

implementing a no-till residue management system can save significant amounts of fuel that otherwise is consumed by equipment traveling across the field. Irrigation water management can reduce consumption of fuel or electricity used for pumping, as well as the quantity of water applied.

NRCS proposes to address energy in the following ways: (1) allow State and local priorities to make energy conservation activities eligible for enhancement payments; and (2) revise or develop energy-related practice standards in the FOTG (e.g. biomass production, wind energy generation, etc.). NRCS will ensure that the FOTG contains conservation practices that address energy production, energy conservation and energy efficiency. NRCS wants to encourage innovation and involvement of the State Technical Committee and local work group. This proposed rule enables NRCS to adopt either or both of these options.

14. Management payments. The Act authorizes payments for conservation practices that require planning, implementation, management, and maintenance. NRCS considered whether the management payment should more heavily recognize a participant's equity in capital or a participant's engagement in intensive management, and we received 87 comments on the issue.

Ten respondents addressed the tension between the return to management versus the return to capital. Generally, the respondents said the bulk of the CSP management payment should recognize the time and cost of applying management skills. Three stated that this issue should be resolved between the landowner and the tenant. Another respondent suggested that the return to capital was the preservation and enhancement of land productivity. Nearly all respondents recommended CSP help compensate producers for their time and management skills in implementing management intensive practices. A third of all respondents recommended paying only for land management practices. A few respondents recommended paying only for the return on equity in capital improvements. In the "Summary of Provisions and Additional Request for Comments" Section 1469.23, Program Payments describes how these comments were addressed.

15. Quality assurance. The Act provides limited guidance to NRCS regarding how the program's performance should be monitored or how NRCS should identify contract violations. NRCS sought public input on how to ensure that Federal funds are spent wisely, and NRCS received 105

comments. In general, respondents felt strongly that USDA should monitor contract compliance. They pointed out the need for spot-checks, self-certification, and enforcement activities to ensure program performance. However, respondents did not agree on a preferred frequency of the checks or which person(s) should be responsible for carrying out the contract compliance activities.

Respondents offered some useful ideas on how to measure and monitor program performance. For example, some commentators suggested the use of a combination of reference sites, scientific models, and GIS technology to carry out monitoring and evaluation. Monitoring could occur at the farm and ranch level, as well as at the watershed level or some other geographic area.

Specific monitoring and compliance approaches are not laid out in this proposed rule.

Summary of Provisions and Additional Requests for Comments

The following discussion summarizes the provisions in each section of the proposed rule, explains the alternatives NRCS considered, justifies the NRCS preferred approach, and requests public comment on specific issues.

Section 1469.1 Applicability

The rule identifies the initial program year and extent of the program's availability. NRCS has the authority to begin accepting applications during calendar year 2003.

Section 1469.2 Administration

This section provides that the CSP will be administered by the Chief of NRCS, who is a Vice President of the Commodity Credit Corporation. It also provides general information on program administration.

As discussed above, one important aspect of CSP administration is the procedures NRCS will follow if NRCS receives more eligible applications than it can fund.

As noted above, NRCS is specifically seeking comment on how to select the contracts of the pool of eligible producers to best serve the purpose of the program.

Section 1469.3 Definitions

This section sets forth definitions for terms used throughout the part. Most definitions are derived from the statute, NRCS technical guidance documents, or regulations for other programs. This rule provides important clarity, particularly where the Act lacks specificity.

The most significant definition is "agricultural operation," because the

term defines the land area that can or must be enrolled in CSP contracts under the three tiers of participation. NRCS believes its preferred approach to defining an agricultural operation will help create a cohesive conservation unit over which the stewardship benefits are achieved. In particular, the definition is instrumental in separating Tier I from Tier II and Tier III applicants. The term "agricultural operation" is used twice in Title II of the Act with different meanings. This definition here is not the same as the term used in the EQIP Ground and Surface Water Conservation program which refers only to specific fields under irrigation used to calculate a net savings for water conservation purposes. CSP definition covers the entire agricultural operation whether irrigated or not and is used as a tier criteria rather than to calculate a net savings for water conservation purposes.

NRCS's approach to defining agricultural operation for the CSP represents a careful balance. If the definition were to allow a producer to reconstitute or split holdings, the producer could submit numerous CSP applications for what is really a cohesive production unit. If the definition were to be overly broad, a producer's legitimately unique operations would be inappropriately encompassed into one "agricultural operation."

NRCS evaluated whether the agricultural operation should be: a unique owner/operator relationship; all land in a county or contiguous land in which the client provides active personal management of the operation; historical administrative designations; or defined by the participant.

In particular, NRCS compared the Farm Service Agency (FSA) numbering system to the approach NRCS uses in the Great Plains Conservation Program (GPCP). Whereas FSA's system bases farm numbers and the associated land on its administration of commodity programs, NRCS believes that agricultural operations under CSP should be based on resource concerns or conservation management. Moreover, the FSA numbering system does not apply to many potential CSP participants who do not participate in commodity programs, such as ranchers and specialty crop producers. NRCS has found that the definition of "agricultural operation" in the GPCP to be satisfactory for administering the program and easy for participants to understand.

Consistent with GPCP, NRCS proposes in Section 1469.3 to define "agricultural operation" as "all agricultural land, and other lands