

### 405.131 TECHNICAL ASSISTANCE MATRIX FOR ETHICAL PROGRAM DELIVERY

This Chart reflects the minimum extent to which an NRCS employee who participates or has applied to participate in, an NRCS program or NRCS assisted program, is disqualified from performing substantive official NRCS duties with respect to that program.

PROGRAM FUNCTIONS	EMPLOYEE PERFORM WORK ON OWN PARTICIPATING OPERATION(S)	EMPLOYEE PERFORM WORK WITHIN OWN SERVICE AREA(S)	<p><b>Required Disqualification</b></p> <p>If an employee must not perform an NRCS function on the employee’s own property, then the employee also must not perform that function on property of the employee’s:</p> <ul style="list-style-type: none"> <li>● Spouse or child;</li> <li>● Relative with whom the employee has a close relationship;</li> <li>● Member of the employee’s household;</li> <li>● Business partner;</li> <li>● Employer or perspective employer; and</li> <li>● Spouse’s, parent’s or minor child’s employer.</li> </ul> <p>Or on property of an organization in which the employee:</p> <ul style="list-style-type: none"> <li>● has served within the last year as, an employee, officer, trustee, general partner, contractor, director, or agent; or</li> <li>● is a committee or subcommittee chairperson.</li> </ul> <p><b>Examples</b></p> <p>i) Jones, an NRCS employee, applies for Jones’ farm to participate in EQIP in Carroll County.</p> <ul style="list-style-type: none"> <li>● Jones must not perform program NRCS functions 1 or 2, or 3-7 for Jones’ farm or any of the other farms that are competing during the same EQIP signup in Carroll County.</li> <li>● After the decision is made to approve or disapprove a contract on Jones’ farm, Jones may be permitted to perform NRCS duties for functions 8-13 on other properties. Jones may never perform substantive NRCS duties on Jones’ own property.</li> </ul>
i) National Program Development ii) State Program Development	<b>Do not perform, if will participate</b>		
iii) Application iv) Eligibility Determination v) Ranking vi) Fund Obligation vii) Contract Approval	<b>Not Allowed to Perform NRCS Duties</b>	<b>Not Allowed to Perform NRCS Duties in competing area</b>	
AFTER A CONTRACT IS APPROVED			
viii) CNMP Plan	<b>Not Allowed to Perform NRCS Duties</b>	Perform Work	
ix) Practice Design	<b>Not Allowed to Perform NRCS Duties</b>	Perform Work	
x) Practice Installation	<b>Not Allowed to Perform NRCS Duties</b>	Perform Work	
xi) Practice Certification (including payment approval)	<b>Not Allowed to Perform NRCS Duties</b>	Perform Work	
xii) Self Certification	<b>Not Allowed to Perform NRCS Duties</b>		

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<p>xiii) Status Reviews</p>	<p><b>Not Allowed to Perform NRCS Duties</b></p>	<p>Perform Work</p>	<p>ii) A State Conservationist who farms in the same State and applies to participate in EQIP may need to be disqualified from participation in official matters including functions 1-7 for that EQIP signup Statewide. In such cases, the required level of disqualification is:</p> <ul style="list-style-type: none"> <li>● Statewide in a State where applicants compete for funding on a Statewide basis</li> <li>● Countywide (where operation is located) in a State where the competition for funding is within each county and there is no impact on whether an application may be successful based on decisions to accept or disapprove applicants from other counties.</li> </ul> <p>iii) Taylor is a District Conservationist (DC). Taylor also owns a farm that is enrolled under FRPP. The Fairfax Conservancy (TFC) is the easement holder on Taylor’s farm. Taylor cannot conduct the Highly Erodible Land (HEL) compliance review on Taylor’s own farm. Taylor is also prohibited from conducting HEL compliance reviews on other farms that TFC manages, since TFC is the easement holder of Taylor’s property.</p>
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**Chart Use and Limitations**

iv) The Chart on the front of this form reflects the minimum extent to which an NRCS employee who has applied to participate in an NRCS program in their personal capacity, must step aside and not perform substantive NRCS functions in their official NRCS capacity. The minimum levels listed are based on either, or both, the Standards of Ethical Conduct for Employees of the Executive Branch (See 5 CFR Part 2635) or NRCS policy and internal controls designed to protect the integrity of NRCS programs and services. Further disqualification, as may be required by 5CFR 2635, is the responsibility of the employee.

**Exceptions**

Ethics regulations provide limited authority for NRCS to authorize certain exceptions to the disqualification requirements. No exemptions shall be issued except upon determination by the NRCS official with delegated authority to issue such exceptions, that all requirements for such exemption have been met.

- The NRCS Designated Ethics Official (DEO) has the authority to issue individual waivers under 18 USC 208(b)(1). [See 5 CFR 2635.402(d)(2).] When practical, the Agency Ethics Official will consult with the Office of Government Ethics (OGE) prior to granting any such waiver. Once issued, a copy of any such waiver must be sent to OGE under the NRCS DEO’s signature.
- Deputy Chiefs and Regional Conservationists are the Agency designees with authority to issue authorizations pursuant to 5 CFR 2635.502(d). This authority may be used to allow an employee to participate in a matter that does not violate 18 USC 208(a) [see 5 CFR Part 2635.402(a)] but that does raise an impartiality question in the mind of a reasonable person, based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee’s participation outweighs the concern that a reasonable person may question the integrity of the Agency’s programs and operations. Note that an employee’s reputation for honesty and integrity is not a relevant consideration in making this determination. [See 5 CFR 2635.502(f).] This authority may not be re-delegated except to State Conservationists upon determination by the Regional Conservationist that the State Ethics Advisor possesses sufficient expertise to adequately assist the State Conservationist to fully comply with the requirements for issuing such authorizations.
- A waiver for any Agency designee may only be issued by the NRCS DEO, except that a waiver for the NRCS DEO may only be issued by the Chief.
- Authority to issue a waiver for the Associate Chief is reserved to the Chief, personally. Authority to issue a waiver for the Chief is reserved to the Under Secretary or Deputy Under Secretary for Natural Resources and Environment, or the Director, USDA Office of Ethics.