

**§ 1466.24**

**7 CFR Ch. XIV (1–1–10 Edition)**

(2) Notwithstanding paragraph (c)(1)(ii) of this section, a farmer or rancher meeting the historically underserved producer designation in §1466.3 may be awarded the applicable payment rate and an additional rate that is not less than 25 percent above the applicable rate, provided this increase does not exceed 90 percent of the incurred costs estimated for the conservation practice.

(3) The payments to a participant will be reduced proportionately below the rate established by the State Conservationist or designated conservationist, to the extent that total financial contributions for a conservation practice from other sources exceed 100 percent of the estimated costs incurred for implementing or performing the conservation practice.

(4) The State Conservationist shall provide payments for conservation practices on some or all of the operations of a producer related to organic production and the transition to organic production. Payments may not be made to cover the costs associated with organic certification or for practices that are eligible for cost-share payments under the National Organic Program (7 U.S.C. 6523).

(d) Practice payment rates greater than 50 percent for estimated costs incurred, excluding those described in paragraph (c)(2) of this section, are to be approved by the Chief.

(e) Subject to fund availability, the payment rates for conservation practices scheduled after the year of contract obligation may be adjusted to reflect increased costs.

[74 FR 2313, Jan. 15, 2009]

**§ 1466.24 EQIP payments.**

(a) Except for contracts entered into prior to October 1, 2008, or as provided in paragraph (b) of this section, the total amount of payments paid to a person or legal entity under this Part may not exceed an aggregate of \$300,000, directly or indirectly, for all contracts, including prior year contracts, entered into during any 6-year period. For the purpose of applying this requirement, the 6-year period will include those payments made in fiscal years 2009–2014. Payments received for

technical assistance shall be excluded from this limitation.

(b) The Chief may waive the \$300,000 payment limitation, allowing up to \$450,000 per person or legal entity for projects of special environmental significance, as defined in §1466.21(d).

(c) Payments for conservation practices related to organic production to a person or legal entity, directly or indirectly, may not exceed in aggregate \$20,000 per year or \$80,000 during any 6-year period.

(d) To determine eligibility for payments, NRCS will use the following criteria:

(1) The provisions in part 1400 of this chapter, Payment Limitation and Payment Eligibility, subparts A and G.

(2) States, political subdivisions, and entities thereof will not be considered to be persons or legal entities eligible for payment.

(3) To be eligible to receive an EQIP payment, all legal entities or persons applying, either alone or as part of a joint operation, must provide a tax identification number and percentage interest in the legal entity. In accordance with 7 CFR 1400, an applicant applying as a joint operation or legal entity must provide a list of all members of the legal entity and joint operation and associated embedded entities, along with the members' social security numbers and percentage interest in the joint operation or legal entity. Where applicable, American Indians, Alaska Natives, and Pacific Islanders may use another unique identification number for each individual eligible for payment.

(4) With regard to contracts with Indian tribes or Indians represented by BIA, payments exceeding the payment limitation may be made to the Tribal participant if a BIA or Tribal official certifies in writing that no one individual, directly or indirectly, will receive more than the payment limitation. The Tribal entity must also provide, annually, a listing of individuals and payments made, by social security or tax identification number or other unique identification number, during the previous year for calculation of overall payment limitations. The BIA or Tribal entity must also produce, at the request of NRCS, proof of payments

## Commodity Credit Corporation, USDA

## § 1466.26

made to the person or legal entity that incurred costs or sacrificed income related to conservation practice implementation.

(5) Any cooperative association of producers that markets commodities for producers will not be considered to be a person eligible for payment.

(6) Eligibility for payments in accordance with part 1400, subpart G of this chapter, average adjusted gross income limitation, will be determined prior to contract approval.

(7) To be eligible for payments for conservation practices related to organic production or the transition to organic production, a participant will develop and implement an organic system plan as defined in § 1466.3.

(8) Eligibility for higher payments in accordance with paragraph (b) of this section will be determined at the time of contract approval.

(9) Any participant that utilizes a unique identification number as an alternative to a tax identification number will utilize only that identifier for any and all other EQIP contracts to which the participant is a party. Violators will be considered to have provided fraudulent representation and be subject to full penalties of § 1466.35.

(10) A participant will not be eligible for payments for conservation practices on eligible land if the participant receives payments or other benefits for the same practice on the same land under any other conservation program administered by USDA.

(11) The State Conservationist may issue advance payments to historically underserved producers up to 30 percent of the anticipated amount of the costs incurred for the purpose of purchasing materials or services to implement a conservation practice.

(12) Before NRCS will approve and issue final payment, the participant must certify that the conservation practice has been completed in accordance with the contract, and NRCS, or an approved TSP, must certify that the practice has been carried out in accordance with the applicable NRCS technical guidance.

[68 FR 32348, May 30, 2003, as amended at 74 FR 10675, Mar. 12, 2009]

### § 1466.25 Contract modifications and transfers of land.

(a) The participant and NRCS may modify a contract if both parties agree to the contract modification, the EQIP plan of operations is revised in accordance with NRCS requirements, and the contract is approved by the designated conservationist.

(b) It is the participant's responsibility to notify NRCS when he/she either anticipates the voluntary or involuntary loss of control of the land covered by an EQIP contract.

(c) The participant and NRCS may agree to transfer a contract to another party.

(1) To receive an EQIP payment, the transferee must be determined by NRCS to be eligible to participate in EQIP and must assume full responsibility under the contract, including the O&M agreement for those conservation practices already installed and those conservation practices to be installed as a condition of the contract.

(2) If the transferee is ineligible or refuses to accept future payments, NRCS will terminate the contract and may require the transferor to refund and/or forfeit all payments received.

(d) NRCS may require a participant to refund all or a portion of any financial assistance earned under EQIP if the participant sells or loses control of the land covered by an EQIP contract and the new owner or controller is not eligible to participate in the program or refuses to assume responsibility under the contract.

(e) In the event a conservation practice fails through no fault of the participant, the State Conservationist may issue payments to re-establish the practice, at the rates established in accordance with § 1466.23, provided such payments do not exceed the payment limitation requirements as set forth § 1466.24.

[74 FR 2313, Jan. 15, 2009]

### § 1466.26 Contract violations and terminations.

(a) The State Conservationist may terminate, or by mutual consent with the parties, terminate the contract where: