

## **PART 1470—CONSERVATION STEWARDSHIP PROGRAM**

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#### **Subpart A—General Provisions**

##### **§1470.1 Applicability.**

(a) This part sets forth the policies, procedures, and requirements for the Conservation Stewardship Program (CSP) as administered by the Natural Resources Conservation Service (NRCS), for enrollment during fiscal year (FY) 2014 and thereafter. Contracts entered into prior to FY 2014 will use the regulations and policies in effect the date prior to February 7, 2014.

(b) The purpose of CSP is to encourage producers to address priority resource concerns and improve and conserve the quality and condition of natural resources in a comprehensive manner by:

- (1) Undertaking additional conservation activities; and
- (2) Improving, maintaining, and managing existing conservation activities.

(c) CSP is applicable in any of the 50 States, District of Columbia, Commonwealth of Puerto Rico, Guam, Virgin Islands of the United States, American Samoa, and Commonwealth of the Northern Mariana Islands.

(d) NRCS provides financial and technical assistance to eligible producers.

#### **§1470.2 Administration.**

(a) The regulations in this part will be administered under the general supervision and direction of the Chief, NRCS, who is a Vice President of the Commodity Credit Corporation (CCC).

(b) No delegation in the administration of this part to lower organizational levels will preclude the Chief from making any determinations under this part, re-delegating to other organizational levels, or from reversing or modifying any determination made under this part. The Chief may modify or waive a nonstatutory, discretionary provision of this part if the Chief determines:

(1) The application of that provision to a particular limited situation to be inappropriate and inconsistent with the purposes of the program; or

(2) The waiver of such discretionary provision is necessary to further the purposes of CSP under the Regional Conservation Partnership Program (RCPP) authorized by Subtitle I of Title XII of the Food Security Act of 1985. To assist in RCPP implementation, the Chief may also waive the applicability of the adjusted gross income (AGI) limitation in section 1001D(b)(2) of the Food Security Act of 1985 for participating producers if the Chief determines that the waiver is necessary to fulfill RCPP objectives.

(c) To achieve the conservation goals of CSP, NRCS will:

(1) Make the program available nationwide to eligible applicants on a continuous application basis with one or more ranking periods to determine enrollments. One of the ranking

periods will occur in the first quarter of each fiscal year to the extent practicable.

(2) Establish a science-based stewardship threshold for each priority resource concern at the level of management required to conserve and improve the quality and condition of a natural resource.

(d) During the period beginning on February 7, 2014, and ending on September 30, 2022, NRCS will, to the maximum extent practicable:

(1) Enroll in CSP an additional 10,000,000 acres for each fiscal year; and

(2) Manage CSP to achieve a national average rate of \$18 per acre, which includes the Federal costs of all financial and technical assistance and any other expenses associated with program enrollment and participation.

(e) NRCS will develop State level technical, outreach, and program materials, with the advice of the State Technical Committee and local working groups, including:

(1) Establishment of ranking pools appropriate for the conduct of CSP within the State to ensure program availability and better distribution of the funds. Ranking pools may be based on watersheds, geographic areas, or other appropriate regions within a State and may consider high-priority regional and State-level resource concern areas;

(2) Identification of not less than five applicable priority resource concerns in particular geographic areas, or other appropriate regions within a State; and

(3) Identification of resource-conserving crops that will be part of resource-conserving crop rotations.

(f) NRCS may enter into agreements with Federal, State, and local agencies, conservation districts, Indian Tribes, private entities, and individuals to assist NRCS with program implementation.

### **§1470.3 Definitions.**

The following definitions will apply to this part and all documents issued in accordance with this part, unless specified otherwise:

*Agricultural operation* means all eligible land, as determined by NRCS, whether contiguous or noncontiguous that is:

(1) Under the effective control of a producer at the time of enrollment in the program;  
and

(2) Operated by the producer with equipment, labor, management, and production or

cultivation practices that are substantially separate from other agricultural operations.

*Applicant* means a producer who has requested in writing to participate in CSP.

*Beginning farmer or rancher* means a person or legal entity who:

(1) Has not operated a farm, ranch, or nonindustrial private forest land (NIPF), or who has operated a farm, ranch, or NIPF for not more than 10 consecutive years. This requirement applies to all members of a legal entity who will materially and substantially participate in the operation of the farm or ranch.

(2) In the case of a contract with an individual, individually, or with the immediate family, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the county or State where the farm is located.

(3) In the case of a contract with a legal entity or joint operation, all members must materially and substantially participate in the operation of the farm or ranch. Material and substantial participation requires that each of the members provide some amount of the management or labor and management necessary for day-to-day activities, such that if each of the members did not provide these inputs, operation of the farm or ranch would be seriously impaired.

*Chief* means the Chief of NRCS, United States Department of Agricultural (USDA), or designee.

*Conservation activities* mean conservation systems, practices, enhancements or management measures. The term conservation activities includes structural measures, vegetative measures, and land management measures, including agricultural drainage management systems as determined by NRCS, and planning needed to address a priority resource concern.

*Conservation district* means any district or unit of State, Tribal, or local government formed under State, Tribal, or territorial law for the express purpose of developing and carrying out a local soil and water conservation program. Such district or unit of government may be referred to as a “conservation district,” “soil conservation district,” “soil and water conservation district,” “resource conservation district,” “land conservation committee,” “natural resource district,” or similar name.

*Conservation practice* means structural practices, land management practices, vegetative practices, forest management practices, and other improvements that achieve the program purposes, including such items as Comprehensive Nutrient Management Plans, agricultural energy management plans, dryland transition plans, forest management plans, integrated pest management and other actions as approved by the Chief. Approved conservation practices are listed in the NRCS Field Office Technical Guide (FOTG).

*Conservation stewardship plan* means a plan developed in accordance with the requirements of §1470.22.

*Conservation system* means a combination of conservation practices, management measures, and enhancements used to address natural resource and environmental concerns in a comprehensive, holistic, and integrated manner.

*Contract* means a legal document that specifies the rights and obligations of any participant who has been accepted into the program. A CSP contract is a binding agreement for the transfer of assistance from NRCS to the participant for installing, adopting, improving, managing, and maintaining conservation activities.

*Effective control* means possession of the land by ownership, written lease, or other legal agreement and authority to act as decision maker for the day-to-day management of the operation both at the time the applicant enters into a stewardship contract and for the required period of the contract.

*Eligible land* means:

(1) Private and tribal land on which agricultural commodities, livestock, or forest-related products are produced; and

(2) Upon which priority resource concerns could be addressed through a contract under the program. Eligible land includes cropland, grassland, rangeland, pastureland, nonindustrial private forest land, and other agricultural lands including cropped woodland, marshes, and agricultural land used or capable of being used for the production of livestock as determined by the Chief.

*Enhancement* means a type of conservation activity used to treat natural resources and improve conservation performance. Enhancements are equal to or greater than the performance level for the quality criteria identified for a given resource concern. Quality criteria are defined for each resource concern in Section III—Conservation Management Systems, Field Office Technical Guide.

*Field office technical guide* means the official local NRCS source of resource information and interpretations of guidelines, quality criteria, and standards for planning and implementation of conservation practices. It contains detailed information on the quality standard to achieve conservation of soil, water, air, plant, energy, and animal resources applicable to the local area for which it is prepared.

*Historically underserved producer* means a person, joint operation, legal entity, or Indian Tribes who is a beginning farmer or rancher, socially disadvantaged farmer or rancher, or limited resource farmer or rancher.

*Indian lands* means land held in trust by the United States for individual Indians or

Indian Tribes, or all land titles held by individual Indians or Tribes, subject to Federal restrictions against alienation or encumbrance, or land which is subject to the rights of use, occupancy, and/or benefit of certain Indian Tribes. This term also includes lands for which the title is held in fee status by an Indian, Indian family, or Indian Tribe.

*Indian Tribe* means any Indian Tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

*Joint operation* means, as defined in 7 CFR part 1400, a general partnership, joint venture, or other similar business organization in which the members are jointly and severally liable for the obligations of the organization.

*Legal entity* means, as defined in 7 CFR part 1400, an entity created under Federal or State law that owns land or an agricultural commodity, product, or livestock; or produces an agricultural commodity, product, or livestock.

*Limited Resource Farmer or Rancher* means:

(1) A person with direct or indirect gross farm sales not more than the current indexed value in each of the previous 2 fiscal years (adjusted for inflation using Prices Paid by Farmer Index as compiled by the National Agricultural Statistical Service); and

(2) Has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous 2 years (to be determined annually using Department of Commerce Data).

(3) It also includes a legal entity or joint operation if all individual members independently qualify under paragraphs (1) and (2) of this definition.

*Liquidated damages* means a sum of money stipulated in the CSP contract that the participant agrees to pay NRCS if the participant fails to fulfill the terms of the contract. The sum represents an estimate of the technical assistance expenses incurred to service the contract, and reflects the difficulties of proof of loss and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy.

*Management measure* means one or more specific actions that is not a conservation practice, but has the effect of alleviating problems or improving the treatment of the natural resources.

*National Organic Program* means the program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 *et seq.*), administered by the Agricultural Marketing Service, which regulates the standards for any farm, wild crop harvesting, or handling operation

that wants to market an agricultural product as organically produced.

*Natural Resources Conservation Service* means an agency of USDA which has responsibility for administering CSP using the funds, facilities, and authorities of the CCC.

*Nonindustrial private forest land* means rural land, as determined by NRCS, that has existing tree cover or is suitable for growing trees, and is owned by any nonindustrial private individual, group, association, corporation, Indian Tribe, or other private legal entity that has definitive decision-making authority over the land.

*Operation and maintenance* means work performed by the participant to maintain existing conservation activities to at least the level of conservation performance identified at the time of enrollment, and maintain additional conservation activities installed and adopted over the contract period. Operation includes the administration, management, and performance of non-maintenance actions needed to keep the completed activity functioning as intended. Maintenance includes work to prevent deterioration of the activity, repairing damage, replacement or restoration of the activity to its original condition if one or more components fail.

*Participant* means a producer that has entered into a CSP contract and is receiving payment or is responsible for implementing the terms and conditions of a CSP contract.

*Payment* means financial assistance provided to the participant under the terms of the CSP contract.

*Person* means, as defined in 7 CFR part 1400, an individual, natural person and does not include a legal entity.

*Priority resource concern* means a natural resource concern or problem, as determined by NRCS, and is likely to be addressed successfully through implementation of conservation activities under this program. The term “applicable” priority resource concern means a resource concern identified by the State as a priority for a particular area of a State or region, and the term “other” priority resource concern means a resource concerns identified at the National level.

*Producer* means a person, legal entity, joint operation, or Indian Tribe who either has an interest in the agricultural operation or who NRCS determines is engaged in agricultural production or forestry management on the agricultural operation.

*Resource-conserving crop* means a crop that is one of the following:

- (1) A perennial grass;
- (2) A legume grown for use as forage, seed for planting, or green manure;
- (3) A legume-grass mixture;

(4) A small grain grown in combination with a grass, legume, forbs, grass-forbs mixture, whether inter-seeded or planted in rotation.

*Resource-conserving crop rotation* means a crop rotation that:

- (1) Includes at least one resource- conserving crop as determined by NRCS;
- (2) Reduces erosion;
- (3) Improves soil fertility and tilth;
- (4) Interrupts pest cycles; and
- (5) In applicable areas, reduces depletion of soil moisture or otherwise reduces the need for irrigation.

*Secretary* means the Secretary of USDA.

*Socially disadvantaged farmer or rancher* means a producer who is a member of a group whose members have been subjected to racial or ethnic prejudices without regard to its members' individual qualities.

*State Technical Committee* means a committee established by the NRCS in a State pursuant to 7 CFR part 610, subpart C.

*Stewardship threshold* means the level of management required, as determined by NRCS, to conserve and improve the quality and condition of a natural resource.

*Technical assistance* means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses. The term includes the following:

- (1) Technical services provided directly to farmers, ranchers, Indian Tribes, forest producers, and other eligible entities, such as conservation planning, technical consultation, preparation of forest stewardship management plans, and assistance with the design and implementation of conservation activities; and
- (2) Technical infrastructure, including processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.

*Technical Service Provider (TSP)* means an individual, private-sector entity, Indian Tribe, or public agency certified by NRCS pursuant to 7 CFR part 652 and placed on the approved list to provide technical services to participants; or selected by the Department to assist the Department in the implementation of conservation programs covered by this part through a

procurement contract, contribution agreement, or cooperative agreement with the Department.

*Veteran farmer or rancher* means a producer who meets the definition in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (7 U.S.C. 2279(e)).

#### **§1470.4 Allocation and management.**

(a) The Chief will allocate acres and associated funds to States:

(1) Based on the consideration of:

(i) Each State's proportion of eligible land to the total acreage of eligible land in all States:

(ii) The extent and magnitude of the conservation needs associated with agricultural production in each State,

(iii) The degree to which implementation of the program in the State is, or will be, effective in helping producers address those needs, and

(iv) Other considerations determined by the Chief to achieve equitable geographic distribution of program funds.

(b) NRCS will allocate acres to ranking pools, to the extent practicable, based on the same factors the Chief considers in making allocations to States.

(c) Of the acres made available for each of fiscal years 2014 through 2018 to carry out CSP, NRCS will use, as a minimum:

(1) Five percent to assist beginning farmers or ranchers, and

(2) Five percent to assist socially disadvantaged farmers or ranchers.

(d) NRCS will provide priority under paragraph (c) to any producer who is a veteran farmer or rancher.

(e) NRCS may adjust the allocations to States in any fiscal year if it is determined an allocation cannot be utilized in a State. Additionally, allocated acres that are not enrolled by a date determined by NRCS may be reallocated with associated funds for use in that fiscal year under CSP. As part of the adjustments or reallocation process, NRCS will consider several factors, including demand from applicants, national and regional conservation priorities, and prior-year CSP performance in States.

#### **§1470.5 Outreach activities.**

(a) NRCS will establish program outreach activities at the national, State, and local levels to ensure that potential applicants who control eligible land are aware and informed that they may be eligible to apply for program assistance.

(b) Special outreach will be made to eligible producers with historically low participation rates, including but not restricted to, beginning farmers or ranchers, limited resource farmers or ranchers, and socially disadvantaged farmers or ranchers.

(c) NRCS will ensure that outreach is provided so as not to limit producer participation because of size or type of operation or production system, including specialty crop and organic production.

#### **§1470.6 Eligibility requirements.**

(a) *Eligible applicant.* To apply for CSP, a producer must:

(1) Be the operator of an agricultural operation in the Farm Service Agency (FSA) farm records management system. Potential applicants who are not in the FSA farm records management system must establish records with FSA. Applicants whose records are not current in the FSA farm records management system must update those records prior to the close of the evaluation period to be considered eligible. NRCS may grant exceptions to the “operator of record” requirement for producers, tenants, landlords, sharecroppers, and owners in the FSA farm records management system that can demonstrate, to the satisfaction of NRCS, they will operate and have effective control of the land, that they share in the risk of producing a crop and are entitled to share in the crop available for marketing from the farm (or would have shared had the crop been produced), and that they are part of the daily management, administration, and performance of the operation and share in the risk;

(2) Have effective control of the land unless an exception is made by the Chief in the case of land administered by the BIA, Indian lands, or other instances in which the Chief determines that there is sufficient assurance of control;

(3) Be in compliance with the highly erodible land and wetland conservation provisions found at 7 CFR part 12;

(4) Be in compliance with Adjusted Gross Income provisions found at 7 CFR part 1400;

(5) Supply information, as required by NRCS, to determine eligibility for the program, including but not limited to, information related to eligibility requirements and ranking factors; conservation activity and production system records; information to verify the applicant's status as an historically underserved producer or a veteran farmer or rancher, if applicable; and payment eligibility as established by 7 CFR part 1400;

(6) Comply with applicable registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282, as amended), and 2

CFR parts 25 and 170; and

(7) Provide a list of all members of the legal entity or joint operation, as applicable, and embedded entities along with members' tax identification numbers and percentage interest in the legal entity or joint operation. Where applicable; American Indians, Alaska Natives, and Pacific Islanders may use another unique identification number for each individual eligible for payments.

(b) *Eligible land.* A contract application must include all of the eligible land on an applicant's agricultural operation. A participant may submit an application(s) to enter into an additional contract(s) for newly acquired or newly eligible land, which would then compete with other applications in a subsequent ranking period.

(c) *Ineligible land.* The following ineligible lands (even if covered by the definition of eligible land) are part of the agricultural operation, but ineligible for inclusion in the contract or for payment in CSP:

(1) Land enrolled in the Conservation Reserve Program (CRP), 7 CFR part 1410 unless—

(i) The conservation reserve contract will expire at the end of the fiscal year in which the land is to be enrolled in the program, and

(ii) Conservation reserve program payments for land enrolled in the program cease before the first program payment is made to the applicant under this subchapter;

(2) Land enrolled in a wetland reserve easement through the Agricultural Conservation Easement Program;

(3) Land enrolled in the Conservation Security Program, 7 CFR part 1469;

(4) Public land including land owned by a Federal, State, or local unit of government; and

(5) Land used for crop production after February 7, 2014, the date of enactment of the Agricultural Act of 2014, that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date, unless the land does not meet such requirements because that land:

(i) Had previously been enrolled in CRP,

(ii) Has been maintained using long- term crop rotation practices as determined by the NRCS, or

(iii) Is incidental land needed for efficient operation of the farm or ranch as determined

by NRCS.

#### **§1470.7 Enhancements and conservation practices.**

(a) Participant decisions describing the additional enhancements and conservation practices to be implemented under the conservation stewardship contract will be recorded in the conservation stewardship plan.

(b) NRCS will make available to the public the list of conservation activities available to be installed, adopted, maintained, and managed through the CSP.

(c) NRCS will make available bundled suites of conservation enhancements for participants to select voluntarily to include as part of their conservation stewardship plans. The bundles will be designed to coordinate the installation and adoption of enhancements with each other to address resource concerns in a more comprehensive and cost-effective manner.

(d) CSP encourages the use of other NRCS programs to install conservation practices that are required to meet agreed-upon stewardship thresholds, but the practices may not be compensated through CSP.

#### **§1470.8 Technical and other assistance.**

(a) NRCS may provide technical assistance to an eligible applicant or participant either directly or through a technical service provider (TSP) as set forth in 7 CFR part 652.

(b) NRCS retains approval authority over certification of work done by non-NRCS personnel for the purpose of approving CSP payments.

(c) NRCS will ensure that technical assistance is available and program specifications are appropriate so as not to limit producer participation because of size or type or operation or production system, including specialty crop and organic production. In providing technical assistance to specialty crop and organic producers, NRCS will provide appropriate training to field staff to enable them to work with these producers and to utilize cooperative agreements and contracts with nongovernmental organizations with expertise in delivering technical assistance to these producers.

(d) NRCS will assist potential applicants dealing with the requirements of certification under the National Organic Program and CSP requirements concerning how to coordinate and simultaneously meet eligibility standards under each program.

(e) NRCS may utilize the services of State foresters and existing technical assistance programs such as the Forest Stewardship Program of the U.S. Forest Service, in coordinating assistance to NIPF owners.

#### **Subpart B—Contracts and Payments**

**§1470.20 Application for contracts and selecting offers from applicants.**

(a) *Submission of contract applications.* Applicants may submit an application for the agricultural operation to enroll all of their eligible land into CSP on a continuous basis.

(b) *Stewardship threshold requirement.* To be eligible to participate in CSP, an applicant must submit to NRCS for approval, a contract offer for the agricultural operation that:

(1) Demonstrates that the applicant's conservation activities, at the time of contract offer, meet or exceed a stewardship threshold for at least two priority resource concerns; and

(2) Would, at a minimum, meet or exceed a stewardship threshold for at least one additional priority resource concern by the end of the conservation stewardship contract by:

(i) Installing and adopting additional conservation activities, and

(ii) Improving, maintaining, and managing existing conservation activities across the entire agricultural operation in a manner that increases or extends the conservation benefits in place at the time the contract application is accepted by NRCS;

(3) Provides a map, aerial photograph, or overlay that:

(i) Identifies the applicant's agricultural operation, and

(ii) Delineates eligible land with associated acreage amounts.

(c) *Evaluation of contract applications.* NRCS will conduct one or more ranking periods each fiscal year.

(1) To the extent practicable, one ranking period will occur in the first quarter of the fiscal year;

(2) In evaluating CSP applications, NRCS will rank applications based on the following factors, to the maximum extent practicable:

(i) Level of conservation treatment on all applicable priority resource concerns at the time of application,

(ii) Degree to which the proposed conservation activities effectively increase conservation performance,

(iii) Number of applicable priority resource concerns proposed to be treated to meet or exceed the stewardship threshold by the end of the contract,

(iv) Extent to which other priority resource concerns will be addressed to meet or exceed

the stewardship threshold by the end of the contract period, and

(v) Extent to which priority resource concerns will be addressed when transitioning from the conservation reserve program to agricultural production;

(3) In the event that application ranking scores from paragraph (2) above are similar, the application that represents the least cost to the program will be given higher priority; and

(4) NRCS may not assign a higher priority to any application because the applicant is willing to accept a lower payment than the applicant would otherwise be eligible to receive.

(d) *Weighting of ranking factors.* The weight given to each ranking factor may be adjusted to achieve program objectives, as determined by the Chief.

(e) *National, State, and local priorities.* The Chief may develop and use additional criteria that are determined necessary to ensure that national, State, and local priority resource concerns are effectively addressed.

(f) *Ranking pools.* Ranking pools will be established in accordance with §1470.2(e)(1).

(1) NIPF will compete in ranking pools separate from other eligible land. An applicant with both NIPF and other eligible land will submit one application for NIPF and one application for all other eligible land.

(2) An applicant with an agricultural operation that crosses ranking pool boundaries will make application and be ranked in the ranking pool where the largest acreage portion of their operation occurs.

(3) Within each State or established ranking pool, NRCS will address conservation access for certain farmers or ranchers, including:

(i) Socially disadvantaged farmers or ranchers,

(ii) Beginning farmers or ranchers, and

(iii) Producers who are veteran farmers or ranchers.

(g) *Application pre-approval.* NRCS will make application pre-approval determinations during established ranking periods based on eligibility and ranking score.

(h) *Field verification.* NRCS will conduct onsite field verification prior to entering into an agreement to substantiate the accuracy of the information provided by pre-approved applicants during the application process.

#### **§1470.21 Contract requirements.**

(a) After a determination that the application will be approved and a conservation stewardship plan will be developed in accordance with §1470.22, NRCS will enter into a conservation stewardship contract with the participant to enroll all of the eligible land on a participant's agricultural operation.

(b) The conservation stewardship contract will:

(1) Provide for payments over a period of 5 years;

(2) Incorporate by reference the conservation stewardship plan;

(3) State the payment amount NRCS agrees to make to the participant annually, subject to the availability of funds;

(4) Incorporate all provisions as required by law or statute, including requirements that the participant will:

(i) Implement the conservation stewardship plan as described in §1470.22,

(ii) Operate and maintain conservation activities on the agricultural operation consistent with §1470.23,

(iii) Comply with the terms of the contract or documents incorporated by reference into the contract,

(iv) Refund as determined by NRCS, any program payments received with interest, and forfeit any future payments under the program, upon the violation of a term or condition of the contract, consistent with §1470.27,

(v) Refund as determined by NRCS, all program payments received with interest, upon the transfer of the right and interest of the participant, in land subject to the contract, unless the transferee of the right and interest agrees to assume all obligations of the contract, consistent with §1470.25,

(vi) Maintain and supply information as requested by NRCS, to determine compliance with the conservation stewardship plan and any other requirements of the program, and

(vii) Not to conduct any activities on the agricultural operation that would tend to defeat the purposes of the program;

(5) Permit all economic uses of the eligible land that:

(i) Maintain the agricultural or forestry nature of the land, and

(ii) Are consistent with the conservation purposes of the contract;

(6) Include a provision to ensure that a participant will not be considered in violation of the contract for failure to comply with the contract due to circumstances beyond the control of the participant, including a disaster or related condition, as determined by NRCS; and

(7) Include such other provisions as NRCS determines necessary to ensure the purposes of the program are achieved.

**§1470.22 Conservation stewardship plan.**

(a) NRCS will use the conservation planning process as outlined in the National Planning Procedures Handbook to encourage participants to address resource concerns in a comprehensive manner.

(b) The conservation stewardship plan will contain a record of the participant's decisions that describes the schedule of conservation activities to be implemented, managed, or improved under the conservation stewardship contract. The plan will describe the program purposes to be achieved through one or more conservation activities.

(c) Associated supporting information maintained with the participant's plan will include:

(1) Documentation that will be the basis for:

(i) Identifying and inventorying priority resource concerns,

(ii) Establishing benchmark data on the condition of existing conservation activities,

(iii) Describing conservation activities to be implemented, managed, or improved, and

(iv) Documenting the participant's conservation objectives to reach and exceed stewardship thresholds;

(2) A plan map delineating the land area identified and included in the program contract with associated acreage amounts;

(3) In the case where a participant wishes to initiate or retain organic certification, documentation that will support the participant's transition to or participation in the National Organic Program; and

(4) Other information as determined appropriate by NRCS.

**§1470.23 Conservation activity operation and maintenance.**

The participant will maintain and manage existing conservation activities across the

entire agricultural operation to at least the level of conservation performance identified at the time of enrollment 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 across the entire agricultural operation in a manner that increases or extends the conservation benefits in place at the time the contract offer is accepted by NRCS. A split-rate annual payment structure is 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 conservation activity must be scheduled, installed, and adopted within the first 12 months of the contract. All enhancements must be scheduled, installed, and adopted by the end of the third fiscal year of the contract, unless the Chief approves a different schedule to meet specific conservation stewardship goals. Installed enhancements must be maintained for the remainder of the contract period and adopted enhancements must recur for the remainder of the contract period.

(ii) At a minimum, maintain activities to the level of existing conservation performance identified at the time of enrollment for the conservation stewardship contract period, and

(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 scheduled, installed, and adopted will not receive annual payments;

(3) Annual payments will be 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,

(iii) Expected conservation benefits,

(iv) The extent to which priority resource concerns will be addressed through the installation and adoption of conservation activities on the agricultural operation,

(v) The level of stewardship in place at the time of application and maintained over the term of the contract,

(vi) The degree to which the conservation activities will be integrated across the entire agricultural operation for all applicable priority resource concerns over the term of the contract, and

(vii) Such other factors as determined by the Chief.

(5) The annual payment will accommodate some participant operational adjustments.

(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 be considered a violation of the contract, and

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

(6) Conservation activities 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 or improve a resource-conserving crop rotation as defined by NRCS to achieve beneficial crop rotations as appropriate for the eligible land of the participant.

(1) NRCS will determine whether a resource-conserving crop rotation is eligible for supplemental payments based on whether the resource-conserving crop rotation is designed to provide natural resource conservation and production benefits;

(2) A participant must adopt or improve the resource-conserving crop rotation during the term of the contract to be eligible to receive a supplemental payment. Unless the Chief approves a different schedule to meet the conservation stewardship goals of particular crop rotation sequences, a resource-conserving crop rotation:

(i) Is considered adopted when the resource-conserving crop is planted on at least one-third of the rotation acres; and

(ii) 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 to encourage a producer to adopt or improve a resource-conserving crop rotation and will be based, to the maximum extent practicable, on the factors from §1470.24(a)(4).

(c) *Minimum contract payment.* NRCS may make a minimum contract payment to a participant in any fiscal year in which the contract's payment amount total is less than a rate determined equitable by the Chief based upon the effort required by a participant to comply with the terms of the contract.

(d) *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.

(e) *Noncompensatory matters.* A CSP payment to a participant will not be provided for:

(1) New conservation activities applied with financial assistance 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.

(f) *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 under all CSP contracts entered into during fiscal years 2014 through 2018, excluding funding arrangements with Indian tribes, regardless of the number of contracts entered into under the CSP by the person or legal entity. NRCS may waive the annual payment limitations in this section where NRCS determines that due to circumstances beyond the participant's control, payment for implementation for a fiscal year's activities cannot be made as scheduled under the CSP contract.

(g) *Contract limits.* Each conservation stewardship contract will be limited to \$200,000 over the term of the initial contract period, except that conservation stewardship contracts with joint operations will be limited to \$80,000 per fiscal year and \$400,000 over the term of the initial contract period.

(h) *Payment and contract 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 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 enrollment 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.

(i) *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(f). Applicant applying as a joint operation must provide an EIN for the joint operation to qualify for the contract limit available under §1470.24(g).

(j) *Unique tax identification numbers.* 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 all CSP contracts to which the participant is a party.

[79 FR 65843, Nov. 5, 2014, as amended at 81 FR 12582, Mar. 10, 2016]

#### **§1470.25 Voluntary contract modifications and transfers of land.**

(a) NRCS may modify a conservation stewardship contract, if:

- (1) The participant agrees to the modification, and
- (2) NRCS determines the modification is in the public interest.

(b) NRCS may allow modification to a conservation stewardship contract to accommodate certain changes in the agricultural operation, such as to remove contract acres to be enrolled in CRP, protected by a wetland reserve easement through ACEP, or enrolled in other Federal or State programs that offer greater natural resource protection through an easement, long-term contract, land use restrictions, or similar authority as determined by NRCS. Payments for such modified contracts will be reduced to reflect the modified acreage and performance. Participants will not be subject to liquidated damages or refund of payments received for enrolling land in these programs. NRCS may also approve modification to a conservation stewardship contract to accommodate other limited changes on land that the participant has effective control in response to a participant's request made prior to implementing the change that would take land out of production or convert an area under contract to a different land use. Prior to approval, NRCS must determine that any modification under this section is authorized

by the provisions of 16 U.S.C. 3838d-3838g.

(c) A voluntary contract modification under this section will not increase the scheduled annual payments under the program, except to implement an appeal determination or correct an administrative error as approved by NRCS. Successor in interest or other changes made to the structure of an operation are subject to this limitation on contract agreement.

(d) Within the time specified in the contract, a participant must provide NRCS with written notice regarding any voluntary or involuntary loss of control of any acreage under the CSP contract, which includes changes in a participant's ownership structure or corporate form. Failure to provide timely notice will result in termination of the entire contract.

(e) Unless NRCS approves a transfer of contract rights under this paragraph, a participant losing control of any acreage will constitute a violation of the CSP contract and NRCS will terminate the contract and require a participant to refund all or a portion of any financial assistance provided. NRCS may approve a transfer of the contract if:

(1) NRCS receives written notice that identifies the new producer who will take control of the acreage, as required in paragraph (d) of this section;

(2) The new producer meets program eligibility requirements within a reasonable time frame, as specified in the CSP contract;

(3) The new producer agrees to assume the rights and responsibilities for the acreage under the contract; and

(4) NRCS determines that the purposes of the program will continue to be met despite the original participant's losing control of all or a portion of the land under contract.

(f) Until NRCS approves the transfer of contract rights, the new producer is not a participant in the program and may not receive payment for conservation activities commenced prior to approval of the contract transfer.

(g) NRCS may not approve a contract transfer and may terminate the contract in its entirety if NRCS determines that the loss of control of the land was voluntary, the new producer is not eligible or willing to assume responsibilities under the contract, or the purposes of the program cannot be met.

[79 FR 65843, Nov. 5, 2014, as amended at 81 FR 12583, Mar. 10, 2016]

#### **§1470.26 Contract renewal.**

(a) At the end of the initial 5-year contract period, 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 the participant meets 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 that NRCS determines must be included in the renewal contract, except that any newly enrolled acres will be included in the yearly annual 10 million acre cap on new enrollment;

(3) Agree to adopt and continue to integrate conservation activities across the entire agricultural operation as determine by NRCS; and

(4) Agree, at a minimum, to meet or exceed the stewardship thresholds for at least two additional applicable priority resource concerns on the agricultural operation; or to exceed the stewardship threshold of two existing applicable priority resource concerns that are specified by the Chief in the initial contract by the end of the renewed contract period.

#### **§1470.27 Contract violations and termination.**

(a) NRCS may terminate a contract:

(1) Without the consent of the participant where it determines that the participant:

(i) Violated the contract; or

(ii) Is unable to comply with the terms of the contract as the result of conditions beyond their control.

(2) With the consent of the participant if NRCS determines that the termination is in the public interest.

(b) NRCS may allow a participant in a contract terminated in accordance with the provisions of paragraph (a) of this section, to retain a portion of any payments received appropriate to the effort the participant has made to comply with the contract, or in cases of hardship, where forces beyond the participant's control prevented compliance with the contract. The condition that is the basis for the participant's inability to comply with the contract must not have existed at the time the contract was executed by the participant. If a participant believes that such a hardship condition exists, the participant may submit a request with NRCS for relief pursuant to this paragraph and any such request must contain documentation sufficient for NRCS to make a determination that this hardship condition exists.

(c) If NRCS determines that a participant is not in compliance with the contract terms or documents incorporated therein, NRCS will notify the participant about the actions the participant must take to be determined in compliance and the consequences of the failure to

remedy the violation. NRCS will provide a reasonable period of time for the participant to complete all necessary actions, not to exceed one year. NRCS may authorize an additional period of time if NRCS determines that the participant is willing and able to comply but has not been able to complete the necessary actions during the initial period of time as a result of conditions beyond their control. If a participant continues in violation, NRCS may terminate the CSP contract in accordance with paragraph (e) of this section.

(d) Notwithstanding the provisions of paragraph (c) of this section, a contract termination will be effective immediately upon a determination by NRCS that the participant:

(1) Has submitted false information or filed a false claim;

(2) Engaged in any act, scheme, or device for which a finding of ineligibility for payments is permitted under the provisions of §1470.36; or

(3) Incurred in a violation of the contract provisions that cannot be corrected in a timeframe established by NRCS.

(e) If NRCS terminates a contract, the participant will forfeit all rights to future payments under the contract, pay liquidated damages, and refund all or part of the payments received, plus interest.

(1) NRCS may require a participant to provide only a partial refund of the payments received if a previously installed conservation activity has achieved the expected conservation performance improvement, is not adversely affected by the violation or the absence of other conservation activities that would have been installed under the contract, and has met the associated operation and maintenance requirement of the activity; and

(2) NRCS will have the option to reduce or waive the liquidated damages, depending upon the circumstances of the case when terminating a contract, NRCS may reduce the amount of money owed by the participant by a proportion that reflects the good faith effort of the participant to comply with the contract or the existence of hardships beyond the participant's control that have prevented compliance with the contract.

### **Subpart C—General Administration**

#### **§1470.30 Fair treatment of tenants and sharecroppers.**

Payments received under this part must be divided in the manner specified in the applicable contract. NRCS will ensure that tenants and sharecroppers who would have an interest in acreage being offered receive treatment which NRCS deems to be equitable, as determined by NRCS. NRCS may refuse to enter into a contract when there is a disagreement among joint applicants seeking enrollment as to an applicant's eligibility to participate in the contract as a tenant.

### **§1470.31 Appeals.**

A participant may obtain administrative review of an adverse decision under this part in accordance with 7 CFR parts 11 and 614. Determinations in matters of general applicability, such as payment rates, payment limits, the designation of identified priority resource concerns, and eligible conservation activities are not subject to appeal.

### **§1470.32 Compliance with regulatory measures.**

Participants will be responsible for obtaining the authorities, rights, easements, permits, or other approvals or legal compliance necessary for the implementation, operation, and maintenance associated with the conservation stewardship plan. Participants will be responsible for compliance with all laws and for all effects or actions resulting from the implementation of the contract.

### **§1470.33 Access to agricultural operation.**

NRCS, or its authorized representative, will have the right to enter an agricultural operation for the purpose of determining eligibility and for ascertaining the accuracy of any representations, including natural resource information provided by an applicant for the purpose of evaluating a contract application. Access will include the right to provide technical assistance, determine eligibility, assess natural resource conditions, inspect any work undertaken under the contract, and collect information necessary to evaluate the implementation of conservation activities in the contract. NRCS, or its authorized representative, will make an effort to contact the participant prior to the exercise of this provision.

### **§1470.34 Equitable relief.**

(a) If a participant relied upon the advice or action of NRCS and did not know, or have reason to know, that the action or advice was improper or erroneous, the participant may be eligible for equitable relief under 7 CFR part 635. The financial or technical liability for any action by a participant that was taken based on the advice of a TSP will remain with the TSP and will not be assumed by NRCS.

(b) If a participant has been found in violation of a provision of the conservation stewardship contract or any document incorporated by reference through failure to comply fully with that provision, the participant may be eligible for equitable relief under 7 CFR part 635.

### **§1470.35 Offsets and assignments.**

(a) Any payment or portion thereof due to any participant under this part will be allowed without regard to any claim or lien in favor of any creditor, except agencies of the United States Government. The regulations governing offsets and withholdings found at 7 CFR part 1403 will be applicable to contract payments.

(b) Any participant entitled to any payment may assign such payments in accordance with regulations governing assignment of payment found at 7 CFR part 1404.

#### **§1470.36 Misrepresentation and scheme or device.**

(a) If NRCS determines that an applicant intentionally misrepresented any fact affecting a CSP determination, the application will be determined ineligible immediately.

(b) A participant who is determined to have erroneously represented any fact affecting a program determination made in accordance with this part will not be entitled to contract payments and must refund to NRCS all payments, plus interest determined in accordance with 7 CFR part 1403.

(c) A participant will refund to NRCS all payments, plus interest determined in accordance with 7 CFR part 1403, received by such participant with respect to all CSP contracts if they are determined to have:

(1) Adopted any scheme or device that tends to defeat the purpose of the program;

(2) Made any fraudulent representation;

(3) Adopted any scheme or device for the purpose of depriving any tenant or sharecropper of the payments to which such person would otherwise be entitled under the program; or

(4) Misrepresented any fact affecting a program determination.

(d) Participants determined to have committed actions identified in paragraph (c) of this section will have their interest in all CSP contracts terminated.

#### **§1470.37 Environmental credits for conservation improvements.**

(a) A participant in CSP may achieve environmental benefits that qualify for environmental credits under an environmental credit-trading program. NRCS asserts no direct or indirect interest in these credits. However, NRCS retains the authority to ensure that CSP purposes are met. In addition, any requirements or standards of an environmental market program in which a CSP participant simultaneously enrolls to receive environmental credits must be compatible with the purposes and requirements of the CSP contract and with this part.

(b) The participant must meet all operation and maintenance (O&M) requirements for CSP-funded activities, consistent with §§1470.21 and 1470.23. Where activities required under an environmental credit agreement may affect the land and conservation activities under a CSP contract, NRCS recommends that CSP participants request assistance with the development of a compatibility assessment prior to entering into any credit agreement. The CSP contract may be modified in accordance with policies outlined in §1470.25 provided the modification meet CSP

purposes and is in compliance with this part.

(c) CSP participants may not use CSP funds to implement conservation practices and activities that the participant is required to establish as a result of a court order.