

Appendix A

116 STAT. 224 PUBLIC LAW 107-171—MAY 13, 2002

CHAPTER 2—CONSERVATION SECURITY AND FARMLAND PROTECTION Subchapter A—Conservation Security Program

SEC. 1238. DEFINITIONS.

In this subchapter:

- (1) **BASE PAYMENT.**—The term ‘base payment’ means an amount that is—
 - (A) determined in accordance with the rate described in section 1238C(b)(1)(A); and 16 USC 3838.
 - (B) paid to a producer under a conservation security contract in accordance with clause (i) of subparagraph (C), (D), or (E) of section 1238C(b)(1), as appropriate.
- (2) **BEGINNING FARMER OR RANCHER.**—The term ‘beginning farmer or rancher’ has the meaning given the term under section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).
- (3) **CONSERVATION PRACTICE.**—The term ‘conservation practice’ means a conservation farming practice described in section 1238A(d)(4) that—
 - (A) requires planning, implementation, management, and maintenance; and
 - (B) promotes 1 or more of the purposes described in section 1238A(a).
- (4) **CONSERVATION SECURITY CONTRACT.**—The term ‘conservation security contract’ means a contract described in section 1238A(e).
- (5) **CONSERVATION SECURITY PLAN.**—The term ‘conservation security plan’ means a plan described in section 1238A(c).
- (6) **CONSERVATION SECURITY PROGRAM.**—The term ‘conservation security program’ means the program established under section 1238A(a).
- (7) **ENHANCED PAYMENT.**—The term ‘enhanced payment’ means the amount paid to a producer under a conservation security contract that is equal to the amount described in section 1238C(b)(1)(C)(iii).
- (8) **NONDEGRADATION STANDARD.**—The term ‘nondegradation standard’ means the level of measures required to adequately protect, and prevent degradation of, 1 or more natural resources, as determined by the Secretary in accordance with the quality criteria described in handbooks of the Natural Resources Conservation Service.

(9) PRODUCER.—

(A) IN GENERAL.—The term ‘producer’ means an owner, operator, landlord, tenant, or sharecropper that—

(i) shares in the risk of producing any crop or livestock; and

(ii) is entitled to share in the crop or livestock available for marketing from a farm (or would have shared had the crop or livestock been produced).

(B) HYBRID SEED GROWERS.—In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(10) RESOURCE-CONSERVING CROP ROTATION.—The term ‘resource-conserving crop rotation’ means a crop rotation that—

(A) includes at least 1 resource-conserving crop (as defined by the Secretary);

(B) reduces erosion;

(C) improves soil fertility and tilth;

(D) interrupts pest cycles; and

(E) in applicable areas, reduces depletion of soil moisture (or otherwise reduces the need for irrigation).

(11) RESOURCE MANAGEMENT SYSTEM.—The term ‘resource management system’ means a system of conservation practices and management relating to land or water use that is designed to prevent resource degradation and permit sustained use of land, water, and other natural resources, as defined in accordance with the technical guide of the Natural Resources Conservation Service.

(12) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Chief of the Natural Resources Conservation Service.

(13) TIER I CONSERVATION SECURITY CONTRACT.—The term ‘Tier I conservation security contract’ means a contract described in section 1238A(d)(5)(A).

(14) TIER II CONSERVATION SECURITY CONTRACT.—The term ‘Tier II conservation security contract’ means a contract described in section 1238A(d)(5)(B).

(15) TIER III CONSERVATION SECURITY CONTRACT.—The term ‘Tier III conservation security contract’ means a contract described in section 1238A(d)(5)(C).

SEC. 1238A. CONSERVATION SECURITY PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and, for each of fiscal years 2003 through 2007, carry out a conservation security program to assist producers of agricultural operations in promoting, as is applicable with respect to land to be enrolled in the program, conservation and improvement of the quality of soil, water, air, energy, plant and animal life, and any other conservation purposes, as determined by the Secretary.

(b) ELIGIBILITY.—

(1) ELIGIBLE PRODUCERS.—To be eligible to participate in the conservation security program (other than to receive technical assistance under section 1238C(g) for the development of conservation security contracts), a producer shall—

- (A) develop and submit to the Secretary, and obtain the approval of the Secretary of, a conservation security plan that meets the requirements of subsection (c)(1); and
 - (B) enter into a conservation security contract with the Secretary to carry out the conservation security plan.
- (2) ELIGIBLE LAND.—Except as provided in paragraph (3), private agricultural land (including cropland, grassland, prairie land, improved pasture land, and rangeland), land under the jurisdiction of an Indian tribe (as defined by the Secretary), and forested land that is an incidental part of an agricultural operation shall be eligible for enrollment in the conservation security program.
- (3) EXCLUSIONS.—
- (A) CONSERVATION RESERVE PROGRAM.—Land enrolled in the conservation reserve program under subchapter B of chapter 1 shall not be eligible for enrollment in the conservation security program.
 - (B) WETLANDS RESERVE PROGRAM.—Land enrolled in the wetlands reserve program established under subchapter C of chapter 1 shall not be eligible for enrollment in the conservation security program.
 - (C) GRASSLAND RESERVE PROGRAM.—Land enrolled in the grassland reserve program established under subchapter C of chapter 2 shall not be eligible for enrollment in the conservation security program.
 - (D) CONVERSION TO CROPLAND.—Land that is used for crop production after the date of enactment of this subchapter that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date (except for land enrolled in the conservation reserve program under subchapter B of chapter 1) or that has been maintained using longterm crop rotation practices, as determined by the Secretary, shall not be the basis for any payment under the conservation security program.
- (4) ECONOMIC USES.—The Secretary shall permit a producer to implement, with respect to all eligible land covered by a conservation security plan, economic uses that—
- (A) maintain the agricultural nature of the land; and
 - (B) are consistent with the natural resource and conservation objectives of the conservation security program.
- (c) CONSERVATION SECURITY PLANS.—
- (1) IN GENERAL.—A conservation security plan shall—
 - (A) identify the designated land and resources to be conserved under the conservation security plan;
 - (B) describe the tier of conservation security contract, and the particular conservation practices to be implemented, maintained, or improved, in accordance with subsection (d) on the land covered by the conservation security contract for the specified term; and
 - (C) contain a schedule for the implementation, maintenance, or improvement of the conservation practices described in the conservation security plan during the term of the conservation security contract.
 - (2) RESOURCE PLANNING.—The Secretary may assist producers that enter into conservation security contracts in developing a comprehensive, long-term strategy for improving and maintaining all natural resources of the agricultural operation of the producer.
- (d) CONSERVATION CONTRACTS AND PRACTICES.—
- (1) IN GENERAL.—

(A) ESTABLISHMENT OF TIERS.—The Secretary shall establish, and offer to eligible producers, 3 tiers of conservation contracts under which a payment under this subchapter may be received.

(B) ELIGIBLE CONSERVATION PRACTICES.—

(i) IN GENERAL.—The Secretary shall make eligible for payment under a conservation security contract land management, vegetative, and structural practices.

(ii) DETERMINATION.—In determining the eligibility of a practice described in clause (i), the Secretary shall require, to the maximum extent practicable, that the lowest cost alternatives be used to fulfill the purposes of the conservation security plan, as determined by the Secretary.

(2) ON-FARM RESEARCH AND DEMONSTRATION OR PILOT TESTING.—With respect to land enrolled in the conservation security program, the Secretary may approve a conservation security plan that includes—

(A) on-farm conservation research and demonstration activities; and

(B) pilot testing of new technologies or innovative conservation practices.

(3) USE OF HANDBOOK AND GUIDES; STATE AND LOCAL CONSERVATION CONCERNS.—

(A) USE OF HANDBOOK AND GUIDES.—In determining eligible conservation practices and the criteria for implementing or maintaining the conservation practices under the conservation security program, the Secretary shall use the National Handbook of Conservation Practices of the Natural Resources Conservation Service.

(B) STATE AND LOCAL CONSERVATION PRIORITIES.—The conservation priorities of a State or locality in which an agricultural operation is situated shall be determined by the State Conservationist, in consultation with—

(i) the State technical committee established under subtitle G; and

(ii) local agricultural producers and conservation working groups.

(4) CONSERVATION PRACTICES.—Conservation practices that may be implemented by a producer under a conservation security contract (as appropriate for the agricultural operation of a producer) include—

(A) nutrient management;

(B) integrated pest management;

(C) water conservation (including through irrigation) and water quality management;

(D) grazing, pasture, and rangeland management;

(E) soil conservation, quality, and residue management;

(F) invasive species management;

(G) fish and wildlife habitat conservation, restoration, and management;

(H) air quality management;

(I) energy conservation measures;

(J) biological resource conservation and regeneration;

(K) contour farming;

(L) strip cropping;

(M) cover cropping;

(N) controlled rotational grazing;

(O) resource-conserving crop rotation;

(P) conversion of portions of cropland from a soil-depleting use to a soil-conserving use, including production of cover crops;

(Q) partial field conservation practices;

- (R) native grassland and prairie protection and restoration; and
 - (S) any other conservation practices that the Secretary determines to be appropriate and comparable to other conservation practices described in this paragraph.
- (5) TIERS.—Subject to paragraph (6), to carry out this subsection, the Secretary shall establish the following 3 tiers of conservation contracts:
- (A) TIER I CONSERVATION SECURITY CONTRACTS.—A conservation security plan for land enrolled under a Tier I conservation security contract shall—
 - (i) be for a period of 5 years; and
 - (ii) include conservation practices appropriate for the agricultural operation, that, at a minimum (as determined by the Secretary)—
 - (I) address at least 1 significant resource of concern for the enrolled portion of the agricultural operation at a level that meets the appropriate nondegradation standard; and
 - (II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.
 - (B) TIER II CONSERVATION SECURITY CONTRACTS.—A conservation security plan for land enrolled under a Tier II conservation security contract shall—
 - (i) be for a period of not less than 5 nor more than 10 years, as determined by the producer;
 - (ii) include conservation practices appropriate for the agricultural operation, that, at a minimum—
 - (I) address at least 1 significant resource of concern for the entire agricultural operation, as determined by the Secretary, at a level that meets the appropriate nondegradation standard; and
 - (II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.
 - (C) TIER III CONSERVATION SECURITY CONTRACTS.—A conservation security plan for land enrolled under a Tier III conservation security contract shall—
 - (i) be for a period of not less than 5 nor more than 10 years, as determined by the producer; and
 - (ii) include conservation practices appropriate for the agricultural operation that, at a minimum—
 - (I) apply a resource management system that meets the appropriate nondegradation standard for all resources of concern of the entire agricultural operation, as determined by the Secretary; and
 - (II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.
- (6) MINIMUM REQUIREMENTS.—The minimum requirements for each tier of conservation contracts implemented under paragraph (5) shall be determined and approved by the Secretary.
- (e) CONSERVATION SECURITY CONTRACTS.—
- (1) IN GENERAL.—On approval of a conservation security plan of a producer, the Secretary shall enter into a conservation security contract with the producer to enroll the land covered by the conservation security plan in the conservation security program.
 - (2) MODIFICATION.—
 - (A) OPTIONAL MODIFICATIONS.—A producer may apply to the Secretary for a modification of the conservation security contract of the producer that is consistent with the purposes of the conservation security program.
 - (B) OTHER MODIFICATIONS.—
 - (i) IN GENERAL.—The Secretary may, in writing, require a producer to modify a conservation security contract before the expiration of the conservation security contract if the Secretary determines that a change made to the type, size, management, or other aspect of the agricultural

operation of the producer would, without the modification of the contract, significantly interfere with achieving the purposes of the conservation security program.

(ii) PARTICIPATION IN OTHER PROGRAMS.—If appropriate payment reductions and other adjustments (as determined by the Secretary) are made to the conservation security contract of a producer, the producer may—

(I) simultaneously participate in—

(aa) the conservation security program;

(bb) the conservation reserve program under subchapter B of chapter 1; and

(cc) the wetlands reserve program under subchapter C of chapter 1; and

(II) may remove land enrolled in the conservation security program for enrollment in a program described in item (bb) or (cc) of subclause (I).

(3) TERMINATION.—

(A) OPTIONAL TERMINATION.—A producer may terminate a conservation security contract and retain payments received under the conservation security contract, if—

(i) the producer is in full compliance with the terms and conditions (including any maintenance requirements) of the conservation security contract as of the date of the termination; and

(ii) the Secretary determines that termination of the contract would not defeat the purposes of the conservation security plan of the producer.

(B) OTHER TERMINATION.—A producer that is required to modify a conservation security contract under paragraph

(2)(B)(i) may, in lieu of modifying the contract—

(i) terminate the conservation security contract; and

(ii) retain payments received under the conservation security contract, if the producer has fully complied with the terms and conditions of the conservation security contract before termination of the contract, as determined by the Secretary.

(4) RENEWAL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), at the option of a producer, the conservation security contract of the producer may be renewed for an additional period of not less than 5 nor more than 10 years.

(B) TIER I RENEWALS.—In the case of a Tier I conservation security contract of a producer, the producer may renew the contract only if the producer agrees—

(i) to apply additional conservation practices that meet the nondegradation standard on land already enrolled in the conservation security program; or

(ii) to adopt new conservation practices with respect to another portion of the agricultural operation that address resource concerns and meet the nondegradation standard under the terms of the Tier I conservation security contract.

(f) NONCOMPLIANCE DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF PRODUCERS.—The Secretary shall include in the conservation security contract a

provision, and may permit modification of a conservation security contract under subsection (e)(1), to ensure that a producer shall not be considered in violation of a conservation security contract for failure to comply with the conservation security contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary.

SEC. 1238B. DUTIES OF PRODUCERS.

Under a conservation security contract, a producer shall agree, during the term of the conservation security contract—

- (1) to implement the applicable conservation security plan approved by the Secretary;
- (2) to maintain, and make available to the Secretary at such times as the Secretary may request, appropriate records showing the effective and timely implementation of the conservation security plan;
- (3) not to engage in any activity that would interfere with the purposes of the conservation security program; and
- (4) on the violation of a term or condition of the conservation security contract—
 - (A) if the Secretary determines that the violation warrants termination of the conservation security contract—
 - (i) to forfeit all rights to receive payments under the conservation security contract; and
 - (ii) to refund to the Secretary all or a portion of the payments received by the producer under the conservation security contract, including any advance payments and interest on the payments, as determined by the Secretary; or
 - (B) if the Secretary determines that the violation does not warrant termination of the conservation security contract, to refund to the Secretary, or accept adjustments to, the payments provided to the producer, as the Secretary determines to be appropriate.

SEC. 1238C. DUTIES OF THE SECRETARY.

- (a) **TIMING OF PAYMENTS.**—The Secretary shall make payments under a conservation security contract as soon as practicable after October 1 of each fiscal year.
- (b) **ANNUAL PAYMENTS.**—
 - (1) **CRITERIA FOR DETERMINING AMOUNT OF PAYMENTS.**—
 - (A) **BASE PAYMENT.**—A base payment under this paragraph shall be (as determined by the Secretary)—
 - (i) the average national per-acre rental rate for a specific land use during the 2001 crop year; or
 - (ii) another appropriate rate for the 2001 crop year that ensures regional equity.
 - (B) **PAYMENTS.**—A payment for a conservation practice under this paragraph shall be determined in accordance with subparagraphs (C) through (E).
 - (C) **TIER I CONSERVATION SECURITY CONTRACTS.**—The payment for a Tier I conservation security contract shall consist of the total of the following amounts:
 - (i) An amount equal to 5 percent of the applicable base payment for land covered by the contract.
 - (ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county costs of practices for the 2001 crop year that are included in the conservation security contract, as determined by the Secretary, including the costs of—
 - (I) the adoption of new management, vegetative, and land-based structural practices;
 - (II) the maintenance of existing land management and vegetative practices; and
 - (III) the maintenance of existing land-based structural practices that are approved by the Secretary but not already covered by a Federal or State maintenance requirement.
 - (iii) An enhanced payment that is determined by the Secretary in a manner that ensures equity across regions of the United States, if the producer—
 - (I) implements or maintains multiple conservation practices that exceed minimum requirements for the applicable tier of participation (including practices that involve a change in land use, such as resource-conserving crop rotation, managed rotational grazing, or conservation buffer practices);
 - (II) addresses local conservation priorities in addition to resources of concern for the agricultural operation;
 - (III) participates in an on-farm conservation research, demonstration, or pilot project;

(IV) participates in a watershed or regional resource conservation plan that involves at least 75 percent of producers in a targeted area; or

(V) carries out assessment and evaluation activities relating to practices included in a conservation security plan.

(D) TIER II CONSERVATION SECURITY CONTRACTS.—The payment for a Tier II conservation security contract shall consist of the total of the following amounts:

(i) An amount equal to 10 percent of the applicable base payment for land covered by the conservation security contract.

(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county cost of adopting or maintaining practices for the 2001 crop year that are included in the conservation security contract, as described in subparagraph (C)(ii).

(iii) An enhanced payment that is determined in accordance with subparagraph (C)(iii).

(E) TIER III CONSERVATION SECURITY CONTRACTS.—The payment for a Tier III conservation security contract shall consist of the total of the following amounts:

(i) An amount equal to 15 percent of the base payment for land covered by the conservation security contract.

(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county cost of adopting or maintaining practices for the 2001 crop year that are included in the conservation security contract, as described in subparagraph (C)(ii).

(iii) An enhanced payment that is determined in accordance with subparagraph (C)(iii).

(2) LIMITATION ON PAYMENTS.—

(A) IN GENERAL.—Subject to paragraphs (1) and (3), the Secretary shall make an annual payment, directly or indirectly, to an individual or entity covered by a conservation security contract in an amount not to exceed—

(i) in the case of a Tier I conservation security contract, \$20,000;

(ii) in the case of a Tier II conservation security contract, \$35,000; or

(iii) in the case of a Tier III conservation security contract, \$45,000.

(B) LIMITATION ON BASE PAYMENTS.—In applying the payment limitation under each of clauses (i), (ii), and (iii) of subparagraph (A), an individual or entity may not receive, directly or indirectly, payments described in clause (i) of paragraph (1)(C), (1)(D), or (1)(E), as appropriate, in an amount that exceeds—

(i) in the case of Tier I contracts, 25 percent of the applicable payment limitation; or

(ii) in the case of Tier II contracts and Tier III contracts, 30 percent of the applicable payment limitation.

(C) OTHER USDA PAYMENTS.—A producer shall not receive payments under the conservation security program and any other conservation program administered by the Secretary for the same practices on the same land.

(D) COMMENSURATE SHARE.—To be eligible to receive a payment under this subchapter, an individual or entity shall make contributions (including contributions of land, labor, management, equipment, or capital) to the operation of the farm that are at least commensurate with the share of the proceeds of the operation of the individual or entity.

(3) EQUIPMENT OR FACILITIES.—A payment to a producer under this subchapter shall not be provided for—

(A) construction or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

(B) the purchase or maintenance of equipment or a non-land based structure that is not integral to a landbased practice, as determined by the Secretary.

(c) **MINIMUM PRACTICE REQUIREMENT.**—In determining a payment under subsection (b) for a producer that receives a payment under another program administered by the Secretary that is contingent on complying with requirements under subtitle B or C (relating to the use of highly erodible land or wetland), a payment under this subchapter on land subject to those requirements shall be for practices only to the extent that the practices exceed minimum requirements for the producer under those subtitles, as determined by the Secretary.

(d) **REGULATIONS.**—The Secretary shall promulgate regulations that—

(1) provide for adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing payments, on a fair and equitable basis; and

(2) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsection (b).

(e) **TRANSFER OR CHANGE OF INTEREST IN LAND SUBJECT TO CONSERVATION SECURITY CONTRACT.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the transfer, or change in the interest, of a producer in land subject to a conservation security contract shall result in the termination of the conservation security contract.

(2) **TRANSFER OF DUTIES AND RIGHTS.**—Paragraph (1) shall not apply if, not later than 60 days after the date of the transfer or change in the interest in land, the transferee of the land provides written notice to the Secretary that all duties and rights under the conservation security contract have been transferred to, and assumed by, the transferee.

(f) **ENROLLMENT PROCEDURE.**—In entering into conservation security contracts with producers under this subchapter, the Secretary shall not use competitive bidding or any similar procedure.

(g) **TECHNICAL ASSISTANCE.**—For each of fiscal years 2003 through 2007, the Secretary shall provide technical assistance to producers for the development and implementation of conservation security contracts, in an amount not to exceed 15 percent of amounts expended for the fiscal year.

Conservation Security Program

Advance Notice of Proposed Rulemaking and Request for Comments

Federal Register: February 18, 2003 (Volume 68, Number 32) Notices Page 7720-7722

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

=====

7 CFR Part 1470

Page 7720

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Natural Resources Conservation Service

Conservation Security Program

AGENCY: Commodity Credit Corporation and the Natural Resources Conservation Service, USDA.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: The Conservation Security Program (CSP) is authorized by Title XII, Chapter 2, Subchapter A, of the Food Security Act of 1985, as amended by the Farm Security and Rural Investment Act of 2002. The Natural Resources Conservation Service (NRCS) administers CSP. Under CSP, NRCS is authorized to provide financial and technical assistance to owners and operators of agricultural operations to promote conservation and improvement of the quality of soil, water, air, energy, plant and animal life, and other conservation purposes. NRCS is interested in obtaining public input before developing a proposed regulation.

This advance notice is intended to give the public the opportunity to comment on key issues that have been raised regarding the implementation of the program. These comments will help NRCS in the agency's development of a proposed rule. NRCS intends to publish the proposed rule in 2003 and therefore has narrowed the comment period for this advance notice to 30 days. The public will have another opportunity

to provide input during the comment period for the proposed rule prior to NRCS publishing a final rule for the program.

DATES: Comments must be received in writing by March 20, 2003.

ADDRESSES: Send comments in writing, by mail, to Conservation Operations Division, Natural Resources Conservation Service, PO Box 2890, or by e-mail to FarmBillRules@usda.gov; Attn: Conservation Security Program. This Advance Notice of Proposed Rulemaking may also be accessed via the Internet through the NRCS homepage, at <http://www.nrcs.usda.gov>, and by selecting Farm Bill 2002. All comments, including names and addresses when provided, are placed in the record and are available for public inspection.

FOR FURTHER INFORMATION CONTACT: Mark W. Berkland, Director, Conservation Operations Division, NRCS, PO Box 2890, Washington, DC 20013-2890; telephone: (202) 720-1845; fax: (202) 720-4265; submit e-mail to: mark.berkland@usda.gov, Attention: Conservation Security Program.

SUPPLEMENTARY INFORMATION:

General Information about the Conservation Security Program

The Farm Security and Rural Investment Act of 2002 (The 2002 Act) (Pub. L. 107-171) amended the Food Security Act of 1985 to authorize the Conservation Security Program (CSP). CSP is administered by USDA's Natural Resources Conservation Service (NRCS). CSP is a voluntary program that provides financial and technical assistance to promote the conservation and improvement of soil, water, air, energy, plant and animal life, and other conservation purposes on Tribal and private working lands. Working lands include cropland, grassland, prairie land, improved pasture, and range land, as well as forested land that is an incidental part of an agriculture operation.

In keeping with principles outlined in the USDA publication, "Food and Agriculture Policy--Taking Stock for the New Century", the Secretary's vision for CSP's unique role within USDA conservation programs is:

(1) To identify and meaningfully reward those farmers and ranchers meeting the very highest standards of conservation and environmental management on their operations;

(2) To create powerful incentives for other producers to meet those same standards of conservation performance on their operations; and

(3) To provide public benefits for generations to come.

In short, CSP should reward the best and motivate the rest. The intent of CSP is to support ongoing conservation stewardship of agricultural lands by providing assistance to producers to maintain and enhance natural resources. The program is available in all 50 States, the Caribbean Area and the Pacific Basin area. The program provides equitable access to benefits to all producers, regardless of size of operation, crops produced, or geographic location.

NRCS is seeking public comment to help the agency develop a proposed rule. The public will have the opportunity to provide additional input during the proposed rule's comment period prior to the publication of a final rule.

Under the statute, CSP is available on cropland, grassland, prairie land, improved pasture, and range land, as well as certain forested land that is an incidental part of an agriculture operation.

Background

According to statute, an inventory will be conducted to identify resource concerns and determine the extent of conservation treatment that is being applied and maintained on their land. Authorized payments include a base payment determined by the treatment level, cost-share for applying conservation practices, maintenance payments for applied conservation practices, and enhanced payments for treatment that exceeds the minimum criteria. A three-tiered approach is used when offering payments.

If a producer desires to move to a higher tier, cost-share payments for needed structural practices are available through the CSP at up to 75 percent of the cost of the new practice, or up to 90 percent in the case of beginning farmers or ranchers. Participants may contribute to the cost of the new practice through in-kind sources, such as personal labor, use of personal equipment, donated labor or materials, and use of on-hand or approved used materials. Cost-shared practices are to be maintained for the life of the practice. All needed practices and management must be in place and maintained before a producer can move to the next tier. Similar to other United States Department of Agriculture (USDA) conservation programs, the 2002 Act requires that the Conservation Security Program (CSP) provide financial incentives to agricultural producers that undertake new

[[Page 7721]]

conservation efforts that meet high environmental standards. However, unlike other USDA conservation programs, the 2002 Act requires that CSP provides financial assistance for maintaining conservation. A clear intent of the program is to financially reward producers for significant environmental goods and services they provide to the public through their annual and ongoing conservation efforts. CSP, therefore, raises new and important issues that have not been confronted previously for traditional conservation programs.

NRCS undertook two projects to identify and better understand those elements in the design of the program that would have the most influence on its performance. In the first project, the firm, Plexus Marketing Group, was retained to conduct nine focus groups to obtain inputs from representative agricultural and stakeholder groups regarding key elements of the CSP to assist NRCS in developing program rules. In the second project, the Soil and Water Conservation Society (SWCS) organized five workshops to obtain feedback on CSP and its implementation from producers and NRCS field staff.

The Plexus focus groups were held as follows:

Three (3) were conducted in various states with a representative cross section of groups:

November 12 Columbia, MO

November 13 Modesto, CA

November 14 Macon, GA

Six (6) were held in Washington, DC with specific groups:

November 19 Agricultural Media Group

November 19 Livestock Group

November 20 Fruits & Vegetables Group

November 20 Crops Group

November 21 Wildlife and Sportsman Groups

November 21 Environmental Groups

The composition of the groups were determined by the firm with assistance from NRCS. The firm facilitated the participants through a series of questions to solicit their feedback on key issues relevant to rulemaking for the new program.

The five SWCS workshops were held in the following locations:

November 12 Billings, Montana (Montana, Wyoming)

November 14 Fort Morgan, Colorado (Colorado, Wyoming)

November 21 Defiance, Ohio (Ohio, Michigan, Indiana)

December 3 Greenville, Mississippi (Mississippi, Arkansas, Louisiana)

December 11 Fresno, California (California)

Four NRCS field staff and 12 producers participated in each workshop. Producers were selected in an unbiased manner which assured that they were not exclusively conservation-oriented or farm program participants. Producers were interviewed to solicit their feedback on key issues relevant to rulemaking for the new program.

Key Issues for Comment

The results of these two projects coupled with analyses conducted by NRCS have identified several key issues in rulemaking that will have profound effects on the performance and effectiveness with which CSP can be used to meet the objectives of the statute. The SWCS workshops, for example, identified important opportunities to simultaneously streamline and enhance the conservation performance of CSP. The focus groups, on the other hand, felt it important to do the program "right" at the onset even if it meant slowing initial implementation; further the participants were concerned about flexibility and accountability. Both groups identified concerns about the potential budget implications of the program. One of the overarching issues identified was the tension between the demand for the program and the budget concerns.

NRCS is currently analyzing in detail the information gathered through the workshops and focus groups to inform its rulemaking in regard to the key issues raised in the workshops, focus groups, and agency analyses of alternatives. Given the importance of these issues to the performance and effectiveness of CSP, NRCS is seeking additional public comment. NRCS is specifically interested in receiving public input regarding how CSP can be used to meet the objectives of the statute on the following issues:

1. The law specifies that conservation security plans address one or more "significant" resource concerns. Resource concerns may be as general as soil erosion or water quality or as specific as soil erosion by water or ground water quality. Many concerns have no practical direct measurement techniques or tools. What criteria should be used to determine what is a resource concern and whether a resource concern is significant?

2. The law requires that NRCS establish minimum requirements for three tiers of conservation effort. The minimum could be as specific as a list of minimum practices or as general as bundling of conservation measures that achieve a desired resource outcome. What should be the minimum requirements for each tier? Should NRCS establish minimum requirements that apply to all contracts nationally? What could some of these requirements be?

3. The law requires NRCS to describe the particular practices to be implemented, maintained, or improved as part of the program. What criteria should be used to determine which practices and activities are eligible for payment under the program? Should specific practices or activities receive priority for payment under the program? To what extent should sets of practices and activities be accorded priority for payment under the program?

4. The law restricts the maximum base payment to a percentage of the total contract cap (i.e. 25 percent for Tier I and 30 percent for Tiers II and III). What should be the balance of the base payment, maintenance cost-share payment and enhancement payment to reward the steward and attain additional conservation benefits?

5. The law uses the extent of the agricultural operation covered by the contract as a primary distinction between Tiers I and II. Tier I covers the "enrolled portion of the agricultural operation", while Tiers II and III cover "the entire agricultural operation." With the variety of ownership and landowner-tenant relationships which change over time across the country, how should "agricultural operation" be defined?

6. The law specifies the eligible land for payment purposes as cropland, grassland, prairie land, and rangeland as well as forestland that is an incidental part of the agricultural operation. Should noncropped areas, such as turn rows or riparian areas, that are part of the agriculture operation be included for conservation treatment? Should farmsteads, ranch sites, barnyards, feedlots, equipment storage, material-handling facilities, and other such developed areas be considered part of the "agricultural operation"? What criteria should be used to determine those areas of a farm or ranch that might legitimately be excluded from the "agricultural operation"?

7. The law specifies that NRCS make a base payment as part of a conservation security plan using either the 2001 national rental rate for a specific land use or another appropriate rate that assures regional equity. How should NRCS determine the base payment? If an alternative to the national rental rate is used, how should it be constructed? Should the payments be determined at the national, state or local levels?

8. The law provides for an enhanced payment if an owner or operator does one or more of the following: (a)

[[Page 7722]]

Implements or maintains practices that exceed minimum requirements; (b) addresses local conservation priorities; (c) participates in on-farm research, demonstration, or pilot projects; (d) participates in a watershed or regional resource conservation plan; or (e) carries out assessment and evaluation activities relating to practices included in a conservation security plan. Enhanced payments are meant to ensure and optimize environmental benefits. How should enhanced payments be determined and calculated?

9. The law does not limit the number of contracts held by a producer. Should there be a limitation on the total number of contracts a producer may have? If there is no limit on the number of contracts, should USDA set an individual payment limitation for producers with multiple contracts?

10. The law requires that the regulations provide for adequate safeguards to protect the interests of tenants and sharecroppers, including provisions for sharing payments, on a fair and equitable basis. Concerns have been raised over the impact of CSP provisions on owner/operator relationships including changes in rental rates or changes in operators. How can NRCS ensure that payments are shared on a fair and equitable basis?

11. The law requires a minimum contract length in CSP of five years. Many landlord-tenant relationships are short-term in nature, usually less than five years. Should the applicant be required to have control of the land for the complete CSP contract period? How should the program address the tension between the return to management versus the return to capital?

12. The law does not prescribe a funding or acreage cap for CSP. USDA estimates that there is a potential applicant pool of over two million farms and ranches covering over 900 million potential eligible acres. A primary implementation concern is the program scope. In order for this program to accomplish the Administration's goal of maximizing the conservation and improvement of natural resources, it is necessary to prioritize CSP assistance. The Department is seeking public comments on ways to focus and prioritize CSP assistance. For example, if the program would only fund the highest-priority applications, should there be an open application process with all applicants competing for a limited number of contracts? Should applications be constrained by resource concern, program funding, tier level, owner-operator relationship, geography or other constraint?

13. The law includes energy as a resource concern for CSP program purposes. The NRCS Field Office Technical Guide does not recognize energy as a natural resource concern and therefore no quality criteria or non-degradation standard exists to compare a conservation treatment against. NRCS is seeking comments on how energy use should be incorporated into the program requirements. How should the benefits be assessed?

14. The law includes payment for conservation practices described as requiring planning, implementation, management and maintenance. A concern was raised as to whether the payment would be, in fact, a return for equity in capital or for the engagement in intensive management. What should the program be paying for?

15. The law provides little guidance for monitoring quality assurance or specifics on identifying contract violations. The issue is two-fold in nature encompassing both the measurement of outcomes from a performance standpoint and assuring the Federal funds are spent wisely and that contracts are appropriately carried out. How should USDA ensure accountability?

NRCS will accept all other comments on general program implementation.

Regulatory Findings

Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), USDA must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this Advanced Notice of Proposed Rulemaking is a "significant regulatory action" in light of the provisions of paragraph (4) above as it raises novel legal or policy issues. As such, this action was submitted to OMB for review.

Signed in Washington, DC, on February 6, 2003.

Bruce I. Knight,

Chief, Natural Resources Conservation Service and Vice President,
Commodity Credit Corporation.

[FR Doc. 03-3782 Filed 2-14-03; 8:45 am]

BILLING CODE 3410-16-P

Appendix C

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Soil Erosion - Sheet and Rill</i>	Detachment and transport of soil particles caused by rainfall splash and runoff degrade soil quality.	Sheet and rill erosion does not exceed the Soil Loss Tolerance "T".		Visual assessment (pedestals, rills) Erosion-bridge method; erosion meters Special inventory methods (e.g., Rangeland Health Evaluation Worksheet) RUSLE2
<i>Soil Erosion - Wind</i>	Detachment and transport of soil particles caused by wind degrade soil quality and/or damage plants.	Wind erosion does not exceed the Soil Loss Tolerance "T" or, for plant damage, does not exceed Crop Damage Tolerances.		Visual assessment (pedestals, blow-out areas) Special inventory methods (e.g., Rangeland Health Evaluation Worksheet) Erosion prediction tool, i.e., Wind Erosion Equation (WEQ)
<i>Soil Erosion - Ephemeral Gully</i>	Small channels caused by surface water runoff degrade soil quality and tend to increase in size. On cropland, they can be obscured by heavy tillage.	Surface water runoff is controlled sufficiently to stabilize the small channels and prevent reoccurrence of new channels.		Visual assessment Volume calculation

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Soil Erosion - Classic Gully</i>	Deep, permanent channels caused by the convergence of surface runoff degrade soil quality. They enlarge progressively by headcutting and lateral widening.	Surface water runoff is controlled sufficiently to stop progression of headcutting and widening.		Visual assessment Volume calculation Aerial photo trend analysis
<i>Soil Erosion - Streambank</i>	Accelerated loss of streambank soils restricts land and water use and management.	Accelerated streambank soil loss does not exceed a level commensurate with upstream land use and normal geomorphological processes on site.		Visual assessment, e.g., Stream Visual Assessment Protocol, Proper Functioning Condition (PFC) Aerial photo trend analysis Engineering Field Handbook, Chapter 16
<i>Soil Erosion - Shoreline</i>	Soil is eroded along shorelines by wind and wave action, causing physical damage to vegetation, limiting land use, or creating a safety hazard.	Shoreline erosion is stabilized to a level that does not restrict the use or management of adjacent land, water or structures.		Visual assessment Aerial photo trend analysis Volume calculation Erosion transects/pins
<i>Soil Erosion – Irrigation-induced</i>	Improper irrigation water application and equipment operation are causing soil erosion that degrades soil quality.	Irrigation-induced erosion does not exceed the Soil Loss Tolerance “T”.		SRFR (Surface Irrigation Model) CPED (Center Pivot Evaluation and Design) NRCS National and State Irrigation Guides

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Soil Erosion - Mass Movement</i>	Soil slippage, landslides, or slope failure, normally on hillsides, result in large volumes of soil movement.	Shallow slumps, slides, or slips are prevented or minimized so that the mass movement of soil material does not exceed naturally occurring rates.		Visual assessment Aerial photo trend analysis Volume calculation
<i>Soil Erosion – Road, road sides and Construction Sites</i>	Soil loss occurs on areas left unprotected during or after road building and/or construction activities.	Sites are adequately protected from soil loss during and after road building and construction activities.		Visual assessment Volume Calculation Water and wind erosion prediction tools (RUSLE2 and WEQ)
<i>Soil Condition - Organic Matter Depletion</i>	Soil organic matter has or will diminish to a level that degrades soil quality.	Soil Conditioning Index is positive.		Soil Conditioning Index Soil Quality Kit Soil testing and analysis
<i>Soil Condition - Compaction</i>	Compressed soil particles and aggregates caused by mechanical compaction adversely affect plant-soil-moisture relationships.	Mechanically compacted soils are renovated sufficiently to restore plant root growth and/or water movement.		Assessment of plant root systems Bulk density test-Soil Quality Kit Dial penetrometer

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Soil Condition - Subsidence</i>	Loss of volume and depth of organic soils due to oxidation caused by above normal microbial activity resulting from excessive drainage or extended drought.	The timing and regime of soil moisture is managed to attain acceptable subsidence rates.		Visual assessment Inventory of volume and depth Soil probes and witness poles
<i>Soil Condition - Contaminants - Salts and Other Chemicals</i>	Inorganic chemical elements and compounds such as salts, selenium, boron, and heavy metals restrict the desired use of the soil or exceed the soil buffering capacity.	Salinity levels cause less than a 10% decrease in plant yield. Other contaminants do not exceed plant tolerances or are below toxic levels for plants or animals.		Soil test Soil Quality Kit- EC meter Farm*A*Syst assessment
<i>Soil Condition - Contaminants - Animal Waste and Other Organics</i>	Nutrient levels from applied animal waste and other organics restrict desired use of the land.	Nutrient application levels do not exceed soil storage/plant uptake capacities based on soil test recommendations and risk analysis results.		Soil test Phosphorus Index Plant tissue test Application records Yield records/history

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Soil Condition – Contaminants - Commercial Fertilizer</i>	Over application of nutrients degrades plant health and vigor, or exceeds the soil capacity to retain nutrients.	Soil nutrient levels do not exceed crop needs based on realistic yield goals and appropriate pH levels are maintained.		Soil Test Phosphorus Index Soil Quality Kit-pH meter
<i>Soil Condition - Contaminants - Residual Pesticides</i>	Residual pesticides in the soil have an adverse effect on non-target plants and animals.	Pesticides are applied, stored, handled, and disposed of so that residues in the soil do not adversely affect non-target plants and animals.		Visual assessment WIN-PST NAPRA Soil test Plant and animal tissue test
<i>Soil Condition - Damage from Soil Deposition</i>	Sediment deposition damages or restricts land use/management or adversely affects ecological processes.	Sediment deposition is sufficiently reduced to maintain desired land use/management and ecological processes.		Visual assessment Volume calculation Current water and wind erosion prediction tools (RUSLE2 and WEQ) coupled with sediment delivery ratios Plant and animal community assessment
<i>Water Quantity - Excessive Seepage</i>	Subsurface water oozing to the surface restricts land use and management.	Subsurface water is managed to limit periods of saturation that are unfavorable to the present or intended land use. Management complies with wetland policies.		<ul style="list-style-type: none"> • Visual Assessment (physical presence of water, prevalence of hydrophytic vegetation, etc.) • Client interview • Area measurements

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Water Quantity - Excessive Runoff, Flooding, or Ponding</i>	The land becomes inundated restricting land use and management.	Excess water amounts and/or rates of flow are controlled consistent with desired present or intended land use goals and wetland policies.		<ul style="list-style-type: none"> • Visual assessment • Client interview • Stream Visual Assessment Protocol • National Engineering Handbook (EFH – chapter 2 and 3) • Hydrologic models, e.g. HECRAS, TR-20, TR-55
<i>Water Quantity - Excessive Subsurface Water</i>	Water saturates upper soil layers restricting land use and management.	Subsurface water is managed to limit periods of saturation compatible with the present or intended land use and wetland policies.		<ul style="list-style-type: none"> • Visual assessment of soil cores and coring holes • Plant quality and quantity measurements • National Engineering Handbook, Part 650 (EFH-Chapter 14)
<i>Water Quantity - Drifted Snow</i>	Wind-blown snow deposits and accumulates around and over surface structures restricting ingress, egress and conveyance of humans and animals.	Snowdrifts are reduced or prevented to allow ingress, egress, and conveyance of humans and animals.		<ul style="list-style-type: none"> • Visual assessment • Client interview • Depth and area measurements

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Water Quantity - Inadequate Outlets</i>	Natural or constructed outlets too small to remove excess water in a timely manner.	Outlets are designed, installed, upgraded or maintained to adequately convey water for present or intended uses.		<ul style="list-style-type: none"> • Visual assessment • Client interview • National Engineering Handbook, part 650 (EFH – Chapters 2,3,7) • Hydrologic models, e.g. HECRAS, TR-20, TR-55
<i>Water Quantity - Inefficient Water Use on Irrigated Land</i>	Limited water supplies are not optimally utilized.	Land and water management is planned and coordinated to provide optimal use of natural and applied moisture.		<ul style="list-style-type: none"> • Visual assessment • National Engineering Handbook, Part 652, Irrigation Guide • Crop quality and quantity measurements • Farm Irrigation Rating Method (FIRM)
<i>Water Quantity - Inefficient Water Use on Non-Irrigated Land</i>	Natural moisture is not optimally utilized.	Management provides optimum use of natural moisture for the present or intended land use.		<ul style="list-style-type: none"> • Visual assessment • Plant or animal quality and quantity measurements
<i>Water Quantity - Reduced Capacity of Conveyances by Sediment Deposition</i>	Sediment deposits in ditches, canals, culverts, and other water conveyances reduce the desired flow capacity.	Conveyance structures are upgraded or maintained to adequately convey water for present or intended uses.		<ul style="list-style-type: none"> • Visual assessment • Client interview • National Engineering Handbook, Part 650 (EFH – Chapters 2,3,7) • Hydrologic models, e.g., HECRAS, TR-20, TR-55

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Water Quantity - Reduced Storage of Water Bodies by Sediment Accumulation</i>	Sediment deposits in water bodies reduce the desired volume capacity.	Water bodies and contributing source areas are treated to allow sufficient water storage for present and intended uses.		<ul style="list-style-type: none"> • Visual assessment • Depth and area measurements • National Engineering Handbook, Part 650 (EFH – Chapters 2,3,7,11)
<i>Water Quantity - Aquifer Overdraft</i>	Water withdrawals exceed recharge rates.	Land and water management are coordinated to conserve aquifer water levels.		<ul style="list-style-type: none"> • Water level measurements
<i>Water Quantity – Insufficient Flows in Water Courses</i>	Water flows are not consistently available in sufficient quantities to support ecological processes and land use and management.	Authorized uses and management of water are coordinated to minimize the impacts on water course flows.		<ul style="list-style-type: none"> • Visual assessment • Water flow records • Gauge Station data • Consumptive use/allocation water rights • Habitat Evaluation Guides • National Biology Handbook
<i>Water Quality - Harmful Levels of Pesticides in Groundwater</i>	Residues resulting from the use of pest control chemicals degrade groundwater quality.	Pesticides are applied, stored, handled, disposed of, and managed so that groundwater uses are not adversely affected.		<ul style="list-style-type: none"> • WIN-PST (Windows Pesticide Screening Tool – USDA/NRCS) • NAPRA (National Agricultural Pesticide Risk Analysis – USDA/NRCS) • Vadose zone and groundwater chemical sampling and assay

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Water Quality - Excessive Nutrients and Organics in Groundwater</i>	Pollution from natural or human induced nutrients such as N, P, and organics (including animal and other wastes) degrades groundwater quality.	Nutrients and organics are stored, handled, disposed of, and applied such that groundwater uses are not adversely affected.		<ul style="list-style-type: none"> • National Engineering Handbook, Part 651, Ag. Waste Mgt. Field Handbook • Nitrate Leaching Index • Phosphorus Leaching Index • Farm*A*Syst • Vadose zone and groundwater chemical/particle sampling and assay
<i>Water Quality - Excessive Salinity in Groundwater</i>	Pollution from salts such as Ca, Mg, Na, K, HCO ₃ , CO ₃ , Cl, and SO ₄ degrades groundwater quality.	Salts are stored, handled, disposed of, applied, and managed such that groundwater uses are not adversely affected.		<ul style="list-style-type: none"> • Vadose zone and groundwater salinity sampling (total dissolved solids [TDS] or electrical conductivity) and assay • National Engineering Handbook, Part 652, Irrigation Guide • Soil salinity sampling and assay
<i>Water Quality - Harmful Levels of Heavy Metals in Groundwater</i>	Natural or human induced metal pollutants present in toxic amounts degrade groundwater quality.	Materials containing heavy metals are stored, handled, disposed of, applied, and managed such that groundwater uses are not adversely affected.		<ul style="list-style-type: none"> • Vadose zone and groundwater chemical sampling and assay

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Water Quality - Harmful Levels of Pathogens in Groundwater</i>	Kinds and numbers of viruses, protozoa, and bacteria are present at a level that degrades groundwater quality.	Materials that harbor pathogens are stored, handled, disposed of, applied, and managed such that groundwater uses are not adversely affected.		<ul style="list-style-type: none"> • Vadose zone and groundwater chemical sampling and assay
<i>Water Quality - Harmful Levels of Petroleum in Groundwater</i>	Fuel, oil, gasoline and other hydrocarbons present in toxic amounts degrade groundwater quality.	Petroleum products are used, stored, handled, disposed of, and managed such that groundwater uses are not adversely affected.		<ul style="list-style-type: none"> • Vadose zone and groundwater chemical sampling and assay
<i>Water Quality - Harmful Levels of Pesticides in Surface Water</i>	Pest control chemicals present in toxic amounts degrade surface water quality.	Pesticides are applied, stored, handled, disposed of, and managed such that surface water uses are not adversely affected.		<ul style="list-style-type: none"> • WIN-PST (Windows Pesticide Screening Tool – USDA/NRCS) • NAPRA (National Agricultural Pesticide Risk Analysis – USDA/NRCS) • Surface water chemical sampling assay
<i>Water Quality - Excessive Nutrients and Organics in Surface Water</i>	Pollution from natural or human induced nutrients such as N, P, and organics (including animal and other wastes) degrades surface water quality.	Nutrients and organics are stored, handled, disposed of, and managed such that surface water uses are not adversely affected.		<ul style="list-style-type: none"> • SVAP (Stream Visual Assessment Protocol – USDA/NRCS) • P index • National Engineering Handbook, Part 651, Ag. Waste Mgt. Field Handbook • Surface water chemical/particle sampling and assay

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Water Quality - Excessive Suspended Sediment and Turbidity in Surface Water</i>	Pollution from mineral or organic particles degrades surface water quality.	Movement of mineral and organic particles is managed such that surface water uses are not adversely affected.		<ul style="list-style-type: none"> • Visual assessment • Client interview • SVAP (Stream Visual Assessment Protocol – USDA/NRCS) • Water Quality Indicators Guide – Surface Waters, Field Sheets 1A and 1B (Terrene Institute ©1996) • Surface water chemical/particle sampling and assay
<i>Water Quality - Excessive Salinity in Surface Water</i>	Pollution from salts such as Ca, Mg, Na, K, HCO ₃ , HCO ₃ , CO ₃ , Cl, and SO ₄ degrades surface water quality.	Salts are stored, handled, disposed of, applied, and managed such that surface water uses are not adversely affected.		<ul style="list-style-type: none"> • SVAP (Stream Visual Assessment Protocol – USDA/NRCS) – Salinity
<i>Water Quality - Harmful Levels of Heavy Metals in Surface Water</i>	Natural or human induced metal pollutants are present in toxic amounts that degrade surface water quality.	Materials containing heavy metals are stored, handled, disposed of, applied, and managed such that surface water uses are not adversely affected.		<ul style="list-style-type: none"> • Surface water chemical sampling and assay

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Water Quality - Harmful Temperatures of Surface Water</i>	Undesired thermal conditions degrade surface water quality.	Use and management of land and water are coordinated to minimize impacts on surface water temperatures.		<ul style="list-style-type: none"> • SVAP (Stream Visual Assessment Protocol – USDA/NRCS) – canopy cover • HSI model for target species (Habitat Suitability Index – USF&WS) • Surface water temperature sampling and assay
<i>Water Quality - Harmful Levels of Pathogens in Surface Water</i>	Kinds and numbers of viruses, protozoa, and bacteria are present at a level that degrades surface water quality.	Materials that harbor pathogens are stored, handled, disposed of, applied, and managed such that surface water uses are not adversely affected.		<ul style="list-style-type: none"> • Surface water pathogen sampling and assay
<i>Water Quality - Harmful Levels of Petroleum in Surface Water</i>	Fuel, oil, gasoline and other hydrocarbons present in toxic amounts degrade surface water quality.	Petroleum products are used, stored, handled, and disposed of such that groundwater uses are not adversely affected.		<ul style="list-style-type: none"> • Surface water chemical sampling and assay
<i>Air Quality - Particulate matter less than 10 micrometers in diameter (PM 10)</i>	Particulate matter less than 10 micrometers in diameter are suspended in the air causing potential health hazards to humans and animals.	Land use and management operations comply with PM 10 requirements of the State or Federal Implementation Plan and all applicable Federal, Tribal, State, and Local regulations.		<ul style="list-style-type: none"> • Specific guidelines contained in State or Federal Implementation Plan; or other approved NRCS tool. • Air quality analysis

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Air Quality - Particulate matter less than 2.5 micrometers in diameter (PM 2.5)</i>	Particulate matter less than 2.5 micrometers in diameter are suspended in the air causing potential health hazards to humans and animals.	Land use and management operations comply with PM 2.5 requirements of the State or Federal Implementation Plan and all applicable Federal, Tribal, State, and Local regulations.		<ul style="list-style-type: none"> • Specific guidelines contained in State or Federal Implementation Plan; or other approved NRCS tools
<i>Air Quality - Excessive Ozone</i>	High concentrations of ozone (O3) are adversely affecting human health, reducing plant yields, and leading to the creation of smog.	Land use and management operations comply with requirements of the State or Federal Implementation Plan and all applicable Federal, Tribal, State, and Local regulations.		<ul style="list-style-type: none"> • Specific guidelines contained in State or Federal Implementation Plan; or other approved NRCS tools
<i>Air Quality - Excessive Greenhouse Gas – CO2 (carbon dioxide)</i>	Increased CO2 concentrations are adversely affecting ecosystem processes.	Land use and management operations comply with requirements of the State or Federal Implementation Plan and all applicable Federal, Tribal, State, and Local regulations.		<ul style="list-style-type: none"> • Model simulations (Century, EPIC, CQUESTER); sampling for soil carbon or International Panel on Climate Change methodology; or other NRCS approved tools
<i>Air Quality - Excessive Greenhouse Gas – N2O (nitrous oxide)</i>	Increased N2O concentrations are adversely affecting ecosystem processes.	Land use and management operations comply with requirements of the State or Federal Implementation Plan and all applicable Federal, Tribal, State, and Local regulations.		<ul style="list-style-type: none"> • Model simulations (NLEAP or DayCENT), or IPCC methodology; or other NRCS approved tools

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Air Quality - Excessive Greenhouse Gas – CH4 (methane)</i>	Increased CH4 concentrations are adversely affecting ecosystem processes.	Land use and management operations comply with requirements of the State or Federal Implementation Plan and all applicable Federal, Tribal, State, and Local regulations.		<ul style="list-style-type: none"> • IPCC methodology; or other NRCS approved tools
<i>Air Quality - Ammonia (NH3)</i>	Animal waste and inorganic commercial fertilizers emit ammonia that contributes to odor, is a PM2.5 precursor, and contributes to acid rain.	Land use and management operations comply with requirements of all applicable Federal, Tribal, State, and Local regulations.		<ul style="list-style-type: none"> • Approved NRCS technical guidance and tools
<i>Air Quality - Chemical Drift</i>	Materials applied for pest control drift downwind and contaminate/injure non-targeted fields, crops, soils, water, animals and humans.	Land use and management operations comply with all applicable Federal, Tribal, State, and Local regulations, and applicable label directions.		<ul style="list-style-type: none"> • Approved NRCS technical guidance and tools
<i>Air Quality - Objectionable Odors</i>	Land use and management operations produce offensive smells.	Odor-producing facilities and activities are planned and sited to mitigate potential nuisance impacts and meets all applicable Tribal, State, and Local regulations.		<ul style="list-style-type: none"> • Olfactory assessment • Agricultural Waste Management Field Handbook (AWMFH) • NRCS approved tools

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Air Quality - Reduced Visibility</i>	Sight distance is impaired due to airborne particles causing unsafe conditions and impeded viewing of natural vistas especially in Class I viewing areas (primarily national parks and monuments).	Land use and management operations comply with all applicable Federal, Tribal, State, and Local regulations including state and local smoke and/or burn management plans.		<ul style="list-style-type: none"> • Visual assessment • Regional air partnership recommendations and/or state guidance for smoke management
<i>Air Quality - Undesirable Air Movement</i>	Wind velocities (too little or too much) reduce animal or plant productivity, impact human comfort and increase energy consumption.	Devices and practices are sited and planned to mitigate excess or deficient air movement.		<ul style="list-style-type: none"> • Visual assessment • Anemometers • Approved NRCS technical guidance and tools
<i>Air Quality - Adverse Air Temperature</i>	Air temperatures (too cold or too hot) reduce animal or plant productivity, impact human comfort and increase energy consumption.	Devices and practices are planned and sited to mitigate temperature extremes.		<ul style="list-style-type: none"> • Chill factor indices; heat indices • Air temperature assessment

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Plants not adapted or suited</i>	Plants are not adapted and/or suited to site conditions or client objectives.	<p>Selected plants are adapted to the soil and climatic conditions or the site is modified to make it suitable for the desired plants. Plants are sustainable, do not negatively impact other resources, and meet client objectives. For specific land uses, additional criteria apply:</p> <p>Cropland: A healthy stand with vigorous growth. Yields 75% of client expectations.</p> <p>Rangeland: Plants on or planned for the site are listed in applicable Ecological Site Descriptions (ESD).</p> <p>Pastureland: Plants on or planned for the site have a site adaptation score greater than 3 using Pasture Condition Scoring (PCS) and are listed in applicable Forage Suitability Groups (FSG) reports.</p>		<ul style="list-style-type: none"> • On-site investigation and records • Forage Suitability Groups (FSG) • Pasture Condition Scoring (PCS) • Client interview • PLANTS database • VEGSPEC • Seeding and Planting Guide • Plant hardiness zone map • Soil pH, drainage class, sodium adsorption ratio (SAR) and electrical conductivity (EC) suitability ranges. • Soil interpretations – Section IV • Local agronomy guides • University Extension Service information • Soil survey manuscripts • Ecological Site Descriptions (ESD) • Conservation Tree and Shrub Groups (CTSG) • Silvics of North America Trees

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Plants not adapted or suited, continued</i>		Hayland: Plants on or planned for the site are listed in applicable Forage Suitability Groups (FSG) reports. Forestland/Agroforest: Plants on or planned for the site are listed in Ecological Site Descriptions (ESD).		<ul style="list-style-type: none"> • NRCS Discipline Manuals/handbooks
<i>Plant – Condition – Productivity, Health and Vigor</i>	Plants do not produce the yields, quality, and soil cover to meet client objectives.	Selected plants on or planned for the site are sufficiently productive to meet or exceed client needs. For specific land uses, additional criteria apply: Cropland: A healthy stand with vigorous growth produces at least 75% of site potential. Rangeland: The plant community has a similarity index of at least 60% or an upward trend for similarity indices less than 60%.		<ul style="list-style-type: none"> • Local agronomy guides • Client interview • Plant tissue and harvest analysis • Crop scouting • NRCS discipline manuals/handbooks • National Range and Pasture Handbook • Ecological Site Descriptions • Rangeland Similarity Index Worksheet • Rising plate meter • Forage Suitability Groups (FSG)

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Plant – Condition – Productivity, Health and Vigor, continued</i>		<p>Pastureland: Forage yields are at least 75% of high management estimates cited in FSG reports.</p> <p>Hayland: Forage yields at least 75% of high mgt. estimates cited in Forage Suitability Groups (FSG) reports.</p> <p>Forestland/Agroforest: Forests consist of healthy stands with vigorous growth having a stand density with 25% of optimum stocking on a stems/acre basis. Plants chosen for agroforest applications are consistent with Conservation Tree and Shrub Groups (CTSG) listings and height performance.</p>		<ul style="list-style-type: none"> • Electronic probe calibrated for the forage mixture, or a clip and weigh sampling procedure. • Plot sampling of understory vegetation • Soil survey reports • Soil Testing • Crop/soil yield comparison in the vicinity • Pasture Condition Scoring • Keys for disease and insect symptoms

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Plant Condition - Threatened or Endangered Plant Species</i>	Plant populations and /or habitat quantity and quality have reached a level that one or more plant species are in danger of or threatened with extinction.	Threatened and endangered plant species and/or habitats they occupy are managed to avoid actions that would reduce their current population, health, or sustainability.		<ul style="list-style-type: none"> • Client interviews • Inventory site • General Manual, 190, Part 410 • US Fish and Wildlife Service county endangered species lists • Federal and state endangered species rules and regulations • Consultation with appropriate federal, state, and local agencies/groups • PLANTS Website
<i>Plant Condition - Noxious and Invasive Plants</i>	The site has noxious or invasive plants present.	The site is managed to control noxious and invasive plants and to minimize their spread.		<ul style="list-style-type: none"> • Client interviews • Inventory site • Consult weed management associations • Consultation with appropriate federal, state, and local agencies/groups • State or local noxious weed list • PLANTS Website
<i>Plant Condition - Forage Quality and Palatability</i>	Plants do not have adequate nutritive value or palatability for the intended use.	Forage plants are managed to produce the desired nutritive value and palatability for the intended use.		<ul style="list-style-type: none"> • NIRS Forage Quality Analysis (NUTBAL) • Plant tissue analysis

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Plant Condition – Wildfire Hazard</i>	The kinds and amounts of fuel loadings (plant biomass) pose risks to human safety, structures, and resources should wildfire occur.	Fuel loadings are reduced and/or isolated to meet client needs in minimizing the risk and incidence of wildfire.		<ul style="list-style-type: none"> • Visual assessment protocols • Site and flammable biomass inventories • Aerial photo analysis
<i>Fish and Wildlife - Inadequate Food</i>	Quantity and quality of food is unavailable to meet the life history requirements of the species or guild of species of concern.	Food availability meets the life history requirements of the species or guild of species of concern.		<ul style="list-style-type: none"> • Visual assessment • Inventory of food species • Aerial photo analysis • State Adapted Wildlife Habitat Evaluation Guide • National Biology Handbook
<i>Fish and Wildlife – Inadequate Cover/Shelter</i>	Cover/shelter for the species of concern is unavailable or inadequate. For aquatic species, this includes lack of hiding, thermal, and/or refuge cover.	The ecosystem or habit types support the necessary plant species in the kinds, amounts, and physical structure; and the connectivity of fish and wildlife cover is adequate to support, over time, the species of concern.		<ul style="list-style-type: none"> • Visual assessment • Inventory of cover/shelter • Aerial photo analysis • State Adapted Wildlife Habitat Evaluation Guide • National Biology Handbook

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Fish and Wildlife – Inadequate Water</i>	The quantity and quality of water is unacceptable for the species of concern.	The quantity and quality of water meets the life history requirements of the species of concern.		<ul style="list-style-type: none"> • Surface water dissolved oxygen sampling and assay • Stream Visual Assessment Protocol • Habitat Suitability Index - model for target species • Inventory of water supplies • Aerial photo analysis • State Adapted Wildlife Habitat Evaluation Guide • National Biology Handbook
<i>Fish and Wildlife – Inadequate Space</i>	Lack of area and fragmentation of areas disrupt life history requirements of the species of concern.	Adequate area and connectivity of areas meet life history requirements of the species of concern. (Examples: staging areas for rest and feeding, lekking areas for breeding, migratory movement corridors).		<ul style="list-style-type: none"> • Visual assessment • Stream Visual Assessment Protocol • Inventory of space/areas • Aerial photo analysis • State Adapted Wildlife Habitat Evaluation Guide • National Biology Handbook

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Fish and Wildlife - Plant Community Fragmentation</i>	Natural plant communities have insufficient structure, extent, and connectivity to provide ecological functions and/or achieve management objectives.	Fish and wildlife habitat functions of connected plant communities are maintained sufficiently to support the species or guild of species of concern.		<ul style="list-style-type: none"> • Stream Visual Assessment Protocol • Aquatic and terrestrial habitat evaluation procedures • Wildlife Habitat Evaluation Guide (WHEG)
<i>Fish and Wildlife - Imbalance Among and Within Populations</i>	Populations are not in proportion to available quantities and qualities of food (plants, predator/prey), cover/shelter, water, and space and other life history requirements.	Land and water use and management are consistent with direct population management activities conducted by fish and wildlife agencies.		<ul style="list-style-type: none"> • Fish and wildlife agency guidance and protocols

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Fish and Wildlife - Threatened and Endangered Species</i>	Fish and wildlife populations and/or habitat quantity and quality have reached a level that one or more species are in danger of or threatened with extinction.	Threatened and endangered fish and wildlife species and/or habitats they occupy are managed to avoid actions that would reduce their current population, health, or sustainability.		<ul style="list-style-type: none"> • Client interviews • Inventory of presence/absence of T&E species • General Manual, 190, Part 410 • US Fish and Wildlife Service county endangered species lists • Fish and wildlife recovery plans • Federal and state endangered species rules and regulations • Consultation with appropriate federal, state, and local agencies/groups • Fish and wildlife agency web sites

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Domestic Animals – Inadequate Quantities and Quality of Feed and Forage</i>	Total feed and forage is insufficient to meet the nutritional and production needs of the kinds and classes of livestock.	Feed and forage including supplemental nutritional requirements are provided to meet production goals for the kinds and classes of livestock. Native grazers are factored into the total feed and forage balance computations.		<ul style="list-style-type: none"> • Measured inventory • National Range and Pasture Handbook • Grazing Lands Application (GLA) software • Nutritional Balance Program (NUTBAL) • NIRS/Nutritional Balance Profile Program (NUTBAL Pro) • Forage quality laboratory analysis • Other State adapted forage/livestock management software and job sheets
<i>Domestic Animals – Inadequate Shelter</i>	Livestock are not protected sufficiently to meet the production goals for the kinds and classes of livestock.	Artificial and/or natural shelter is provided to meet production goals for the kinds and classes of livestock.		<ul style="list-style-type: none"> • Visual assessment • Inventory of facilities and their capacities • Aerial photo analysis • National Range and Pasture Handbook

National and State Resource Concerns and Quality Criteria				
Natural Resource Concern	Description of Concern	National Quality Criteria	State Quality Criteria	Assessment Tools for Quality Criteria Evaluation
SOIL				
<i>Domestic Animals – Inadequate Stock Water</i>	The quantity, quality and distribution of drinking water is insufficient to meet the production goals for the kinds and classes of livestock.	Sufficient water of acceptable quality is provided and adequately distributed to meet production goals for the kinds and classes of livestock. To reduce potential for water contamination, watering facilities are constructed or modified to minimize mortality to indigenous wildlife.		<ul style="list-style-type: none"> • Visual assessment • Inventory of distribution needs • Aerial photo analysis • National Range and Pasture Handbook
<i>Domestic Animals - Stress and Mortality</i>	Animals exhibit illness or death from disease, parasites, insects, poisonous plants, or other factors.	Land and water use and management are consistent with activities conducted to alleviate stress and mortality factors.		<ul style="list-style-type: none"> • Animal health/mortality alerts • State and local biosecurity protocols • State and local standards for animal disposal

Appendix D

CSP PRACTICE EFFECTS: PRACTICE PHOTO, DESCRIPTION AND NETWORK DIAGRAMS

Cropland Practices

Practice Name	Page Number
Conservation Crop Rotation	D-3
Contour Buffer Strips	D-5
Contour Farming	D-7
Cover Crop	D-9
Critical Area Planting	D-11
Diversion	D-13
Filter Strip	D-15
Grade Stabilization Structure	D-17
Grassed Waterway	D-19
Irrigation Water Conveyance (AA-EE)	D-21
Irrigation Water Management	D-27
Nutrient Management	D-29
Pest Management	D-31
Residue Management, Mulch Till	D-33
Residue Management, No Till/Strip Till	D-35
Residue Management, Ridge Till	D-37
Residue Management, Seasonal	D-39
Riparian Forest Buffers	D-41
Terrace	D-43
Upland Wildlife Habitat Management	D-45
Wetland Restoration	D-47
Wetland Wildlife Habitat Management	D-49
Windbreak/Shelterbelt Establishment	D-51

Grazing Lands Practices

Practice Name	Page Number
Animal Trails and Walkways	D-53
Brush Management	D-55
Critical Area Planting	D-57
Fence	D-59
Forage Harvest Management	D-61
Pasture and Hay Planting	D-63
Pipeline	D-65
Pond	D-67
Prescribed Burning	D-69
Prescribed Grazing	D-71
Range Planting	D-73
Spring Development	D-75
Use Exclusion	D-77
Watering Facility (Trough or Tank)	D-79

Forestry and Agroforestry Practices

Practice Name	Page Number
Alley Cropping	D-95
Firebreak	D-97
Forest Harvest Trails and Landings	D-99
Forest Site Preparation	D-101
Forest Stand Improvement	D-103
Prescribed Burning	D-105
Riparian Forest Buffer	D-107
Tree/Shrub Establishment	D-109
Tree/Shrub Pruning	D-111
Use Exclusion	D-113
Windbreak/Shelterbelt Establishment	D-115
Windbreak/Shelterbelt Renovation	D-116