

## Commodity Credit Corporation, USDA

## § 1470.24

a research, demonstration, or pilot testing plan consistent with design protocols and application procedures established by NRCS; and

(5) Other information as determined appropriate by NRCS.

### § 1470.23 Conservation activity operation and maintenance.

The participant will maintain and manage existing conservation activities on the agricultural operation to at least the level of conservation performance identified at the time the application is obligated into a contract for the conservation stewardship contract period, and additional activities installed and adopted over the term of the conservation stewardship contract.

### § 1470.24 Payments.

(a) *Annual payments.* Subject to the availability of funds, NRCS will provide, as appropriate, annual payments under the program to compensate a participant for installing and adopting additional conservation activities, and improving, maintaining, and managing existing conservation activities. A split-rate annual payment structure will be used to provide separate payments for additional and existing conservation activities in order to place emphasis on implementing additional conservation.

(1) To receive annual payments, a participant must:

(i) Install and adopt additional conservation activities as scheduled in the conservation stewardship plan. At least one additional enhancement must be scheduled, installed, and adopted in the first fiscal year of the contract. All enhancements must be scheduled, installed, and adopted by the end of the third fiscal year of the contract, and

(ii) As a minimum, maintain existing activities to the level of existing conservation performance identified at the time the application is obligated into a contract for the conservation stewardship contract period;

(2) To earn annual payments for an eligible land use, a participant must schedule, install, and adopt at least one additional conservation activity on that land-use type. Eligible land-use types that fail to have at least one additional conservation activity sched-

uled, installed, and adopted will not receive annual payments;

(3) A participant's annual payments will be determined using the conservation performance estimated by the CMT and computed by land-use type for eligible land earning payments. Conservation performance is prorated over the contract term so as to accommodate, to the extent practicable, participants earning equal annual payments in each fiscal year;

(4) The annual payment rates will be based to the maximum extent practicable, on the following factors:

(i) Costs incurred by the participant associated with planning, design, materials, installation, labor, management, maintenance, or training,

(ii) Income foregone by the participant, and

(iii) Expected environmental benefits, determined by estimating conservation performance improvement using the CMT;

(5) The annual payment method will accommodate some participant operational adjustments without the need for contract modification.

(i) Enhancements may be replaced with similar enhancements without adjustment of annual payment as long as the conservation performance is determined by NRCS to be equal to or better than the conservation performance of the additional enhancements offered at enrollment. An enhancement replacement that results in a decline below that conservation performance level will not be allowed, and

(ii) Adjustments to existing activities may occur consistent with conservation performance requirements from § 1470.23; and

(6) Enhancements may be applied on other land included in an agricultural operation, as determined by NRCS.

(b) *Supplemental payments.* Subject to the availability of funds, NRCS will provide a supplemental payment to a participant receiving annual payments, who also agrees to adopt a resource-conserving crop rotation.

(1) The State Conservationist will determine whether a resource-conserving crop rotation is eligible for supplemental payments based on whether the resource-conserving crop rotation is

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designed to provide natural resource conservation and production benefits;

(2) A participant must agree to adopt and maintain a beneficial resource-conserving crop rotation for the term of the contract to be eligible to receive a supplemental payment. A resource-conserving crop rotation is considered adopted when the resource-conserving crop is planted on at least one-third of the rotation acres. The resource-conserving crop must be adopted by the third fiscal year of the contract and planted on all rotation acres by the fifth fiscal year of the contract; and

(3) The supplemental payment is set at a rate needed to encourage a producer to adopt a resource-conserving crop rotation and will be based, to the maximum extent practicable, on costs incurred and income foregone by the participant and expected environmental benefits, determined by estimating conservation performance improvement using the CMT.

(c) *On-farm research and demonstration or pilot testing.* A participant may be compensated through their annual payment for:

(1) On-farm research and demonstration activities; or

(2) Pilot testing of new technologies or innovative conservation activities.

(d) *Minimum contract payment.* NRCS will make a minimum contract payment to participants who are socially disadvantaged farmers or ranchers, beginning farmers or ranchers, or limited resource farmers or ranchers, at a rate determined by the Chief in any fiscal year that a contract's payment amount total is less than \$1,000. Definitions of socially disadvantaged farmers or ranchers, beginning farmers or ranchers, and limited resource farmers or ranchers are contained in §1470.3.

(e) *Timing of payments.* NRCS will make payments as soon as practicable after October 1 of each fiscal year for activities carried out in the previous fiscal year. For newly enrolled contracts, payments will be made as soon as practicable after October 1 following the fiscal year of enrollment.

(f) *Non-compensatory matters.* A CSP payment to a participant will not be provided for:

(1) New conservation practices or enhancements applied with financial as-

sistance through other USDA conservation programs;

(2) The design, construction, or maintenance of animal waste storage or treatment facilities, or associated waste transport or transfer devices for animal feeding operations; or

(3) Conservation activities for which there is no cost incurred or income foregone by the participant.

(g) *Payment limits.* A person or legal entity may not receive, directly or indirectly, payments that, in the aggregate, exceed \$40,000 during any fiscal year for all CSP contracts entered into, and \$200,000 for all CSP contracts entered into during any 5-year period, excluding funding arrangements with federally recognized Indian tribes or Alaska Native corporations, regardless of the number of contracts entered into under the CSP by the person or legal entity.

(h) *Contract limits.* Payments under a conservation stewardship contract with joint operations will be limited to \$80,000 per fiscal year and \$400,000 over the term of the initial contract period, excluding funding arrangements with federally recognized Indian tribes or Alaska Native corporations. The payment limits for contracts with persons or legal entities are contained in §1470.24(g).

(i) *Payment limitation provisions for individual Indians and Indian tribes.* Payment limitations apply to individual tribal member(s) when applying and subsequently being granted a contract as an individual(s). Contracts with Indian tribes or Alaska Native corporations are not subject to payment or contract limitations. Indian tribes and BIA will certify in writing that no one individual, directly or indirectly, will receive more than the payment limitation. Certification provided at the time of contract obligation will cover the entire contract period. The tribal entity must also provide, upon request from NRCS, a listing of individuals and payment made, by Social Security number or other unique identification number, during the previous year for calculation of overall payment limitations.

(j) *Tax Identification Number.* To be eligible to receive a CSP 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 part 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 of interest in the joint operation or legal entity. Payments will be directly attributed to legal entity members for the purpose of complying with § 1470.24(g).

(k) *Unique tax identification numbers.* Where applicable, American Indians, Alaska Natives, and Pacific Islanders may use another unique identification number for each individual eligible for payment. 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 CSP contracts to which the participant is a party. Violators will be considered to have provided fraudulent representation and be subject to full penalties of § 1470.36.

(1) *Payment data.* NRCS will maintain detailed and segmented data on CSP contracts and payments to allow for quantification of the amount of payments made for:

(1) Installing and adopting additional activities;

(2) Improving, maintaining, and managing existing activities;

(3) Participation in research and demonstration or pilot projects; and

(4) Development and periodic assessment and evaluation of conservation stewardship plans developed under this rule.

#### **§ 1470.25 Contract modifications and transfers of land.**

(a) NRCS may allow a participant to modify a conservation stewardship contract if NRCS determines that the modification is consistent with achieving the purposes of the program.

(b) NRCS will allow modification to a conservation stewardship contract to remove contract acres enrolled in the CRP, WRP, or GRP or other Federal or State programs that offer greater natural resource protection. Such modi-

fications are consistent with the purposes of CSP. Participants will not be subject to liquidated damages or refund of payments received for enrolling land in these programs.

(c) NRCS will not allow a participant to modify a conservation stewardship contract to increase the contract obligation beyond the amount of the initial contract, with exception for contracts approved by NRCS for renewal or other exceptional cases as determined by the Chief.

(d) Land under contract will be considered transferred if the participant loses control of the acreage for any reason.

(1) The participant is responsible to notify NRCS prior to any voluntary or involuntary transfer of land under contract;

(2) If all or part of the land under contract is transferred, the contract terminates with respect to the transferred land unless:

(i) The transferee of the land provides written notice within 60 days to NRCS that all duties and rights under the contract have been transferred to, and assumed by, the transferee, and

(ii) The transferee meets the eligibility requirements of the program; and

(e) Contract payment adjustments due to modifications will be reflected in the fiscal year following the modification.

#### **§ 1470.26 Contract renewal.**

(a) At the end of an initial conservation stewardship contract, NRCS may allow a participant to renew the contract to receive payments for one additional 5-year period, subject to the availability of funds, if they meet criteria from paragraph (b) of this section.

(b) To be considered for contract renewal, the participant must:

(1) Be in compliance with the terms of their initial contract as determined by NRCS;

(2) Add any newly acquired eligible land that is part of the agricultural operation and meets minimum treatment criteria as established and determined by NRCS;