

*Operation and maintenance* means work performed by the participant to keep the applied conservation practice functioning for the intended purpose during its life span. Operation includes the administration, management, and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice, repairing damage, or replacement of the practice to its original condition if one or more components fail.

*Participant* means an applicant who is a party to a CFO contract.

*Secretary* means the Secretary of the United States Department of Agriculture.

*State conservationist* means the NRCS employee authorized to direct and supervise NRCS activities in a State, the Caribbean Area, or the Pacific Basin Area.

*State technical committee* means a committee established by the Secretary in a state pursuant to 16 U.S.C. 3861.

*Technical assistance* means the personnel and support resources needed to conduct conservation planning; conservation practice survey, layout, design, installation, and certification; training, certification, and quality assurance for professional conservationists; and evaluation and assessment of the program.

*Unit of concern* means a parcel of agricultural land that has natural resource conditions that are of concern to the participant.

**§ 1468.4 Establishing Conservation Farm Option (CFO) pilot project areas.**

(a) CCC may periodically solicit proposals from the public to establish pilot project areas in the FEDERAL REGISTER.

(b) Pilot projects may involve one or more participants. Each owner or producer within an approved pilot project area must submit an application in order to be considered for enrollment in the CFO. This pilot project area may be a watershed, a subwatershed, an area, or an individual farm that can be geographically described and has specific environmental sensitivities or sig-

nificant soil, water, and related natural resource concerns. The pilot project area must have acreage enrolled in a production flexibility contract, which is authorized by the Agricultural Marketing and Transition Act of 1996. After these pilot project area proposals are received, the Chief, with FSA concurrence, will select proposals for funding.

(c) CCC will select pilot project areas based on the extent the individual proposal:

- (1) Demonstrates innovative approaches to conservation program delivery and administration;
- (2) Proposes innovative conservation technologies and system;
- (3) Provides assurances that the greatest amount of environmental benefits will be delivered in a cost effective manner;
- (4) Ensures effective monitoring and evaluation of the pilot effort;
- (5) Considers multiple stakeholder participation (partnerships) within the pilot area;
- (6) Provides additional non-Federal funding; and
- (7) Addresses the following:
  - (i) Conservation of soil, water, and related natural resources,
  - (ii) Water quality protection or improvement,
  - (iii) Wetland restoration and protection, and
  - (iv) Wildlife habitat development and protection,
  - (v) Or other similar conservation purposes.

**§ 1468.5 General provisions.**

(a) Program participation is voluntary.

(b) Participation in the CFO is limited to producers of wheat, feed grains, cotton, or rice who have a production flexibility contract, in accordance with part 1412 of this chapter, on the farm enrolling in CFO and who are eligible for either CRP (7 CFR part 1410), EQIP (7 CFR part 1466), or WRP (7 CFR part 1467).

(c) The participant is responsible for the development of a conservation farm plan for the farm or ranch and may request assistance from NRCS or a third party in writing both the conservation farm plan and installing the

practices outlined within the plan. Conservation practices in the conservation farm plan that would have been eligible for payment under CRP, EQIP, or cost-share agreements under WRP are eligible for CFO payment. The provisions for determining eligibility for payment and the calculation of payment under CFO will be similar to those specified for the eligible conservation practices under CRP, EQIP, or cost-share agreements under WRP. For land retirement payments, the CRP payment schedule in effect for the applicable soils at the time the CFO contract is signed will be utilized. CCC will provide annual payments to a participant for such conservation practices as specified in the time schedule set forth in the conservation farm plan.

**§ 1468.6 Practice eligibility provisions.**

(a) Practices may be eligible for payment under CFO if the conservation practice specified in the conservation farm plan is determined to be an eligible practice, as determined by the Chief, in accordance with:

- (1) 7 CFR part 1410 for land retirement rental payments and practices that are eligible under CRP;
- (2) 7 CFR part 1467 for wetland restoration or protection practices that are eligible under WRP; or
- (3) 7 CFR part 1466 for conservation practices that are eligible under EQIP.

(b) For practices that are installed on retired land, the CRP cost-share rate for practices must be utilized.

**§ 1468.7 Participant eligibility provisions.**

Participants in the CFO must at the time of enrollment:

- (a) Have a production flexibility contract in accordance with part 1412 of this chapter on the farm enrolling in CFO.
- (b) Agree to forgo earning future payments under the Conservation Reserve Program authorized by part 1410 of this chapter, the Wetlands Reserve Program cost-share payments authorized by part 1467 of this chapter, and Environmental Quality Incentives Program authorized by part 1466 of this chapter, on the farm enrolled in the CFO for the term of the CFO contract.

(c) Be in compliance with the highly erodible land and wetland conservation provisions found at part 12 of this title;

(d) Have control of the land for the term of the proposed contract period;

(1) An exception may be made by the Chief in the case of land allotted by the Bureau of Indian Affairs (BIA), tribal land, or other instances in which the Chief determines that there is sufficient assurance of control.

(2) If the applicant is a tenant of the land involved in agricultural production the applicant shall provide CCC with the written authorization by the landowner to apply the structural or vegetative practice.

(3) If the applicant is a landowner, the landowner is presumed to have control.

(e) Submit a proposed conservation farm plan to CCC that is in compliance with the terms and conditions of the program. To receive payment under the CFO, the participant must also meet the eligibility requirements, as determined by the Chief, in:

(1) 7 CFR part 1410 if the land retirement rental payment and practice determined eligible in accordance with § 1468.6(a);

(2) 7 CFR part 1467 if the wetland restoration or protection practice was determined eligible in accordance with § 1468.6(b), or

(3) 7 CFR part 1466, if the conservation practice was determined eligible in accordance with § 1468.6(c).

(4) Comply with the provisions at § 1412.304 of this chapter for protecting the interests of tenants and sharecroppers, including provisions for sharing, on a fair and equitable basis, payments made available under this part, as may be applicable.

(5) Supply information as required by CCC to determine eligibility for the program.

(6) Comply with all the provisions of the CFO contract which includes the conservation farm plan approved by the local conservation district.

**§ 1468.8 Land eligibility provisions.**

Land may be eligible for enrollment in CFO, if CCC determines that the farm or ranch is enrolled in a production flexibility contract, authorized by the Agricultural Marketing Transition