planned to pass through or immediately adjacent to the parcel; and

(9) May be land on which gas, oil, earth, or other mineral rights exploration has been leased or is owned by someone other than the applicant may be offered for participation in the program. However, if an applicant submits an offer for an easement project, USDA will assess the potential impact that the third party rights may have upon achieving the program purposes. USDA reserves the right to deny funding for any application where there are exceptions to clear title on any property.

(g) Prior to FRPP fund disbursement, the value of the conservation easement must be appraised. Appraisals must be completed and signed by a State-certified general appraiser and must contain a disclosure statement by the appraiser. The appraisal must conform to the Uniform Standards of Professional Appraisal Practices or the Uniform Appraisal Standards for Federal Land Acquisitions, as selected by the entity. State Conservationists will provide the guidelines through which NRCS will review appraisals for quality control purposes.

(h) The landowner shall be responsible for complying with the Highly Erodible Land and Wetland Conservation provisions of the Food Security Act of 1985, as amended, and 7 CFR part 12.

§ 1491.5 Application procedures.

(a) An entity shall submit an application to the State Conservationist in the State where parcels are located in order to determine if the entity is eligible to participate in FRPP.

(b) The Chief shall determine whether an eligible entity is a certified entity based on the criteria set forth in §1491.4(d); information provided by the entity’s application; and data in the national FRPP database.

(c) The State Conservationist shall notify each entity if it has been determined eligible, certified, or ineligible.

(d) Entities with cooperative agreements entered into after the effective date of this part will not have to resubmit an annual application for the duration of the cooperative agreement. Entities may reapply for eligibility when their cooperative agreements expire.

(e) Throughout the fiscal year, eligible entities may submit to the appropriate NRCS State Conservationist applications for parcels, in that State, with supporting information to be scored, ranked, and considered for funding.

(f) At the end of each fiscal year, the lists of pending, unfunded parcels shall be cancelled unless the entity requests that specific parcels be considered for funding in the next fiscal year. Entities must submit a new list of parcels each fiscal year in order to be considered for funding unless they request that parcels from the previous fiscal year be considered.

§ 1491.6 Ranking considerations and proposal selection.

(a) Before the State Conservationist can score and rank the parcels for funding, the eligibility of the landowner and the land must be assessed.

(b) The State Conservationist shall use National and State criteria to score and rank parcels. The national ranking criteria will be established by the Chief and the State criteria will be determined by the State Conservationist, with advice from the State Technical Committee. The national criteria shall comprise at least half of the ranking system score.

(c) When funds are available, the State Conservationist shall announce the date on which ranking of parcels shall occur. A State Conservationist may announce more than one date of ranking in a fiscal year.

(d) All parcels submitted throughout the fiscal year shall be scored. All parcels will be ranked together in accordance with the national and state ranking criteria before parcels are selected for funding.

(e) The parcels selected for funding shall be listed on the agreements of the entities that submitted the parcels and the agreements shall be signed by the State Conservationist and the eligible entity. Funds for each fiscal year’s parcels shall be obligated with a new signature each year on an amendment to the agreement. Parcels funded on each fiscal year’s amendment shall have a
§ 1491.20 Cooperative agreements.

(a) NRCS, on behalf of CCC, shall enter into a cooperative agreement with those entities selected for funding. Once a proposal is selected by the State Conservationist, the entity must work with the State Conservationist to finalize and sign the cooperative agreement, incorporating all necessary FRPP requirements. The cooperative agreement must address:

(1) The location of a parcel in an area zoned for agricultural use;

(2) The performance of an entity experience in managing and enforcing easements. Performance must be measured by the closing efficiency or percentage of monitoring that is reported. Years of an entity’s existence shall not be used as a ranking factor;

(3) Multifunctional benefits of farm and ranch land protection including social, economic, historical and archaeological, and environmental benefits;

(4) Geographic regions where the enrollment of particular lands may help achieve National, State, and regional conservation goals and objectives, or enhance existing government or private conservation projects;

(5) Diversity of natural resources to be protected;

(6) Score in the Land Evaluation and Site Assessment (LESA) system. This score serves as a measure of agricultural viability (access to markets and infrastructure);

(7) Existence of a farm or ranch succession plan or similar plan established to encourage farm viability for future generations; and

(8) Landowner willingness to allow public access for recreational purposes.

(b) State ranking criteria will be developed on a State-by-State basis. The State Conservationist will make available a full listing of applicable National and State ranking criteria.

Subpart B—Cooperative Agreements and Conservation Easement Deeds

§ 1491.20 Cooperative agreements.

(a) NRCS, on behalf of CCC, shall enter into a cooperative agreement with those entities selected for funding. Once a proposal is selected by the State Conservationist, the entity must work with the State Conservationist to finalize and sign the cooperative agreement, incorporating all necessary FRPP requirements. The cooperative agreement must address:

(1) The location of a parcel in an area zoned for agricultural use;

(2) The performance of an entity experience in managing and enforcing easements. Performance must be measured by the closing efficiency or percentage of monitoring that is reported. Years of an entity’s existence shall not be used as a ranking factor;

(3) Multifunctional benefits of farm and ranch land protection including social, economic, historical and archaeological, and environmental benefits;

(4) Geographic regions where the enrollment of particular lands may help achieve National, State, and regional conservation goals and objectives, or enhance existing government or private conservation projects;

(5) Diversity of natural resources to be protected;

(6) Score in the Land Evaluation and Site Assessment (LESA) system. This score serves as a measure of agricultural viability (access to markets and infrastructure);

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(8) Landowner willingness to allow public access for recreational purposes.

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