

payment level established for a producer to implement a land management practice and therefore will revise the term to "performance incentive". NRCS will use the performance incentive as one of its approaches to optimize environmental benefits by supporting the state decision-makers with additional EQIP resources based on performance. The guidelines for administering this award will be developed and made available in EQIP program guidance. NRCS is committed to full disclosure of program implementation policy and will make this information publicly available as it is finalized.

NRCS received 422 comments in response to the request for comments on how best to evaluate the performance of the EQIP program. How should environmental changes be measured, and what methodologies would best identify environmental effects due to contract activities? What kind of output measures and data collection strategies should NRCS consider? What approaches could NRCS use to evaluate cost-effectiveness? Four hundred and one responders commented on NRCS's intent to move toward actual environmental outcomes and benefits rather than the number of contracts and practices. Seven respondents suggested a national team to develop a framework for monitoring and reporting, 4 respondents wanted assurance that NRCS would include forestry performance measures in any process that is used, 10 respondents recommended encouraging scientific measurement of conservation practices, and seven respondents did not support Technical Service Providers as a measure of performance. One respondent suggested a crucial element of performance evaluation is consideration of the cumulative impact. NRCS is actively developing approaches to evaluate performance for EQIP as well as all other conservation programs administered by NRCS. NRCS is committed to public disclosure and transparency as evidenced by the posting of data and information on the NRCS Web site at <http://www.nrcs.usda.gov> and the NRCS Performance and Results Measurement System (PRMS) at <http://prms.nrcs.usda.gov/prms/index.html>. NRCS will continue to refine its accountability system to make performance data available to the public.

In the final rule, NRCS removed those incentive payment factors that are an iteration of the National measures identified in the preamble of the proposed rule. The measures: Increasing

overall environmental benefits, addressing multiple resource concerns, ensuring more durable environmental benefits and limiting adverse ancillary impacts, encouraging innovation, supporting the statutory mandate to apply nationally 60 percent of available financial assistance to livestock-related conservation practices, and employing appropriate tools to more comprehensively serve EQIP purposes will be reviewed periodically and adjusted as necessary. The National measures will be provided in the program guidance in the EQIP Manual and will be made available to the public.

#### *Section 1466.6 State Allocation and Management*

The proposed rule provides that the State Conservationist with advice from the State Technical Committee will determine how EQIP will be implemented in the state, identify the priority resource concerns, and determine how EQIP funds will be utilized. NRCS received 47 comments regarding state level fund allocation and program management. Twelve respondents recommended that tribal land should be a State allocation factor, 4 recommend using regulatory compliance needs, and 18 suggested multi-tribal collaborative efforts. Another 12 respondents wanted assurance that the state and local decision-makers will consider forestry issues and private non-industrial forest land as eligible for EQIP. NRCS also received one comment raising a concern that if the State Conservationist, in support of locally-led conservation, allocates EQIP funds to counties in smaller amounts the needs of the large animal facilities and large agricultural operations will not be satisfied. The Department defines row crop, rangeland, specialty crop, animal and agroforestry as agricultural land. The state allocation process, which uses locally led conservation through advice from the State Technical Committee, is based on state identified priority resource concerns and is the second component of NRCS's optimizing environmental benefits process. EQIP has been over subscribed since 1997 and will continue to be so in the future. The economic analysis conducted to evaluate the impact of EQIP has determined that EQIP will treat approximately 10 percent of crop and grazing land. The final rule will provide specific direction to State Conservationist's to prioritize resource concerns and to do so in accordance with the National priorities.

Four respondents commented that State allocations should consider Indian lands. Two respondents commented that a Tribal Conservation Advisory Council should be at the same level as the State Technical committee in terms of providing advice to the State Conservationist. No rule change has been made because allocations made by the State Conservationist consider the natural resource concerns identified with advice from the State Technical Committee and Local Work Group. Indian tribes are represented on State Technical Committee under 7 CFR 610.

#### *Section 1466.7 Outreach Activities*

One hundred and eighty-seven comments made specific recommendations supporting USDA's outreach efforts to assist limited resource producers/ranchers, beginning farmers or ranchers and under-served populations. These recommendations include: Permit flexible schedules for applying practices and systems; offer low-cost conservation practice alternatives; consider the value of a producer's labor as the producer's share of the cost; utilize local cooperative extension service agencies in the education efforts; conduct a survey of producers who do not normally participate and ask them the reasons for their non-participation; provide flexibility regarding the control of land for American Indians and others. The Department remains dedicated to increasing program availability to all eligible producers. The recommendations made in the public comments have been incorporated in the final rule where applicable or will be included in program guidance and delivery activities.

Two respondents asked that NRCS include Tribal level in the description of where NRCS will conduct outreach activities. The rule has not been amended because the language referred to the NRCS organizational structure and Indian tribes are specifically included as a targeted group for outreach.

#### *Section 1466.8 Program Requirements*

One respondent recommended that the State Conservationist instead of the Chief of NRCS be given the authority to grant waivers for having control of the land allotted by the Bureau of Indian Affairs, Tribal land and other instances. The rule has not been amended because definition of Chief includes a designee.

NRCS received one comment expressing concern that a complete comprehensive nutrient management plan (CNMP) was required to be submitted in entirety during the initial