

purchasing materials or services to implement a conservation practice. Eligibility for advance payment is contingent upon the requirement that the participant must obtain an NRCS approved practice design prior to approval of the advance payment. Advance funds paid to program participants must be expended within 90 days from receipt of funds or returned to NRCS within a reasonable time as determined by NRCS.

(11) Before NRCS will approve and issue any EQIP payment, the participant must certify that the conservation practice has been completed in accordance with contract requirements, and NRCS or an approved TSP must certify that the practice has been carried out in accordance with the applicable NRCS FOTG technical standards.

§ 1466.25 Contract modifications and transfers of land.

(a) The participant and NRCS may modify a contract if both parties agree to the contract modification, the contract continues to meet the purposes of the program, and the contract modification is approved by NRCS.

(b) Within the time specified in the contract, the participant must provide NRCS with written notice regarding any voluntary or involuntary loss of control of any acreage under the EQIP contract, which includes changes in a participant's ownership structure or corporate form. Failure to provide timely notice will result in termination of the entire contract.

(c) Unless NRCS approves a transfer of contract rights under this paragraph (c), a participant losing control of any acreage will constitute a violation of the EQIP contract and NRCS will terminate the contract and require a participant to refund all or a portion of any financial assistance provided. NRCS may approve a transfer of the contract if:

(1) NRCS receives written notice that identifies the new producer who will take control of the acreage, as required in paragraph (d) of this section;

(2) The new producer meets program eligibility requirements within a reasonable time frame, as specified in the EQIP contract;

(3) The new producer agrees to assume the rights and responsibilities for the acreage under the contract; and

(4) NRCS determines that the purposes of the program will continue to be met despite the original participant's losing control of all or a portion of the land under contract.

(d) Until NRCS approves the transfer of contract rights, the new producer is not a participant in the program and may not receive payment for conservation activities commenced prior to approval of the contract transfer.

(e) NRCS may not approve a contract transfer and may terminate the contract in its entirety if NRCS determines that the loss of control is voluntary, the new producer is not eligible or willing to assume responsibilities under the contract, or the purposes of the program cannot be met.

(f) In the event a conservation practice fails through no fault of the participant, NRCS may issue payments to re-establish the practice, at the rates established in accordance with § 1466.23, provided such payments do not exceed the payment limitation requirements as set forth § 1466.24.

[79 FR 73966, Dec. 12, 2014, as amended at 81 FR 29483, May 12, 2016]

§ 1466.26 Contract violations and terminations.

(a) NRCS may terminate a contract:

(1) Without the consent of the participant where it determines that the participant violated the contract; or

(2) With the consent of the participant if NRCS determines that the termination is in the public interest.

(b) NRCS may allow a participant in a contract terminated in accordance with the provisions of paragraph (a) to retain a portion of any payments received appropriate to the effort the participant has made to comply with the contract, or in cases of hardship, where forces beyond the participant's control prevented compliance with the contract. The condition that is the basis for the participant's inability to comply with the contract must not have existed at the time the contract was executed by the participant. If a participant believes that such a hardship condition exists, the participant may submit a request with NRCS for

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relief pursuant to this paragraph and any such request must contain documentation sufficient for NRCS to make a determination that this hardship condition exists.

(c) If NRCS determines that a participant is in violation of the terms of a contract, O&M agreement, or documents incorporated by reference into the contract, NRCS may give the participant a period of time, as determined by NRCS, to correct the violation and comply with the terms of the contract and attachments thereto. If a participant continues to be in violation, NRCS may terminate the EQIP contract in accordance with § 1466.26(e).

(d) Notwithstanding the provisions of paragraph (c) of this section, a contract termination will be effective immediately upon a determination by NRCS that the participant:

(1) Has submitted false information or filed a false claim;

(2) Engaged in any act, scheme, or device for which a finding of ineligibility for payments is permitted under the provisions of § 1466.35, or

(3) Incurred a violation of the contract provisions that cannot be corrected in a timeframe established by NRCS.

(e) If NRCS terminates a contract due to breach of contract, the participant will forfeit all rights to future payments under the contract, pay liquidated damages, and refund all or part of the payments received, plus interest.

(1) NRCS may require a participant to provide only a partial refund of the payments received if a previously installed conservation practice can function independently and is not adversely affected by the violation or the absence of other conservation practices that would have been installed under the contract.

(2) NRCS may reduce or waive the liquidated damages depending upon the circumstances of the case.

(3) When terminating a contract, NRCS may reduce the amount of money owed by the participant by a proportion that reflects the good faith effort of the participant to comply with the contract or the existence of hardships beyond the participant's control that have prevented compliance with the contract.

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(f) NRCS may terminate a contract that provides payments to a participant for conservation practices related to organic production, if NRCS determines that the participant is not implementing practices according to provisions of the contract agreement or does not meet provisions of this part.

§ 1466.27 Conservation Innovation Grants.

(a) In addition to the terms defined in § 1466.3, the following definitions will be applicable to this section:

(1) *EQIP eligible* means any farming entity, land, and practice that meets the definitions of EQIP as defined in 7 CFR part 1466.

(2) *Grant agreement* means a document describing a relationship between NRCS and a State or local government, or other recipient whenever the principal purpose of the relationship is the transfer of a thing of value to a recipient in order to accomplish a public purpose of support or stimulation authorized by Federal law and substantial Federal involvement is not anticipated.

(3) *Grant Review Board* consists of representatives of NRCS staff as determined by the Chief.

(4) *Technical Peer Review Panel* means a panel consisting of Federal and non-Federal technical advisors who possess expertise in a discipline or disciplines deemed important to provide a technical evaluation of project proposals submitted under the funding opportunity announcement.

(5) *Project* means the activities as defined within the scope of the grant agreement or cooperative agreement.

(6) *Project director* means the individual responsible for the technical direction and management of the project as designated in the application.

(7) *On-farm conservation research* means an investigation conducted to answer a specified conservation-related question using a statistically valid design, while employing farm scale equipment on farm fields.

(b) *Purpose and scope.* (1) The purpose of Conservation Innovation Grants (CIG) is to stimulate the development and adoption of innovative conservation approaches and technologies while