

## Checklist of Actions

### Environmental Quality Incentives Program (EQIP)

STEP	PROVISION OF THE REGULATION	QUESTION TO ANSWER
<b>General Provisions -- 7 CFR 1466, Subpart A</b>		
1. Person Eligibility	A. Farming Interest - - 7 CFR 1466.8(b)(2)	Does the offered land meet the definition of a farm as per the regulation at 7 CFR 1400.3?
		<b>IF the answer is ... THEN...</b>
		YES Proceed to next eligibility determination.
		NO Provide notification to applicant of ineligibility. The issue of denial of the application is not appealable due to being a matter of regulation. Offer the rights to a review of appealability in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office (Eastern, Southern, or Western). (See the NAD website at: <a href="http://www.nad.usda.gov">www.nad.usda.gov</a> for the regional office contact information.)
	B. Control of the Land -- 7 CFR 1466.8(b)(3) -- CCC1200 Appendix (v - 3/2005) §ID	Did the applicant provide clear and convincing proof that he/she has control of the land for the duration of the contract?
		<b>IF the answer is ... THEN...</b>
		YES Proceed to next eligibility determination.
		NO Provide notification to applicant of ineligibility. The issue of control of the land is not appealable due to being a matter of regulation. Offer the rights to a review of appealability in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office.
	C. Limited Resource or Beginning Farmer or Rancher -- 7 CFR 1466.8(b)(5)	Did the applicant provide clear and convincing proof that he/she meets the requirements for a limited resource or beginning farmer or rancher?
		<b>IF the answer is ... THEN...</b>
		YES Proceed to next eligibility determination.
		NO Provide notification to applicant of ineligibility. The issue of meeting the LRFR or BFR criteria is not appealable due to being a matter of regulation. Offer the rights to a review of appealability in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office.
	D. AGI -- 7 CFR 1466.8(b)(5) -- CCC1200 Appendix (v - 3/2005) §IB	Is the applicant's AGI within the required provisions of 7 CFR 1400, Subpart G?
		<b>IF the answer is ... THEN...</b>
		YES Proceed to next eligibility determination.
		NO Provide notification to applicant of ineligibility. The issue of meeting the AGI requirements is not appealable due to being a matter of regulation. Offer the

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2. Land Eligibility - - CCC1200 Appendix (v - 3/2005) §IF	A. 7 CFR 1466.8(c)	i. Is the land offered for participation in EQIP any of the following: Cropland, rangeland, pastureland, private non-industrial forest land, other land on which crops or livestock? ii. Does the land offered pose a threat to the soil, water, air, or related natural resources? iii. Is the land either privately owned or publicly owned land where: a. The land is under private control for the contract period and is included in the applicant's operating unit? b. Where the conservation practices installed will contribute to an improvement in the identified natural resources? iv. Is the land tribal, allotted, or Indian Trust land?	<table border="1" data-bbox="760 594 1990 812"> <thead> <tr> <th data-bbox="760 594 1031 626">IF the answer is ...</th> <th data-bbox="1031 594 1990 626">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="760 626 1031 688">YES to any of the above</td> <td data-bbox="1031 626 1990 688">Proceed to next eligibility determination.</td> </tr> <tr> <td data-bbox="760 688 1031 812">NO to any of the above</td> <td data-bbox="1031 688 1990 812">Provide notification to applicant of ineligibility. The issue of land eligibility is not appealable due to being a matter of regulation. 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	B. 7 CFR 1466.8(d) - - CCC1200 Appendix (v - 3/2005) §IH	Is the land currently being used to produce livestock?																							
	C. HELC/WC -- Land Eligibility -- 7 CFR 1466.8(b)(1) -- CCC1200 Appendix (v - 3/2005) §IA	Is the offered land in compliance with the HELC/WC provisions as required by regulation?																							

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				<p>per the NRCS appeals regulation and CPM Part 510, as follows:</p> <ul style="list-style-type: none"> <li>i. Field review by the local DC;</li> <li>ii. Reconsideration by the STC;</li> <li>iii. Mediation;</li> <li>iv. Request for Expedited Final Review.</li> </ul> <p>The issue of denial of the application is not appealable due to being a matter of regulation and the fact that appeal rights had previously been provided on the HELC/WC violation. Offer the rights to a review of appealability in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office.</p>						
<p>3. EQIP Plan of Operations -- CCC1200 Appendix (v - 3/2005) §3</p>	<p>A. 7 CFR 1466.9(b)</p> <p>B. 7 CFR 1466.9(a) - CCC1200 Appendix (v - 3/2005) §3A</p>	<p>Does the EQIP Plan of Operations include one or more conservation practices in the conservation management system to be implemented to achieve the conservation and environmental objectives?</p> <table border="1" data-bbox="762 748 1986 1305"> <thead> <tr> <th data-bbox="762 748 1024 781">IF the answer is ...</th> <th data-bbox="1024 748 1986 781">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="762 781 1024 813">YES</td> <td data-bbox="1024 781 1986 813">Proceed to next eligibility determination.</td> </tr> <tr> <td data-bbox="762 813 1024 1305">NO</td> <td data-bbox="1024 813 1986 1305"> <ul style="list-style-type: none"> <li>v. The issue of the plan of operations including not acceptable to NRCS as being in compliance with the terms and conditions of the program is not appealable due to being a matter of regulation. Provide notification to applicant the his/her Plan of Operations does not meet the requirements for participation in EQIP as provided and must be changed to include/delete {named} conservation practice(s). Offer the rights to a review of appealability in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office.</li> <li>vi. The issue of the types/kinds/amounts of the conservation practices submitted by applicant is appealable. If this is the issue, then provide a program decision notification noting the deficiency and/or inapplicability of the conservation plan of operations as submitted, and provide appeal rights as follows:               <ul style="list-style-type: none"> <li>a. Appeal to the FSA - COC or the NRCS STC, but not both;</li> <li>b. Appeal to NAD.</li> <li>c. Mediation.</li> </ul> </li> </ul> </td> </tr> </tbody> </table> <p>Is the applicant willing to carry out all of the required conservation practices included in the EQIP conservation plan of operations in accordance with the FOTG standards and at the cost-share rates provided?</p>			IF the answer is ...	THEN...	YES	Proceed to next eligibility determination.	NO	<ul style="list-style-type: none"> <li>v. The issue of the plan of operations including not acceptable to NRCS as being in compliance with the terms and conditions of the program is not appealable due to being a matter of regulation. Provide notification to applicant the his/her Plan of Operations does not meet the requirements for participation in EQIP as provided and must be changed to include/delete {named} conservation practice(s). Offer the rights to a review of appealability in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office.</li> <li>vi. The issue of the types/kinds/amounts of the conservation practices submitted by applicant is appealable. If this is the issue, then provide a program decision notification noting the deficiency and/or inapplicability of the conservation plan of operations as submitted, and provide appeal rights as follows:               <ul style="list-style-type: none"> <li>a. Appeal to the FSA - COC or the NRCS STC, but not both;</li> <li>b. Appeal to NAD.</li> <li>c. Mediation.</li> </ul> </li> </ul>
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		<b>IF the answer is ...</b>	<b>THEN...</b>
		YES	Proceed to next eligibility determination.
		NO	i. In order for NRCS to ensure that limited EQIP funds are allocated to those persons with the ability to implement the provisions of the EQIP plan of operations in accordance with the regulation and the form CCC1200 and the Appendix to the CCC1200, a person must agree to the terms and conditions of the conservation plan of operations. If the person does not agree to the terms and conditions included in the following documents: <ul style="list-style-type: none"> <li>a. CCC-1200</li> <li>b. Appendix to the CCC-1200</li> <li>c. Conservation Plan of Operations (AD1155/1156)</li> </ul> ii. Offer the rights to a review of appealability in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office.
			iii. The issue of the types/kinds/amounts of the conservation practices submitted by applicant is appealable. If this is the issue, then provide a program decision notification noting the deficiency and/or inapplicability of the conservation plan of operations as submitted, and provide appeal rights as follows: <ul style="list-style-type: none"> <li>a. Appeal to the FSA - COC or the NRCS STC, but not both;</li> <li>b. Mediation;</li> <li>c. Appeal to NAD.</li> </ul>
<b>Contracts and Payments - 7 CFR 1466, Subpart B</b>			
1. Selecting Offers	A. 7 CFR 1466.20(a) -- CPM 515.80(a)	Did NRCS receive the CCC1200 and Appendix to the CCC1200 in time for scoring and ranking for the batching period?	
		<b>IF the answer is ...</b>	<b>THEN...</b>
		YES	Proceed to scoring and ranking of the application
		NO	Provide applicant with the reason why the application was not scored and ranked. Offer to defer the application until the next batching period. Missing the advertised batching period deadline is not an appealable issue. Provide the rights to a review of appealability in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office.
	B. 7 CFR 1466.20(b)	Was the application, as scored and ranked in accordance with the procedures developed by the State Conservationist in consultation with the State Technical Committee and the Local Work Group, accepted into EQIP?	
		<b>IF the answer is ...</b>	<b>THEN...</b>
		YES	Proceed to contracting requirements in 7 CFR 1466.21
		NO	Provide applicant with the reason why the application was not funded during

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			<p>this batching period.</p> <p>The technical determination (scoring of the application in accordance with the established ranking procedures) relied upon in denying application into EQIP is appealable. This is the only portion of the denial that would be appealable if the applicant can show sufficient error on the part of NRCS regarding the actual scoring of the application. Offer the following appeal rights:</p> <ol style="list-style-type: none"> <li>a. Appeal to the FSA-COC or the NRCS STC, but not both;</li> <li>b. Mediation</li> <li>c. Appeal to NAD.</li> </ol> <p>The overall denial of the application through the use of application/ranking criteria is a matter of general program applicability and cannot be appealed. Further, denial of funding for an application due to an overall lack of funds is likewise, not appealable.</p>						
2. Contract Requirements	A. 7 CFR 1466.21(a)	<p>Does the conservation plan of operations (AD1155/1156) include at least one financially assisted conservation practice that will meet the natural resource objectives identified by the participant in his/her application?</p> <table border="1" data-bbox="758 808 1995 995"> <thead> <tr> <th data-bbox="758 808 1024 841">IF the answer is ...</th> <th data-bbox="1024 808 1995 841">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="758 841 1024 873">YES</td> <td data-bbox="1024 841 1995 873">Proceed to contracting requirements in 7 CFR 1466.21(b)(2)</td> </tr> <tr> <td data-bbox="758 873 1024 995">NO</td> <td data-bbox="1024 873 1995 995">Provide applicant with the reason why the contract cannot be awarded. This requirement cannot be appealed due to being a matter of regulation. Offer rights to an appealability review in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office.</td> </tr> </tbody> </table>		IF the answer is ...	THEN...	YES	Proceed to contracting requirements in 7 CFR 1466.21(b)(2)	NO	Provide applicant with the reason why the contract cannot be awarded. This requirement cannot be appealed due to being a matter of regulation. Offer rights to an appealability review in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office.
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B. All necessary conservation practices -- 7 CFR 1466.21(b)(1)	<p>Does the EQIP contract support document include the conservation practices agreed upon; timing of installation; O&amp;M requirements; and set forth the applicable cost-share payments or incentive payments?</p> <table border="1" data-bbox="758 1092 1995 1369"> <thead> <tr> <th data-bbox="758 1092 1024 1125">IF the answer is ...</th> <th data-bbox="1024 1092 1995 1125">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="758 1125 1024 1182">YES to all of the above</td> <td data-bbox="1024 1125 1995 1182">Proceed to contracting requirements in 7 CFR 1466.21(b)(2)</td> </tr> <tr> <td data-bbox="758 1182 1024 1369">NO to any of the above</td> <td data-bbox="1024 1182 1995 1369"> <p>Provide applicant with the reason why the contract cannot be awarded as written.</p> <p>This requirement cannot be appealed due to being a matter of regulation. Offer rights to an appealability review in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office.</p> </td> </tr> </tbody> </table>		IF the answer is ...	THEN...	YES to all of the above	Proceed to contracting requirements in 7 CFR 1466.21(b)(2)	NO to any of the above	<p>Provide applicant with the reason why the contract cannot be awarded as written.</p> <p>This requirement cannot be appealed due to being a matter of regulation. Offer rights to an appealability review in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office.</p>	
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C. Length of contract -- 7 CFR	Is the contract for a minimum of one year (1 year) but not more than 10 years?								

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	1466.20(b)(2)	<b>IF the answer is ...</b>	<b>THEN...</b>
		YES	Proceed to contracting requirements in 7 CFR 1466.21(b)(3)
		NO	<p>Provide applicant with the reason why the contract cannot be awarded as written.</p> <p>This requirement cannot be appealed due to being a matter of regulation. Offer rights to an appealability review in accordance with 7 CFR 11.6 to the National Appeals Division (NAD) regional office.</p>
	D. All required regulatory and statutory provisions included -- 7 CFR 1466.21(b)(3)	<p>Have any of the following occurred?</p> <ul style="list-style-type: none"> <li>i. Practices implemented on the land unit that will tend to defeat the purposes of EQIP?</li> <li>ii. Violation of any term or condition of the contract in accordance with 7 CFR 1466.26?</li> <li>iii. Transfer land subject to the contract unless the transferee agrees to assume all obligations of the contract in accordance with 7 CFR 1466.25?</li> <li>iv. Failure to implement a required comprehensive nutrient management plan?</li> <li>v. Failure to supply information required by NRCS to determine compliance with the contract?</li> <li>vi. Failure to comply with the O&amp;M requirements of the contract in accordance with 7 CFR 1466.22?</li> </ul>	
		<b>IF the answer is ...</b>	<b>THEN...</b>
		NO to any or all of the above	Proceed to contracting requirements in 7 CFR 1466.21(c)
		YES to any of the above	<p>Provide applicant with the reason why the contract cannot be awarded as written.</p> <p>Make a preliminary technical determination with a detailed explanation of the cause of contract violation. All adverse preliminary technical determinations must be sent via Certified Mail with a Return Receipt Requested. Provide the following appeal rights:</p> <ul style="list-style-type: none"> <li>i. Field review by the local NRCS office.</li> <li>ii. Reconsideration by the STC.</li> <li>iii. Mediation</li> <li>iv. Request for expedited final review.</li> </ul> <p>The preliminary technical determination will become final 30 days following the receipt of the notification (usually held to be no more than 37 days from the date of the determination, if a return receipt has not been requested). If the determination becomes a final technical determination, the following appeal rights are available:</p> <ul style="list-style-type: none"> <li>i. Appeal to either the FSA-COC or the NRCS STC, but not both; or</li> <li>ii. Appeal to NAD.</li> </ul>

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			<p>Request for either of these options must be made no later than 30 days from the date that the determination either automatically became final, or no more than 30 days from the date that the Final Technical Determination was received.</p> <p>A program decision using the final technical determination as its basis may only be issued once the NRCS final technical determination becomes a final USDA technical determination.</p> <p>When a program decision is issued using a previously final USDA technical determination, that portion of the program decision is not appealable. The program decision is likewise not appealable. Offer the rights to a review of appealability with regard to the program decision only.</p> <p>If liquidated damages are assessed, you must make a consideration as to whether or not the participant could not adhere to the contract provisions due to hardship or made a good faith effort to comply. All decisions to assess liquidated damages are appealable. Offer the following appeal rights on the liquidated damage portion of the program decision:</p> <ul style="list-style-type: none"> <li>i. Appeal to either the FSA-COC or the NRCS STC, but not both; or</li> <li>ii. Mediation; or</li> <li>iii. Appeal to NAD.</li> </ul> <p>A request for any of these options must be made no later than 30 days from the date that the determination either automatically became final, or no more than 30 days from the date that the program decision was received.</p>						
	<p>E. Contract Implementation -- 7 CFR 1466.21(c) -- CCC1200 Appendix, §3C</p>	<p>Has the participant begun implementation of at least one financially assisted conservation practice in the 12 month period following contract award?</p> <table border="1" data-bbox="758 1114 1995 1416"> <thead> <tr> <th data-bbox="758 1114 1024 1143">IF the answer is ...</th> <th data-bbox="1024 1114 1995 1143">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="758 1143 1024 1172">YES</td> <td data-bbox="1024 1143 1995 1172">Proceed to payment requests -- 7 CFR 1466.24</td> </tr> <tr> <td data-bbox="758 1172 1024 1416">NO</td> <td data-bbox="1024 1172 1995 1416"> <p>Provide applicant with a preliminary technical determination, including a contract status review, that no financially assisted conservation practice has been implemented as required by 7 CFR 1466.21(c) or the CCC1200 Appendix §3C within the first 12 months of the contract.</p> <p>This should include a detailed explanation regarding the impact that this failure to comply with the terms of the contract will have regarding the following:</p> </td> </tr> </tbody> </table>		IF the answer is ...	THEN...	YES	Proceed to payment requests -- 7 CFR 1466.24	NO	<p>Provide applicant with a preliminary technical determination, including a contract status review, that no financially assisted conservation practice has been implemented as required by 7 CFR 1466.21(c) or the CCC1200 Appendix §3C within the first 12 months of the contract.</p> <p>This should include a detailed explanation regarding the impact that this failure to comply with the terms of the contract will have regarding the following:</p>
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NO	<p>Provide applicant with a preliminary technical determination, including a contract status review, that no financially assisted conservation practice has been implemented as required by 7 CFR 1466.21(c) or the CCC1200 Appendix §3C within the first 12 months of the contract.</p> <p>This should include a detailed explanation regarding the impact that this failure to comply with the terms of the contract will have regarding the following:</p>								

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		<ol style="list-style-type: none"> <li>1. This represents a violation of the contract in accordance with 7 CFR 1466.26(a)(1), and as such, NRCS must provide a reasonable period of time in which the participant must comply with the provisions.</li> <li>2. If the participant fails to rectify the contract violation, NRCS will terminate the contract for cause (breach of contract) in accordance with 7 CFR 1466.26(b)(1) or 7 CFR 1466.26(b)(2).</li> <li>3. Liquidated damages up to 20% of the amount of financial assistance set aside in the contract may be assessed by NRCS for termination due to breach of contract as determined by the CCC-1200 appendix.</li> </ol> <p>All adverse preliminary technical determinations must be sent via Certified Mail with a Return Receipt Requested. Provide the following appeal rights:</p> <ol style="list-style-type: none"> <li>1. Field review by the local NRCS office.</li> <li>2. Reconsideration by the STC.</li> <li>3. Mediation</li> <li>4. Request for expedited final review.</li> </ol> <p>The preliminary technical determination will become final 30 days following the receipt of the notification (usually held to be no more than 37 days from the date of the determination, if a return receipt has not been requested). If the determination becomes a final technical determination, the following appeal rights are available:</p> <ol style="list-style-type: none"> <li>1. Appeal to either the FSA-COC or the NRCS STC, but not both; or</li> <li>2. Appeal to NAD.</li> </ol> <p>Request for either of these options must be made no later than 30 days from the date that the determination either automatically became final, or no more than 30 days from the date that the Final Technical Determination was received.</p> <p>A program decision using the final technical determination as its basis may only be issued once the NRCS final technical determination becomes a final USDA technical determination.</p> <p>When a program decision is issued using a previously final USDA technical determination, that portion of the program decision is not appealable. The program decision is likewise not appealable. Offer the rights to a review of</p>



STEP	PROVISION OF THE REGULATION	QUESTION TO ANSWER							
			<p>appealability in accordance with the NAD rule at 7 CFR 11.6 to the NAD regional office with regard to the <i>program decision only</i>.</p> <p>If liquidated damages are assessed, you must make a consideration as to whether or not the participant could not adhere to the contract provisions due to hardship or made a good faith effort to comply. All decisions to assess liquidated damages are appealable. Offer the following appeal rights on the liquidated damage portion of the program decision:</p> <ol style="list-style-type: none"> <li>i. Appeal to either the FSA-COC or the NRCS STC, but not both; or</li> <li>ii. Mediation; or</li> <li>iii. Appeal to NAD.</li> </ol> <p>A request for any of these options must be made no later than 30 days from the date that the determination either automatically became final, or no more than 30 days from the date that the program decision was received.</p>						
	F. Payments -- 7 CFR 1466.24	<p>Did the participant submit all the required documents in order to receive payment for implementation of his/her contract?</p> <table border="1" data-bbox="760 776 1990 1328"> <thead> <tr> <th data-bbox="760 776 1024 808">IF the answer is ...</th> <th data-bbox="1024 776 1990 808">THEN...</th> </tr> </thead> <tbody> <tr> <td data-bbox="760 808 1024 841">YES</td> <td data-bbox="1024 808 1990 841">Proceed to contracting requirements in 7 CFR 1466.25.</td> </tr> <tr> <td data-bbox="760 841 1024 1328">NO</td> <td data-bbox="1024 841 1990 1328"> <p>Provide applicant with the reason why the payment cannot be issued.</p> <p>Issue a program decision with a detailed explanation of the problem. Provide participant with a reasonable period of time in which to submit all required documentation to establish the credentials for payment of the financially assisted conservation practice. If the person does not respond within the required timeframe, inform him/her of further action to be taken, and if appropriate, provide the following appeal rights based on the denial of payment, as follows:</p> <ol style="list-style-type: none"> <li>1. Appeal to either the FSA-COC or the NRCS STC, but not both; or</li> <li>2. Mediation; or</li> <li>3. Appeal to NAD.</li> </ol> <p>A request for any of these options must be made no later than 30 days from the date that the determination either automatically became final, or no more than 30 days from the date that the program decision was received.</p> </td> </tr> </tbody> </table>	IF the answer is ...	THEN...	YES	Proceed to contracting requirements in 7 CFR 1466.25.	NO	<p>Provide applicant with the reason why the payment cannot be issued.</p> <p>Issue a program decision with a detailed explanation of the problem. Provide participant with a reasonable period of time in which to submit all required documentation to establish the credentials for payment of the financially assisted conservation practice. If the person does not respond within the required timeframe, inform him/her of further action to be taken, and if appropriate, provide the following appeal rights based on the denial of payment, as follows:</p> <ol style="list-style-type: none"> <li>1. Appeal to either the FSA-COC or the NRCS STC, but not both; or</li> <li>2. Mediation; or</li> <li>3. Appeal to NAD.</li> </ol> <p>A request for any of these options must be made no later than 30 days from the date that the determination either automatically became final, or no more than 30 days from the date that the program decision was received.</p>	
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	G. Contract modifications and transfers of land --	Has the program participant requested a modification to the EQIP contract? Will the requested modification be in accordance with the EQIP provisions?							

STEP	PROVISION OF THE REGULATION	QUESTION TO ANSWER	
	7 CFR 1466.25(a)	<b>IF the answer is ...</b>	<b>THEN...</b>
		YES	Modify the contract.
		NO	<p>Provide applicant with a preliminary technical determination, including all appropriate documentation as to why the modification does not conform to the regulations.</p> <p>All adverse preliminary technical determinations must be sent via Certified Mail with a Return Receipt Requested. Provide the following appeal rights:</p> <ol style="list-style-type: none"> <li>1. Field review by the local NRCS office.</li> <li>2. Reconsideration by the STC.</li> <li>3. Mediation</li> <li>4. Request for expedited final review.</li> </ol> <p>The preliminary technical determination will become final 30 days following the receipt of the notification (usually held to be no more than 37 days from the date of the determination, if a return receipt has not been requested). If the determination becomes a final technical determination, the following appeal rights are available:</p> <ol style="list-style-type: none"> <li>1. Appeal to either the FSA-COC or the NRCS STC, but not both; or</li> <li>2. Appeal to NAD.</li> </ol> <p>Request for either of these options must be made no later than 30 days from the date that the determination either automatically became final, or no more than 30 days from the date that the Final Technical Determination was received.</p> <p>A program decision using the final technical determination as its basis may only be issued once the NRCS final technical determination becomes a final USDA technical determination.</p> <p>When a program decision is issued using a previously final USDA technical determination, that portion of the program decision is not appealable. The program decision is likewise not appealable. Offer the rights to a review of appealability with regard to the program decision only.</p> <p>If liquidated damages are assessed, you must make a consideration as to whether or not the participant could not adhere to the contract provisions due to</p>

STEP	PROVISION OF THE REGULATION	QUESTION TO ANSWER	
			<p>hardship or made a good faith effort to comply. All decisions to assess liquidated damages are appealable. Offer the following appeal rights on the liquidated damage portion of the program decision:</p> <ol style="list-style-type: none"> <li>1. Appeal to either the FSA-COC or the NRCS STC, but not both; or</li> <li>2. Mediation; or</li> <li>3. Appeal to NAD.</li> </ol> <p>A request for any of these options must be made no later than 30 days from the date that the determination either automatically became final, or no more than 30 days from the date that the program decision was received.</p>
<b>General Administration -- 7 CFR 1466, Subpart C</b>			
1. Program Administration	A. Regulatory compliance -- 7 CFR 1466.31	Has the participant obtained all of the required permits?	
		<b>IF the answer is ...</b>	<b>THEN...</b>
		YES	Proceed with practice implementation.
		NO	<p>Issue a program decision, including all appropriate documentation as to why practice implementation cannot proceed.</p> <p>This is not an appealable issue due to being a matter of regulation. Provide the right to request a review of appealability.</p> <p>This request must be made no later than 30 days from the date that the notification was received by the participant.</p>
	B. Access -- 7 CFR 1466.32	If NRCS requests access to the contract acreage, has the participant denied such access?	
		<b>IF the answer is ...</b>	<b>THEN...</b>
		YES	Issue a program decision, including all appropriate documentation as to why practice implementation cannot proceed.
		NO	<p>This is not an appealable issue due to being a matter of regulation. Provide the right to request a review of appealability.</p> <p>This request must be made no later than 30 days from the date that the notification was received by the participant.</p>
	C. Misrepresentation or Scheme or	Did the participant misrepresent any fact that affected a program determination?	

STEP	PROVISION OF THE REGULATION	QUESTION TO ANSWER	
	Device	<p><b>IF the answer is ...</b></p> <p>YES</p>	<p><b>THEN...</b></p> <p>Issue a program decision, including all appropriate documentation as to the circumstances of the misrepresentation.</p> <p>Provide the person with the consequences of his/her misrepresentation and the fact that the contract will be terminated immediately for cause in accordance with 7 CFR 1466.26(a)(2) and that liquidated damages, as well as interest will be assessed for the misrepresentation and/or scheme or device adopted by participant. Interest assessments will be in accordance with 7 CFR 1403. All contracts held by the participant will be terminated in accordance with the program regulations.</p> <p>Provide the following appeal rights:</p> <ol style="list-style-type: none"> <li>1. Appeal to either the FSA - COC or the NRCS STC, but not both;</li> <li>2. Mediation; or</li> <li>3. Appeal to NAD.</li> </ol> <p>Any request for the above actions must be made within no more that 30 calendar days from the date of participants' receipt of the program decision notification.</p> <p>Termination of the contract will be effective immediately in accordance with 7 CFR 1466.26(a)(1).</p>
		No	Proceed with servicing the contract.