



# National Association of Conservation Districts

May 12, 2020

Chief Matthew Lohr  
Natural Resources Conservation Service  
1400 Independence Ave. SW  
Washington, DC 20250

Submitted electronically via regulations.gov  
Docket No. NRCS-2019-0012

Dear Chief Lohr,

The National Association of Conservation Districts (NACD) represents America's 3,000 locally-led conservation districts, working with millions of landowners and operators to help them manage and protect land and water resources on private and public lands. Established under state law, conservation districts share a single mission: to work cooperatively with federal, state and other local resource management agencies and private sector interest groups to provide technical, financial and other assistance to help landowners and operators apply conservation to the landscape.

Conservation districts across the country want to commend you and your agency for the work you have done thus far to implement the 2018 Farm Bill. Landowners across the country are benefiting from your agency's assistance, and conservation districts stand ready to continue working side-by-side with NRCS staff to ensure the programs within the 2018 Farm Bill continue to serve producers.

The Regional Conservation Partnership Program (RCPP), created in the 2014 Farm Bill, can be a valuable addition to the conservation toolbox at NRCS when local soil and water conservation districts are key partners in the program, both leading and supporting projects. Our belief is that the program is at its strongest when there is local input and involvement. NACD is grateful to see NRCS issue a rule for this important program and implement several changes that will make RCPP stronger overall.

Below are comments where NACD believes changes to the rule will improve the accessibility, flexibility and overall efficiency of the RCPP program. These areas are:

- Role of Conservation Districts;
- Alternative Funding Arrangements;
- Changes and Additional Flexibility in Program Authorities;
- Matching Contributions;
- Role of Acequias;
- Critical Conservation Areas; and
- Project Award Decisions.



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## **Role of Conservation Districts**

Conservation districts have been a key partner in RCPP to date, whether leading projects or supporting other partners in their projects. NACD believes that the Interim Rule would be strengthened by incorporating Local Work Groups and by codifying the importance of consultation on projects with conservation districts.

Currently, the Interim Rule is silent on the role of Local Work Groups. Run by conservation districts, Local Work Groups bring together local stakeholders to identify natural resources concerns and provide guidance on NRCS programs. The Local Work Group process reflects the long-standing role of conservation districts to bring local input into NRCS' operations. For other conservation programs, Local Work Groups have played a robust role by providing feedback and shaping the priorities of the programs. NRCS should reexamine the decision-making process around RCPP with an eye toward locally-led conservation. Even before the annual Announcement of Program Funding is released, NRCS should consult with Local Work Groups about priorities for the program, as NRCS does for other conservation programs, and use these priorities to solicit funding and make project awards, including both traditional projects and Alternative Funding Arrangements. NACD believes that this locally-led process should be added to the rule.

In addition, NACD has heard of a few cases where projects would have been significantly strengthened if they incorporated conservation districts' expertise and guidance during the initial creation of the project. As a result, NACD worked to raise this concern with Congress. In the explanatory text that accompanied the 2018 Farm Bill, Congress included the following:

“The Managers continue to believe that initiatives developed at the local level and with local input are critical to ensuring the success of this program. Therefore, the Managers encourage potential project partners to engage with conservation districts within the boundaries of a proposed project for input and feedback on the natural resource priorities that have been identified. The Managers encourage NRCS to include conservation district engagement within its ranking criteria.”

The Interim Rule is silent on the role of conservation districts and local input in the program. NACD strongly urges NRCS to codify this guidance from the Managers in the rule and highlight the importance of project consultation with conservation districts where appropriate.

## **Alternative Funding Arrangements**

Under the last farm bill, all landowners who participated in an RCPP project had to sign a contract with NRCS at their local service center. While project partners administered technical assistance, NRCS and conservation districts still performed the administrative function of providing financial assistance to landowners. In this way, RCPP followed the model for conservation delivery that has worked successfully through NRCS and conservation districts and that landowners have used and trusted for over 70 years.



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The 2018 Farm Bill allows NRCS to grant the entire project funding — both technical and financial assistance funding — directly to the project partner for up to 15 projects per year. To participate in one of the grant-funded projects, landowners will no longer need to walk into their local service center. This limits the ability of the landowner to build a long-term relationship with their local NRCS and conservation district staff, which translates into future conservation work.

The farm bill explanatory text clearly states that USDA should only approve an Alternative Funding Arrangement (AFA) under this new provision if “the project can truly be carried out more effectively through the alternative funding arrangement or grant than through the traditional partnership agreement model.” NACD was glad to see NRCS outline specific circumstances that might warrant the use of an AFA, rather than just awarding these contracts to any partner that might rather have one than go through the traditional process.

NACD strongly believes that AFAs should be used in very limited circumstances. We urge NRCS to apply stringent criteria, in line with the farm bill Managers’ guidance, and award a very limited number of these projects each year only where it is obviously apparent that a third party can more effectively carry out conservation delivery.

### **Changes and Additional Flexibility in Program Authorities**

Under the rules set forth in the previous farm bill, RCPP projects used the authorities and contracts of other NRCS conservation programs, such as the Environmental Quality Incentives Program (EQIP), Conservation Stewardship Program (CSP), and Agricultural Conservation Easement Program (ACEP). NACD was glad to see additional flexibility provided. We think the program will operate more efficiently by not having “donor program” funding be a large part of RCPP’s funding. As evident in the Interim Rule, NRCS has taken advantage of this change in a meaningful way to reconfigure the program and its contracts with producers. NACD specifically is interested in the way RCPP can or should leverage NRCS’ Conservation Technical Assistance, Healthy Forest Reserve Program, PL-566 authorities and the Conservation Reserve Program.

### **Conservation Technical Assistance**

Traditionally, RCPP has revolved exclusively around the covered conservation programs. However, conservation districts know how important general conservation technical assistance and conservation planning are to achieving natural resources conservation. Allowing a greater suite of activities in an RCPP project, like those traditionally funded by conservation technical assistance, would strengthen the program overall.

NACD, along with NRCS and other partners, has been working to strengthen conservation planning through the National Conservation Planning Partnership. Through this effort, we agree that conservation planning is the bedrock of conservation delivery. Working with a landowner, developing a conservation plan, and allowing that plan to guide conservation decisions leads to the best natural resource management. Allowing conservation programs and contracts to guide landowner interactions puts the cart before the horse and may overlook the best conservation return on investment for a landowner.



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In addition, conservation districts know that not all technical assistance needs to lead to a financial assistance contract to be impactful. Particularly on smaller acreage operations, the value of a financial assistance contract may not justify the time and paperwork for a landowner. However, the technical assistance from NRCS and conservation districts can be invaluable for natural resource conservation. NACD would like to see the possibility of technical assistance only projects or ones where the main focus could be on conservation planning. NACD strongly urges NRCS to include these activities in RCPP.

### Healthy Forest Reserve Program

Under the 2014 Farm Bill iteration of the program, RCPP projects could include Healthy Forest Reserve Program (HFRP) easements. This has been a valuable inclusion for forested private lands, since the HFRP has been underfunded and ACEP does not include forestlands. RCPP has been an innovative way to access easements on forest land.

Unfortunately, HFRP has some specific requirements that reduce the flexibility that it brings to RCPP. HFRP must be used for easements on habitat for threatened and endangered species. In the RCPP context, this has limited the ability to use easements on forest land for other natural resources concerns such as water quality. In addition, HFRP has a focus on restoration of forest lands. The program is not well-adapted for easements on land that needs protection from conversion rather than restoration.

The 2018 Farm Bill decoupled RCPP from the covered programs and gave NRCS more flexibility in implementing the program. The Supplementary Information included in the Interim Rule suggests that easements will be treated the same regardless of land use – cropland, wetland, forestland, etc. – and that forestland will be eligible for either U.S.-held easements or entity-held easements. NACD certainly hopes that NRCS will implement the program with these guides in mind and not limit forestland easements to threatened and endangered species habitat or land in need of restoration.

### PL-566 Authorities

NACD was glad to see the Interim Rule include the expansion of PL-566 activities nationwide within RCPP. We understand the importance of watershed protection and flood prevention, and we believe the entire country can benefit from these authorities in RCPP. In particular, funding for planning PL-566 projects and funding for implementation on publicly-owned land are important aspects of the Watershed Programs. NACD asks that these features be retained in RCPP.

### Conservation Reserve Program

NRCS appears to have placed some significant limitations on the use of the Conservation Reserve Program (CRP) in RCPP. The Interim Rule is clear that NRCS does not anticipate this new authority will be used to enroll large tracts of land in the same manner as a CRP General Sign-up. In a meeting with stakeholders, NRCS affirmed that they do not plan to offer land rental (CRP-like) contracts for more than three to five years.

In the Interim Rule, NRCS suggests using this authority to pay a landowner for foregone income from a new cropping system or conservation-based organic transition over a one- to three-year period. While there are some water quality practices that would benefit from short-term land rental contracts, this



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approach from NRCS clearly disadvantages using RCPP land rental authorities for wildlife habitat projects, where practices can take time to establish and pay dividends. In using the authorities of the easement programs within RCPP, NRCS has not taken a similarly short-term view of the programs' use. NACD urges NRCS to reconsider the implications of using CRP authorities for only short-term contracts within RCPP.

### **Matching Contributions**

The 2018 Farm Bill loosened the requirements for matching contributions as a part of a RCPP project. The farm bill specifies, among other changes, that work done between when a project is selected for RCPP and when the formal partnership agreement is signed with NRCS may now count toward matching funds. NACD was grateful to see this change included in the Supplementary Information for the Interim Rule and asks NRCS to retain these changes.

### **Role of Acequias**

Acequias are centuries-old irrigation systems managed by local units of government. In many cases, they serve small acreage, low income, minority and other underserved farmers. The 2014 Farm Bill allowed acequias to participate in RCPP, and the 2018 Farm Bill added their eligibility for EQIP. To date, acequia projects in RCPP have improved surface water conservation and water quality on agricultural lands and have provided for riparian habitats benefiting wildlife and plant species.

NACD has strongly supported expanding the ability of acequias to participate in NRCS' conservation programs. When NRCS released the Interim Rule for EQIP, we noted that there were significant limitations placed on acequias and water management entities that wished to participate in the program. At the time, NRCS noted that although water management entities are eligible for EQIP, NRCS wanted to steer them into RCPP or the Watershed Programs if that was a better fit for the project in question. Given this position on the part of NRCS, NACD asks the agency to give acequia projects real, meaningful consideration as a part of RCPP.

### **Critical Conservation Areas**

Following the 2018 Farm Bill, Critical Conservation Areas (CCAs) are now allocated 50 percent of the total RCPP funding. NRCS identified these CCAs before the first APF was released for RCPP and has not made any changes since. Unfortunately, the CCAs as currently identified omit several states, including all of New England. With the new, increased funding allocation to CCAs, NACD finds it concerning that some states will not be eligible at all for this funding pool. We urge NRCS to revisit the CCA determination with an eye toward equity across all states and regions of the country.



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## **Project Award Decisions**

Although half of RCPP's funding is allocated to the CCAs, the other half falls into the state and multi-state funding pool. Currently, the Interim Rule is silent on where project award decisions will be made within the state funding pool. State Conservationists have the best understanding of local needs and state-level priorities. NACD strongly urges NRCS to place the authority to award projects with the State Conservationists and to codify this decision within the rule.

Thank you for the opportunity to comment on the proposed changes to RCPP and for your commitment to voluntary, locally-led conservation.

Sincerely,

A handwritten signature in cursive script that reads "Tim Palmer".

Tim Palmer  
President  
National Association of Conservation Districts