

**AGRICULTURAL CONSERVATION ASSISTANCE PROGRAM (ACAP) STATEMENTS OF POLICY
FOR THE WARREN COUNTY CONSERVATION DISTRICT
2/18/2025**

PROGRAM IMPLEMENTATION POLICIES & STANDARDS

(Special recognition to McKean County Conservation District as a major contributor to this Policy Template)

The program implementation of the Agricultural Conservation Assistance Program (ACAP) will follow the policies and guidance outlined in the delegation agreement between the Commonwealth of Pennsylvania through the State Conservation Commission (Commission) and the District. These policies set forth are in conjunction with or in addition to the ACAP Guidelines. Warren County Conservation District (WCCD) has the ability to adjust this document to fit the needs of Warren County.

1. Criteria for Equal Access:

All Warren County eligible participants shall have equal access to the funding provided through the Warren County Agricultural Conservation Assistance program. Decisions for funding applications will be made on the basis of maximizing the reduction of pollution to county streams in a cost-effective manner. No discrimination will be made concerning race, religion, gender, economic status or political standing of citizens affected by the improvements achieved through this program. Submitted project proposals will be judged solely by a published set of criteria approved at a public meeting of the WCCD Board of Directors (BOD). The WCCD will be bound by the policies established by the State Conservation Commission for the administration of this program statewide.

Reasonable efforts shall be made to provide program information, including any application deadlines, in local newspapers, social media, radio, direct mailings and/or various other agency publications.

2. Pre-Application Site Visit:

The Conservation District will meet with potential program participants on site to discuss the potential project before an application is submitted for funding. The purpose of a pre-application meeting is to work jointly with the program participant to ensure that the application they submit is in the best interest of both entities. The pre-application meeting allows the district to provide input on the potential project at an early stage before the program participant has invested a large amount of time and resources in developing an application.

3. Application Process:

- a. All applications for program funding must be received on the "Agricultural Conservation Assistance Program Application". The form must be signed by the program participants. Applications will be taken on an ongoing basis but will be ranked, regularly throughout the year. The applications received will be ranked by the ACAP Quality Assurance Board (ACAP QAB) and approved by the Conservation District Board. The District has the right to extend deadline dates at their discretion.
- b. The conservation district may retain unfunded ACAP applications on file for any allotted timeframes set by the ACAP QAB for future allocations (example: two (2)

years). The applying entity may update or cancel the application at any time. Project participants may also choose to revise existing submitted applications.

- c. The conservation district reserves the right to deny an application due to active compliance and/or enforcement actions, or a court order issued by or on behalf of the Commission or cooperating agency for violations of Act 38 of 2005, the Clean Streams Law or other program administered by the Commission or any other criteria established by the Commission.
- d. Conservation district staff will review applications for administrative completeness and to ensure they comply with established program policies and guidance. The location of the project, description of the project, including BMPs, total cost of the project, the amount and other sources of funding available for the project, relevance of the project to the development, improvement or implementation of the applicant's manure or nutrient management plan, conservation plan or ag erosion and sediment control plan are required as part of the grant application.
- e. Project participant represents and agrees that he/she is the sole owner of the real property on which the project is to be performed, or has secured a sufficient property interest, including any easements or rights-of-ways, necessary to grant access for the completion and maintenance of the project. A "Control of Land" agreement may be required for leased or rented parcels.
- f. District staff will work with program participants to revise the scope of their applications that do not meet program policies. The district may make minor changes to the application and have the applicant show concurrence by initialing and dating the change. In cases where significant changes are needed to the application work plan, the district should work with the program participant to create a new application that represents an acceptable project. Examples of "significant changes" may include: changes in project scope, recommended design changes, considerations for engineering and permitting costs, etc.
- g. Projects funded by ACAP funds in which the estimated cost of the total project (materials, equipment and labor), exceeds prevailing wage limits (currently \$25,000) are subject to provisions of Pennsylvania's Prevailing Wage Act.
- h. Applications district staff deem complete and potentially acceptable to the program should be forwarded to the local ACAP QAB for review and prioritization. The ACAP QAB will review and prioritize applications based on established written criteria and make funding recommendations to the conservation district board.
- i. District Staff and the ACAP QAB have the option to defer valid, unfunded project applications until additional funding is available. The deferred applications will have funding priority over new applications.
- j. There will be biannual application deadlines of June 30th and December 31st. This allows staff to also consider federal funding available to supplement project costs.

- k. The ACAP QAB operates in any capacity set forth by the District Board of Directors (BOD). All applications for funding must be acted on by the conservation district board at a sunshined meeting. All program participants should be notified in writing of the funding decisions of the conservation district board.

4. Project Ranking:

Ranking question priority shall be given to the following criteria:

1. Project Meets the goals of and WIP or County Action Plan
2. If applicable to the ag operation, the applicant has a plan (Con Plan, Ag E&S, MMP, or NMP). Development of such plans shall be included in the application if not yet developed prior to the application.
3. The project implements BMP's included in the plan. Priority given to bmp's that reduce or control N, P, and/or sediment.
4. Ag operations with ACA's shall implement BMPs necessary to abate storm water runoff, loss of sediment, nutrients, and other pollutants from the ACA.
5. Proximity to surface waters, public drinking sources or karst geology with underground drainage systems or open sinkholes.
6. The project must meet the design and construction standards established by the commission.
7. Proper maintenance of previous BMPs funded by the program.
8. A continuation or enhancement of a previously funded project.
9. Any other criteria considered by the conservation district, as applicable, and approved by the Commission

5. Contracting:

- a. When an application has been accepted and approved by the conservation district board, the conservation district will enter into a contract agreement with the successful program participant. The contract, when signed by both parties, is a legally binding document between the applicant and the conservation district that describes in detail the responsibilities of both parties. No funding transfers can take place with program participants, and no project work can begin, without a signed contract. The contract states the terms and conditions for the project. All contracts must be made using the "Agriculture Conservation Assistance Program Grantee-District Agreement" form that has been approved by the Commission.
- b. By offering the premises for implementation of this project, project participant agrees to allow access, design preparation and implementation of the project, subject to available funds, for the duration of construction and for the time period identified in the contract.
- c. The project participant agrees not to destroy, alter or modify the BMPs, except to perform needed repairs, for the period covered by the contract, nor to undertake any action on land under the project participants control which tends to defeat the purposes of this contract. The project participant agrees to maintain BMPs for the established lifespan in compliance with the operation and maintenance plan. The project participant shall be responsible for all normal, routine maintenance and

normal, routine repair of the site and project according to the operation and maintenance plan.

- d. Project participant agrees to refund all or part of the program funds paid to them, as determined by the conservation district, if before the expiration of the term of this contract, the project participant (a) destroys, alters or modifies the BMPs installed, or (b) voluntarily relinquishes control or title to the land on which the BMPs have been established, and the new landowner and/or operator of the land does not agree to maintain the BMPs for the remainder of the term of this contract. If the new landowner agrees to assume Landowner's obligations and to maintain the BMPs for the remainder of the term of this Agreement, then a new contract shall be executed by the new landowner/program participant.
- e. This contract shall be binding on the parties, their heirs, legal representatives, successors, and assigns.
- f. Projects will be ranked by the ACAP QAB as outlined in Appendix A of this policy.

6. Project Work:

The following is a list of general pre-project work requirements:

PA One Call must be notified at various stages of the project, including the design phase and also prior to construction. One Call assigns a serial number to each call they receive. These serial numbers must be recorded and kept in the project file.

Many projects will require some type of environmental permit. Program participants are encouraged to work with the district to determine what environmental permits, if any, may be required. Any required permits must be obtained by the grant recipient before advances can be given or work can begin. Under no circumstance can any project work begin until all required permits are in hand.

Some projects may require an Erosion and Sediment Control (E&S) plan. The district will help determine if an E&S plan is necessary.

A. Pre-Construction Meeting:

A pre-construction meeting is required prior to the beginning of a project. This will allow the District to meet in person with the program participants and any contractors or sub-contractors to discuss each contract item or element of the approved plan to avoid any misunderstanding about how the plan is to be implemented and how payment will be made.

- a. ANY DESIGN CHANGES AFTER THE PRECONSTRUCTION MEETING THAT GO BEYOND THE SCOPE OF WORK IN THE ORIGINAL CONTRACT, WILL BE THE FARMER'S FINANCIAL RESPONSIBILITY. FOR EXAMPLE, ADDITIONAL ENGINEERING COSTS AND ANY ADDITIONAL MATERIAL/LABOR COSTS.

B. Notification of Project Work:

Program participants MUST notify the district a minimum of five (5) days before beginning work on a project. The District must also be notified before beginning a new phase of the project. The District may withhold payments and cancellation of the contract if a program participant fails to comply with notification requirements.

C. Performing Project Work:

Program participants must follow the bidding procedures for contractors and materials as outlined in Appendix B of this policy.

Work must be performed in accordance with the accepted application, work plan and/or design unless both parties agree to project changes in writing. The District or its designee is responsible for oversight of any contractors or subcontractors working on the project. Work must be performed within the contracted scope, budget and timeframe.

If an increase in costs or extension of time is required, the district must be contacted as soon as possible. At the district's discretion based on existing policies and funding availability, contracts may be amended for cost overruns up to an amount agreed upon by the district board, or to extend the timeframe for completion. Keep in mind that if a contract is between \$20,000 and \$25,000 (barely under the prevailing wage threshold for contracted work), an amendment may increase the total value of the project so that prevailing wage would apply to contractor costs.

Any contractors or subcontractors may be asked to sign a statement certifying that the installed components meet or exceed the Natural Resource Conservation Service (NRCS) standards and specifications. All contractors or subcontractors are responsible to protect work from environmental conditions such as temperature extremes, weather events, wind, surface water and ground water.

7. Certification and Final Payment: (Certification, Payment Schedules, and Cost Share Amounts)

- a. Cost Share Amounts
- b. Farmstead Improvements/BMP design – implementation (i.e. manure storages, roof runoff structures, heavy use areas, etc.) Funded at 80% of total project cost (minus EQIP).
 - i. Farm Access Road Program (Farm lane improvements, excluding stream crossings) Funded at 100% of total project cost, \$50,000 available per fiscal year, first come-first served basis.
 - ii. Cover Crop Pilot Program – Funded at 100% of total project cost, \$10,000 available per fiscal year, first come-first served basis. The annual cover crop application deadline is June 30th. Planting dates and rates will follow the NRCS tech guide. The maximum contract amount per farmer will be capped at \$2,500. If a farmer has a specific cover crop or mix they prefer, they must provide the following to the District as part of their application:
 - 1. Specie(s) to be planted
 - 2. Recommended seeding rate (per the seed vendor)

3. Planting method and timing
 4. Number of acres to be planted and the location
 5. Total estimated cost of the seed
- iii. Nutrient Management Plan Program – Funded at 100 %, \$10,000 available per fiscal year, first come-first served basis. NMPs will only be funded for those who have serious intentions to complete an ACAP/EQIP project and have a valid ACAP application as well. The final decision will be at the discretion of the Conservation District Board.
- c. Upon the full execution of any project contract in this agreement, the district agrees to provide an advance payment to the project participant of 50% of the awarded contract amount to be applied towards payment of eligible expenses incurred in the performance of the project. The project participant agrees that these advanced funds will be utilized solely for eligible expenses as contained in the attached project application and work plan. The project participant shall supply the district with receipts, weigh slips, and/or other appropriate supporting information to document proper expenditure of advanced payments by the project participants prior to receiving additional payments under this agreement. The District shall withhold 30% of the total contracted amount until the satisfactory completion of the project. The district may process subsequent payments to the project participant on an actual cash expended basis of up to 20% on eligible project expenses.
 - d. Final Payment shall be made upon satisfactory completion of the project for actual services performed consistent with the project application, the work plan and satisfaction of the District.
 - e. If a project's BMP(s) require review and certification by a registered professional engineer under the applicable ACAP QABs or regulations of this Commonwealth, the BMP shall be certified by a registered professional engineer. Those BMPs required to meet the Natural Resource Conservation Service (NRCS) standards and specifications shall be certified by a technical service provider, staff from the conservation district with 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.
 - f. Payment may be withheld on account of defective work not remedied, liens filed, or damage by the Contractors to others.
 - g. All claims submitted by the program participant pursuant to this agreement shall be submitted to the District in accordance with the Schedule of Payments and the terms and conditions contained in the approved project agreement. The claims shall be itemized and show that the utilization of funds are in accordance with the approved project application and work plan. Claims shall include receipts, and/or other appropriate supporting information to document actual expenditures on the project. Payments will be addressed to the program participant and any contractors or subcontractors associated with the implementation of the project.

FARM ACCESS ROAD PROGRAM

(Previous ACAP Policies apply)

Purpose: To reduce sediment and erosion from farm access roads and improve stream quality. While critical to the farm's operation, these are often overlooked as a source of pollution and are not as high of a priority for landowners to spend valuable financial

resources on as they are often used seasonally or a few times a year. Projects shall follow principals of the DGLVR program as outlined in the referenced Technical Bulletins.

Eligibility: The access road must be currently showing signs of erosion and sedimentation. There must be potential for the sedimentation to enter a nearby stream. The project must meet the minimum ACAP eligibility requirements. The BMPs must be listed in the farm's Ag E&S or NRCS Conservation Plan. The eligible Ag Operation will be required to complete an application for funds. Projects will be ranked by the ACAP QAB as outlined in Appendix A of this policy, along with a supplemental ranking sheet outlined in appendix C of this policy, that will be ranked by a ESM certified staff and reviewed by ACAP QAB, then brought to the district board for review and vote.

Financial: Funds are limited, only \$60,000 will be set aside per fiscal year for farm lane improvement projects only. The maximum contract amount per farmer will be capped at \$25,000. Approved Farm Access Road projects shall be eligible for 100% cost share. The eligible Ag Operation will be required to complete an application for funds. The Ag Operation Owner must agree to pay the contractor 100% of the cost of the project. The District will reimburse the Ag Operation Owner for the cost of the Farm Access Road project within 45 days after the completion of the project and copies of receipts for the project are received by the District Staff. Prevailing Wage does apply to projects over \$25,000.

Project Planning and Design: The ESM certified Conservation District Staff will assist the landowner with the planning and development of any design package necessary for completion of the project. District Staff will also work closely with contractor to implement the BMPs necessary to stabilize the Farm Access Road. At this time, stream crossings are not eligible for this funding. This program funding is not intended for access roads in forested land, such as logging roads or oil and gas roads.

The following is a list of ESM certified BMPS:

- o Headwalls and Endwalls
- o Stacked Stone Headwalls
- o Crosspipe Installation
- o Shallow Pipe Installation
- o French Mattress
- o Underdrains
- o High-Water Bypass
- o Surface Drainage Practices
- o Crown and Cross-Slope
- o Grade Breaks
- o Broad-Based Dips
- o Conveyor Belt Diversion
- o Surface Maintenance
- o Raising the road Profile
- o "Through-the-Bank" Pipe

Project Completion: Projects must be completed as soon as possible, within one year from the date of signed contract

PROCEDURES FOR ACAP QAB FORMATION & CONDUCT

1. ACAP QAB Formation:

A committee may be appointed by the conservation district board to advise the program and identify local priorities and opportunities to complement other programs. The ACAP QAB in Warren County will be comprised of at least four members as follows: One non-voting chairman and three voting members as appointed by the Board. The non-voting chairman only gets a vote in instances where there is a tie. The three other local representatives are encouraged to be knowledgeable of agricultural operations and conservation.

2. Meeting Schedule and Procedures:

The ACAP QAB may meet on a monthly or an as needed basis. Specific dates and time will be determined by the members. Additional meetings may be held or meetings may be cancelled at the discretion of the ACAP QAB. All recommendations of the ACAP QAB must be presented to the District Board for final approval.

3. Conflict of Interest:

If an ACAP Project application involves an applicant that is a district director, ACAP QAB member or District staff member or an immediate family member or a business with which he/she is associated, that individual may not participate in the evaluation, ranking or any deliberation for approval or disapproval of the application or approval of a reimbursement payment of grant funds. This individual will exclude themselves from voting.

APPENDIX A: ACAP RANKING

APPENDIX B: BIDDING PROCEDURES

Appendix C: SUPPLEMENTAL FARM ACCESS ROAD RATING WORKSHEET