994, Public Law 103-354 (7 U.S.C. 6901 et seq.), and as set forth in the National Appeals Division Rules of Procedure, 7 CFR Part 11, §11.6(a)(2), it“...shall [be] determined whether the decision is adverse to the individual participant, and thus appealable, or is a matter of general applicability, and thus not subject to appeal....” Actions and decisions that are generally applicable to all participants in the Nation, State, or Tribes and are not specifically adverse to a participant in WHIP are not appealable, such as the following list ([See 440-CPM 510.2 B \(1\)](#)):

(1) Payment rates, payment limits, payment computations and cost-share percentages;

- (2) The designation of approved fish and wildlife priority areas, habitats or practices;
- (3) Identification of priority natural resource concerns or areas in the ranking criteria;
- (4) NRCS program funding decisions (i.e., funding allocations, funding levels, and funding decisions);
- (5) Eligible conservation practices;
- (6) NRCS conservation practice standards and specifications and other technical criteria;
- (7) The application ranking and the screening process;
- (8) Science-based formulas and criteria;
- (9) Matters of regulation and law that expressly provide for the action taken;
- (10) Denial of program participation due to a current lack of program funds; and
- (11) Other matters of general applicability.

C. Handling Adverse Decisions

1. Adverse Decisions

NRCS may make different types of decisions for a WHIP participant depending on the basis for the decision. Many of the decisions that will be issued to a program participant will be about cost-share agreement or program administration, and thus are considered as program decisions, (e.g., eligibility, violation, loss of control of the land under cost-share agreement, payment ineligibility). However, some adverse decisions issued for WHIP may be strictly technical in nature, (i.e., failure to complete a conservation practice according to FOTG standards). There are significant differences in the appeals procedures used for technical determinations as opposed to program decisions.

(i) Technical Determinations

These types of decisions must include appeal rights specified in 7 CFR §§ 614.7 (preliminary technical determination) and 614.8 (final technical determination), which provide for review and reconsideration, mediation, or expedited finality at the preliminary determination level and a informal appeal hearing by either the FSA COC or a formal appeal review by the National Appeals Division (NAD) at the final technical determination level. It is important that all steps are completely and correctly followed so that there can be no assessment of error by the participant that the proper appeal rights were not accorded for a particular determination.

Preliminary technical determinations must also undergo a review by the NRCS State Conservationist if, upon reconsideration, the determination remains adverse to the participant. This review will ensure that the following actions are completed:

- The technical determination is fully supported by the record; and
- The technical determination conforms to the specific program regulation.
- If one or both of these items are found to be in question, the State Conservationist may either remand the determination to the field office to redo the determination or have another employee conduct a new determination.

(ii) Program Decisions

Program decisions are defined as "...written decision[s] by NRCS concerning eligibility for program benefits, program administration or program implementation and [are] based upon applicable regulations and program instructions." Program decisions are issued as final decisions that achieve finality upon receipt by the program participant.

Program decisions can be based on a technical aspect, yet, due to the nature of the decision, be considered as a program decision. Examples of program decisions include, but are not limited, to the following: program eligibility decisions, program ranking decisions, program violations (even if they have a technical basis), recovery of costs due to loss of control of the cost-share agreement acreage, and failure to start a cost-share practice within 12 months.

The appeal rights for a program decision according to [7 CFR §614.9](#) includes mediation, informal appeal to either the FSA-COC or the State Conservationist, or formal appeal to NAD.

Note: Only those actions that are considered to be appealable will be given appeal rights. See 440-CPM, [Paragraph 517.29 B](#) for WHIP actions considered not to be appealable. The WHIP participant has the right to request a NAD appealability review for determinations or decisions that NRCS has determined not to be appealable. (See 440-CPM, [Paragraph 517.29 B](#)).

D. Appeals and Decisions

1. Reserved
2. FSA Determination Appeals

FSA committee responsibilities are defined in 440-CPM, [Paragraph 512.4\(d\)](#). Eligibility decisions rendered by the FSA committee will be included in the overall eligibility decision issued by NRCS as these decisions are not appealable due to being issued by another federal agency at the request of NRCS, ([7 CFR §614.4\(b\)\(6\)](#)).

3. Reserved

E. Notification Requirements

1. Notification of Non-appealable Issues

Participants must be notified in writing by NRCS if the action is non-appealable. The notice shall include both of the following:

- (a) The participant's right to request a NAD appealability review within 30 calendar days of receipt of the adverse decision that the action is not appealable.
- (b) The address of the NAD Regional Director.

2. Appeals in Writing

All adverse decisions, except those that are not appealable as provided in section 517.29 E, must be provided to the WHIP participant in writing, not later than 10 calendar days after the decision has been reached. Appeal rights must be provided on all adverse decisions or determinations as provided in sections 517.29 C 1 (a) or (b).

A participant's request for appeal is considered filed when the participant makes a written request to any of the appeal venues provided by hand or when NRCS receives a properly

addressed appeal, postage paid envelope postmarked no later than 30 days from the date that the participant received the adverse decision. All requests for appeal must include a copy of the adverse decision being appealed.

Note: If NRCS did not send the adverse decision with any delivery notification, then timeliness is calculated using the date of the adverse decision plus seven (7) days for mailing.

[M_440_517_C_29 - Amendment _ - date]

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Subpart D - Program Payment Schedules

517.30 - Method of Making Conservation Program Payments

A. Payment Methods

See payment methods, as described in 440-CPM, Part 512, Subpart D, Section 512.30.

B. Limitations

Cost-share assistance shall be limited to the minimum number of essential practices needed to obtain the desired habitat response.

[M.440.517.D.30 Amendment 34 - date]

517.31 - Payment Schedules

A. Practice List

(See [440-CPM, Part 512, Section 512.31](#)) Developing Eligible Practice List.

B. Payment Schedules

The State Conservationist, with advice from the State Technical Committee, will develop WHIP payment schedules according to [440-CPM, Part 512, Section 512.31](#), 32, 33. Any eligible practice, including interim practices, must be included in the local FOTG prior to use of the practice.

C. Essential Plant and Animal habitat WPO

Separate payment schedules will be developed for 15 year cost-share agreement payments up to 90 percent of the cost of installation (see 440-CPM Part 517, Section 517.45).

[M.440.517.D.31 Amendment 34 - date]

517.32 - Cost Data

A. Cost Data (See [440-CPM, Part 512, Section 512.32](#))

B. Payment

Subject to fund availability, the payment rates for conservation practices scheduled after the year of contract obligation may be adjusted to reflect increased costs.

C. Incentive Payments

Section 1240N of amended Title XII of the Food Security Act of 1985, Section 2602 of the 2008 Farm Bill, does not authorize incentive payments using Federal WHIP funds. However, participants may receive incentive payments from other partners, such as State, private, or non-profit sources.

D. Eligible Costs

(1) Payment rates are limited to the least-cost alternative to achieve 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.

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 individual or entity is responsible for the expense of conservation practice installation. The participant receiving the program benefit must also be the individual or entity that directly incurred 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 (as per NRCS policy)
- (ii) Services and labor, from the participant or others
- (iii) Sales tax

Note: Used materials may be authorized if the criteria set forth in the National Engineering Manual, Title 210 [Part 512, Subpart C](#), are met. The determination that used materials meet NRCS requirements rests with the individual having job approval authority.

E. Ineligible Costs

Ineligible Cost Category	Examples of Ineligible Costs	Examples of Eligible Costs
Permits and fees – non-USDA fees such as permit fees	<ul style="list-style-type: none"> • Building Permits • Hook up fees for water or other utilities • 404 permit • Treatments to control weeds, and other invasive species, unless authorized as necessary to facilitate the installation or operation of another primary conservation practice for invasive species control for wildlife as a primary resource concern. 	None
Equipment - General WHIP payments are for conservation practices not for equipment.	<ul style="list-style-type: none"> • Equipment to haul or apply manure • Pesticide application equipment • No-till equipment • Global positioning and 	<ul style="list-style-type: none"> • Equipment for renewable energy generation for prescribed grazing where normal power hook ups are inaccessible <p>Note: Incentive payments are not allowed.</p>

	<p>precision farming equipment</p> <ul style="list-style-type: none"> • Equipment for energy generation <p>Other equipment not specifically addressed as being eligible for WHIP funding</p>	
<p>Portable Equipment - engines, motors, pumps and pumping equipment</p> <p>Assisting participants to purchase portable equipment raises important accountability issues. It is essential that, at a minimum, contract reviews confirm that the equipment is available and being used for the intended conservation purposes</p> <p>Note: Portable equipment financially assisted through WHIP may only be used for its intended WHIP purpose on land under WHIP contract</p>	<ul style="list-style-type: none"> • Motorized vehicles • Outboard motors 	<ul style="list-style-type: none"> • Portable engines, motors, pumps and pumping equipment may be approved by State Conservationists when its use will reduce cost by eliminating the need to install more than one piece of permanent equipment • A portable pump may be used to supply water so livestock may be excluded from a stream; or the grazing plan calls for moving the pump to another location to allow better grazing distribution for wildlife as the primary resource concern
<ul style="list-style-type: none"> • Electric Power – Power generation and access 	<ul style="list-style-type: none"> • Running electrical lines from any power source to power equipment • Portable generators • Payment for electricity generated or needed to run equipment 	<ul style="list-style-type: none"> • Where other power sources are impractical, renewable power sources which address multiple resource concerns and are an integral part of a wildlife water delivery system. If this source is used WHIP payment is limited to the least-cost alternative
<p>Fencing – Boundary or property line fences</p>	<p>To separate ownership or exclude livestock from transportation networks, residential, commercial, or industrial areas</p>	<p>Must relate to the protection, restoration, development or enhancement of habitat for prioritized wildlife such as fencing a riparian area to exclude livestock</p>

<p>Extents and costs greater than technically needed to meet the minimum practice standards</p>	<ul style="list-style-type: none"> • Fencing specifications calls for two strands of wire and producer installs a four strand fence. WHIP will only pay based on two strand fence • Constructing a bridge instead of a stream crossing where a stream crossing is more cost effective. 	<p>None</p>
<p>Property Rights and Access- Water rights, land rights, user fees, and rent</p>	<ul style="list-style-type: none"> • Payments for obtaining a right-of-way • Payments for river access 	<p>None</p>
<p>Other Costs - Costs not directly related to the installation of the conservation practice</p>	<ul style="list-style-type: none"> • Repair costs of equipment used to construct conservation practice • Normal operation and maintenance costs such as fuel, replacement parts, and lubricants • Structures and components that are not part of the appropriate national standard such as installing a composting facility under the heavy use protection area standard or drilling a well as part of the pipeline standard 	<p>None</p>

[M.440.517.D.32 Amendment 34 - date]

517.33 - Payment Rates

(1) NRCS will pay up to 75 percent of the cost for establishing essential practices for maximum 10-year cost-share agreements.

(2) Historically under served producers includes beginning farmer or rancher, limited resource farmer or rancher, or a socially disadvantaged farmer or rancher, and Indian tribes. Producers meeting these designations may receive the applicable payment rate and an additional rate that is 25 percent above the applicable rate provided that this increase does not exceed 90 percent of the incurred estimated costs associated with the

conservation practice (See 440-CPM, Part 512, Section 512.5) (See [440-CPM, Part 512, Section 512.33](#)).

(3) The 90 percent cost-share rate applies to 15-year cost-share agreements (see 440-CPM 517.45 B).

[M.440.517.D.33 Amendment 34 - October 2006]

517.34 – Maintaining Cost Data and Payment Schedules

(See 440-CPM, Part 512, Section 512.34)

517.35 – Management Practices and Forgone Income

(See 440-CPM, Part 512, Section 512.35)

517.36 - Use of Other Funds

A. Public or Private Fund Sources

Partners may provide financial assistance to support the WPO. Such agreements are considered separate from the NRCS cost-share agreement. Participants will comply with the policies and provisions of the partnering agency as appropriate. The policy regarding total Federal cost-share contributions continues to apply (see 440-CPM, Part 512, Section 512.60 G).

B. Other Federal Funds

(1) See 440-CPM, Part 512, Section 512.60 G for use of other funds. WHIP, alone or in combination with other direct Federal sources, shall not exceed 75 percent of the cost for essential practices in habitat development. In special cases, as determined by the State Conservationist, where circumstances merit additional cost-share assistance to achieve the intended goals of the project, direct Federal sources may contribute to the cost of the practice above the 75 percent limit.

(2) The determination to exceed the 75 percent Federal limitation should be made on a case-by-case basis when the State Conservationist determines that additional cost-share is needed to achieve the intended goals of the program. Reasons for exceeding the Federal limitation should be clearly documented.

(3) Example: FWS, through the Partners for Fish and Wildlife Program, wants to contribute cost-share assistance above the 75 percent limit to encourage landowners to restore endangered species habitat identified in the WHIP State Plan as a priority.

(4) The 25 percent contribution can be met from other sources, such as State, private or nonprofit entities, or the participant. Such arrangements must be worked out in development of the WHIP agreement, and must be appropriate in meeting the WHIP objectives.

C. Mitigation and Environmental Violations

WHIP is a voluntary wildlife habitat improvement program and mitigation and actions needed to correct violations of State, Federal, or local law are not voluntary activities. Therefore, WHIP funds cannot be used to mitigate an activity or to remedy an existing violation. Such activities may be included in the WHIP cost-share agreement; however, cost-share funds cannot be expended for mitigation or remediation. This includes wetland

mitigation banking. Additionally, mitigation or remediation cannot be the basis for using matching WHIP funding.

[M.440.517.D.34 Amendment 34 - date]

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Subpart E - Contracting

517.40 - General Provisions

Policy

The administrative policy for WHIP contracts is set forth in the Conservation Program Contracting (CPC) Manual, [440-CPM, Part 512, Section 512.40](#). Only the unique aspects of the administration of WHIP contracts are presented in this section. ProTracts is the required contracting software for all WHIP contracts (see [440-CPM, Part 512, Section 512.0](#)). Some special provisions apply to WHIP agreements (See [440-CPM, Part 512, Section 512.44, Special Provisions for Conservation Program Contracts](#)).

[M.440.517.E.40 Amendment 34 - date]

517.41 - Joint Agreements

(See [440 CPM, Part 512, Section 512.41](#))

[M.440.517.E.41 Amendment ___ - date]

517.42 - Establishing Conservation Program Contracts in Pro Tracts

(See [440 CPM, Part 512, Section 512.42](#))

[M.440.517.E.42 Amendment ___ - date]

517.43 - Components and Assembly of Contract File

Maintaining and Filing the Agreement

All WHIP contract files will be maintained and filed as per [440-CPM, Part 512, Section 512.43](#).

Note: The location of the official files will be readily available when required for any agency approved purpose.

[M.440.517.E.43 Amendment ___ - date]

517.44 - Special Provisions for Conservation Program Contracts

(See [440 CPM, Part 512, Section 512.44](#))

[M.440.517.E.44 Amendment ___ - date]

517.45 - Contract Period and Limitations

A. Length

(1) Contract length for WHIP shall be for a time period agreed to by the participant and NRCS with a minimum duration of one year after the completion of conservation practices identified in the WPO but not more than 10 years and can be found in [440-CPM, Part 512, Section 512.45](#). At least one essential practice must be commenced within the first 12 months of the contract approval (the State Conservationist may waive this requirement at the request of the participant (see 440-CPM Part 512, Section 512.45 C)). All essential practices will be implemented at least one (1) year before the contract expires.

(2) The length of the contract should be determined based on the participant's desire and ability to complete the needed work, partner contributions, and other items determined appropriate by the State Conservationist.

B. Essential Plant and Animal Habitat Contracts – 15-Year Cost-Share Agreements

(1) Up to 25 percent of funds made available annually to a State may be used for increased payments to participants who restore and protect essential plant and animal habitat using a WHIP long term agreement with a duration of at least 15 years. The essential plant and animal habitats should be clearly documented in the State WHIP plan.

(2) The State Conservationist, who may seek recommendations from the State Technical Committee, will identify specific plant and animal habitat in the State WHIP plan that is critical and therefore eligible for increased payment under this provision. An essential plant can be cost-shared if it benefits an essential fish and wildlife species (see 517.22 H (vi) and 517.11 B (5)(v)). Plant and animal habitat can be considered essential if it is designated "essential habitat" by the Fish and Wildlife Service (FWS) or National Oceanic and Atmospheric Administration Fisheries Service (NOAAFS) as critical to the conservation of a Federally-listed fish and wildlife species, similarly designated habitat by the State wildlife agency for State-designated fish and wildlife species, known locations of listed or candidate fish and wildlife species that can be improved with specific practices, or particularly rare and unique habitats that could support at-risk fish and wildlife species.

(3) WHIP may pay up to 90 percent for 15-year cost-share agreements or cost-share agreements with historically underserved producers of the eligible costs associated with implementation of practices that develop, protect, enhance, or restore essential plant or animal habitat. The State Conservationist, who may seek recommendations from the State Technical Committee, will establish the payment rate that will be used within the State for practices that develop, protect, enhance, or restore essential plant or animal habitat. Any other practice under the 15-year long term agreement will be paid at the standard rate as identified under paragraph [440-CPM, Part 512, Section 512.33](#).

(4) Example: A WHIP participant wishes to remove a barrier to passage by a threatened species of salmon, plant a riparian buffer along the stream, and plant native grass in an adjacent pasture to benefit elk. The stream was designated by NOAAFS as critical habitat, and temperature is a limiting factor for that stream. The streambed has also been determined to be private land. Elk in the area are not considered an at-risk species. NRCS may pay up to 90 percent of the costs associated with the removal of the barrier to

passage and the riparian buffer establishment to benefit salmon. However, NRCS may only pay up to 75 percent of the costs associated with the native grass seeding to benefit elk.

(5) The State Conservationist, with recommendations from the State Technical Committee, will identify the appropriate ranking criteria and develop a separate ranking process to prioritize all eligible applications for 15-year or greater duration WHIP agreements. In addition to the criteria found in Section 517.25 D, the ranking priority will be given to those applications that help further the objectives of a recovery plan developed under the Endangered Species Act for the conservation and survival of an endangered or threatened species.

(6) Where appropriate, NRCS may provide technical assistance to program participants who seek a Safe Harbor Agreement or a Candidate Conservation Agreement with Assurance for habitat developed under a WHIP agreement.

C. Invasive Species

(1) WHIP is a habitat for wildlife program. Contracts may include conservation practices to address invasive species when the following criteria are met:

(i) The invasive species include:

(a) Non-native or native plants that are affecting the habitat of a prioritized wildlife species; displacing plants that are the habitat of a prioritized wildlife species (e.g., Bog turtle) or,

(b) Non-native or native wildlife that is affecting the habitats of prioritized wildlife species; displacing native habitat faster than it can be restored, affecting the prioritized wildlife species.

(ii) Eradication or control of the invasive species on the contracted acres, during the period of a contract is highly probable.

(2) Treatments ineligible for WHIP. A plant that is a federally listed threatened and endangered species, but not habitat for a prioritized wildlife species is ineligible for payment under WHIP.

D. Payment Limitations

(1) The total WHIP payments made or attributed per person or legal entity (participant) directly or indirectly may not exceed in the aggregate \$50,000 for any fiscal year ([see 440-CPM, Part 512, Section 512.45](#)).

(i) Split payments are not allowed

Note: If a due payment exceeds \$50,000 in one year the balance owed will be deobligated

Note: A contract with more than one person may earn more than \$50,000 per fiscal year if documentation is available to prove that one individual is not receiving more than the \$50,000 per year maximum.

(2) With regard to cost-share agreements with individual Indians or Indians represented by BIA, payments exceeding the payment limitation may be made to the Indian participant if a BIA or Tribal official certifies in writing that no one individual, directly or indirectly, will receive more than the payment limitation. The Tribal entity must also provide, annually, a listing of individuals and payments made, by tax identification number or other unique identification number, during the previous year for calculation of

overall payment limitations. The Tribal entity must also produce, at the request of NRCS, proof of payments made to the person or legal entity that incurred costs or sacrificed income related to conservation practice implementation.

[M.440.517.E.45 Amendment 34 - date]

517.46 - Signing and Approving Contract Documents

A. Approval (See [440-CPM, Part 512, Section 512.46](#))

B. Reserved

C. Reserved

D. NRCS Approving Official

See [440-CPM, Part 512, Section 512.46 D](#). There is no national payment limitation per contract for WHIP. State Conservationists, who may seek advice from the State Technical Committee, may establish a State-level payment limitation per contract. Contract obligations in excess of an amount designated by the Chief annually through the NRCS Directives System (e.g., \$150,000), will be approved by the Regional Assistant Chief as outlined in 440-CPM, Part 517, Section 517.3 A.

[M.440.517.E.46 Amendment 34 - October 2006]

517.47. - Numbering and Distributing Contracts

(See [440-CPM, Part 512, Section 512.47](#))

[M.440.517.E.47 Amendment 34 - date]

Subpart F - Contract Administration

517.50 - Modifications

A. Modification of Contracts

(1) The participant and NRCS may modify a cost-share agreement if both parties agree to the modification, the WPO is revised in accordance with NRCS requirements, and the agreement is approved by the designated conservationist. The policy for preparing modifications is set forth in 440-CPM, Part 512, Section 512.50.

(2) A contract cannot be modified to extend beyond the maximum 10-year period. Cost-share agreement cannot be modified to extend beyond the maximum 15-year period.

(3) Any modifications made must meet WHIP objectives.

B. Reserved

C. Reserved

[M.440.517.F.50 Amendment 34 - date]

517.51 - Modification Procedures

(See [440-CPM, Part 512, Section 512.51](#))

[M.440.517.F.51 Amendment 34 - date]

517.52 - Destruction of Practices

(See [440-CPM, Part 512, Section 512.52](#))

[M.440.517.F.52 Amendment 34 - date]

517.53 - Reapplication of Conservation Treatment

(See [440-CPM, Part 512, Section 512.53](#))

[M.440.517.F.53 Amendment 34 - date]

517.54 - Transfer of Land

(See [440-CPM, Part 512, Section 512.54](#))

[M.440.517.F.54 Amendment 34 - date]

517.55 - Contract Reviews

(See [440-CPM, Part 512, Section 512.55](#))

[M.440.517.F.55 Amendment 34 - date]

517.56 - Quality Assurance

(See [440-CPM, Part 512, Sections 512.55 and 512.56](#))

[M.440.517.F.56 Amendment 34 - date]

517.57 - Cancelling and Terminating Contracts

The Cancellation and Termination of Contracts (See [440-CPM, Part 512, Section 512.57](#))

[M.440.517.F.57 Amendment 34 - date]

517.58 - Recovery of Costs and Liquidated Damages

NRCS may terminate a contract and require the participant to refund all or part of any assistance earned under that contract, plus interest, pay liquidated damages, and require the participant to forfeit all rights for future payment under the contract. The State Conservationist may waive all or part of the liquidated damages assessed, depending upon the circumstances of the case (See [440-CPM, Part 512, Section 512.58](#)).

[M.440.517.F.58 Amendment 34 - date]

Subpart G - Conservation Program Payments

517.60 - Cost-Share Payments

(See [440-CPM, Part 512, Section 512.60](#))

[M.440.517.G.60 Amendment 34 - date]

517.61 - Reserved

[M.440.517.G.61 Amendment 34 - date]

517.62 - Payment Assignments

(See [440-CPM, Part 512, Section 512.62](#))

[M.440.517.G.62 Amendment 34 - date]

517.63 - TSP Payments

(See [440-CPM, Part 512, Section 512.63](#))

[M.440.517.G.63 Amendment 34 - date]

517.64 - Disapproval of Payments Applications

(See [440-CPM, Part 512, Section 512.64](#))

[M.440.517.G.64 Amendment 34 - date]

517.65 - Payments Not Authorized

(See [440-CPM, Part 512, Section 512.65](#))

[M.440.517.G.65 Amendment 34 - date]

517.66 - Designating Payment Shares

(See [440-CPM, Part 512, Section 512.66](#))

[M.440.517.G.66 Amendment 34 - date]

517.67 - Partial and Advance Payments

(See [440-CPM, Part 512, Section 512.67](#))

[M.440.517.G.67 Amendment 34 - date]

517.68 - Claims, Collections, and Offsets

(See [440-CPM, Part 512, Section 512.68](#))

[M.440.517.G.68 Amendment 34 - date]

517.69 - Special Payments

(See [440-CPM, Part 512, Section 512.69](#))

[M.440.517.G.69 Amendment 34 - date]

Subpart H - Violations

517.70 - Handling Contract Violations

A. Correcting Contract Violations

(1) If NRCS determines that a participant is in violation of a cost-share agreement, NRCS shall give the parties to the cost-share agreement notice of the violation and a minimum of 60 days to correct the violation and comply with the terms of the cost-share agreement and attachments thereto.

(2) If the participant fails to correct the violation of a cost-share agreement within the period provided by NRCS under paragraph (1) of this section, NRCS may terminate the agreement and require the participant to refund all or part of any of the funds issued under that cost-share agreement, plus interest, and assess liquidated damages, as well as require the participant to forfeit all rights to any future payment under the agreement.

(See [440-CPM, Part 512, Section 512.70](#))

[M.440.517.H.70 Amendment 34 - date]

Subpart I – Fund Management

517.80 - General

517.80 General

(See [440-CPM, Part 512, Section 512.80](#))

[M.440.517.I.80 Amendment 34 - date]

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Subpart J - Exhibits

517.90 Forms

517.90 Forms

(See [440-CPM, Part 512, Section 512.90](#))

[M.440.517.J.90 Amendment 34 - date]

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Subpart K - Program Delivery/Information/Outreach

517.100 - WHIP Information and Outreach

A. General

Information and outreach is frequently managed similarly and they may have common purposes and activities. Procedures will adhere to public information policy guidance in [General Manual, Title 260, Part 400](#). The following are general explanations of information, outreach, and education:

- (1) Information includes those 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 those 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. The intent of outreach activities is to assure that the targeted producers are aware and informed of program opportunities and have access to program participation.
- (3) Training and Education includes those activities to develop, produce, and deliver technical news, knowledge, and facts to producers to help them identify and understand their natural resource and environmental conditions, and to know how to develop, implement, and maintain a conservation system.

B. Special Emphasis

Special emphasis will be made in all information activities to provide conservation assistance and program outreach, and access to historically underserved which includes beginning farmer or rancher, limited resource farmer or rancher, or a socially disadvantaged farmer or rancher, Indian tribes, and other producers with historically low participation rates in conservation programs. Procedures will adhere to national outreach policy guidance in [General Manual, Title 180, Part 406](#). Special outreach efforts could include, but not be limited to:

- (1) Establishing special outreach activities at the national, State, and local levels.
- (2) Providing special accommodations, to the extent possible, to assure that producers are aware, informed, and have access to information and assistance, such as:
 - (i) Using language spoken by the intended audience.
 - (ii) Using appropriate media sources to reach the intended audience.

517.101 Webpage

See [WHIP Webpage](#) on National and State NRCS Websites for most up to-date FACT sheets and other information.

Subpart L - Program Evaluation

517.110 - Evaluation

A. Information Collection

The State Conservationist shall develop a monitoring program that shall be part of the State quality assurance plan and may consider advice from the State Technical Committee. It may include the approved wildlife habitat assessment procedure for the State developed under the guidelines of Title 190 Part 511, [Section 511.04 \(c\)](#) of the National Biology Manual and retained in Section III of the FOTG. The monitoring information shall be used to:

- (i) Assess workload conditions.
- (ii) Evaluate the effectiveness of the implemented plans.
- (iii) Monitor program implementation progress.
- (iv) Aid in the future allocation of funds.

B. Wildlife Habitat Evaluations

Benchmark wildlife habitat evaluations will be completed at the time the conservation plan is developed to determine the level of a wildlife habitat resource condition as compared to the quality criteria and what habitat elements can be improved by implementing the conservation plan. Follow-up evaluations shall be conducted:

- (i) As determined appropriate through the life of the WHIP agreement.
- (ii) In the final year of the WHIP agreement.

C. Types of Information to be Collected

States are encouraged to partner with universities and other local, State and Federal agencies, and non-government organizations to assist with measuring the effectiveness of the habitat improvements and conservation practices implemented. At a minimum, the following information should be collected:

- (i) A measure of the conservation effects from systems applied under the WHIP contract through established reporting methods.
- (ii) A completion of the wildlife habitat assessments for benchmark, interim, and applied conditions.
- (iii) A measure of the effectiveness of the wildlife habitat improvement and partner participation in program implementation.

Subpart M – Cooperative Conservation Partnership Initiative (CCPI)

517.120 General Information

A. Background and Purpose

The Cooperative Conservation Partnership Initiative (CCPI) is a voluntary conservation initiative that enables the use of certain conservation programs along with resources of eligible partners to provide financial and technical assistance to owners and operators of agricultural and nonindustrial private forest lands. Eligible producers, who participate in a project area identified in an approved partner agreement and have an active application in one of the following approved programs, may be approved for assistance. Eligible programs include: Environmental Quality Incentives Program (EQIP), Wildlife Habitat Incentives Program (WHIP), and the Conservation Stewardship Program (CStP). Under CCPI, the Natural Resources Conservation Service (NRCS) enters into partnership agreements with eligible entities that want to enhance conservation outcomes on agricultural and nonindustrial private forest lands. The Secretary of Agriculture has delegated the authority for CCPI to the NRCS Chief, found in section 2707 of the Food, Conservation, and Energy Act of 2008 which establishes the CCPI by amending Section 1243 of the Food Security Act of 1985 [16 U.S.C. 3843].

NRCS will make WHIP benefits to owners and operators of agricultural and nonindustrial private forest lands who participate in CCPI project areas. As authorized by Congress, this is not a grant program to eligible partners. This is a program whereby approved eligible partners will enter into multi-year agreements with NRCS to help enhance conservation outcomes on agricultural lands and private nonindustrial private forest lands. The intent of CCPI is for the Federal government to leverage investment in natural resources conservation along with services and resources of non-Federal partners.

The purposes of a CCPI partnership agreement are to: (1) address conservation priorities involving agriculture and nonindustrial private forest land on a local, State, multi-State, or regional level; (2) to encourage producers to cooperate in meeting applicable Federal, State, and local regulatory requirements related to production; (3) to encourage producers to cooperate in the installation and maintenance of conservation practices that affect multiple agricultural or nonindustrial private forest land; and (4) to promote the development and demonstration of innovative conservation practices and delivery methods, including those for specialty crop and organic production and precision agriculture producers.

517.121 Contracting Directly with Eligible Applicants

A. Eligible Applicants

Only producers who are eligible for an approved program may receive financial assistance. In order for an applicant to be considered for financial assistance through WHIP, a program CCPI partner proposal or application must have been submitted and approved by the NRCS Chief. Producers meeting WHIP eligibility criteria and wishing

to apply for CCPI in an approved project area, may do so at their local NRCS office, subject to availability of funds.

517.122 Partnership Agreements

A. Purpose

The Chief or State Conservationist may enter into partnership agreements in order to leverage available resources to achieve a shared conservation goal consistent with the purposes of the CCPI. Partners and approved project areas will be selected on a competitive basis, for all proposals sent directly to the State Conservationist or the Chief for multi-state proposals. If the project proposal is multi-state in scope, all State Conservationists in the project area must be sent the proposal for review. State Conservationists shall submit letters of review to the Chief as outlined in the current fiscal year CCPI Notice of Request for Proposals (RFP). The Chief will review and evaluate the proposals based on the criteria included in the RFP Notice. Potential partners are encouraged to consult with the appropriate State Conservationist(s) during proposal development to discuss the letter of review.

B. Eligible Partners

Partner means an entity that enters into a partnership agreement with NRCS to carry out the CCPI activities. Eligible partners include federally recognized Indian Tribes, State and local units of government, producer associations, farmer cooperatives, and institutions of higher education, or nongovernmental organizations with a history of working cooperatively with producers.

C. Process

A Notice of Request for Proposals (RFP) will be advertised each fiscal year the partnership approach is offered as part of CCPI. Interested parties should follow the protocols issued in the RFP.

C. Partnership Proposal Content

Prospective partners submit complete proposals to the appropriate State Conservationist (State Initiatives) or the Chief (if the project is multi-State or national). The proposal must contain the information set forth below in order to receive consideration:

- (a) A description of the partner(s) history of working with producers to address the conservation objectives to be achieved;
- (b) A description of the geographic area covered by the proposal, conservation priorities in the area, conservation objectives to be achieved, and the expected level of participation by producers;
- (c) A description of the partner, or partners, collaborating to achieve the objectives of the agreement, and the roles, responsibilities, and capabilities of the partner;
- (d) A description of the project duration, not to exceed 5 years in length, and schedule that details when the potential partner anticipates finishing the project and submitting a final report;
- (e) A description of the resources that are requested from the Secretary, and the non-Federal resources that will be leveraged by the Federal contribution;
- (f) A description of the plan for monitoring, evaluating, and reporting on progress made towards achieving the objectives of the agreement;

- (g) A list of the criteria to be used to prioritize individual producer applications to ensure that applications most aligned with the proposal's objectives receive priority;
- (h) An estimate of the percentage of producers, including nonindustrial private forest landowners, in the project area that are likely to participate in the project;
- (i) A description of the conservation practices and activities to be applied on the landscape within the project timeframe;
- (j) An estimate of the financial assistance program funds and acres needed to implement the conservation practices and activities within the project area (for multi-State or national projects provide the funds/acres by State.); and
- (k) A description of any requested program adjustments, by program, with explanation of why the adjustment is needed in order to achieve the objectives of the project. If a partner is requesting specific program flexibilities that depend on detailed participant or project information, the proposal must provide the needed information. Partners should contact their local NRCS office to determine the specific information required.
- (l) A description of how the partner will provide for outreach to beginning, limited resource, and small and disadvantaged farmers and ranchers and Indian Tribes.
- (m) A description of how the proposal's objectives further the Nation's efforts with renewable energy production, energy conservation, mitigating the effects of climate change, facilitating climate change adaptation, or fostering carbon sequestration, if applicable.

D. Evaluation

Once the Chief or appropriate State Conservationist has assessed the merits of each proposal, the Chief or appropriate State Conservationist will rank the proposals via a competitive process. The Chief or State Conservationist shall give a higher priority to proposals that:

- Have a high percentage of producers actively farming or managing working agricultural or nonindustrial private forest lands included in the area covered by the agreement;
- Complete the application of the conservation practices and/or activities on all of the covered program contracts or cost-share agreements in five years or less;
- Assist the participants in meeting local, State, and/or Federal regulatory requirements;
- Significantly leverage non-Federal financial and technical resources and coordinate with other local, State, or Federal efforts;
- Provide for matching technical assistance funds to assist participants with the implementation of their EQIP contracts and WHIP cost-share agreements;
- Deliver high percentages of applied conservation to address water quality, water conservation, or State, regional, or national conservation initiatives;
- Provide innovation in conservation methods and delivery, including outcome-based performance measures and methods;
- Further the Nation's efforts with renewable energy production, energy conservation, mitigating the effects of climate change, facilitating climate change adaptation, or fostering carbon sequestration; or

- Provide for outreach to, and participation of, beginning farmers or ranchers, socially disadvantaged farmers or ranchers, limited resource farmers or ranchers, and Indian Tribes within the area covered by the agreement.

Each fiscal year that the CCPI program is available, the National Office will establish a process to evaluate the partner proposal applications and provide recommendations to the Chief or appropriate State Conservationist. For multi-state projects, after selection and approval by the Chief, the National Office will allocate CCPI funding to States where projects have been approved along with the approved partner agreements. For within-state projects, the STC will utilize reserved CCPI program funds to support approved projects.

E. Partnership Agreements

NRCS will enter a partnership agreement with a selected partner as the mechanism for participation in CCPI. The partnership agreement will not obligate funds, but will address, among other things:

- The role of the partner;
- The role of NRCS;
- The responsibilities of the partner as it relates to the monitoring and evaluation;
- The format and frequency of reports (semi-annual, annual and final) that are required as a condition of the agreement;
- The frequency and duration of the monitoring and evaluation that will take place within the project area;
- Plan of Work and Budget to identify other funding sources (if applicable) for financial and/or technical assistance;
- The specified project timeframe; and
- Other requirements deemed necessary by NRCS to further the purposes of the CCPI project.

F. Waiver Authority

AGI Waiver: To assist in the implementation of CCPI, the Chief may waive the eligibility requirement for the Adjusted Gross Income Limitation (AGI), on a case-by-case basis in accordance with policy and processes cited in 7 CFR 1400. Requests for AGI waivers are made in writing by the State Conservationist, through the Regional Assistant Chief (RAC) office to the Chief.

G. Limitation on Administrative expenses

None of the funds made available under the CPPI may be used for partner's administrative expenses. All CPPI funds will be administered directly through CCPI contracts between NRCS and program participants.