

related to the priority natural resource concerns;

- The existence of multi-county and/or multi-state collaborative efforts to address natural resource concerns;
- Ways and means to measure performance and success; and
- The degree of difficulty that producers face in complying with environmental laws.

As part of these considerations, NRCS expects that State Conservationists will quantify, when and where possible the goals, objectives, and solutions for natural resource concerns in order to optimize environmental benefits that would be delivered by Federal dollars. NRCS also expects that State Conservationists will use science-based background data, quantified when and where possible, on the environmental status and needs, soils information, demographic information, and other available technical data that illustrate the nature and extent of natural resource concerns.

Section 1466.7 is a new section that describes how NRCS will establish special program outreach activities at the National, State, and local levels in order to ensure that producers whose land has environmental problems know that they are eligible to apply for program assistance. NRCS will target its outreach efforts to limited resource farmers, Tribes, beginning farmers and ranchers, and others with historically low participation rates in the programs of NRCS, NRCS, and other USDA agencies. NRCS is exploring new possibilities to increase its outreach to these communities and Tribes.

Section 1466.7 of the current EQIP rule, Conservation Practices, has been moved to Section 1466.10 of the proposed rule.

Section 1466.8 sets forth program requirements such as land and applicant eligibility and the amount of EQIP financial assistance to be used for livestock practices. With the following exceptions, NRCS is retaining the language of Section 1466.4 in the current EQIP rule:

- Section 1466.4(b) of the current rule has been removed. Much of this language appears in proposed Section 1466.5;
- Section 1466.4(d)(iii) has been eliminated;
- Proposed Section 1466.8(b)(3) adds submission of an acceptable EQIP plan of operations as an eligibility requirement; and
- Proposed Section 1466.8(d) increases the amount directed to be used for livestock practices from 50 to 60 percent, pursuant to section 1240B(g)

of the 1985 Act, as amended by the 2002 Act.

Section 1466.9 describes the requirements of the EQIP plan of operations which is the basis of EQIP contracts. Producers will be required to develop and apply an EQIP plan that addresses identified priority natural resource concerns. The producer develops the plan of operations with the assistance of NRCS or other public or private technical service providers.

With the following notable exceptions, NRCS is retaining the language of Section 1466.6 in the current EQIP rule:

- Section 1466.6(a) in the current rule has been deleted. It contained requirements for maximizing environmental benefits per dollar.
- Section 1466.6(b) and (c) have been removed from this section. Proposed Section 1466.11 addresses technical assistance.
- Section 1466.6(e)(1), (2), have been deleted. This information is contained in the producer's conservation plan and would be a duplication of effort.
- Section 1466.6(f) has been deleted.

The single plan that was referenced is available to producers through the NRCS Conservation Operations program and is not required as a part of an EQIP contract.

- Proposed Section 1466.9(c) requires that an EQIP plan of operations include an animal waste storage or treatment facility to include a comprehensive management nutrient plan. Section 1240E(a)(3) of the 1985 Act, as amended by the 2002 Act, requires, in the case of a confined livestock feeding operation for the producer to submit an EQIP plan of operations that provides for the development and implementation of a comprehensive nutrient management plan.

- Proposed Section 1466.9(e) allows participant to receive assistance to implement an EQIP plan of operations for water conservation with funds authorized by section 1240I of the 1985 Act only if the assistance will facilitate a net savings in ground or surface water resources in the agricultural operation of the producer.

Section 1466.10 describes how eligible practices will be determined by NRCS. NRCS State Conservationists will determine which conservation practices will be eligible and the maximum payment levels in the State. The State Conservationist may also request that the Designated Conservationist determine which conservation practices will be eligible in localities within the limits established by the State Conservationist.

The proposed language in Section 1466.10 does not include any of the

language related to confined livestock operations found in Section 1466.7(b) of the current EQIP rule. The 2002 Act removed the restriction that a producer who owns or operates a large confined livestock operation cannot be eligible for cost-share payments through EQIP to construct an animal waste management facility. Financial assistance is available to all livestock producers regardless of size.

NRCS is also proposing to add paragraph (f) to Section 1466.10. It would permit NRCS to approve interim conservation practice standards and financial assistance for pilot testing new technologies or innovations. NRCS will involve other entities, including extension and research agencies and institutions, conservation districts, universities, private industry, and others, in pilot testing to evaluate and assess the practices. This portion of the regulation remains unchanged.

Section 1466.11 is a new section that addresses the sources of technical assistance to carry out EQIP. NRCS will provide technical assistance and will encourage producers to use the services of certified personnel of cooperating Federal, State, or local agencies, or private entities who can provide technical assistance. As determined by the State Conservationist, NRCS may contract with private enterprises or enter cooperative agreements with other Federal, State, or local entities for services related to EQIP implementation. NRCS retains the responsibility for ensuring that technical program standards are met. This section of the regulation remains unchanged, as proposed, but may be modified in the final rule to conform with the final rule for Technical Service Provider Assistance, 7 CFR 652 (*see* 72 FR 70119, Nov. 21, 2002).

Subpart B—Contracts

Section 1466.20 addresses applications for contracts and selection of offers from producers. The revisions to this section are pursuant to both statutory changes regarding section 1240C, which provides that contract selection will give higher priorities to applications that encourage cost-effective conservation and address National priorities, and USDA's streamlining initiative. The evaluation of applications using a ranking process is the fourth contributing factor to "optimizing environmental benefits".

NRCS will accept applications for EQIP throughout the year, but will rank the applications and select the participants periodically as determined at the local and/or State level. NRCS will announce, in advance, the date on