

Commodity Credit Corporation, USDA

§ 1466.23

producer for ground and surface water conservation contracts, that would tend to defeat the purposes of the program;

(ii) Refund any program payments received with interest, and forfeit any future payments under the program, on the violation of a term or condition of the contract, consistent with the provisions of § 1466.26;

(iii) Refund all program payments received on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees to assume all obligations of the contract, consistent with the provisions of § 1466.25;

(iv) Implement a comprehensive nutrient management plan when the EQIP contract includes a waste storage or waste treatment facility; and

(v) Supply information as may be required by NRCS to determine compliance with the contract and requirements of the program.

(4) Specify the participant's requirements for operation and maintenance of the applied conservation practices consistent with the provisions of § 1466.22; and

(5) Specify any other provision determined necessary or appropriate by NRCS.

(c) The participant must start at least one financially assisted practice within the first 12 months of signing a contract. If a participant, for reasons beyond their control, is unable to start a practice within the first year of the contract, they can request a waiver from the State Conservationist.

(d) Each contract will be limited to no more than \$450,000.

§ 1466.22 Conservation practice operation and maintenance.

The contract will incorporate the operation and maintenance of conservation practices applied under the contract. The participant must operate and maintain each conservation practice installed under the contract for its intended purpose for the life span of the conservation practice as determined by NRCS. Conservation practices installed before the execution of a contract, but needed in the contract to obtain the environmental benefits

agreed upon must be operated and maintained as specified in the contract. NRCS may periodically inspect a conservation practice during the life-span of the practice as specified in the contract to ensure that operation and maintenance are occurring. When NRCS finds that a participant is not operating and maintaining practices in an appropriate manner, NRCS will request a refund of cost-share or incentive payments made for that practice under the contract.

§ 1466.23 Cost-share rates and incentive payment levels.

(a) Determining Cost-share payment rates.

(1) The maximum cost-share payments made to a participant under the program will not be more than 75 percent of the actual cost of a structural practice, as determined by the State Conservationist or Designated Conservationist, except that for a Limited Resource Farmer or Rancher or Beginning Farmer and Rancher cost-share payments may be up to 90 percent, as determined by the State Conservationist or Designated Conservationist.

(2) The cost-share payments to a participant under the program will be reduced proportionately below the rate established by the State Conservationist or Designated Conservationist, or the cost-share limit as set in paragraph (c) of this section, to the extent that total financial contributions for a structural practice from all public and private sources exceed 100 percent of the actual cost of the practice.

(b) Determining Incentive Payment levels. NRCS may provide incentive payments to participants for performing a land management practice or to develop a comprehensive nutrient management plan in an amount and at a rate necessary to encourage a participant to perform the practice that would not otherwise be initiated without government assistance. The State Conservationist or Designated Conservationist, with the advice of the State Technical Committee or Local Work Groups, may consider establishing limits on the extent of land management practices that may be included in a contract.

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(c) Cost-share rates and incentive payment levels for conservation practices will be established by the State Conservationist or Designated Conservationist with advice from the State Technical Committee and Local Work Groups. The State Conservationist or Designated Conservationist will develop a list of eligible conservation practices with varied cost-share rates and incentive payment levels that considers:

- (1) The conservation practice cost-effectiveness and innovation,
- (2) The degree of treatment of priority natural resource concerns,
- (3) The number of resource concerns the practice will address,
- (4) The longevity of the practice's environmental benefits, and
- (5) Other pertinent local considerations.

(d) Practice cost lists that include any structural practice with greater than 50 percent cost share rate are to be approved by the State Conservationist with concurrence of the Regional Conservationist.

§ 1466.24 EQIP payments.

(a) Except as provided in paragraph (b) of this section, the total amount of cost-share and incentive payments paid to an individual or entity under this part may not exceed an aggregate of \$450,000, directly or indirectly, for all contracts entered into during FYs 2002 through 2007.

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

(1) The provisions in 7 CFR part 1400, Payment Limitation and Payment Eligibility, subparts A and G.

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

(3) To be eligible to participate in EQIP, all individuals applying, either alone or as part of a joint operation, must provide a social security number. Where applicable; American Indians, Alaska Natives, and Pacific Islanders may use another unique identification number for each individual eligible for payment.

(4) To be eligible to participate in EQIP, any entity, as identified in 7

CFR part 1400, must provide a list of all members of the entity and embedded entities along with the members' social security numbers and percentage interest in the entity.

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

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

(7) Eligibility for payments in accordance with 7 CFR part 1400, subpart G, average adjusted gross income limitation, will be determined at the time of contract approval.

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

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

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

(11) Before NRCS will approve and issue any cost-share or incentive payment, the participant must certify that the conservation practice has been