

For: State Offices and Service Centers

Common COR Findings and Clarifying CRP Procedure

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

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Purpose

Recent COR reports of Service Centers indicate that many of the same error findings are being discovered.

This notice:

- restates and clarifies policy and procedure about:
 - conservation plans
 - signature requirements
 - succession-in-interest
 - noncompliance
 - misaction/misinformation
 - general cost-share policy
- provides State Offices and Service Centers with a list of common error findings reported in COR reports. See Exhibit 1.

<p>Disposal Date</p> <p>January 1, 2000</p>	<p>Distribution</p> <p>State Offices; State Offices relay to Service Centers; FS, 80; CSREES, 5</p>
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2 Conservation Plans

A Approving Conservation Plans

An approved conservation plan is required before CRP-1 can be approved by COC.

Before approving CRP-1's, COC, or designee, shall review and approve the conservation plan to ensure that it:

- includes:
 - a map
 - a timeframe for implementing the practice
 - field number, acreage, and quantity
 - an appropriate job information sheet
 - all of the eligible acres offered for CRP
 - **all** maintenance activities for each practice for weed, insect, and pest control for life of CRP-1
 - only practices requested on CRP-1
 - C/S for eligible practices only
 - planting requirements which include application rates, such as the amount of seed, lime, and fertilizer, that are consistent with practice specifications
- has been signed and agreed to by:
 - all signatories to CRP-1
 - NRCS
 - Conservation District, unless the Conservation District declines to review the plan in which case NRCS may take further action as needed to account for the lack of this review
- indicates that the CRP cover will not be disturbed during the primary nesting season, as determined by STC in consultation with the State Technical Committee
- meets the objectives of CPA, when applicable.

COC, or designee, shall reject the plan if these requirements have not been satisfied.

Note: See 2-CRP, paragraphs 209 and 223.

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3 Signature Requirements

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Required Signatures

All owners, operators, and tenants who have an interest in the acreage offered must sign CRP-1, including owners with zero share in CRP annual rental payments. See 2-CRP, paragraph 157.

Note: All owners must sign CRP-15.

Spouses may sign documents on behalf of each other for FSA and CCC programs in which either has an interest unless written notification denying a spouse this authority has been provided to the Service Center. See 1-CM, paragraph 1005.

A valid power-of-attorney (FSA-211) or a photocopy of the evidence of authority for another person to sign must be on file in the Service Center before a person other than a spouse may sign on the behalf of another. See 1-CM, paragraph 1021.

4 Succession-In-Interest

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Policy

Persons determined eligible to succeed to an approved CRP-1 have 60 calendar days from the date of notification by COC to succeed to CRP-1. See 2-CRP, paragraph 270.

COC shall immediately notify eligible persons:

- about the opportunity to succeed to CRP-1
- that all required signatures must be obtained within 60 calendar days.

If a revised CRP-1 is not signed within **60 calendar days** from the date of notification by COC, CRP-1 shall be terminated.

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5 Noncompliance/Good Faith Effort

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Policy

When a contract violation is discovered, COC must promptly notify producer of the noncompliance. Before a good faith determination can be made the producer must do both of the following:

- either in writing or in person, submit an explanation for the default
- correct the noncompliance as required by COC.

When a contract violation is discovered, COC must determine whether a participant made a good faith effort to comply.

When COC determines that the participant made a good faith effort to comply with the terms and conditions of CRP-1, COC must assess a **payment reduction** on the affected acres not to exceed the annual rental payments for all CRP-1's for the farm. See 2-CRP, subparagraph 340 F

Reminder: COC and STC do **not** have authority to waive or reduce payment reductions. All requests to waive or reduce payment reductions must be submitted to DAFP for approval.

See 2-CRP, subparagraph 340 G.

Noncompliance cases shall be handled promptly before CRP payments are made for the year. COC must act on all contract violations according to the following table.

IF COC determines participant...	THEN COC must...
made a good faith effort to comply with the terms and conditions of CRP-1	<p>assess a payment reduction according to 2-CRP, paragraph 340 F.</p> <p>Note: Liquidated damages do not apply when a good faith determination is made.</p>
did not make a good faith effort to comply with the terms and conditions of CRP-1	<p>terminate the acres in violation according to 2-CRP, paragraph 288 and subparagraph 340 E.</p> <p>Note: All annual rental payments and C/S payments, plus interest applicable to both, and liquidated damages must be refunded for the applicable acreage.</p>

6 Misaction/Misinformation Provisions

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General Information

The misaction/misinformation provisions only apply when producer performance was rendered in good faith based upon action of, or information provided by, any authorized representative of COC or STC. In these cases the performance may be accepted as meeting the requirements of the program and benefits may be extended or payments made to the extent it is deemed desirable to provide fair and equitable treatment.

7-CP provides that the misaction/misinformation provisions only apply when there has been detrimental producer reliance upon action or advice of a representative that results in the loss of program benefits for which the producer would have **otherwise been eligible**.

Misaction/misinformation provisions do not extend to cases where the producer:

- knew, or had sufficient reason to know, that the action or advice of the committee or its authorized representative upon which he or she relied was improper or erroneous
- relied upon his or her own misunderstanding or misinterpretation of program provisions, notices, or advice
- would **not** have otherwise been eligible for the applicable benefits.

Meritorious Circumstances: Although meritorious circumstances may justify relief in a particular case, they do **not** justify relief under misaction/misinformation procedure.

Reminder: When submitting cases for review Service Centers and State Offices shall submit the **entire** case file in chronological order.

7 General Cost-Share Policy

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Cost-Share Level/Land Values

C/S assistance to establish permanent vegetative cover on CRP land **shall not exceed** 50 percent of the price at which the land placed in CRP could be sold for use as farmland at the time at which CRP-1 is signed by the producer.

Exceptions: See 2-CRP, paragraph 375.

To determine the price at which the land could be sold for use as farmland use the **lower** of the following:

- county-wide dryland value submitted annually
 - land value survey questionnaire for the previous 3 years.
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B

Establishment of C/S Rates

C/S rates must be established within the State and National C/S levels, and expressed as 1 of the following:

- flat rate
- percent of cost, not to exceed \$_____ per unit of measure
- percent of cost.

COC's are authorized to establish county C/S rates:

- if authorized by STC
- according to State and National guidelines
- with NRCS concurrence.

Note: COC's should include in their review, when establishing C/S rates, available cost data, EQIP cost-share rates, and information from local suppliers.

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7 General Cost-Share Policy (Continued)

B

**Establishment of
C/S Rates
(Continued)**

Express flat C/S rates as follows:

- \$_____ per acre
- other unit of measure, such as cubic yard, linear foot, ton, or pound.

Note: Base flat rates or limitations on documented average costs. Arbitrary hold downs are not authorized. Use percent-of-cost levels only if there is:

- no available cost data
- considerable variation in actual cost of practices across the county.

Important: Flat C/S rates established by COC shall apply to the entire county. Variations of flat C/S rates within a county are **not** authorized.

Exception: Shared management County Office rates may vary if there is a considerable variation in actual cost of practices across county lines.

Use percent of cost not to exceed \$_____ per unit of measure C/S rates if either of the following applies, there is:

- no available cost data
- a considerable variation in the actual cost of performing a practice.

Express percent-of-cost C/S rates as "_____ percent of cost, not to exceed \$____ per unit of measure." Base the limitation on the average cost of performing the unit of measure.

Use percent-of-cost C/S rates if either of the following applies, there is:

- no available cost data
- a considerable variation in the actual cost of performing a practice.

Express percent-of-cost C/S rates as "_____ percent-of-cost per unit of measure."

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7 General Cost-Share Policy (Continued)

C

**STC/State Office
Review and
Approval of
County C/S
Rates**

STC's that do **not** establish C/S rates for the State may authorize COC's to establish C/S rates for the county.

STC shall establish State guidelines for COC's to follow when establishing county C/S rates.

State Office shall review and approve all C/S rates established by COC to ensure that:

- C/S rates are consistent across county boundaries

Note: State Office may delegate this authority to DD's.

- C/S rates are consistent across district and State boundaries

Important: State Office shall **not** delegate this responsibility.

- C/S rates established are within the National and State C/S levels, if applicable
- all flat C/S rates established represent the applicable percentage of cost specified
- cost estimates used by COC's to establish flat C/S rates are accurate and acceptable
- C/S rates are set at the minimum incentive needed to encourage producer participation and implement the approved practice.

If discrepancies exist across county boundaries or between county practice specifications and State and National guidelines, STC's shall not approve COC's C/S rates until the problem is resolved.

STC, or representative, shall notify COC in writing when C/S rates are approved. COC shall document approval in COC minutes.

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7 General Cost-Share Policy (Continued)

D

**Acceptable C/S
Evidence**

COC shall obtain evidence to determine proper payment to eligible participants. This may include, but is not limited to:

- invoices
- canceled checks
- receipts
- seed analysis tags
- other acceptable evidence to determine payment.

Note: Evidence must be obtained regardless of whether flat rates or percent-of-cost method was used to determine the C/S payment. See 2-CRP, paragraph 414.

Evidence must be obtained from participants to ensure that C/S received does not exceed 100 percent of the cost of the practice. Participants must provide acceptable evidence to determine proper payment regardless of whether flat rates; percent of cost, not to exceed \$_____ per unit of measure; or percent-of-cost method was used to determine the C/S payment.

8 Action

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**State Office
Action**

State Offices shall:

- immediately provide Service Centers with a copy of this notice
 - ensure that all Service Centers understand the policies and procedures provided in this notice
 - provide NRCS State Office with a copy of this notice.
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8 Action (Continued)

B

**Service Center
Action**

Service Centers shall:

- ensure that COC understands the policies and procedures provided in this notice
 - provide a copy of this notice to the NRCS field office.
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C

**NRCS National
Office
Concurrence**

NRCS has concurred with this notice.

Common Error Findings

Description of Finding	Reports With Finding	
	# of Reports With Finding	% of Reports Issued
No signed or approved conservation plan was on file when CRP-1 was approved. 2-CRP, subparagraph 209 B	8	38
CRP-1 or CRP-15 does not contain all owners' signatures. 2-CRP, paragraph 157	5	24
CRP practices were not recorded on aerial photography. 2-CP, subparagraph 494 C	5	24
Current CCC-502 is not on file. 1-PL, subparagraph 50 A	5	24
Invoices were not filed to support cost-shares before payments were issued. 2-CRP, paragraphs 388 I and 414A	4	19