

up allows NRCS to select the conservation practices, management activities, and enhancement activities that are best suited to the unique resource conditions and challenges in high-priority watersheds. Identifying high-priority watersheds and awarding contracts through CSP may provide a stimulus for better watershed planning and coordination of conservation activities, as well as allow Federal and State natural resource agencies to establish baseline environmental quality conditions and more effectively assess conservation effects in a given watershed. Finally, ranking and prioritizing watersheds according to NRCS regions allows the program to emphasize regional resource concerns and priorities. This process of ranking would be similar to the NRCS preferred approach except that applicants would not be prevented from applying to CSP if they are located in a low-priority watershed.

Under this alternative approach, a substantially larger number of producers may apply for CSP contracts than under the "NRCS Preferred Approach." To effectively implement CSP using this alternative, NRCS may have to explore options including setting a higher bar for program eligibility, in order to reduce the agency's additional administrative burden of working with producers and processing applications.

2. Apportion the Limited Budget According to a Formula of Some Kind, for Example by Discounting Each Participant's Contract Payments Equally (i.e., Prorate Payments)

Under this approach, NRCS would select all eligible applications for funding, but would reduce the level of funding for each eligible contract by an amount that would limit the total of all contracts to the budget limitation. This proration has the advantage of allowing all eligible applicants to become contract holders. Of course, the key disadvantage is that contracts would not be fully funded, and participants would receive potentially a small share of what a fully funded contract would provide while still requiring completion of the contract. Thus, they would have less incentive to undertake demanding conservation activities and CSP would not achieve its objectives. Complicating this approach is the problem that applicants would not know what share they would get until all contracts were approved, at which time they may find the contract undesirable. Thus it would be hard for NRCS to predict the ultimate expenditure of the program.

With the technical assistance funding cap of 15 percent, there would not be

enough assistance available to assist all potential applicants and participants to complete the assessment and contract requirements to receive their payment.

3. Close Sign-Up Once Available Funds Are Exhausted (i.e., First Come, First Served)

In theory, NRCS could open CSP sign-ups and fund the first eligible applications submitted. This would place an unnecessary pressure on applicants to be first in line, and have no bearing on the expected conservation benefits of the contracts. In addition, it would be difficult for NRCS to know upon receipt of an application exactly what it would cost, mainly because detailed contract activities and the tiers of participation require some discussion and consideration by both the participant and NRCS field staff. Thus NRCS views this option as inappropriate and unworkable.

4. Limit the Number of Tiers of Participation Offered

NRCS believes that excluding tiers of participation, for example by offering only Tier III contracts, is neither consistent with the Act nor promotes delivering the greatest net benefits from the program. At each sign-up, NRCS will offer all three tiers of participation. It will award contracts based on the placement in enrollment categories regardless of the tier of participation.

5. Only Allow Historic Stewards To Participate—Only Those Who Have Already Completed the Highest Conservation Achievement Would Be Funded

This approach would severely constrain the program participation and would not require the use of new practice payments. There would also be a reduced level of technical assistance required since all the basic resource concerns would be addressed requiring no practice design and implementation. On the other hand, available funding within the contract cap could be focused on enhancements, including pilots and monitoring of results. A disadvantage of this approach would be that it may reduce participation from less capitalized, limited resource and beginning farmers and ranchers, and it may also reduce access to those producers who have not traditionally participated in NRCS programs.

Minimum Level of Treatment for Addressing Resource Concerns in CSP

As discussed before, NRCS is proposing to require that participants in CSP address resource concerns to a minimum level of treatment that meets

or exceeds the resource quality criteria according to the NRCS Field Office Technical Guides in terms of land management and/or structural practices for each land use. Only land that meets or exceeds the required level of treatment for the identified resource concerns can be included in the CSP program for payment. For example, the rule proposes soil quality and water quality as national significant resource concerns. That means that each participant must address all water quality and soil quality concerns to the quality criteria level. In the case of participation in Tier I, such treatment can address a subset of the agricultural operation, as described in the statute.

NRCS may modify the requirements as new conservation practices and management techniques are developed and refined or as local conditions dictate. Participants in CSP would not need to conform to any new requirements not specified in their contract.

The term non-degradation standard as used in the CSP statute means the level of measures required to adequately protect, and prevent degradation of natural resources, as determined by the Secretary in accordance with the quality criteria described in handbooks of the Natural Resources Conservation Service. The term non-degradation is not used in this rule in order to avoid confusion with the regulatory compliance meanings used by EPA and other regulatory agencies.

In conditions where a resource concern is not pertinent, prevalent, or likely or for the land steward who has already met the minimum requirements for resource treatment, a participant may have to undertake few or no activities for enrollment in CSP. For example, where soil quality is already adequately addressed, NRCS will not require participants to undertake additional unnecessary soil management practices, as determined by the NRCS technical guides. It is the intent of NRCS that the required level of treatment will demand specific actions or companion practices (or in most cases a choice among actions and practices) only to the extent that those practices are required to meet prescribed resource conditions.

The Proposed CSP Application and Sign-Up Process

In preparation for the CSP sign-up, NRCS would receive public comment on the process and criteria used to select the eligible priority watersheds and enrollment categories used for selecting application for funding within the watersheds. Since this is a new capped