

Part 531 – Regional Conservation Partnership Program

Subpart G – General Program Administration

531.60 General

A. This subpart provides general program contract and agreement administration guidance about compliance with regulatory measures, misrepresentation and scheme or device, liquidated damages, appeals, equitable relief, offsets and assignments, access to agricultural land, and environmental credits for conservation improvements.

Note: Amendments and termination of programmatic partnership agreements (PPAs) and supplemental agreements (SAs) are addressed in subpart D, “Programmatic Partnership Agreement Management,” and subpart E, “Supplemental Agreements,” of this manual.

B. States will follow additional contract and agreement administration guidance in Title 440-Conservation Programs Manual, Part 530, “Working Lands Conservation Programs Manual,” (440-CPM-530), 440-CPM, Part 527, “Easement Common Provisions,” and 440-CPM, Part 528, “Agricultural Conservation Easement Program (ACEP),” as applicable.

531.61 Compliance with Regulatory Measures

A. Participants and partners who implement eligible activities are responsible for obtaining the authorities, rights, easements, permits, or other approvals necessary, consistent with applicable statutes and regulations.

B. Participants and partners are responsible for compliance with all laws and for all effects or actions resulting from their performance under a program contract, agreement, or SA.

531.62 Misrepresentation and Scheme or Device

A. A person, legal entity, joint operation, or Indian Tribe that is determined to have erroneously represented any fact affecting a program determination will not be entitled to receive payments under the Regional Conservation Partnership Program (RCPP) and must refund to NRCS all RCPP payments, plus interest in accordance with 7 CFR Part 3, “Debt Management.”

B. A participant or SA awardee partner will lose all interest in contracts or agreements with NRCS and will refund to NRCS all payments, plus interest, in accordance with 7 CFR Part 3 if NRCS determines that the participant knowingly:

- (1) Adopted any scheme or device that tends to defeat the purpose of the program;
- (2) Made any fraudulent representation to NRCS;
- (3) Adopted any scheme or device for the purpose of depriving any tenant or sharecropper of the payments to which such person would otherwise be entitled under the program;
or
- (4) Misrepresented any fact affecting a program determination.

C. If NRCS determines that a participant has violated the terms of a program contract, a lead partner has violated the terms of a PPA, or a lead partner or nonlead partner has violated the terms of an SA, NRCS may determine that the severity of the violation renders the participant, lead partner, or nonlead partner, respectively, ineligible for future NRCS conservation program consideration in accordance with applicable suspension and debarment regulations. See USDA Departmental Regulation [2280-001](#), “Suspension and Debarment.”

531.63 Liquidated Damages

A. Programmatic Partnership Agreements

NRCS may assess liquidated damages against the lead partner or program participants in accordance with 7 CFR Section 1464.43, program rules, and contracting templates.

B. Program Contracts and Type IV SAs

Each contract and agreement template may include liquidated damage provisions when applicable. The criteria and amount of liquidated damages will be determined at the national level and established to an amount reasonably calculated to reimburse NRCS for its foreseeable losses in the event of noncompliance, and will not be punitive in nature.

- (i) Land Management and Rental Contracts.—See 440-CPM-530, Subpart I, Section 530.85 for recovery of cost and liquidated damages policy.
- (ii) Entity-held easements – Reserved
- (iii) U.S.-held easements – Reserved
- (iv) SA Types I–III – Reserved

531.64 Appeals

A. Participants Under Program Contracts, Including Eligible Entities and Landowners in Type IV SA and Parcel Contracts

- (1) A participant may obtain administrative review of an adverse decision under RCPP in accordance with 7 CFR Parts 11 and 614.
 - (i) NRCS must provide appeal rights for any adverse decision. See 440-CPM-530, Subpart O, exhibit 530.143M, “Appeal Rights,” for an example of appeal rights that may be used for RCPP adverse determinations.
 - (ii) See 440-CPM, Part 510, “Appeals and Mediation,” and National Instruction (NI) 440-302, “Mediation Policy and Procedure,” for appeals and mediation policy.
- (2) Any and all determinations in matters of general applicability, such as payment rates, the designation of identified program or priority resource concerns, and eligible activities, are not subject to appeal.
- (3) See 440-CPM-530, Subpart I, “Contract Violations,” for additional guidance.
- (4) U.S.-Held Easements – Reserved
- (5) Entity-Held Easements – Reserved

B. Lead Partners and Nonlead Partners Under a PPA or SA or Negotiated Type I-III SA

- (1) A lead partner or nonlead partner may request a review of any administrative determination concerning eligibility as a partner under the program to enter into a PPA or an SA, or eligibility for financial assistance (FA) payments under an SA agreement that obligated FA. See the administrative appeal regulations provided in 7 CFR Parts 11 and 614.
- (2) NRCS provision of technical assistance funds under a PPA or SA are not subject to administrative review as the provision of such funds are to assist NRCS with its implementation of the program consistent with 16 U.S.C. Section 3842 and are not program payments or benefits to a lead partner or nonlead partner.

531.65 Equitable Relief

A program participant entitled to appeals rights as described in section 531.64 above may also be eligible for equitable relief consideration. See 440-CPM, Part 509, “Equitable Relief from Ineligibility for Conservation,” and NI 440-304, “Guidance for Processing Equitable Relief Cases for the Chief’s Consideration.”

531.66 Offsets and Assignments

A. Except as provided in (B) below, any payment or portion thereof to any person, legal entity, joint operation, or Indian Tribe will be made without regard to questions of title to the payment under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found at [7 CFR Part 3](#) apply to program contract payments.

B. Any person, legal entity, Indian Tribe, eligible entity, or other party entitled to any payment under this program may request assignment of the right to receive such payments, in whole or in part. Form CCC-36, “Assignment of Payment,” is available on [eForms](#).

531.67 Access to Agricultural Operation or Tract

A. Program Contracts and Type IV SAs

- (1) Any authorized NRCS representative will have the right to enter an agricultural operation or tract of land for the purposes of determining eligibility, conducting ranking and due diligence activities, and ascertaining the accuracy of any representations related to agreement or contract performance. Access includes the right to:
 - (i) Provide technical assistance;
 - (ii) Determine eligibility;
 - (iii) Conduct ranking and onsite inspections prior to execution of an agreement or contract;
 - (iv) Inspect any actions taken under the agreement or contract; and
 - (v) Collect information necessary to evaluate performance, as specified in the agreement or contract.
- (2) The NRCS representative will contact the applicant or participant prior to exercising this provision.
- (3) If a conservation easement (either entity-held or U.S.-held) is acquired on eligible land, future access requirements by NRCS will be defined in the applicable conservation easement deed.

B. PPAs and Type I-III SAs

PPAs and Type I-III SAs have negotiated technical requirements, which can include the level of NRCS access necessary and how it will be provided. See NI 440-315, “Guidance for Regional Conservation Partnership Program (RCP) Negotiated Supplemental Agreements (SA),” for additional guidance.

531.68 Environmental Credits for Conservation Improvements

A. NRCS recognizes that environmental benefits will be achieved by implementing eligible activities funded through RCP, and a participant may obtain environmental credits as a result of implementing additional eligible activities through an environmental service market if one of the purposes of the market is the facilitation of additional conservation benefits that are consistent with the purposes of a program contract or SA. NRCS asserts no direct or indirect interest in these credits. However, NRCS retains the authority to ensure that operation and maintenance (O&M) requirements for RCP-funded eligible activities are met.

B. When additional eligible activities not funded through RCP may impact the land under a program contract or SA, producers and participants are highly encouraged to request an O&M compatibility determination from NRCS prior to entering into any environmental credit agreements.

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C. When environmental credits associated with an RCPP project are associated with project-level contributions, NRCS retains the right to evaluate eligibility, valuation methods, and other factors during PPA negotiations to ensure contributions are valid under applicable program requirements.

D. For all RCPP easements, landowners may pursue environmental credits under other programs if one of the purposes of such program is the facilitation of additional conservation benefits that are consistent with the conservation purposes for which the easement was acquired, and such action does not adversely affect the rights or interests granted under the easement to the grantee or to the United States right of enforcement or to the United States.

- (1) For U.S.-held easements, NRCS asserts no direct or indirect interest in credits generated by activities not funded through RCPP. All agreements and instruments filed on the land for environmental credits are subordinate to the RCPP easement and are not binding to the United States.
- (2) Activities required under an environmental credit agreement that affect land cover, vegetation, or hydrology on a U.S.-held easement may require an amendment to the restoration plan or a compatible use authorization. Such approvals should not be presumed, as NRCS will only approve adjustments consistent with easement terms and agency technical determinations.