

(ii) An applicant is eligible to participate in CSP Tier II only if the benchmark condition inventory demonstrates to the satisfaction of NRCS that the applicant has addressed the nationally significant resource concerns of water quality and soil quality to the minimum level of treatment as specified in paragraphs (e)(2) and (3) of this section for all eligible land uses on the entire agricultural operation. Under Tier II, the entire agricultural operation must be enrolled in CSP.

(iii) An applicant is eligible to participate in CSP Tier III only if the benchmark condition inventory demonstrates to the satisfaction of NRCS that the applicant has addressed all of the applicable resource concerns to the minimum level of treatment as specified in paragraph (e)(4) of this section for all eligible land uses on the entire agricultural operation. Practices or activities shall not be required for participation in the program unless they would have an ultimate conservation benefit as demonstrated by the Conservation Practice Physical Effects matrix in the FOTG. Under Tier III, the entire agricultural operation is enrolled in CSP including other land as defined in §1469.5(d)(1)(v).

(2) The minimum level of treatment on cropland for Tier I and Tier II:

(i) The minimum level of treatment for soil quality on cropland is considered achieved when the Soil Conditioning Index value is positive.

(ii) The minimum level of treatment for water quality on cropland is considered achieved if the benchmark inventory indicates that the current level of treatment addresses the risks that nutrients, pesticides, sediment, and salinity present to water quality by meeting or exceeding the quality criteria for the specific resource concerns of nutrients, pesticides, sediment and salinity for surface water and nutrients, pesticides and salinity for ground water.

(iii) The Chief may make minor exceptions to criteria for areas, such as tropical and tundra regions, where technology tools are being refined or testing is needed to review performance data.

(3) The minimum level of treatment on pastureland and rangelands for Tier

I and Tier II is vegetation and animal management accomplished by following a grazing management plan that provides for:

- (i) A forage-animal balance;
- (ii) Proper livestock distribution;
- (iii) Timing of use; and
- (iv) Managing livestock access to water courses.

(4) The minimum level of treatment for Tier III:

(i) The minimum level of treatment for Tier III is having a fully implemented resource management system that meets the quality criteria for the local NRCS FOTG for all applicable resource concerns and considerations with the following exceptions:

(A) The minimum requirement for soil quality on cropland is considered achieved when the Soil Conditioning Index value is positive;

(B) The minimum requirement for water quantity—irrigation water management on cropland or pastureland is considered achieved when the current level of treatment and management for the system results in a water use index value of at least 50; and

(C) The minimum requirement for wildlife is considered achieved when the current level of treatment and management for the system results in an index value of at least 0.5 using a general or species specific habitat assessment guide; and

(ii) All riparian corridors, including streams and natural drainages, within the agricultural operation are buffered to restore, protect, or enhance riparian resources. Riparian corridors, as appropriate, will be managed or designed to intercept sediment, nutrients, pesticides, and other materials in surface runoff; reduce nutrients and other pollutants in shallow subsurface water flow; lower water temperature; and provide litter fall or structural components for habitat complexity or to slow out-of-bank floods.

(5) In the instance of a significant natural event, such as drought, wildfire, pestilence, or flooding which would prevent the participant or applicant from achieving the minimum requirements, those requirements will be

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considered met so long as the participant or applicant can provide documentation of their stewardship prior to such an event.

§ 1469.6 Enrollment criteria and selection process.

(a) *Selection and funding of priority watersheds.* (1) NRCS will prioritize watersheds based on a nationally consistent process using existing natural resource, environmental quality, and agricultural activity data along with other information that may be necessary to efficiently operate the program. The watershed prioritization and identification process will consider several factors, including but not limited to:

- (i) Potential of surface and ground water quality to degradation;
- (ii) Potential of soil to degradation;
- (iii) Potential of grazing land to degradation;
- (iv) State or national conservation and environmental issues e.g., location of air non-attainment zones or important wildlife/fisheries habitat; and
- (v) Local availability of management tools needed to more efficiently operate the program, such as digital soils information.

(2) Priority watersheds selected, in which producers would be potentially eligible for enrollment, will be announced in the sign-up notice.

(b) *Enrollment categories.* The Chief may limit new program enrollments in any fiscal year to enrollment categories designed to focus on priority conservation concerns and enhancement measures. NRCS will utilize enrollment categories to determine which contracts will be funded in a given sign-up.

(1) Enrollment categories may be defined by criteria related to resource concerns and levels of historic conservation treatment, including the producer's willingness to achieve additional environmental performance or conduct enhancement activities.

(2) All applications which meet the sign-up criteria within the priority watersheds will be placed in an enrollment category regardless of available funding.

(3) NRCS will develop subcategories within each enrollment category and

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include them in the sign-up notice. The development of subcategories may consider several factors, including:

- (i) Willingness of the applicant to participate in local conservation enhancement activities;
- (ii) Targeting program participation for Limited Resource Producers;
- (iii) Targeting program participation to water quality priority areas for nutrient or pest management;
- (iv) Targeting program participation for locally important wildlife/fisheries habitat creation and protection; and
- (v) Other priorities as determined by the Secretary.

(4) At the beginning of each sign-up, the Chief will announce the order in which categories and subcategories are eligible to be funded.

(5) All eligible applications will be placed in the highest priority enrollment category and sub-category for which the application qualifies.

(6) Enrollment categories and subcategories will be funded in priority order until the available funds specified in the CSP sign-up notice are exhausted.

(c) *Sign-up process.* (1) NRCS will publish a CSP sign-up notice with sufficient time for producers to consider the benefits of participation prior to the opening of the sign-up period. In the public sign-up notice, the Chief will announce and explain the rationale for decisions for the following information:

- (i) Any additional program eligibility criteria that are not listed in § 1469.5;
- (ii) Any additional nationally significant resource concerns that are not listed in § 1469.4(a) that will apply;
- (iii) Any additional requirements that participants must include in their CSP applications and contracts that are not listed in § 1469.21;
- (iv) Information on the priority order of enrollment categories and subcategories for funding contracts;
- (v) Specific information on the level of funding that NRCS estimates will go toward stewardship, existing practice, and enhancement payments;
- (vi) An estimate of the total funds NRCS expects to obligate under new contracts during a given sign-up, and an estimate for the number of enrollment categories and contracts NRCS expects to be able to fund; and