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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1470

[Docket No. NRCS–2019–0020]

RIN 0578–AA67

#### Conservation Stewardship Program (CSP)

**AGENCY:** Commodity Credit Corporation, United States Department of Agriculture.

**ACTION:** Final rule.

**SUMMARY:** This final rule adopts, with minor changes, an interim rule published in the *Federal Register* on November 12, 2019. The interim rule implemented changes to CSP that were necessitated by enactment of the Agriculture Improvement Act of 2018 (2018 Farm Bill) or that were required to implement administrative improvements and clarifications. The Natural Resources Conservation Service (NRCS) received input from 110 commenters who provided 615 comments in response to the interim rule. This final rule makes permanent those changes appearing in the interim rule, responds to comments, and makes further adjustments in response to some of the comments received. In addition, the rule makes some minor technical corrections.

**DATES:** *Effective:* October 9, 2020.

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#### SUPPLEMENTARY INFORMATION:

##### Background

The Food, Conservation, and Energy Act of 2008 amended the Food Security Act of 1985 to establish CSP and the Agricultural Act of 2014 (2014 Farm

Bill) reauthorized and revised CSP through fiscal year (FY 2018). The Agriculture Improvement Act of 2018 (2018 Farm Bill) moved CSP from subchapter B of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 to a new subchapter B of chapter 4 of subtitle D of title XII of the Food Security Act of 1985, reauthorized CSP through FY 2023, and then repealed subchapter B of chapter 2 as amended. On November 12, 2019, NRCS published an interim rule with request for comments in the *Federal Register* (84 FR 60883–60900; referred to below as the interim rule) that implemented mandatory changes made by the 2018 Farm Bill or that were required to implement administrative improvements and clarifications. This final rule adopts, with minor changes, the interim rule.

#### Discussion of CSP (7 CFR Part 1470)

CSP encourages 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.

The Secretary of Agriculture delegated authority to the Chief, NRCS, to administer CSP.

Through CSP, NRCS provides financial and technical assistance to eligible producers to conserve and enhance soil, water, air, and related natural resources on their land. Eligible lands include private or Tribal cropland, grassland, pastureland, rangeland, nonindustrial private forest lands, and other land in agricultural areas (including cropped woodland, marshes, and agricultural land or land capable of being used for the production of livestock) on which resource concerns related to agricultural production could be addressed. Eligible lands also include lands associated with these private or Tribal agricultural lands on which a priority resource concern can be addressed through a CSP contract. Participation in CSP is voluntary. NRCS accepts applications for classic CSP at any time, with one cutoff period in the first quarter of each fiscal year. NRCS may also accept applications for renewal from a participant in the first half of the fifth

year of the contract period. NRCS then ranks and makes funding decisions based on the applications received on or before the established cutoff date. Depending upon the availability of funds and the number of high-quality applications received during the first ranking and selection period, NRCS may establish additional ranking and selection periods during the remainder of the fiscal year.

The interim rule:

- Removed text that addressed CSP implementation under the Regional Conservation Partnership Program (RCPP) since the 2018 Farm Bill removed the requirement that RCPP be implemented through CSP and the other “covered programs.”

- Removed reference to the CSP acreage cap and dollar-amount-per-acre limit.

- Added definitions to reflect 2018 Farm Bill changes: Advanced grazing management, comprehensive conservation plan, and management-intensive rotational grazing.

- Addressed State organic allocations, which will be based on the number of organic and transitioning-to-organic operations in a State and the number of organic and transitioning-to-organic acres in a State.

- Required that if two or more applications receive the same ranking, they be ranked on the extent to which actual and anticipated conservation benefits from each contract are provided at the lowest cost relative to the other similar offers.

- Added advanced grazing management as a type of supplemental payment.

- Included text for the one-time payment option for development of a comprehensive conservation plan.

- Incorporated text about opportunity for participants to renew their contracts in the first half of the fifth year of the 5-year contract.

- Outlined implementation of the new CSP-Grassland Conservation Initiative (GCI).

In addition to incorporating the changes made by the 2018 Farm Bill, the interim rule incorporated the following programmatic changes:

- Removed identification of the NRCS Chief as a Vice President of the Commodity Credit Corporation.

- Modified existing terms to reflect changes in terminology, to more closely

align CSP administration with the Environmental Quality Incentives Program (EQIP), and for clarity. These include, but are not limited to—

- Modifying “eligible land” to include public land when the land is a working component of the participant’s agricultural or forestry operation.
- Modifying the definition of “veteran farmers or ranchers” to cite the statutory reference as modified by the 2018 Farm Bill.
- Clarifying “enhancement,” “participant,” and “stewardship threshold.”
  - Specified eligibility requirements for all applicants sharing in the risk and participating in day-to-day activities.
  - Expanded the potential scope of bundles and provides NRCS with discretionary authority for offering bundles.
  - Removed certain requirements for applicants who cross ranking pool boundaries to increase applicant flexibility.
  - Added organic producers and producers transitioning to organic as a category of producer with a targeted ranking pool.
  - Clarified the annual payment structure and adjusted the timeframe for implementing an applicant’s first conservation activity to align with EQIP.
  - Stated that, unless a waiver is granted, participants will not receive payment for conservation activities initiated or implemented prior to contract approval.
  - Expanded the regulatory \$400,000 contract limit for all joint operations.
  - Added text to allow for contract increases due to minor adjustments made to conservation activities at the discretion of NRCS.
  - Provided greater consideration to a participant’s circumstances with respect to changes made to their agricultural operations.
  - Addressed contract changes that arise due to the death, incompetence, or disappearance of a CSP participant.
  - Included an eligibility restriction for renewal-eligible participants who choose not to renew in favor of competing for a new contract.
  - Removed text related to training NRCS staff.
  - Adjusted definitions to conform to those in other NRCS or Department regulations.

### Summary of Comments

The interim rule 60-day comment period ended January 13, 2020. NRCS received 615 comments from 110 commenters in response to the rule. NRCS reviewed these 615 comments and categorized and summarized them

according to the topics identified below. The topics that generated the greatest response were on payments, contract renewals and extensions, and ranking.

In this rule, the comments have been organized in alphabetic order by topic. The topics include:

- Administration—Timing, Training, and Streamlining and Flexibility;
- Conservation Activities;
- Contract Renewals and Extensions—Incentives for Renewal, Ranking, and Single Renewal;
- Definitions;
- Eligibility—Activities, Land, and Producer;
- Funding;
- Grassland Conservation Initiative;
- Local and Regional Priorities;
- Organic and Transitioning to Organic;
- Outreach;
- Payment and Contract Limits;
- Payments—Comprehensive Conservation Plan Payment, Early Start Waiver, Land Use Requirements, Minimum Payment, Payment Factors, Payment Rates, Payment Schedules, Stewardship Threshold, and Supplemental Payment;
- Ranking—Criteria, Ranking Pools, and Timing;
- Soil Health;
- Source Water Protection; and
- Technology.

Of the 615 comments raised by the commenters, 45 were general in nature and most expressed support for CSP or how CSP has benefitted particular operations. NRCS also received 54 comments raised by the commenters that were either outside the scope of the changes that NRCS made in the interim rule, expressed specific support for various provisions in the rule, or did not advocate for any changes.

Overall, the commenters supported the changes made by the interim rule. This final rule responds to the comments received by the public comment deadline and makes minor clarifying and related changes.

### Administration

#### Timing

*Comment:* NRCS received comment that urged the agency to continue to provide timely announcement of funding opportunities and consistently make payments on time.

*Response:* NRCS remains committed to providing timely information and payment for involvement in all our programs, including CSP. Timeliness of information and payments are integral to maintaining public trust and NRCS will continue to emphasize this importance in CSP implementation. No

changes in the final rule are necessary to address this concern.

#### Training

*Comment:* NRCS received comment that encouraged NRCS to continue to provide appropriate training to NRCS field staff. This was in response to a change to § 1470.8(c). The interim rule removed the text that specifies that in providing technical assistance to specialty crop and organic producers, NRCS will provide appropriate training to field staff to enable them to work with producers and to utilize cooperative agreements and contracts with nongovernmental organizations with expertise in delivering technical assistance to these producers.

*Response:* As explained in the interim rule, NRCS modified paragraph (c) to remove text related to training NRCS staff as this is an internal agency administrative matter. NRCS will continue to provide training to field staff for all aspects of work performed. No changes were made in this final rule in response to this comment.

#### Streamlining and Flexibility

*Comment:* NRCS received comment urging NRCS to further streamline the processes for participation in CSP. Specifically, comment cited an abundance of paperwork and regulations that were cumbersome and difficult for participants to understand or navigate. The comment also sought an increased level of flexibility in how NRCS approaches CSP implementation.

*Response:* NRCS understands that navigating Federal programs can at times be difficult and complex. NRCS is streamlining application and contract processes, which will reduce the number and intensity of participant tasks required for CSP participation. While the interim rule and this final rule make strides in this direction, the vast majority of recommendations regard changes to the internal administration of NRCS personnel.

### Conservation Activities

*Comment:* NRCS received comment recommending changes to conservation activities. These comments included discussion of: Bundles, criteria, environmental benefits, renewals, and recommendations for particular enhancements.

*Response:* NRCS appreciates the level of commitment and interest of our stakeholders in the details of the conservation activities for CSP. While specific conservation activities are not the purview of the rule, NRCS shared these comments with the staff who develop the guidance and standards

related to conservation activities and will be taken into consideration as updates are made. NRCS maintains a National Handbook of Conservation Practices and Field Office Technical Guides, which provide the requirements for individual conservation practices. Requirements for other conservation activities, including enhancements and bundles, are provided in guide sheets available on the NRCS website. The process for managing conservation practice standards can be found in the NRCS General Manual, Title 450, Part 401, "Technical Guides."

### Contract Renewals and Extensions

#### *Incentives for Renewal*

*Comment:* NRCS received comment about incentives and other items associated with contract renewal.

- Several comments recommended that NRCS make renewing a CSP contract more appealing and straightforward, such as by offering higher contract rates than in the initial contract.

- Others suggested that a participant could exhaust the available enhancements needed to qualify for renewal, recommended renewal offers be made in year four, and urged that NRCS simply renew existing contracts without requiring additional enhancements (additionality).

- Additional comments requested that more emphasis be placed on work completed in the initial CSP contract when determining payment rates for the renewal contract.

- Another comment recommended that applications for renewal contracts compete along with the applications for new contracts in the classic signup.

*Response:* Renewal payment rates are determined based on the payment factors identified in the regulation and are evaluated annually to determine whether adjustments are needed. NRCS will continue to evaluate costs associated with managing and maintaining existing activities and implementing new activities and work to adjust the rates accordingly.

Additionality is required by the law. NRCS will revisit the role that additionality plays for renewal contracts as it pertains to ranking and scheduling additional activities. The agency will address these issues in more detail in subsequent topics.

NRCS has flexibility in adjusting the specific ranking criteria for each ranking pool, including between new and renewal ranking pools. Greater equity occurs when both renewal applicants and new applicants compete with other like applications. This ensures

continued participation by the best stewards and offers opportunities for new producers to participate in CSP.

#### *Ranking*

*Comment:* NRCS received comment recommending that renewal be based mostly or completely on the environmental benefits of renewal contracts, especially those benefits obtained from implementation of existing activities.

*Response:* CSP renewals were automatic in the past if the participant met basic compliance and threshold requirements. The 2018 Farm Bill modified renewal criteria and required that renewals be based upon a competitive process using the same ranking factors as used for new CSP signups. Although the ranking criteria were simplified in the 2018 Farm Bill and in the interim rule, NRCS will continue to give more weight to additional conservation than existing conservation in the ranking for both renewal and new signup contracts. NRCS's goal is to increase conservation and we will adjust weighting to create the correct balance in CSP through internal guidance without any change to the final rule. NRCS will continue to monitor CSP and ensure that it remains competitive.

#### *Single Renewal*

*Comment:* NRCS received comment recommending that NRCS remove the "one-time only" text from the renewal options and allow participants to renew numerous times.

*Response:* The 2018 Farm Bill removed the specific one-time renewal text that had been in the 2014 Farm Bill; however, the expectation is that participants will fully incorporate adopted CSP activities as part of their standard operation management. These producers should see the value in their conservation activities over time and no longer require payments they receive through CSP as an incentive to maintain these activities. This was the concept supporting the interim rule's addition of the 2-year ineligibility period in § 1470.26(c). NRCS removed the "one-time" renewal text in this final rule, but also revised the provision related to the 2-year ineligibility period to include those who apply for renewal and are not selected. As comments point out, with each renewal, fewer and fewer enhancements remain available for an operation to qualify for renewal, and the competitive nature of the renewal process means that those enhancements that remain are likely not to have as much conservation benefit as existing activities on the operations seeking

renewals beyond the first renewal contact. If situations change after 2 years, the operation will be eligible to once again compete in the classic CSP signup.

### Definitions

*Comment:* NRCS received comment related to definitions in the interim rule, including conservation activities, eligible land, enhancement, management intensive rotational grazing, and resource-conserving crop.

*Response:* The comments suggested minor, technical edits or gave general praise for specific definitions. The suggested minor edits are adopted.

### Eligibility

#### *Activities*

*Comment:* NRCS received comment about the eligibility of certain activities. First, comment sought to make eligible annual payments for existing activities regardless of any enhancements or additional activities, looking at two basic scenarios:

(a) Where an operation or land use on an operation had exhausted the opportunities for additional activities, and they wanted CSP to serve as a reward for ongoing stewardship despite this lack of opportunity; or

(b) Where a producer has started an activity before the contract is executed.

Second, comment criticized the interim rule as not remaining size-neutral, claiming this unfairly excluded larger operations where, as the comment argues, there is a greater opportunity for conservation benefits.

*Response:* The CSP authorizing law mandates additional activities. By definition, a new conservation activity started before the contract is executed is not an "additional" activity under the contract.

CSP requires participants to enroll their entire operation. NRCS only considers the size of the operation when calculating the per-acre payment-rate component of the existing activity payment, which is exclusively based on the actual acres of each land use enrolled in the contract. The only size-relevant limitation on CSP contracts is the \$200,000 payment limit mandated by statute and incorporated in the CSP regulation and the associated regulatory contract limit that mirrors the payment limit for individuals and legal entities. In 2010, NRCS increased the contract limit to \$400,000 for joint operations, which may benefit certain larger operations (through the final rule published in the **Federal Register** on June 3, 2010, 75 FR 31610–31661, referred to below as the 2010 CSP final

rule). In addition, participants in CSP are also subject to a \$900,000 average Adjusted Gross Income limitation.

#### Land

*Comment:* NRCS received comment about land eligibility. Generally, these comments supported the changes made in the interim rule, especially the expansion of land eligibility to public land components of agricultural operations. Several comments recommended that NRCS do more to ensure that participants understand the provisions of their CSP contracts. Comments also addressed heirs' property, employee training, and other areas of interest that commenters would like NRCS to make eligible.

*Response:* The types of publicly held land mentioned in comments all fall within the scope of public lands identified in the interim rule. Heirs' property issues fall within the scope of "other instances in which NRCS determines under § 1466.6(b)(3) that there is sufficient assurance of control" when NRCS is making determinations of eligibility and no change was needed to address this concern. NRCS employee training and ensuring that participants understand their CSP contracts are necessary for NRCS to provide the highest-quality customer service; they are a priority for NRCS.

#### Producer

*Comment:* NRCS received comment about producer eligibility requirements and how such may be affected by cash rent situations and tenant-landlord situations where:

- (a) The lease may terminate within the prospective contract period;
- (b) Control of land is ambiguous between tenant and landlord; and
- (c) The interests of tenant and landlord may be incongruous.

*Response:* CCC regulations in 7 CFR part 1400 addresses cash-rent landlords and applies to CSP. This final rule reiterates that the producer must demonstrate control of the land and meet all applicant eligibility requirements for the producer to participate in CSP.

#### Funding

*Comment:* NRCS received comment about how fund allocations are addressed in the regulation, including both support for and against the changes made. Some commenters recommended exchanging dollars for acres allocated to each State (that is, a proportional allocation of dollars based on the ratio of each State's agricultural land, weighted by land use type, relative to national totals). Other comment raised

that different challenges and conservation opportunities for Western landowners should be considered in fund allocations to achieve more equitable geographic distribution of CSP funds. Some comment suggested using especially sensitive areas, such as critical conservation areas (CCAs), to prioritize allocations. Comment also recommended increasing set asides for historically underserved producers.

*Response:* NRCS appreciates the suggestions made, but the text in the regulation about fund allocations mirrors the text in the law, and therefore no changes have been made in response to most of this comment. However, to provide clarity, NRCS adjusted text related to the set-aside for historically underserved producers in § 1470.4(c).

#### Grassland Conservation Initiative

*Comment:* NRCS received comment that recommended either prohibiting crops on land covered by a Grassland Conservation Initiative (GCI) contract or limiting the types of crops and other planted species by type and area on land enrolled in GCI.

*Response:* This concern is addressed by the conservation stewardship threshold requirement in the interim rule. Any crops planted on land covered by a GCI contract must implement conservation activities that achieve conservation stewardship levels analogous to the land being planted or maintained in grass. This requirement will be fleshed out on a State-by-State basis using the methods defined in the regulation for stewardship thresholds, including analytics tools or models and other methods that measure conservation and improvement in priority resource concerns.

#### Local and Regional Priorities

*Comment:* NRCS received comment requesting that NRCS address prioritization of conservation practices and activities according to local and regional needs, including seeking additional State-level flexibility and responsiveness to local resource concerns. Other comment requested that NRCS incorporate language that require consideration of local priority resource concerns when evaluating applications and to identify the prioritization process for States to select priority resource concerns. Comment also recommended that NRCS reference locally-led conservation in the rule, similar to what is in the EQIP rule.

*Response:* NRCS has modified § 1470.2(d) to more closely align with EQIP text, which addresses comments focused on flexibility and responsiveness to local and regional

needs. NRCS involvement of State technical committees, Tribal Conservation Advisory Councils, and local working groups is identified in 7 CFR part 610, subpart C and in the NRCS standard operating procedures, which were published in the **Federal Register** on April 7, 2009 (74 FR 15673–15677). NRCS is not including these aspects in the CSP regulation.

#### Organic and Transitioning to Organic

*Comment:* NRCS received comment recommending modifications that assist organic producers or those transitioning to organic production, such as restoration of the full complement of organic-specific enhancements (citing the "2017 reinvention of CSP"), weighting allocations more in the direction of farm numbers (as organic farms are smaller on average), using outside data to determine the number of operations transitioning to organic, and establishment of a separate ranking pool in each State for organic and transitioning to organic applicants.

*Response:* Most CSP enhancement activities can be used on transitioning and certified organic operations. NRCS provides an organic crosswalk on its website, allowing transitioning and certified organic producers to see how various conservation activities can fit their operations. Though specific practices, activities, and enhancements are outside the scope of this rule, NRCS shared the comments with those who develop conservation standards and guidance to consider whether adjustments should be made. Similarly, with respect to weighting of allocations, § 1470.4(b) states that NRCS will allocate funding based on both the number of operations and the number of acres. NRCS will continue to seek an equitable balance between these two criteria. Nothing in the rule prohibits the use of outside data to determine the status of an operation as transitioning to organic. NRCS addresses establishment of ranking pools, including those needed to support organic and transitioning to organic production, with the input of the State Technical Committee.

#### Outreach

*Comment:* NRCS received comment recommending additional outreach efforts, such as targeting forested lands, cover crop activities, and public lands.

*Response:* NRCS appreciates this feedback and will continue to evaluate which aspects of CSP are underutilized to maximize the impact of outreach efforts.

## Payments and Contract Limits

*Comment:* NRCS received comment related to the higher contract limitation for joint operations. Most comment recommended keeping the contract limit at \$200,000 regardless of the participant type suggesting that allowing the higher contract limit for joint operations reduces the availability of funds for individuals and small farms. Other comment suggested the contract limitation itself is a violation of the law and large operations provide more conservation benefits.

*Response:* By law, CSP has an aggregate \$200,000 payment limitation for persons and legal entities, directly or indirectly, for all contracts entered into during FYs 2019 through 2023. Under payment limitation requirements that are applicable to NRCS and Farm Service Agency programs, joint operations are able to receive a payment up to the maximum payment amount specified for a person or legal entity multiplied by the number of persons or legal entities that comprise ownership of that joint operation (see 7 CFR part 1400). Without a contract limit, joint operations could receive very large payments under a CSP contract.

To address concerns related to large contracts with joint operations, NRCS decided in 2009 to impose a regulatory contract limit that corresponded with the CSP payment limitation. For the 2009 interim rule, the contract limit did not adjust for joint operations, but in response to public comment, the 2010 final rule doubled the contract limit for joint operations to \$400,000. This system was maintained in the CSP regulation through the 2014 Farm Bill, was continued in the 2019 interim rule, and is maintained in this final rule.

The overall CSP payment limitation may not be waived. No member of a joint operation may receive more than \$200,000 in payment through CSP for FYs 2019 through 2023. But, when a joint operation of two or more members enters into a CSP contract, the CSP contract with the joint operation may receive funding of up to \$400,000. Note that large operations do not necessarily have the best stewardship and will not necessarily or automatically receive a higher payment. Payment is based on the manner in which the operation is managed.

## Payments

### *Comprehensive Conservation Plan Payment*

*Comment:* NRCS received comment supporting the inclusion of the one-time payment for development of a comprehensive conservation plan,

including consideration of source water protection and the use of this option for development of forest management plans.

*Response:* NRCS appreciates acknowledgement of the 2018 Farm Bill's inclusion of the one-time payment for development of a comprehensive conservation plan.

### *Early Start Waiver*

*Comment:* NRCS received comment about early start waivers. Comment expressed concern that this provision could prevent producers from earning payments for existing activities and recommended NRCS be required to grant waivers when administrative actions delay contract obligation and implementation of conservation activities until the following crop year.

*Response:* In the interim rule, NRCS added text in § 1470.24(f)(4) to allow an "early start waiver" for CSP, which provides alignment with EQIP. Additionally, NRCS adjusted the final rule text in § 1470.24(f)(4) to reflect that the provision applies only to new conservation activities. NRCS awards early start waivers on a case-by-case basis and does not believe that adding text requiring waivers in specific situations is needed.

### *Land Use Requirements*

*Comment:* NRCS received comment recommending changes to requirements for payments tied to land use, including:

(1) A change to § 1470.24(a)(3) regarding the requirement that a participant implement at least one additional conservation activity on one land use within the first 12 months of the contract; and

(2) A change to § 1470.24(a)(2) requesting removal of the requirement that in order to receive an annual payment for a land use, the participant must adopt at least one additional conservation activity on that land use.

*Response:* With respect to the requirement that a participant implement at least one additional conservation activity on one land use type, NRCS has adjusted the text in § 1470.24(a)(3) to remove the phrase "on one land use."

To address the comment focused on annual payment eligibility, the CSP statute requires adoption of new conservation activities and management and maintenance of existing activities. Past policy set the requirement that the applicant had to schedule an additional activity on each land use within the operation in order to receive payments. NRCS will address this concern in a manner that conforms to the existing regulatory text.

### *Minimum Payment*

*Comment:* NRCS received comment related to minimum payments recommending that the rule require that NRCS provide a minimum payment and that the minimum payment increase from \$1,500 to at least \$2,000.

*Response:* Although NRCS has provided a minimum contract payment in the past, there may be reasons in the future where a minimum contract payment may not be warranted. As such, NRCS is retaining "may" in the final rule. The actual rate for minimum contract payments is not set in regulation but determined based upon estimated costs incurred by a participant for participation in the planning process that are not otherwise compensated under CSP. The NRCS Chief retains the discretion to adjust as appropriate to reflect costs incurred by a participant for which the participant is not otherwise compensated.

### *Payment Factors*

*Comment:* NRCS received comment that encouraged NRCS to use as the primary means for determining payment levels the degree to which the conservation activities are integrated across the entire agricultural operation for all State-identified priority resource concerns over the term of the contract.

*Response:* CSP statutory provisions require NRCS to make payments based, to the maximum extent practicable, on the following seven factors:

(1) Cost incurred by the producer associated with planning, design, materials, installation, labor, management, maintenance, or training;

(2) Income forgone by the producer;

(3) Expected conservation benefits;

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

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

(6) 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

(7) Such other factors as determined appropriate by the Secretary.

NRCS incorporates all statutory payment factors into the regulatory text, which are used to develop payment rates for both the existing activity payment and the additional activity payment. NRCS determines how to weight the various payment factors with

input from State technical committees as appropriate.

#### Payment Rates

*Comment:* NRCS received comment related to payment rates recommending that NRCS evaluate the balance between payment for existing conservation activities versus payment for new conservation activities.

*Response:* CSP participants are eligible to receive annual payments for maintaining existing conservation levels and implementing additional conservation activities.

Since the CSP reinvention in 2017, annual payments for maintaining existing stewardship levels on the operation have been comprised of \$300 to \$350 per resource concern met at the time of application and a per-acre payment rate based on land use. Per-acre payment rates are based on estimated costs of existing conservation practices per acre on each land use. Cropland generally has received the highest payment rate, with range and forestland at the lower end, and pasture in the middle. As NRCS develops its digital tools, the agency will evaluate how to make payments more reflective of on-the-ground benefits using information available through the Conservation Assessment and Ranking Tool (CART). Based on the agency's goal to gain increased conservation benefits through CSP, NRCS will continue to give more weight to additional conservation over existing conservation in both ranking and payment.

#### Payment Schedules

*Comment:* NRCS received comment recommending that State Conservationists seek input from State technical committees in the development of the payment schedules; also, comment sought standardization of payment schedules between CSP and EQIP and increased public availability of those payment schedules.

*Response:* Payment schedules are, and have been, consistent between CSP and EQIP. Payment schedules are posted on NRCS State websites and input from State technical committees is sought in the development of those schedules.

#### Stewardship Threshold

*Comment:* NRCS received comment expressing concern about the requirement to adopt new conservation activities when a producer has already met the stewardship threshold.

*Response:* As specified in the law, NRCS must continue to require that producers both maintain their existing activities and adopt additional activities.

#### Supplemental Payments

*Comment:* NRCS received comment commending the interim rule's inclusion of supplemental payments for advanced grazing management and resource-conserving crop rotations; comment also offered a specific means of calculating the supplemental payment.

*Response:* NRCS appreciates the positive feedback. The comment recommending calculation of the supplemental payment may be considered in the development of the payment schedules.

#### Ranking

##### Criteria

*Comment:* NRCS received comment related to ranking criteria including that existing activities receive either equal or greater priority in ranking applications and emphasizing that environmental benefits should be the sole basis for the evaluation regardless of whether they result from existing or new activities. In addition, comment requested specific emphasis for certain resource concerns or target areas, such as forestry, water management, grazing management, cover crops, highly erodible land management, natural or ancient heritage sites, and participation in sustainability programs. The remaining comments requested NRCS:

- (a) Align CSP more with EQIP regarding input from State technical committees and local work groups;
- (b) Provide additional assistance to landowners with environmentally sensitive lands;
- (c) Allow for the continued use of basic cover crops in CSP; and
- (d) Broaden and simplify ranking criteria.

*Response:* The text in § 1470.20(c) in the interim rule mirrors text in the 2018 Farm Bill. The changes made there broaden the scope of NRCS discretion in ranking applications and building out the ranking factors within the final rule limits the discretion provided by the 2018 Farm Bill. Regarding § 1470.20(c)(iii), NRCS will use its discretion to maximize its ability to achieve CSP goals and objectives, including ensuring that producers enroll in CSP through a thoroughly competitive process. The goal is for CSP contracts to be awarded to applicants who propose activities with the greatest conservation benefits.

##### Ranking Pools

*Comment:* NRCS received comment related to ranking pools, including recommending that the advice of the State technical committee in

determining the appropriate ranking pools for the State, with a concern that focus on geographic areas, watersheds, or other high priority areas would detract from other priority resource concerns that were State-wide. Other comments request that NRCS include more specific language requiring the establishment of separate ranking pools for beginning farmers and ranchers, socially disadvantaged farmers and ranchers, and organic and transitioning-to-organic producers.

*Response:* NRCS has historically provided policy guidance that requires States to establish separate fund pools for beginning farmers and ranchers and socially disadvantaged farmers and ranchers. Changes to the suite of NRCS business tools have allowed States new flexibility in managing applications from these historically underserved groups. As a result, NRCS is not incorporating requirements specifying these ranking pools in the final rule. NRCS will, however, continue to ensure that historically underserved groups continue to have access to CSP.

##### Timing

*Comment:* NRCS received comment on the timing of the ranking process, both supporting and recommending removal of the discretionary phrase "to the extent practicable" in § 1470.2(c)(1). Other comments recommend expansion of the timing of the first ranking period.

*Response:* NRCS appreciates the comments received on the timing of ranking periods. NRCS is retaining the discretionary text in the interim rule, which addresses unforeseen circumstances that may delay the agency's ability to hold a ranking period within the timeframe provided.

#### Soil Health

*Comment:* NRCS received comment expressing that the interim rule failed to identify how NRCS will address soil health as a priority?

*Response:* This comment refers to the new requirement that the Secretary "[t]o the maximum extent feasible . . . manage [CSP] to enhance soil health." To address this concern, NRCS has added a paragraph to § 1470.2 that identifies how NRCS will address soil health as a priority.

#### Source Water Protection

*Comment:* NRCS received comment recommending that NRCS should specifically address source water and drinking water protection in the final rule. While acknowledging the interim rule addressed water quality and quantity, comment urged NRCS to distinguish such resource concerns from

source water protection, and to prioritize source water protection in the National Water Quality Initiative (NWQI) watersheds or other high priority sites.

*Response:* NRCS will continue to implement CSP to address source water protection. The 2018 Farm Bill contained specific text regarding source water protection in the EQIP provisions and, as CSP moves toward greater alignment with EQIP, NRCS will consider adding source water protection criteria to existing and new conservation activity guide sheets. Further, within the interim rule's provisions, States retain the authority to target CSP funds toward source water protection through the establishment of ranking pools, including prioritization of conservation activities within the ranking templates.

### Technology

*Comment:* NRCS received comment recommending greater producer accessibility to online tools, including access for rural communities without consistent online access. Other comment sought a way to calculate potential economic incentives for enrollment in CSP and another requested increased producer access to sustainability data in CART.

*Response:* Digital tools and processes are outside the scope of the final rule. However, NRCS remains committed to providing excellent customer service, which includes providing a user-friendly interface with our public-facing digital tools. Future changes will likely take place on *Farmers.gov* or through other digital media.

### Miscellaneous Correction

In addition to the changes discussed above, this rule is making two corrections, both correct cross references to other regulations. There is a typo in the cross reference to a paragraph in another section of the regulation. One correction simply revises the cross reference to point to the accurate paragraph where the original contract limit is outlined. The other correction updates the cross reference to the USDA debt management rules in 7 CFR part 3. In the USDA rule published on June 17, 2020, (85 FR 36670–36714) USDA revised part 3 to eliminate the debt collection regulations of the following USDA agencies: The Commodity Credit Corporation (CCC); the Federal Crop Insurance Corporation (FCIC), and the Farm Service Agency (FSA). This rule updates the cross-reference in the CSP regulation, which previously pointed to the former CCC debt management regulations.

### Notice and Comment, Paperwork Reduction Act, and Effective Date

In general, the Administrative Procedure Act (APA) (5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts. This rule involves matters relating to benefits and therefore is exempt from the APA requirements. Further, the regulations to implement the programs of chapter 58 of title 16 of the U.S. Code, as specified in 16 U.S.C. 3846, and the administration of those programs, are—

- To be made as an interim rule effective on publication, with an opportunity for notice and comment,
- Exempt from the Paperwork Reduction Act (44 U.S.C. ch. 35), and
- To use the authority under 5 U.S.C. 808 related to Congressional review.

Consistent with the use of the authority under 5 U.S.C. 808 related to Congressional review for the immediate effective date of the interim rule, this rule is also effective on the date of publication in the **Federal Register**.

### Executive Orders 12866, 13563, 13771, and 13777

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review,” direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The requirements in Executive Orders 12866 and 13573 for the analysis of costs and benefits apply to rules that are determined to be significant. Executive Order 13777, “Enforcing the Regulatory Reform Agenda,” established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this final rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs,

benefits, and transfers of this rule are summarized in the section below in this rule. The full regulatory impact analysis is available on <https://www.regulations.gov/>.

Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” requires that, to manage the private costs required to comply with Federal regulations, for every new significant or economically significant regulation issued, the new costs must be offset by savings from deregulatory actions. This rule involves transfer payments and does not rise to the level required to comply with Executive Order 13771.

In general response to the requirements of Executive Order 13777, USDA created a Regulatory Reform Task Force, and USDA agencies were directed to remove barriers, reduce burdens, and provide better customer service both as part of the regulatory reform of existing regulations and as an on-going approach. NRCS reviews regulations and makes changes to improve any provision that was determined to be outdated, unnecessary, or ineffective.

### Cost Benefit Analysis Summary

Compared to CSP as authorized under the 2014 Farm Bill, Congress significantly reduced CSP's size in the 2018 Farm Bill—from \$9 billion to \$3.975 billion over 5 years—but left much of CSP's underlying structure intact. With fewer dollars available, fewer contracts will be funded under the 2018 Farm Bill. However, CSP will continue to fund high-ranking applications across all States, with the aim of improving cost effectiveness based on dollars per additional unit of conservation effect.

The 2018 Farm Bill eliminated the 10-million-acre cap on enrollment and the annual \$18 per acre cap on CSP costs, moving to an annual funding level for new contracts, similar to EQIP. NRCS will now obligate funds for all activities conducted under a new or renewed CSP contract up front. NRCS will also allocate a portion of the annually available funds for contract renewals.

Regarding changes beyond funding and the elimination of the acreage cap, only the revised contract renewal conditions are expected to generate impacts that are moderately different from the 2014 Farm Bill. CSP contracts continue to run for 5 years and include the potential for participants to compete for a renewal contract for an additional 5 years. Under the 2014 Farm Bill, renewals were non-competitive and as long as the participant met eligibility and CSP requirements, NRCS would

approve a renewal contract for one additional 5-year period. Under the 2018 Farm Bill, NRCS ranks contract renewals against other contract renewals and funds the highest ranked renewal applications. NRCS provides funding for renewals using approximately 40 percent of the total funds allocated for CSP in a given fiscal year, not including the funds set aside for the CSP Grassland Conservation Initiative. NRCS uses the remaining 60 percent of the allocation to fund the highest ranked new applications. The overall decrease in program funding will reduce the funding available for both renewal and new contracts, reducing the total number of acres treated and the amount of conservation achieved through CSP. Cost-effectiveness of overall CSP may increase as lower ranked applications will not be funded.

The 2018 Farm Bill also mandates the establishment of the CSP Grassland Conservation Initiative for eligible producers with base acres where the entire farm was planted to grass or pasture, or was idle or fallow, from January 1, 2009 to December 31, 2017. Beginning in FY 2019, the Secretary started providing signups for producers' to make a one-time election to enroll eligible land in the initiative. NRCS will continue to provide signups until all eligible producers are enrolled or the authority for CSP expires, which is currently in FY 2023. Enrollment is for a 5-year non-renewable term. Participants must meet CSP eligibility conditions, but do not go through the ranking process.

Participating producers must agree to meet or exceed the stewardship threshold for not less than one priority resource concern by the date on which the contract expires. The annual payment is limited to \$18 per acre, and enrolled acreage cannot exceed the number of base acres on a farm.

An estimated 2.4 million acres meet the 2009 through 2017 criterion noted above and are eligible for the Grassland Conservation Initiative. Although these eligible acres are concentrated in Texas, Oklahoma and Kansas, there are eligible acreages throughout most of the country. The Grassland Conservation Initiative is expected to cost \$214.9 million over 5 years, representing 5.5-percent of total authorized CSP funding under the 2018 Farm Bill. Through March 2020, a total of 1.2 million acres had been enrolled with obligated funds totaling \$106.8 million. Cost-effectiveness may be affected marginally as fewer funds will be available.

The 2018 Farm Bill established a \$200,000 CSP payment limit per person or legal entity which carried over into

the 2014 and 2018 Farm Bills. To address concerns related to potentially large contracts with joint operations, NRCS initially set a contract limit of \$200,000 for all contracts but increased the contract limit to \$400,000 for joint operations in the 2010 CSP final rule. NRCS indicated in the interim rule that the higher contract limit for joint operations would continue for the duration of the 2018 Farm Bill (2019 through 2023). In response, NRCS received comments on contract limits, most of which recommended keeping the contract limit at \$200,000 regardless of the participant type. To evaluate these comments, NRCS considered the impact of eliminating higher contract limit on potential CSP participants and the demand for CSP funds. Analysis of data found that reducing the contract limit to \$200,000 for all contracts would increase funding available for additional contracts on average by \$43.7 million per signup. The maximum increase in acres that could be treated with this additional funding—about 658,000 acres—represents 9.1 percent of the 7.2 million acres enrolled on average per signup since 2014. Reduced participation by joint operations and other factors, however, could lead to substantially fewer additional acres being treated than expected. Joint operations enrolled in CSP with contract costs exceeding the \$200,000 limit are on average three times as large, in terms of acres, as operations enrolled in CSP with contract costs below the contract limit. However, the average per acre costs of the joint operations with contract costs exceeding the contract limit are only 1.34 times larger than the average per acre costs of operations enrolled in CSP that have contract costs below the contract limit. Based on these findings, NRCS is making no change to the existing \$400,000 contract limit.

Conservation activities funded through CSP contribute to improvements in soil health and reductions in water and wind erosion on cropland, pasture, forest and rangeland; reduce nutrient losses to streams, rivers, lakes and estuaries; increase wildlife habitat, including providing habitat for pollinators; and provide other environmental benefits. Environmental benefits resulting from CSP's conservation activities are difficult to quantify at this time. Partial estimates made by NRCS (see Benefits section in the full analysis) indicate the positive benefits of CSP.

As explained above, beginning in FY 2020, NRCS began using a new software tool, CART, to assess and rank all program applications. Per the statutory requirements outlined in section

2308C(1) of the 2018 Farm Bill, CART allows NRCS to rank CSP applications based on (1) the natural resource conservation and environmental benefits that result from the conservation treatment on all applicable priority resource concerns at the time of submission of the application; (2) the degree to which the proposed conservation activities increase natural resource conservation and environmental benefits; and (3) other consistent criteria, as determined by the Secretary. Additionally, CART creates the framework to better facilitate, and integrate, the potential costs with environmental benefits (outcomes). Through data collected in CART, NRCS will be better prepared to conduct future analysis of the environmental benefits achieved through CSP.

NRCS estimates that the total cost (Table 1) of accessing the program over 5 years is \$2.5 billion with total transfers over 5-years equaling \$3.795 billion. Given a 3 percent discount rate, this translates into a projected annualized cost to producers of accessing CSP of \$414.4 thousand in constant 2019 dollars and projected annualized transfers (NRCS funds) of \$759 million in constant 2019 dollars.

TABLE 1—COSTS, BENEFITS AND TRANSFERS (BASED ON 3 PERCENT DISCOUNT RATE), 2019–2023

Category	Annual estimate (2019 \$)
Costs <sup>a</sup>	\$414,400.
Benefits	Qualitative.
Transfers	\$759,000,000.

<sup>a</sup> Costs consist of imputed cost of applicant and participant time to gain access to CSP.

In implementing the 2018 Farm Bill, USDA is following legislative intent to maximize conservation impacts, address natural resource concerns, establish an open participatory process, and provide flexible assistance to producers who apply appropriate conservation measures to comply with Federal, State, and Tribal environmental requirements. Participation in CSP is voluntary. Hence, CSP participation is not expected to negatively impact CSP participants and nonparticipants.

**Clarity of the Regulation**

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to the substantive comments NRCS received on the interim rule, NRCS invited public comments on how to make the rule easier to understand.

NRCS has incorporated these recommendations for improvement where appropriate. NRCS responses to public comment are described in more detail above.

### Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory analysis of any rule whenever an agency is required by APA or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because this rule is exempt from notice and comment rulemaking requirements of the APA and no other law requires that a proposed rule be published for this rulemaking initiative.

### Environmental Review

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the NRCS regulations for compliance with NEPA (7 CFR part 650). NRCS conducted an analysis of the CSP interim rule and the analysis has determined there will not be a significant impact to the human environment and as a result, an environmental impact statement (EIS) is not required to be prepared (40 CFR 1508.13). While OMB has designated this rule as “economically significant” under Executive Order 12866, “. . . economic or social effects are not intended by themselves to require preparation of an environmental impact statement” (40 CFR 1508.14), when not interrelated to natural or physical environmental effects. The Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) were available for review and comment for 30 days from the date of publication of the interim rule in the **Federal Register**. NRCS has considered this input and determined that supplementing or revising the current available draft of the CSP EA was warranted. NRCS has made the following changes:

3.1—Added info on comments received on interim rule and EA and addressed comment on EA.

4.4—Updated description of “Affected Environment” when new data

were available, including using 2017 Census of Agriculture data.

Appendix C—Updated with 2019 CSP enhancement examples.

Figure 7 (Socially Disadvantaged Farmers and Ranchers)—Updated map using the most recent census data.

### Executive Order 12372

Executive Order 12372, “Intergovernmental Review of Federal Programs,” requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule-related notice regarding 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities in this rule are excluded from the scope of Executive Order 12372.

### Executive Order 12988

This rule has been reviewed under Executive Order 12988, “Civil Justice Reform.” This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 are to be exhausted.

### Executive Order 13132

This rule has been reviewed under Executive Order 13132, “Federalism.” The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

### Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative

comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA’s Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule does not have significant tribal implication that require further tribal consultation under Executive Order 13175 at this time. If a Tribe requests consultation, NRCS and CCC will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by the 2018 Farm Bill. Tribal consultation for this rule was included in the 2018 Farm Bill Tribal consultation held on May 1, 2019, at the National museum of the American Indian, in Washington, DC. The portion of the Tribal consultation relative to this rule was conducted by Bill Northey, USDA Under Secretary for the Farm Production and Conservation mission area, as part of the Title I session. There were no specific comments from Tribes on CSP during this Tribal consultation.

Additionally, NRCS held sessions with Indian Tribes and Tribal entities across the country in the spring of FY 2019 to describe the 2018 Farm Bill changes to NRCS conservation programs, obtain input about how to improve Tribal and Tribal member access to NRCS conservation assistance, and make any appropriate adjustments to the regulations that will foster such improved access. NRCS invited State leaders for the Farm Service Agency (FSA) and Rural Development (RD), as well as Regional Directors for the Risk Management Agency (RMA) to discuss their programs also.

As a result, approximately 50 percent of the comments received as a result of these sessions were directed to FSA, RMA, RD, and other USDA agencies, with many comments specific to hemp production and the surrounding regulations. Over 40 percent of the feedback pertained to NRCS programs. A handful of those comments were specific to CSP. Feedback included general requests for alternative funding arrangement opportunities under CSP, consideration of economic hardship of Tribes regarding financial assistance rates, and a more extensive list of culturally-significant plants for the subject state or region. Other comments included interest in establishing a separate funding pool for Tribes and an

explanation of why CSP went from an acre-based program to a dollar-based program. Comments also listed challenges specific to Tribes that impact eligibility and inhibit access to USDA programs. None of the feedback received necessitated a change to the regulation.

NRCS will continue to work with our Tribal stakeholders to address the issues raised in order to facilitate greater technical assistance and program delivery to Indian country.

Separate from Tribal consultation and the sessions discussed above, communication and outreach efforts are in place to assure that all producers, including Tribes (or their members), are provided information about the regulation changes. Specifically, NRCS obtains input through Tribal Conservation Advisory Councils. A Tribal Conservation Advisory Council may be an existing Tribal committee or department and may also constitute an association of member Tribes organized to provide direct consultation to NRCS at the State, regional, and national levels to provide input on NRCS rules, policies, programs, and impacts on Tribes. Tribal Conservation Advisory Councils provide a venue for agency leaders to gather input on Tribal interests.

**Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4), requires federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including cost-benefits analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined under title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of UMRA.

**Federal Assistance Programs**

The title and number of the Federal Domestic Assistance Programs in the Catalog of Federal Domestic Assistance to which this rule applies is 10.924—Conservation Stewardship Program.

**E-Government Act Compliance**

NRCS and CCC are committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

**List of Subjects in 7 CFR Part 1470**

Agricultural operation, Conservation activities, Natural resources, Priority resource concern, Stewardship threshold, Resource-conserving crop rotation, Soil and water conservation, Soil quality, Water quality and water conservation, Wildlife and forest management.

Accordingly, the interim rule published November 12, 2019, at 84 FR 60883, is adopted as final with the following changes:

**PART 1470—CONSERVATION STEWARDSHIP PROGRAM**

■ 1. The authority citation for part 1470 continues to read as follows:

**Authority:** 16 U.S.C. 3839aa–21–3839aa–25.

■ 2. In § 1470.2, add paragraph (c)(3) and revise paragraph (d) introductory text to read as follows:

**§ 1470.2 Administration.**

\* \* \* \* \*

(c) \* \* \*

(3) To the maximum extent feasible, manage CSP to enhance soil health.

(d) To support locally led conservation, NRCS will solicit input from State technical committees, Tribal Conservation Advisory Councils, and local working groups to develop State-level technical, outreach, and program materials, including:

\* \* \* \* \*

■ 3. In § 1470.3, revise the definitions for “enhancement,” “management-intensive rotational grazing,” and “resource-conserving crop” to read as follows:

**§ 1470.3 Definitions.**

\* \* \* \* \*

*Enhancement* means a type of conservation activity used to treat natural resources and improve conservation performance that allows a producer to address levels of conservation beyond what the minimum conservation practice standard requires. Enhancements, alone or in combination with other enhancements and practices, result in conservation systems that are equal to or greater than the performance level for the planning criteria identified

for a given resource concern. Planning criteria are defined for each resource concern in Section III—Conservation Management Systems, Field Office Technical Guide.

\* \* \* \* \*

*Management-intensive rotational grazing* means a strategic, adaptively managed multipasture grazing system in which animals are regularly and systematically moved to a fresh pasture in a manner that, as determined by NRCS:

- (1) Maximizes the quantity and quality of forage growth;
- (2) Improves manure distribution and nutrient cycling;
- (3) Increases carbon sequestration;
- (4) Improves the quality and quantity of cover for wildlife;
- (5) Provides permanent cover to protect the soil from erosion; and
- (6) Improves water quality.

\* \* \* \* \*

*Resource-conserving crop* means a crop that is one of the following, as determined by NRCS:

- (1) A perennial grass;
- (2) A legume grown for use as a cover crop, forage, seed for planting, or green manure;
- (3) A legume-grass or diverse grass-forb mixture comprised of species selected for climate, rainfall, soil, and other region-specific conditions; or
- (4) A small grain or other resource-demanding crop grown in combination with a grass, legume, other forbs, or grass-forb mixture, whether interseeded, relay-planted into the resource-demanding crop, or planted in rotation.

\* \* \* \* \*

■ 4. In § 1470.4, revise paragraph (c) introductory text to read as follows:

**§ 1470.4 Allocation and management.**

\* \* \* \* \*

(c) Of the funds made available for each of fiscal years 2019 through 2023 to carry out CSP, NRCS will, to the maximum extent practicable, use at least:

\* \* \* \* \*

■ 5. In § 1470.24, revise paragraphs (a)(3) and (f)(4) to read as follows:

**§ 1470.24 Payments.**

(a) \* \* \*

(3) At least one additional conservation activity must be implemented within the first 12 months of the contract. NRCS may extend this timeframe if NRCS determines that the participant is unable to complete the conservation activity for reasons beyond their control;

\* \* \* \* \*

(f) \* \* \*

(4) New conservation activities initiated or implemented prior to contract approval, unless NRCS granted a waiver prior to the participant starting the activity.

\* \* \* \* \*

**§ 1470.25 [Amended]**

■ 6. In § 1470.25, amend paragraph (c) by removing the cross reference “§ 1470.24(g)” and adding “§ 1470.24(h)” in its place.

■ 7. In § 1470.26, revise paragraphs (a) and (c) to read as follows:

**§ 1470.26 Contract renewal.**

(a) During the first half of the fifth year of the initial contract period, NRCS may allow a participant to apply and compete for the opportunity under § 1470.20 to renew the contract to receive payments for an additional 5-year period, subject to the availability of funds, if the participant meets criteria from paragraph (b) of this section.

\* \* \* \* \*

(c) NRCS will determine a participant ineligible for a new CSP contract on an agricultural operation for 2 years following expiration of their prior contract if the participant does not enter a renewal contract on the agricultural operation at the end of the prior contract period.

**§ 1470.35 [Amended]**

■ 8. In § 1470.35, amend paragraph (a) by removing the words “7 CFR part 1403” and adding the words “part 3 of this title” in their place.

**Kevin Norton,**

*Acting Chief, Natural Resources Conservation Service.*

**Robert Stephenson,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 2020–22345 Filed 10–8–20; 8:45 am]

**BILLING CODE 3410–16–P**

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Part 3**

[Docket ID OCC–2020–0017]

RIN 1557–AE89

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 217**

[Regulation Q; Docket No. R–1711]

RIN 7100–AF85

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 324**

RIN 3064–AF47

**Regulatory Capital Rule: Temporary Changes to and Transition for the Community Bank Leverage Ratio Framework**

**AGENCY:** The Office of the Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; and the Federal Deposit Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation are adopting as final the revisions to the community bank leverage ratio framework made under two interim final rules issued in the **Federal Register** on April 23, 2020. The final rule adopts these interim final rules with no changes. Under the final rule, the community bank leverage ratio will remain 8 percent through calendar year 2020, will be 8.5 percent through calendar year 2021, and will be 9 percent thereafter. The final rule also maintains a two-quarter grace period for a qualifying community banking organization whose leverage ratio falls no more than 1 percentage point below the applicable community bank leverage ratio requirement.

**DATES:** The final rule is effective November 9, 2020.

**FOR FURTHER INFORMATION CONTACT:**

OCC: Benjamin Pegg, Risk Expert, or Jung Sup Kim, Risk Specialist, Capital and Regulatory Policy, (202) 649–6370; Carl Kaminski, Special Counsel, or Daniel Perez, Senior Attorney, Chief Counsel’s Office, (202) 649–5490, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Office

of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

**Board:** Constance M. Horsley, Deputy Associate Director, (202) 452–5239; Elizabeth MacDonald, Manager, (202) 872–7526; Christopher Appel, Senior Financial Institution Policy Analyst II, (202) 973–6862; or Brendan Rowan, Senior Financial Institution Policy Analyst I, (202) 475–6685, Division of Supervision and Regulation; or Benjamin W. McDonough, Assistant General Counsel, (202) 452–2036; Mark Buresh, Senior Counsel, (202) 452–2877; Andrew Hartlage, Counsel, (202) 452–6483; or Jonah Kind, Senior Attorney, (202) 452–2045, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. Users of Telecommunication Device for the Deaf (TDD) only, call (202) 263–4869.

**FDIC:** Bobby R. Bean, Associate Director, [bbean@fdic.gov](mailto:bbean@fdic.gov); Benedetto Bosco, Chief, Capital Policy Section, [bbosco@fdic.gov](mailto:bbosco@fdic.gov); Noah Cuttler, Senior Policy Analyst, [ncuttler@fdic.gov](mailto:ncuttler@fdic.gov); [regulatorycapital@fdic.gov](mailto:regulatorycapital@fdic.gov); Capital Markets Branch, Division of Risk Management Supervision, (202) 898–6888; or Michael Phillips, Counsel, [mphillips@fdic.gov](mailto:mphillips@fdic.gov); Catherine Wood, Counsel, [cawood@fdic.gov](mailto:cawood@fdic.gov); Supervision and Legislation Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (800) 925–4618.

**SUPPLEMENTARY INFORMATION:**

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**I. Background on the Community Bank Leverage Ratio Framework**

The community bank leverage ratio framework provides a simple measure of capital adequacy for community banking organizations that meet certain qualifying criteria. The community bank leverage ratio framework implements section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), which requires the Office of the Comptroller of the Currency (OCC), the Board of