

Forestland includes land that is at least stocked at least 10 percent by single stemmed forest trees of any size which will be at least 4 meters (13 feet) tall at maturity, and when viewed vertically, the tree canopy cover is 25 percent or greater for the offered conservation management unit. Also included in this definition are areas bearing evidence of natural regeneration of tree cover (cutover forest or abandoned farmland, as determined by NRCS) and not currently developed for non-forest use. For classification as forestland, an area must be at least one acre and 100 feet wide. Therefore, in order for tree-covered grazing area to be eligible for a CSP contract, it must be stocked with less than 10 percent single stemmed trees of any size that will reach a mature height of at least 4 meters, and when viewed vertically, have a tree canopy cover of less than 25 percent—for the conservation management unit. NRCS is seeking comment on the usefulness of these guidelines for managing the questions relative to inclusion of incidental forested lands in CSP contracts.

Another issue that NRCS seeks guidance on is the question of what level of treatment should be required for the forestland that is included in the CSP contract as land incidental to the agricultural operation. NRCS is seeking input on whether forestland should meet the NRCS quality criteria requirements as specified in its technical guides for areas within a Tier III contract, but not eligible for payment.

**7. Base payments.** In Section 1238C(b)(1)(A), the Act requires the Secretary to make base payments as part of a conservation security plan using either the 2001 national rental rate for a specific land use or another appropriate rate that assures regional equity. NRCS received 85 comments regarding the base payment calculation, and the majority of respondents rejected using national rental rates for calculating base payments. All respondents preferred a calculation that used local data, although there was no consensus on which specific local data NRCS should use. Suggestions included land values, cash rents, soil type, land use, and crop productivity. Section 1469.23(a) in the Summary of Provisions and Additional Request for Comments describes how these comments were addressed.

The Act requires the use of rental rates for the 2001 program year. NRCS proposes the use of regional and local data, plus “control data” procedures to ensure consistency and regional equity. The average 2001 rental rate for the base payments will be based on National

Agricultural Statistics Service (NASS) data from the regional or smaller level, where available, and other data such as other USDA program rental rates will be referenced, for quality control and consistency checks. When rates within a State vary widely, NRCS will use local data to set the average rental rate.

**8. Enhancement payments.** The Act provides for an enhancement payment if an owner or operator does one or more of the following: (a) Implements or maintains practices that exceed minimum requirements; (b) addresses local conservation priorities; (c) participates in on-farm research, demonstration, or pilot projects; (d) participates in watershed or regional resource conservation plan; or (e) carries out assessment and evaluation activities relating to practices included in a conservation security plan.

Enhancement payments are meant to ensure and optimize environmental benefits. NRCS sought comments regarding the calculation and determination of program enhancement payments to ensure the program’s statutory objectives are met. NRCS received 106 comments, but there was little consensus among respondents on this issue. Generally, people want enhancement payments to improve resource conditions and conservation performance: 8 respondents want enhancement payments tied to some actual measure of conservation performance; 14 suggested that enhancement payments be tied to State and local priorities or to a watershed, regional, or other landscape-type plan; 8 want State technical committees to set the schedule for enhancement payments; 8 others want the payments based on the cost of a practice or the time spent implementing a practice; 5 wanted a specific schedule of payments set up for such actions as the implementation of certain conservation systems or for research, demonstration, and monitoring; and 6 proposed not making enhancement payments. Some tied enhancements to a percentage of the base payment made; others suggested a percentage of the overall CSP payment. Section 1469.23(d) in the Summary of Provisions and Additional Request for Comments describes how these comments were addressed.

Section 1469.23 proposes that State Conservationists, with advice from the State Technical Committee and local work groups, will determine the list of activities that qualify for enhancement payments. The activities must reflect national priorities and be consistent with the rule. Cost schedules for enhancement activities would be determined at the local level. This

approach customizes payments at the State level and allows States to encourage activities they believe would yield the most environmental benefits. NRCS would not pay producers more than is necessary to carry out the enhancement activity. NRCS seeks additional comments on the construction and calculation of enhancement payments.

**9. Contract limits.** The Act does not limit the number of contracts a participant can have, nor does it provide for an overall program payment limitation per producer. Considering that program funds may be limited, NRCS sought public comment regarding whether limitations should be addressed in the regulation. NRCS received 419 comments on this issue, nearly all respondents favored the contract payment limits set in the Act and most of the respondents registered support for a one-producer, one contract approach. A few left some leeway to go to more contracts or even higher payment limits if the program were implemented as an entitlement. NRCS is seeking additional comments on the idea of a one-producer, one-contract approach brought up by the respondents.

Seven respondents expressed support for a Farm Service Agency farm-number system approach; 13 supported no limits on contracts or payments; 36 supported no limits on contracts, but a limit on payments at the \$45,000 level. A small number of respondents commented that the limit should be raised to \$50,000.

Six respondents did not want to be classified as an entity because of the perception that the Adjusted Gross Income (AGI) limitation would apply to Indian Tribes. Under 7 CFR 1400, Indian Tribes are exempt from the AGI qualifications.

NRCS determined to use the contract limits provided in the Act and not to limit the number of contracts held by any participant. However, NRCS’s definition of an agricultural operation encourages producers to submit a single contract for all eligible land, rather than separate contracts, to the extent such land represents a cohesive management unit.

**10. Fair treatment of tenants.** In Section 1238C(d), the Act requires that the Secretary provide adequate safeguards to protect the interests of tenants and sharecroppers. Section 1238C(b)(2)(D) provides that to be eligible for payment the individual or entity make contributions to the operation that are commensurate to his share of the proceeds of the operation. NRCS sought public comment to ensure