

between these two values is deemed the value of the conservation easement.

Farm Succession Plan

Thirteen respondents requested that Farm Succession Plan be added to the final rule's list of definitions. NRCS accepts this suggestion and adds the definition to read as follows:

Farm or ranch succession plan is a general plan to address the continuation of some type of agricultural business on the conserved land; the farm or ranch succession plan may include specific intra-family succession agreements or strategies to address business asset transfer planning to create opportunities for beginning farmers and ranchers.

Historical and Archaeological Resources

Several respondents raised questions regarding the determination of what FRPP considers historical and archaeological resources. Most of the respondents recommended or provided comments on the second bullet in the proposed rule regarding which properties will be considered. One respondent suggested that the second bullet describing parcels eligible for the National Register is confusing, and suggested the following language: "Formally determined eligible for listing in the National Register of Historic Places by the Keeper of the National Register;" while another respondent suggested that the second bullet be worded as follows: "Be determined eligible for listing on the National Register of Historic Places through a written determination by a State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO)." Regarding the first recommendation, because only the Keeper of the National Register may make formal determinations of eligibility, NRCS does not believe that the rule needs to add this reference. Regarding the second recommendation, NRCS does not have the authority to establish a new National Register eligibility determination process for the FRPP program, such as using written determinations by SHPOs and THPOs, beyond that which is currently in effect for compliance with section 106 of the National Historic Preservation Act.

In relation to the FRPP historical and archaeological definition, two other respondents suggested that a broader definition of historical and archaeological resources exists. One respondent suggested that where there is no formal listing in the State, refer instead to other inventories and have the SHPO or THPO provide an additional certification of significance, while another suggested that a fourth

bullet be added: "Identified in a congressionally authorized study of U.S. battlefield sites, including the July 1993 report on the Nation's Civil War battlefields prepared by the Civil War Sites Advisory Commission." Regarding the suggestion that NRCS establish a new certification of significance process, NRCS believes a separate and distinct evaluation process beyond the current National Register programs and State and tribal register programs would cause confusion. Additionally, NRCS believes that by keeping the focus on existing registers and inventories, NRCS is supporting and strengthening our partners' programs without adding to their current workload. As it relates to the use of the inventory in the Civil War Sites Advisory Commission's 1993 Report, NRCS acknowledges the importance of these properties, but also recognizes that the inventory was developed, in part, for use by a Department of Interior battlefield protection program, one that has a much narrower focus than that of the FRPP (protection of farm and ranch lands across the entire United States). If NRCS elected to use this one very specialized list, it would have to also consider using other specialized lists of cultural resources (*i.e.* bridges, lighthouses, dams, industrial resources) developed for other programs. Additionally, it is most likely that the properties in this battlefield inventory are already in State inventories and registers. Another respondent questions what it meant to be "determined formally eligible on the National Register." NRCS believes that this language is clear and need not be further explained. Finally, one commenter suggested that the FRPP rule is more restrictive regarding determinations of eligibility than current historic preservation compliance guidelines. NRCS does not agree and does not want to establish a separate determination and evaluation process. This would undermine existing historic preservation evaluation and designation programs and would also risk further confusion.

Land Evaluation and Site Assessment System (LESA)

NRCS did not receive any comments on this definition, but for clarification NRCS has defined what is meant by "Federal" for the purposes of FRPP. For this reason, NRCS amends the definition to read as follows: "Land Evaluation and Site Assessment System (LESA) is a land evaluation system approved by the NRCS State Conservationist used to rank land for farm and ranch land protection purposes, based on soil potential for agriculture, as well as

social and economic factors, such as location, access to markets, and adjacent land use. (For additional information see the Farmland Protection Policy Act regulation, 7 CFR part 658.)"

Non-Governmental Organization

Four respondents suggested inserting the word "and" in the definition for eligible non-governmental organizations to clarify that non-governmental organizations must be a conservation organization and must be recognized by the Internal Revenue Service as tax exempt by virtue of being operated for religious, charitable, scientific or similar purposes. Despite these suggestions, NRCS has chosen to retain the original definition which reflects FRPP's authorizing legislation:

Non-governmental organization, is defined as any organization that:

- Is organized for, and at all times since the formation of the organization, has been operated principally for one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue code of 1986;
- Is an organization that is described in section 501(c)(3) of that code that is exempt from taxation under 501(a) of that code;
- Is described in section 509(a)(2) of that code; or
- Is described in section 509(a)(3) of that code and is controlled by an organization described in section 509(a)(2) of that code.

Prime Farmland

One respondent requested that the term "prime farmland" be changed to "prime soils" since it is the soils that NRCS is describing in the definition. NRCS is choosing to retain the "prime farmland" definition to make it consistent with the definition from which it is derived in 7 CFR part 657. Two respondents asked whether land that grows Christmas trees, flowers, nursery stock and grapes for wine are considered prime since they are not producing food, feed, and forage. NRCS may consider these areas prime, unique, Statewide or locally important in accordance with 7 CFR part 657, since these areas have a special combination of soil quality, location, growing season, and moisture supply to produce these crops.

Ranch Land

Two respondents requested that the term "ranch land" be clarified so that it is more inclusive of many of the lands used in ranching across the country. Both respondents suggest that the following NRCS Pasture and Range Handbook definition be utilized,

Land on which the historic climax plant community is predominantly grasses, grasslike plants, forbs, or shrubs. Includes