

## § 1469.9

(vi) Ability to address the resource concern based on site specific conditions; and,

(vii) The need for cost-share assistance for specific practices and activities to help producers achieve higher management intensity levels or to advance in tiers of eligibility.

(2) To address unique resource conditions in a State or region, the Chief may make additional conservation practices, measures, and enhancement activities eligible that are not included in the national list of eligible CSP practices.

(3) NRCS will make the list of eligible practices and activities and their individual payment rates available to the public.

(b) NRCS will consider the qualified practices and activities in its computation of CSP payments except for provided for in paragraph (d) of this section.

(c) NRCS will not make new practice payments for a conservation practice the producer has applied prior to application for the program.

(d) New practice payments will not be made to a participant who has implemented or initiated the implementation of a conservation practice prior to approval of the contract, unless a waiver was granted by the State Conservationist or the Designated Conservationist prior to the installation of the practice.

(e) Where new technologies or conservation practices that show high potential for optimizing environmental benefits are available, NRCS may approve interim conservation practice standards and financial assistance for pilot work to evaluate and assess the performance, efficacy, and effectiveness of the technology or conservation practices.

(f) NRCS will set the minimum level of treatment within land management practices at the national level; however, the State Conservationist may supplement specific criteria to meet localized conditions within the State or areas.

### § 1469.9 Technical assistance.

(a) NRCS may use the services of NRCS-approved or certified Technical

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Service Providers in performing its responsibilities for technical assistance.

(b) Technical assistance may include, but is not limited to: assisting applicants during sign-up, processing and assessing applications, assisting the participant in developing the conservation stewardship plan; conservation practice survey, layout, design, installation, and certification; information, education, and training for producers; and quality assurance activities.

(c) NRCS retains approval authority over the certification of technical assistance done by non-NRCS personnel.

(d) NRCS retains approval authority of the CSP contracts and contract payments.

(e) Conservation stewardship plans will be developed by NRCS certified conservation planners.

### Subpart B—Contracts and Payments

#### § 1469.20 Application for contracts.

(a) Applications must include:

(1) A completed self-assessment workbook.

(2) Benchmark condition inventory and conservation stewardship plan in accordance with § 1469.7 for the entire operation or, if Tier I, for the portion being enrolled.

(3) Any other requirements specified in the sign-up notice;

(4) For Tier I, clear indication of which acres the applicant wishes to enroll in the CSP;

(5) A certification that the applicant will agree to meet the relevant contract requirements outlined in the sign-up notice;

(b) Producers who are members of a joint operation, trust, estate, association, partnership or similar organization must file a single application for the joint operation or organization.

(c) Producers can submit only one application per sign-up.

(d) Producers can only have one active contract at any one time.

#### § 1469.21 Contract requirements.

(a) To receive payments, each participant must enter into a conservation stewardship contract and comply with its provisions. Among other things, the participant agrees to maintain at least

the level of stewardship identified in the benchmark inventory for the portion being enrolled for the entire contract period, as appropriate, and implement and maintain any new practices or activities required in the contract.

(b) Program participants will only receive payments from one conservation stewardship contract per agricultural operation.

(c) CSP participants must address the following requirements or additional resource concerns to the minimum level of treatment by the end of their CSP contract:

(1) Tier I contract requirement: additional practices and activities as included by the applicant in the conservation stewardship plan and approved by NRCS, over the part of the agricultural operation enrolled in CSP.

(2) Tier II contract requirement: additional practices and activities including the treatment of an additional locally significant resource concern as described in Section III of the NRCS FOTG other than the nationally significant resource concerns, as included by the applicant in the conservation stewardship plan and approved by NRCS, over the entire agricultural operation, where applicable.

(3) Tier III contract requirement: additional practices and activities as included by the applicant in the conservation stewardship plan and approved by NRCS, over the entire agricultural operation, where applicable.

(d) Transition to a higher tier of participation.

(1) Upon agreement by NRCS and the participant, a conservation stewardship contract may include provisions that lead to a higher tier of participation during the contract period. Such a transition does not require a contract modification if that transition is laid out in the schedule of contract activities. In the event that such a transition begins with Tier I, only the land area in the agricultural operation that meets the requirements for enrollment in Tier I can be enrolled in the contract until the transition occurs. Upon transition from Tier I to a higher tier of participation, the entire agricultural operation must be incorporated into the contract. All requirements applicable to the higher tier of participa-

tion would then apply. NRCS will calculate all stewardship, existing practice, new practice payments, and enhancement payments using the applicable enrolled acreage at the time of the payment.

(2) A contract in which a participant transitions to higher tier(s) of participation must include:

(i) A schedule for the activities associated with the transition(s);

(ii) A date certain by which time the transition(s) must occur; and,

(iii) A specification that the CSP payment will be based on the current Tier of participation, which may change over the life of the contract.

(3) A contract in which a participant transitions from Tier I to a higher tier will not authorize higher payments for that transition until the participant has demonstrated that they have achieved that tier level for a period of at least 12 months.

(4) A contract in which a participant transitions from Tier II to Tier III must include a participation period of no less than 12 months at Tier II.

(5) The transition contract will retain the original contract length.

(e) A conservation stewardship contract must:

(1) Incorporate by reference the conservation stewardship plan;

(2) Be for 5 years for Tier I, and 5 to 10 years for Tier II or Tier III;

(3) Incorporate all provisions as required by law or statute, including participant requirements to:

(i) Implement and maintain the practices as identified and scheduled in the conservation stewardship plan, including those needed to be eligible for the specified tier of participation and comply with any additional sign-up requirements;

(ii) Not conduct any practices on the farm or ranch that tend to defeat the purposes of the contract;

(iii) Refund any CSP payments received with interest and liquidated damages, and forfeit any future payments under CSP, if the participant fails to correct a violation of a term or contract within 30 days of written notice of such by the NRCS, or upon a second violation of a term or condition of the contract;

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(iv) Supply records and information as required by CCC to determine compliance with the contract and requirements of CSP.

(4) Specify the participant's requirements for operation and maintenance of the applied conservation practices;

(5) Specify the schedule of payments under the life of the contract, including how those payments:

(i) Relate to the schedule for implementing additional conservation measures as described in the security plan;

(ii) Relate to the participant's actual implementation of additional conservation measures as described in the security plan; and,

(iii) May be adjusted by NRCS if the participant's management decisions change the appropriate set or schedule of conservation measures on the operation.

(6) Incorporate any other provisions determined necessary or appropriate by NRCS, or included as a requirement for the sign-up.

(f) The participant must apply and maintain the practice(s) within the timelines specified in the contract.

(g) Contracts expire on September 30 in the last year of the contract. A participant may apply for a new conservation stewardship contract in a subsequent sign-up.

(h) Participants must:

(1) Implement the conservation stewardship contract approved by NRCS;

(2) Make available to NRCS, appropriate records showing the timely implementation of the contract;

(3) Comply with the regulations of this part; and

(4) Not engage in any activity that interferes with the purposes of the program, as determined by NRCS.

(i) NRCS will determine the payments under the contract as described in § 1469.23.

(j) NRCS will not pay participants for: practices within their conservation stewardship plan that are required to meet conservation compliance requirements found in 7 CFR part 12; practices that are included in maintenance agreements (with financial reimbursements for maintenance) that existed prior to the participant's conservation stewardship contract approval; or the maintenance of equipment.

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(k) For contracts encompassing the participant's entire agricultural operation, the geographic boundaries of the acreage enrolled in the contract must include all fields and facilities under the participant's direct control, as determined by NRCS.

(l) An applicant will be awarded only one contract per sign-up period.

**§ 1469.22 Conservation practice operation and maintenance.**

(a) The contract will incorporate the operation and maintenance of the conservation practice(s) applied under the contract.

(b) The participant must operate and maintain any new conservation practice(s) for which the participant has received a new practice or enhancement payment its intended purpose for the life span of the conservation practice(s), as identified in the contract or conservation stewardship plan, as determined by NRCS.

(c) Conservation practices that are installed before the execution of a contract, but are needed in the contract to obtain the intended environmental benefits, must be operated and maintained as specified in the contract whether or not an existing practice payment is made.

(d) NRCS may periodically inspect the conservation practices during the practice lifespan as specified in the contract to ensure that operation and maintenance are being carried out, and that the practice is fulfilling its intended objectives. When NRCS finds that a participant is not operating and maintaining practices installed through the CSP in an appropriate manner, NRCS will request a refund of any associated payments that NRCS made for that practice under the contract. If an existing practice is part of a system that meets the quality criteria, but does not technically meet NRCS minimum practice standards, the practice must be modified or updated to meet the standard according to the FOTG as specified in § 1469.25(a) of this part.

**§ 1469.23 Program payments.**

(a) Stewardship component of CSP payments.