

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Standards and Requirements for the Conservation Excellence Grant Program

[50 Pa.B. 2282]

[Saturday, May 2, 2020]

The Department of Agriculture (Department) through the State Conservation Commission (Commission) hereby provides notice of the Conservation Excellence Grant Program (CEG Program). The CEG Program is established under the authority of the act of July 1, 2019 (act) (3 Pa.C.S. §§ 3101—3110). The act establishes the CEG Program to be administered by the Commission to provide technical and financial assistance for best management practice projects on agricultural operations in high priority locations in this Commonwealth. Assistance is available through grants, loans and tax credits, or a combination of all three.

This notice explains the process by which applications will be submitted and reviewed by the Commission for grants. Grants will be awarded to the extent funding is made available by the General Assembly. For Fiscal Year (FY) 2019-2020, a total of up to \$2.5 million is available. The Commission will equally divide the available total between Lancaster and York Counties. Each county will receive up to \$1 million for grants to eligible applicants and up to \$250,000 for administrative and technical assistance expenses. The Commission will enter into delegation agreements with Lancaster and York County conservation districts to process the grant awards. Successful applicants must spend their grant awards within 2 years from July 1, 2019, the start of FY 2019-2020. When available, the application will be posted on the web site of the Commission at [https://www.agriculture.pa.gov/Plants\\_Land\\_Water/StateConservationCommission/Pages/default.aspx](https://www.agriculture.pa.gov/Plants_Land_Water/StateConservationCommission/Pages/default.aspx).

Loans are awarded through programs approved by the Commission, including the Agriculture-Linked Investment Program. Tax credits are awarded under the Resource Enhancement and Protection Tax Credit Program through the Department of Revenue.

#### *CEG Program Guidelines*

The Commission is required to establish guidelines for the submission, review and approval of grant applications. For the initial FY 2019-2020, the Commission established 2019-2020 Program Guidelines, which are available for review through the web site of the Commission at [https://www.agriculture.pa.gov/Plants\\_Land\\_Water/StateConservationCommission/Pages/default.aspx](https://www.agriculture.pa.gov/Plants_Land_Water/StateConservationCommission/Pages/default.aspx). These guidelines are subject to change after this initial phase of the CEG Program. The guidelines provide the following:

#### **1. Program Objective.**

The purpose of the CEG Program is to provide financial and technical assistance for the implementation of best management practices (BMPs) on agricultural operations in high-priority locations within this Commonwealth through grants, loans and tax credits, or a

combination of all three, as authorized under section 4(7) of the Conservation District Law (3 P.S. § 852(7)).

## 2. Definitions.

*"Accelerated erosion."* The removal of the surface of the land through the combined action of human activities and the natural processes, at a rate greater than would occur because of the natural process alone.

*"Agricultural Erosion and Sedimentation Plan."* A site-specific plan consisting of both drawings and a narrative that: (1) identifies best management practices to minimize accelerated erosion and sediment before, during and after earth disturbance activities when plowing or tilling activities or animal heavy use areas disturb 5,000 square feet (464.5 square meters) or more of land, and (2) is in compliance with 25 Pa. Code § 102.4(a) (relating to erosion and sediment control requirements).

*"Agricultural operation."* The management and use of farming resources for the production of crops, livestock or poultry.

*"Agricultural plowing or tilling activity."* Earth disturbance activity involving the preparation and maintenance of soil for the production of agricultural crops. The term includes no-till cropping methods, the practice of planting crops with minimal mechanical tillage.

*"Animal Heavy Use Area."* Barnyard, feedlot, loafing area, exercise lot, or other similar area on an agricultural operation where due to the concentration of animals it is not possible to establish and maintain vegetative cover of a density capable of minimizing acceleration erosion and sedimentation by usual planting methods. The term does not include entrances, pathways and walkways between areas where animals are housed or kept in concentration.

*"Best management practice (BMP)."* A practice or combination of practices determined by the State Conservation Commission or United States Department of Agriculture Natural Resources and Conservation Service to be effective and practical, considering technological, economic and institutional factors, to manage nutrients and sediment to protect surface water and groundwater.

*"CEG Program."* The Conservation Excellence Grant Program established and implemented under the act of July 1, 2019, 3 Pa.C.S. §§ 3101—3110.

*"Commission."* The State Conservation Commission established under section 4 of the act of May 15, 1945 (P.L. 547, No. 217), known as the Conservation District Law (3 P.S. § 852).

*"Conservation District."* A county conservation district established under the act of May 15, 1945 (P.L. 547, No. 217), known as the Conservation District Law (3 P.S. §§ 849—864).

*"Conservation Plan."* A United States Department of Agriculture Natural Resources Conservation Service plan, including a schedule for implementation, that identifies site specific conservation best management practices on an agricultural operation.

*"Earth disturbance activity."* A construction or other human activity which disturbs the surface of the land, including land clearing and grubbing, grading, excavations, embankments, land development, agricultural plowing or tilling, operation of animal heavy use areas, timber harvesting activities, road maintenance activities, oil and gas activities, well drilling, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock or earth materials.

*"Eligible Applicant."* Any person, individual, partnership, corporation or legal entity that engages in an agricultural operation in this Commonwealth and has legal or financial responsibility for the agricultural operation.

*"Eligible Project Costs."* Project design, engineering and associated planning; project management costs, including contracting, document preparation and applications; project construction and installation; equipment and materials; post-construction inspections.

*"Manure Management Plan."* A written site-specific plan that: (1) identifies current standards to manage nutrients for water quality protection from the land application of manure and agricultural process wastewaters that is acceptable to the Commission; and (2) is developed to meet the requirements of 25 Pa. Code § 91.36(b)(1)(i) (relating to pollution control and prevention at agricultural operations).

*"Nutrient Management Plan."* A written site-specific plan which incorporates best management practices to manage the use of plant nutrients for crop production and water quality protection consistent with the criteria established in 3 Pa.C.S. §§ 504 and 506 (relating to powers and duties of commission; and nutrient management plans).

*"Tier One Chesapeake Bay Counties."* Lancaster and York Counties.

*"Tier Two Chesapeake Bay Counties."* Franklin, Lebanon, Cumberland, Centre and Bedford Counties.

*"Tier Three Chesapeake Bay Counties."* Adams, Northumberland, Perry, Snyder, Huntingdon, Columbia, Mifflin, Lycoming, Schuylkill, Bradford, Juniata, Clinton, Tioga, Susquehanna, Clearfield and Fulton Counties.

*"Technical Service Provider."* An individual, entity or public agency certified by the USDA-NRCS and placed on the approved list to provide technical services to program participants or to USDA program participants or any other entity approved by the Commission.

*"USDA-NRCS."* The United States Department of Agriculture Natural Resources and Conservation Service.

*"Watershed Implementation Plan."* The Commonwealth of Pennsylvania's Phase 3 Chesapeake Bay Watershed Implementation Plan (WIP), final dated August 2019.  
[https://www.dep.pa.gov/Business/Water/Pennsylvania%e2%80%99s%20Chesapeake%20Bay%20Program%20Office/WIP3/Pages/Phase-III-WIP-\(Watershed-Implementation-Plans\).aspx](https://www.dep.pa.gov/Business/Water/Pennsylvania%e2%80%99s%20Chesapeake%20Bay%20Program%20Office/WIP3/Pages/Phase-III-WIP-(Watershed-Implementation-Plans).aspx)

### **3. Role of Conservation Districts.**

(a) Under section 4(3) of the Conservation District Law (3 P.S. § 852(3)), and 3 Pa.C.S. § 3109 the CEG Program act, the Commission may delegate certain duties and responsibilities under the act to conservation districts that are willing to enter into an agreement to carry out these duties and responsibilities.

(b) Under section 4(7) of the Conservation District Law (3 P.S. § 852(7)), and 3 Pa.C.S. § 3110 of the CEG Program Act, the Commission may advance funds to conservation districts for the purposes of the act.

(c) Under § 3107 of the CEG Program act, priority must be given for certain locations in the Commonwealth when approving applications for eligible projects. The first priority locations

are counties designated by the Department of Environmental Protection (DEP) as Tier 1 Chesapeake Bay counties in the Phase 3 Chesapeake Bay Watershed Implementation Plan (WIP). The next priority locations are counties designated by DEP as Tier 2 and 3 Chesapeake Bay counties. The last priority locations include all other counties.

(d) To the extent authorized by a delegation agreement, conservation districts shall review and approve applications for eligible projects under the CEG Program and satisfy other duties and responsibilities delegated by the Commission, including:

(i) Developing ranking criteria with guidance from the Commission.

(ii) Coordinating with the Commission on the award of tax credits or low interest loans, or both.

#### **4. Delegation Agreement.**

The delegation agreement will:

(a) Be for a term of up to 5 years.

(b) Specify the duties and responsibilities of the delegated conservation districts.

(c) Provide for the commitment of sufficiently trained staff and available resources for conservation districts to satisfy delegated duties and responsibilities.

(d) Require the conservation district to maintain records of activities performed in carrying out delegated duties and responsibilities.

(e) Provide for the Commission and conservation districts to work cooperatively in developing and implementing guidelines and policies related to the CEG Program.

(f) Provide for the Commission to monitor and supervise the conservation district's performance of delegated duties and responsibilities.

#### **5. Allocation of Available Funds.**

In fiscal year 2019-2020, a total of up to \$2.5 million is available under the CEG Program. In fiscal year 2019-2020, the Commission will initially advance 50% of allocated funds for the CEG Program, which may be used for grants to eligible applicants and to cover administrative and technical assistance expenses to delegated conservation districts.

The funds will be divided between Lancaster and York Counties as follows:

(a) Up to \$1 million shall be awarded to Lancaster County; up to \$1 million shall be awarded to York County for grants to eligible applicants with eligible project costs.

(b) Up to \$250,000 shall be awarded to Lancaster County and up to \$250,000 shall be awarded to York County for administrative and technical assistance expenses.

(c) Funds uncommitted or unspent by Tier 1 counties may be reallocated at the discretion of the Commission to Tier 2, Tier 3 and other counties.

(d) In subsequent fiscal years, subject to available funding, the Commission intends to allocate available funds to Tier 1, Tier 2, Tier 3 and then other counties.

## 6. Application.

(a) *Application process.* A person may apply to a delegated conservation district for a grant for an eligible project under the CEG Program with an application created by the Commission. The application will include all of the following:

- (i) The location of the project.
- (ii) The type of the project.
- (iii) The status of the project.
- (iv) The type and combination of funding requested under the CEG Program.
- (v) The total cost of the project.

(vi) Verification that an agricultural Erosion and Sedimentation Plan, or a Conservation Plan, A Manure Management Plan, or a Nutrient Management Plan has been developed and is available.

(vii) Any other information required by the Commission, including the source and amount of other funding sources utilized for the project.

(b) Applications shall be submitted to delegated conservation districts.

(c) *Application Review*—The delegated conservation district shall review complete applications based upon the criteria established in section 7 of these Guidelines (relating to application evaluation criteria) on an ongoing basis and in the order complete applications are received. In all cases, delegated conservation districts will review complete applications and approve projects, at a minimum, on a quarterly basis.

## 7. Application Evaluation Criteria.

In approving applications for eligible projects under the CEG Program, priority will be given to complete applications based upon the following criteria:

(a) Priority locations as follows and in this order:

(i) Counties designated by the Department of Environmental Protection as Tier 1 Chesapeake Bay counties.

(ii) Counties designated by the Department of Environmental Protection as Tier 2 and 3 Chesapeake Bay counties.

(iii) All other counties.

(iv) Specific watershed locations within a county consistent with a County-wide Action Plan developed under the Phase III WIP.

(b) Priority practices as follows, in no particular ranking order:

(i) Livestock exclusion fencing.

(ii) Stream-side buffers.

- (iii) Streambank restoration.
- (iv) Barnyard and feedlot runoff abatement.
- (v) Stream crossings.
- (vi) Off-stream watering.
- (vii) Manure storage facilities.
- (viii) Nutrient management plans and manure management plans.
- (ix) Conservation plans or agricultural erosion and sedimentation plans.
- (x) Cover crops.

(xi) Any other priority practices approved by the Commission, including any practices determined by the delegated conservation district and approved by the Commission to be consistent with a County-wide Action Plan under the Phase III WIP. This may include practices approved under the Resource Enhancement and Protection program.

(c) The level and extent of planning and technical assistance, such as inventory and evaluation, design work, permits and similar types of assistance, already completed to allow for accurate estimates of project costs and timely completion of the project.

(d) The extent to which an applicant is willing to accept a reasonable mix of grants, loans and tax credits or to supply nongovernmental matching funds for the project, except for small projects with a total project cost under \$25,000.

(e) Any other criteria that is consistent with the criteria in (a)—(d) and approved by the Commission.

## **8. Project Certification.**

(a) If a project's BMPs require review and certification by a registered professional engineer under the applicable laws or regulations of this Commonwealth, the BMP shall be certified by a registered professional engineer.

(b) Any other BMP shall be certified by a technical service provider, staff from the delegated conservation district having the appropriate job approval authority, the USDA-NRCS, or any other qualified person who has appropriate training and expertise and is approved by the Commission.

(c) Costs incurred to satisfy the certification requirements of this section are deemed eligible project costs up to 2% of the total costs of the approved project, unless otherwise approved by the Commission.

## **9. Funding Limitations.**

(a) A single grant awarded by the delegated conservation district to an eligible applicant may not exceed \$250,000.

(b) The delegated district may award a grant to an eligible applicant for a small project that is less than \$25,000.

(c) A grant amount for an eligible project shall be based on the estimated costs, project description, level of planning completed, and the type of funding requested in the application, as determined appropriate by the Commission.

(d) The Commission may choose to reimburse grant recipients based on eligible actual project costs, incentive payments for completed BMPs or any other method deemed appropriate by the Commission.

## **10. Notice of Determination.**

(a) Within 60 days of receipt of a complete application, the delegated conservation district shall notify the applicant of all of the following:

- (1) Whether the project is approved for funding under the CEG Program.
- (2) The total amount of funds approved for the project.
- (3) The amount of each type of funding approved for the project.

(b) The delegated conservation district shall notify the applicant of an incomplete application with 10 business days of receipt of the application.

## **11. Documentation.**

Upon approval of an application, the delegated conservation district will enter into a contract with the applicant for a term not to exceed 2 years.

## **12. Notice and Verification of Completion.**

Upon completion of a project funded under the CEG Program, the approved applicant shall notify the delegated conservation district within 30 days that the project has been completed on forms approved by the Commission. The notice under this section shall include the required certification under section 8 (relating to project certification).

## **13. Inspection.**

Projects funded under this CEG Program may be subject to inspection by the Commission or the Commission's delegated conservation district.

## **14. Recordkeeping.**

All successful applicants are required to maintain on-site all records and receipts for all funded project costs for the longest lifespan of any installed BMP under the CEG Program and for a minimum of 5 years.

## **15. Questions and Additional Information.**

Questions on this program may be directed to Eric Cromer, Conservation Program Specialist, State Conservation Commission, at [ecromer@pa.gov](mailto:ecromer@pa.gov).

RUSSELL C. REDDING,  
Secretary

