

determined by the Chief, NRCS, whether contiguous or noncontiguous, under the control of the participant and constituting a cohesive management unit, where the participant provides active personal management of the operation." NRCS believes that this proposed definition meets the intent of the legislation. It is clear, better promotes operation-wide conservation, and could reduce the number of contracts in which a participant can engage. Active personal management as defined in the rule ensures the participant personally provides day-to-day conservation management decisions essential to provide the intensity of management necessary to achieve the goals of the program. NRCS believes that the value of making conservation management decisions based on resources concerns is more important than fitting CSP to the design of existing commodity programs. This definition supports the many respondents who desired a program that actually benefits those who work the land.

For this rule, the Secretary has determined that the minimum level of treatment required to address resource concerns for CSP program eligibility will meet, and in most cases exceed, the quality criteria standard in order to optimize the level of environmental benefits and environmental program performance. The term non-degradation standard is defined in the statute, but is not used in the proposed rule. Non-degradation standard as used in the CSP statute means the level of treatment measures required to adequately protect, and prevent degradation of, one or more 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 the Environmental Protection Agency and other regulatory agencies.

Benchmark condition inventory is the documentation of the resource condition or situation pursuant to Section 1469.7(a) that NRCS uses to measure an applicant's existing level of conservation activities, to determine program eligibility, to design a conservation security contract, and to measure the change in resource conditions resulting from conservation treatment. This is a common part of the NRCS conservation planning process.

Management intensity is the degree and scope of actions or activities taken by a producer, which are beyond the minimum requirements of a management practice and which qualify

as additional effort necessary to receive an enhancement payment. Management intensity covers a broad range of conventional and emerging technologies that take advantage of new developments in soil, water, nutrient, and pest management. These conservation technologies provide a basis for implementation of CSP enhancement payments. Management activities can create powerful opportunities for producers to achieve increased levels of environmental performance and benefits.

Resource concern refers to the condition of natural resources that may be sensitive to change by natural forces or human activity. NRCS identifies problems and opportunities relating to resource concerns by using predictive models, direct measurement, or observations in relation to client objectives. Resource concerns include the resource considerations listed in Section III of the FOTG, such as soil erosion, soil condition, soil deposition, water quality, water quantity, animal habitat, air quality, air condition, plant suitability, plant condition, plant management, and animal habitat and management.

Section 1469.4 Significant Resource Concerns

This section proposes water quality and soil quality as nationally significant resource concerns that will be addressed in all contracts and allows the Chief to designate additional nationally significant resource concerns for a given sign-up. NRCS is specifically seeking comment on the designation of nationally significant resource concerns.

NRCS evaluated whether significant resource concerns should be designated at the national, State, or local level and, if determined nationally, what those specific resource concerns should be. In Section 1469.4, NRCS is proposing water quality and soil quality as national significant resource concerns. Resource concerns and quality criteria for their sustained use rely on the existing NRCS technical guides and conservation planning guidance and policies. Even though not all operations have problems to solve in the area of water quality and soil quality, most do have opportunities to improve the condition of the resource through more intensive management of typical soil quality or water quality conservation activities such as conservation tillage, nutrient management, grazing management, and wildlife habitat management. Operations that have already treated soil and water quality to the minimum level of treatment could increase the management intensity

applicable to those resource concerns through enhancement activities. This rule proposes that every contract address national priority resource concerns. At the announcement of sign-up, the Chief may designate additional resource concerns of national significance. Additionally, State and local concerns would be addressed through the enhancement activities undertaken by CSP participants.

NRCS is emphasizing water quality and soil quality because it believes such emphasis will deliver the greatest net resource benefits from the program, as noted in the above discussion. In addition, NRCS has a long history of developing and applying sound science and technologies that effectively address water quality and soil quality problems and conservation opportunities.

Section 1469.5 Eligibility Requirements and Selection and Funding of Priority Watersheds

This section provides the requirements for participant and land eligibility, outlines the requirements for the three tiers of CSP participation and proposes the selection for funding of priority watersheds.

Eligible land is private or Tribal working lands (cropland, orchards and vineyards, pasture, or rangeland) that is in compliance with the highly erodible land and wetland conservation provisions found at 7 CFR part 12. Land is placed in general use categories for the purpose of calculating the base payment and identification of appropriate natural resource concerns and treatment needs, such as cropland, pasture, and rangeland. Decisions about the proper use and management of the resources that support agricultural operations are made on a daily basis. In some instances a management decision may be made that causes a major shift in land use, such as changes from a less intensive use or from a more intensive land use. For example, a dairy operation that is using cropland used to grow forages may convert to a rotational grazing system. This reduction in land use intensity has many environmental benefits associated with it. This land use conversion also changes the base payment basis from a cropland (higher) payment per acre rate to a pasture (lower) payment per acre. NRCS is asking for comment on how this situation can be addressed in the rule.

The applicant must have an interest in the farming operation as defined in 7 CFR 1400.3 and must have control of the land for the life of the proposed contract period. Where the land owner does not have control of the land for the life of the CSP contract, such as where