

SECTION 2

2.5 LAND OUT OF PRODUCTION PAYMENTS

DATCP rules authorize cost-share payments for agricultural land taken out of production to install or maintain a conservation practice. A “land out of production” (“LOP”) compensates the landowner based on rental value for land that cannot be productively used. An LOP payment is not authorized if the affected land:

- Is less than ½ acre.
- Can still be used for pasture, hay production or cropping subject to residue management.
- Is directly occupied by a facility or structure, such as a manure storage facility, that a landowner installs as part of the conservation practice.

Contracts for LOP payments must be for at least 10 years, and must be renewed if the county is requiring that the landowner keep the land out of agricultural production.

Land Out of Production 50.08(3)(d)

1. If the county requires the installation or maintenance of practice that will take land out of agricultural production, then the county must offer at least 70% cost-sharing (90% for economic hardship) to pay for land taken out of production. If county is cost-sharing on a voluntary basis, the cost-share rate can be negotiated.
2. The calculation of a LOP payment is based on the value of land taken out of production (the per acre weighted average soil rental rate in the county on the date of cost-share) multiplied by the number of years and the acreage.
3. LOP payments should be calculated using Section 3.2, Data Sheet # 2 *Land Out of Production Calculation Sheet*, which is found [here](#).
4. Section 3 of the cost-share contract (ARM-LWR-112) should identify one or more of the following conservation practices that supports the LOP payment: critical area stabilization (50.69), field windbreaks (50.71), filter strips (50.72), livestock exclusion (50.75), riparian buffers (50.83), streambank and shoreline protection (50.88), waterway systems (50.96), and wetland restoration (50.98).
5. As part of its LOP reimbursement request, a county should submit a complete data sheet that supports the amount requested for reimbursement and identifies whether the LOP payment was negotiated at lower rate than maximum allowed.

Riparian Land out of Production: CREP Equivalent 50.08(4)

1. A county can make an LOP payment based on the CREP equivalent provisions if the following apply:
 - The land is riparian (land next to or draining to a wetland, stream, lake or drainage ditch).

- A filter strip (50.72) or forested or vegetated riparian buffer (50.83) is installed or maintained. Section 3 of the cost-share contract (ARM-LWR-112) should identify the selected conservation practice that supports the CREP equivalent payment.
2. The specific steps for completing a CREP equivalent payment are set forth in Section 2.11 *Step Chart: CREP-Equivalent Payments*, which can be found [here](#)
 3. CREP payments for LOP and practices should be calculated using Section 3.2, Data Sheet 1 *CREP Equivalent Calculation Sheet*, which is found [here](#). These are the key elements of payment calculation:
 - The weighted average rental rate (WARR) based on weighted average of rental rates for the three predominant soil types.
 - The federal and state equivalent payments (including incentive and maintenance) determined by taking the WARR multiplied by the number of years multiplied by the acres. This will determine the combined total rental payment.
 - The “Equivalent Practice Payments (including Incentives) which is the sum of the total eligible cost for a practice multiplied by the following rates: 50% (Federal Payment.), 40% (Federal Incentive) and 20% (State).
 4. The landowner must agree to keep the land out of agricultural production for 15 years, or in perpetuity, under contract terms equivalent to those that apply under the CREP program. The landowner and the county must execute the proper addendum to the cost-share contract to accomplish this purpose:
 - Addendum for CREP Equivalent Payment-15 year (ARM-LWR-387) (Note: Form must be modified for 15 year easements)
 - Addendum for CREP Equivalent Payment-Perpetual Easement (ARM-LWR-388)
 5. As part of its CREP equivalent reimbursement request, a county should submit a completed data sheet that supports the amount requested for reimbursement and identifies whether the LOP payment was negotiated at lower rate than maximum allowed.
 6. Under ATCP 50, the CREP Equivalent payments for land out of production and corresponding practice payment end when the CREP program expires.