

leaching. In addition, pesticides can become attached to soil particles and deposited into water bodies with rainfall and other forms of precipitation. Irrigation return flows often carry dissolved salts from cropland and pastures, as well as nutrients and pesticides, into surface- or groundwater. High levels of salinity in irrigation water can reduce crop yields or limit crop growth to an unacceptable level.

NRCS is proposing to allow participants to address additional resource concerns through certain types of enhancements activities. Enhancement activities are expected to produce additional environmental benefits through additional management activities such as specific actions regarding pest management or nutrient management and by addressing additional concerns such as soil erosion control, water conservation, noxious weeds, and the protection of pollinators or protection of fish and wildlife habitat. This proposal ensures that every State will address national priorities. It will allow States to address other significant natural resource issues through the identification of local resource concerns through enhancement activities. NRCS requests additional public comment on the use of nationally significant resource concerns.

2. *Minimum requirements for each tier.* Each of the three CSP tiers specifies:

- (1) Eligibility criteria for participants;
- (2) the payments participants can receive; and
- (3) the conservation activities the participants must maintain or undertake as a condition of their CSP contracts.

Section 1238A(d)(6) of the Act requires the Secretary to establish minimum requirements for each of the three tiers of participation. The Act allows the minimum requirements to be as discrete as a list of specific practices or as general as a bundle of conservation practices and activities that achieve a desired resource outcome. The Act requires at least a minimum level of treatment which has been further defined in this rule as significant resource concerns and quality criteria in section 1469.4.

In the ANPR, NRCS asked for specific comments on the minimum requirements for each tier, and whether the requirements should apply to all contracts nationally. NRCS received 572 comments on this issue, of which at least 480 were identifiable as "form" responses from the sustainable agricultural community. A majority of the respondents endorsed minimum requirements that "reward strong environmental performance." There was

considerable support for minimum requirements that result in improvement of the natural resources beyond the requirements in the Act. Some degree of support exists as well for use of practice bundles or conservation systems rather than individual practices. A small number of commenters also suggested favoring producers who have already obtained a conservation plan and implemented it. Comments were split between requiring minimum national requirements for all CSP contracts and CSP requirements being determined at regional, State, or local levels. Several of those who recommend minimum national requirements suggest that NRCS allow State and local interests to add to the list of national requirements. As indicated above, NRCS has proposed to set national eligibility requirements to reward producers who have shown the initiative toward strong environmental performance on their land. Water quality and soil quality are designated as nationally significant resource concerns. NRCS is proposing that tier-one applicants address both water quality and soil quality resource concerns to the minimum level of treatment as a condition of eligibility for the enrolled portion of the agricultural operation. NRCS is proposing that tier-two applicants must address soil and water quality resource concerns on their entire agricultural operation up to the minimum level of treatment as a condition of eligibility and then address an additional resource concern of their choice by the end of the contract period. Tier-three applicants would address all resource concerns on their entire agricultural operation up to the minimum level of treatment as a condition of eligibility. All tiers of participation would be required to address additional activities as described in the sign-up announcement or the enrollment category placement.

NRCS proposes in Section 1469.5 to require a minimum level of treatment for the significant resource concerns used for program eligibility and tier contract requirements that will result in conservation treatment that meets or exceeds the quality criteria. The criteria will be based on accomplishment of a higher level of management intensity (e.g. continuous no-till rather than seasonal conventional tillage) rather than depending solely upon the installation of practices. This proposal requires that the agency further define "management intensity" for the various resource concerns and the degree to which the conservation treatment exceeds the quality criteria. Specific management intensity activities will be

set at the National level and tailored for state use by the State Conservationist with advice of the State Technical Committee.

3. *Payment eligibility.* The Act requires the Secretary to describe the particular practices to be implemented, maintained, or improved as part of the program. The Secretary can determine which practices receive payment. Although the Act provides for maintenance payments on existing practices and new practice payments on structural practices, the Act does not require that participants receive maintenance payments for all the practices needed to meet the required quality criteria or cost-share payments for all practices installed. NRCS sought comment regarding which practices and activities should be eligible for payment, and whether any priorities should be established for payment. NRCS received 160 comments on this issue, of which 27 of these responses were identifiable as "form" responses. A small majority of respondents supported the full range of conservation practices and activities in the NRCS Field Office Technical Guide, with some advocating innovative practices not already in the field guides. A nearly identical number of respondents support the selection of eligible practices and activities on the basis of experience at State or local levels and/or good science. A third and much smaller group of respondents support the prioritizing practices for funding, for example, a point system, in order of their relative effectiveness. Some commenters noted a possible redundancy between CSP and other programs (such as EQIP and WHIP) that include cost-share payments for installing structural practices.

This proposed rule attempts to avoid program redundancy by focusing CSP on a specific list of eligible practices, for both the new and existing practice payments, rather than the complete laundry list of available practices and promoting intensive management activities as enhancement payments. State Conservationists would have the ability to tailor the lists to assure they meet the pressing natural resource needs of a portion of their State or a multi-State area. NRCS has proposed to manage all of its mandatory programs using a portfolio approach to reduce redundancy in program areas. NRCS believes that management of USDA conservation programs using a portfolio approach will help direct applicants toward the programs that best fits their needs, thereby maximizing the conservation and improvement of natural resources.