

SPONSORING USDA SUSTAINABILITY TARGETS IN AGRICULTURE TO INCENTIVIZE NATURAL SOLUTIONS ACT OF 2021

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JUNE 3, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. DAVID SCOTT of Georgia, from the Committee on Agriculture, submitted the following

R E P O R T

[To accompany H.R. 2606]

The Committee on Agriculture, to whom was referred the bill (H.R. 2606) to amend the Food Security Act of 1985 with respect to the acceptance and use of contributions for public-private partnerships, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

BRIEF EXPLANATION

This legislation, as reported out of Committee, allows for the creation of public-private partnerships for USDA conservation programs. The bill provides authority to the Secretary of Agriculture to establish accounts for the acceptance and use of contributions for public-private partnerships.

PURPOSE AND NEED FOR LEGISLATION

The House Agriculture Committee understands public-private partnerships are critical for the success of federal conservation programs administered by the U.S. Department of Agriculture (USDA). Furthermore, the Committee recognizes the effectiveness of our federal conservation system and the Natural Resources Conservation Service, which administers programs that are voluntary, locally led, and incentive based.

Total annual mandatory budget authority for conservation programs has grown from a total of \$3.9 billion in FY 2008 to over \$6.7 billion in FY 2019. However, the demands for conservation funding and technical assistance still outpaces the current re-

sources. For example, in FY 2020, the Natural Resources Conservation Service (NRCS) was only able to fund 28% of Environmental Quality Incentive Program (EQIP) contracts, leaving nearly 90,000 applications unfunded. Simultaneously, corporations and small businesses want to market to their customers' desire to buy sustainably grown food and fiber. Many large corporations have made public commitments to lower their carbon footprint within their supply chain but are struggling to find the best way to achieve those goals.

The Committee reported bill provides an opportunity for the private sector to partner with USDA to engage farmers and ranchers in supporting conservation initiatives, including to expand land use practices to sequester carbon, improve wildlife habitat, protect sources of drinking water, and address other natural resource priorities. Specifically, the Committee reported bill authorizes the "Contributions for Private-Sector Partnership," a USDA account that allows for private sector donations. It also incentivizes private funding by awarding sponsorship of targeted conservation initiatives.

The Committee reported bill allows USDA to administer conservation initiatives with current scientific practice standards, proven conservation programs and practices, and trusting relationships with farmers. In addition, it authorizes funds for USDA to match certain donations.

H.R. 2606, SPONSORING USDA SUSTAINABILITY TARGETS IN
AGRICULTURE TO INCENTIVIZE NATURAL SOLUTIONS ACT OF 2021

SECTION-BY-SECTION

Section 1. Short title

Section 1 provides the short title of the bill as the "Sponsoring USDA Sustainability Targets in Agriculture to Incentivize Natural Solutions Act of 2021," or the "SUSTAINS Act."

Section 2. Acceptance and Use of Contributions for Public Private Partnerships

This section amends section 1241(f) of the Food Security Act of 1985 to allow the Secretary, acting through NRCS, to create Public-Private Partnerships Contribution Accounts. The Secretary may establish a sub-account for each covered program to accept contributions of non-Federal funds for the purposes of addressing the changing climate, sequestering carbon, improving wildlife habitat, protecting sources of drinking water, and addressing other natural resource priorities identified by the Secretary.

Subsection (4) allows the Secretary to provide matching funds for contributions received in the Public-Private Partnerships Contribution Accounts. This subsection also allows contributing entities under this section to designate the covered program for which the contributed funds are intended to be used and specify the geographic area to use the funds.

Subsection (4) also requires the Secretary to establish a procedure under which an entity making a significant contribution may identify a natural resource concern that the contributed funds will address and have the name or brand of the individual or entity associated with the use of the contributed funds. This subsection also

requires the Secretary to give priority to socially disadvantaged farmers or ranchers, limited resource farmers or ranchers, and beginning farmers or ranchers.

Subsection (4) requires that if an activity funded under this section results in sellable environmental services benefits the producer carrying out the activity and the contributing entity negotiate a mutually beneficial sale of such benefits. This subsection also provides that the Secretary may change the requirements, as they apply to easements, for the purpose of addressing climate change. This subsection also provides the definitions of “covered program” and “significant contribution.”

COMMITTEE CONSIDERATION

I. SUBCOMMITTEE

On May 12, 2021, the Subcommittee on Conservation and Forestry held a hearing entitled *Title II Conservation Programs: Exploring Climate-Smart Practices* where the following witnesses testified on the role of conservation programs have in addressing a broad variety of resource concerns, especially those at the nexus of climate and agriculture:

- Charles Isbell, Jr, Farmer and Co-Owner, Keenbell Farm, Rockville, VA
- Kimberly Ratcliff, Owner, Caney Creek Ranch, Oakwood, TX
- Dr. Keith Paustian, Distinguished Professor, Dept. of Soil and Crop Science, Colorado State University; Senior Research Scientist, Natural Resource Ecology Laboratory, CSU
- Jamie Johansson, President, California Farm Bureau, Sacramento, CA

This hearing examined how Title II conservation programs, enacted through the farm bill assist producers to address resource concerns, fight climate change, and provide additional benefits. The hearing highlighted that conservation programs are oversubscribed and engagement with the private sector is one possible solution.

II. FULL COMMITTEE

On May 17, 2022, the Committee on Agriculture met pursuant to notice, with a quorum present to consider H.R. 2606, Sponsoring USDA Sustainability Targets in Agriculture to Incentivize Natural Solutions Act of 2021. Chairman Scott made an opening statement as did Ranking Member Thompson. Chairman Scott requested other Members submit their opening statements for the record. Without objection, H.R. 2606 was placed before the Committee for consideration, a first reading of the bill was waived.

Discussion occurred. Chairman Scott made a motion for unanimous consent to adopt and favorably report H.R. 2606 to the House. The motion for unanimous consent was adopted without objection.

The Committee recessed until May 18, 2022. At the conclusion of the meeting, Chairman Scott advised Members that pursuant to the Rules of the House of Representatives, Members had until May 20, 2022, at 12:00 p.m. to file any supplemental, additional, dissenting, or minority views with the Committee. Without objection, staff was given permission to make any necessary technical, clari-

fyng, or conforming changes to reflect the intent of the Committee. Chairman Scott thanked all Members and adjourned the meeting.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the House of Representatives, H.R. 2606 was reported by unanimous consent with a majority quorum present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

COST OF LEGISLATION AND THE CONGRESSIONAL BUDGET ACT

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office. The Committee adopts as its own cost estimate the forthcoming cost estimate of the Director of the Congressional Budget Office, should such cost estimate be made available before House passage of the bill.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Congressional Budget Office staff has informed the Committee on a preliminary, informal, nonbinding basis that there does not appear to be any revenue effects or direct spending associated with the bill.

CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the Constitutional authority for this legislation in Article I, section 8, clause 18, that grants Congress the power to make all laws necessary and proper for carrying out the powers vested by Congress in the consideration of the United States or in any department or officer thereof.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the House of Representatives, the performance goals and objectives of this measure are to incentivize private contributions to USDA conservation programs and expand the reach of those programs.

ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

EARMARK STATEMENT

This measure does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the House of Representatives.

DUPLICATION OF FEDERAL PROGRAMS

This measure does not establish or reauthorize a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee does not believe that the legislation directs an Executive Branch official to conduct any specific rule making proceedings within the meaning of 5 U.S.C. 551.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

FOOD SECURITY ACT OF 1985

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TITLE XII—CONSERVATION

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Subtitle E—Funding and Administration

SEC. 1241. COMMODITY CREDIT CORPORATION.

(a) ANNUAL FUNDING.—For each of fiscal years 2014 through 2023, the Secretary shall use the funds, facilities, and authorities

of the Commodity Credit Corporation to carry out the following programs under this title (including the provision of technical assistance):

- (1) The conservation reserve program under subchapter B of chapter 1 of subtitle D, including, to the maximum extent practicable—
 - (A) \$12,000,000 for the period of fiscal years 2019 through 2023 to provide payments under section 1234(c); and
 - (B) \$50,000,000 for the period of fiscal years 2019 through 2023, including not more than \$5,000,000 to provide outreach and technical assistance, to carry out section 1235(f) to facilitate the transfer of land subject to contracts from contract holders to covered farmers or ranchers, as defined in section 1235(f)(1).
 - (2) The agricultural conservation easement program under subtitle H using to the maximum extent practicable—
 - (A) \$400,000,000 for fiscal year 2014;
 - (B) \$425,000,000 for fiscal year 2015;
 - (C) \$450,000,000 for fiscal year 2016;
 - (D) \$500,000,000 for fiscal year 2017;
 - (E) \$250,000,000 for fiscal year 2018; and
 - (F) \$450,000,000 for each of fiscal years 2019 through 2023.
 - (3) The programs under chapter 4, using, to the maximum extent practicable—
 - (A) for the environmental quality incentives program under subchapter A of that chapter—
 - (i) \$1,750,000,000 for fiscal year 2019;
 - (ii) \$1,750,000,000 for fiscal year 2020;
 - (iii) \$1,800,000,000 for fiscal year 2021;
 - (iv) \$1,850,000,000 for fiscal year 2022; and
 - (v) \$2,025,000,000 for fiscal year 2023; and
 - (B) for the conservation stewardship program under subchapter B of that chapter—
 - (i) \$700,000,000 for fiscal year 2019;
 - (ii) \$725,000,000 for fiscal year 2020;
 - (iii) \$750,000,000 for fiscal year 2021;
 - (iv) \$800,000,000 for fiscal year 2022; and
 - (v) \$1,000,000,000 for fiscal year 2023.
 - (4) The conservation stewardship program under subchapter B of chapter 2 of subtitle D (as in effect on the day before the date of enactment of the Agriculture Improvement Act of 2018), using such sums as are necessary to administer contracts entered into before that date of enactment.
- (b) AVAILABILITY OF FUNDS.—Amounts made available by subsection (a) for fiscal years 2014 through 2023 shall be used by the Secretary to carry out the programs specified in such subsection and shall remain available until expended.
- (c) TECHNICAL ASSISTANCE.—
- (1) AVAILABILITY.—Commodity Credit Corporation funds made available for a fiscal year for each of the programs specified in subsection (a)—

(A) shall be available for the provision of technical assistance for the programs for which funds are made available as necessary to implement the programs effectively;

(B) except for technical assistance for the conservation reserve program under subchapter B of chapter 1 of subtitle D, shall be apportioned for the provision of technical assistance in the amount determined by the Secretary, at the sole discretion of the Secretary; and

(C) shall not be available for the provision of technical assistance for conservation programs specified in subsection (a) other than the program for which the funds were made available.

(2) PRIORITY.—

(A) IN GENERAL.—In the delivery of technical assistance under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.), the Secretary shall give priority to producers who request technical assistance from the Secretary in order to comply for the first time with the requirements of subtitle B and subtitle C of this title as a result of the amendments made by section 2611 of the Agricultural Act of 2014.

(B) REPORT.—Not later than 270 days after the date of enactment of the Agricultural Act of 2014, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding the extent to which the conservation compliance requirements contained in the amendments made by section 2611 of the Agricultural Act of 2014 apply to and impact specialty crop growers, including national analysis and surveys to determine the extent of specialty crop acreage that includes highly erodible land and wetlands.

(3) REPORT.—Not later than December 31, 2014, the Secretary shall submit (and update as necessary in subsequent years) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report—

(A) detailing the amount of technical assistance funds requested and apportioned in each program specified in subsection (a) during the preceding fiscal year; and

(B) any other data relating to this provision that would be helpful to such Committees.

(4) COMPLIANCE REPORT.—Not later than November 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes—

(A) a description of the extent to which the requests for highly erodible land conservation and wetland compliance determinations are being addressed in a timely manner;

(B) the total number of requests completed in the previous fiscal year;

(C) the incomplete determinations on record; and

(D) the number of requests that are still outstanding more than 1 year since the date on which the requests were received from the producer.

(d) RELATIONSHIP TO OTHER LAW.—The use of Commodity Credit Corporation funds under subsection (c) to provide technical assistance shall not be considered an allotment or fund transfer from the Commodity Credit Corporation for purposes of the limit on expenditures for technical assistance imposed by section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i).

(e) REGIONAL EQUITY.—

(1) EQUITABLE DISTRIBUTION.—When determining funding allocations each fiscal year, the Secretary shall, after considering available funding and program demand in each State, provide a distribution of funds for conservation programs under subtitle D (excluding the conservation reserve program under subchapter B of chapter 1), subtitle H, and subtitle I to ensure equitable program participation proportional to historical funding allocations and usage by all States.

(2) MINIMUM PERCENTAGE.—In determining the specific funding allocations under paragraph (1), the Secretary shall—

(A) ensure that during the first quarter of each fiscal year each State has the opportunity to establish that the State can use an aggregate allocation amount of at least 0.6 percent of the funds made available for those conservation programs; and

(B) for each State that can so establish, provide an aggregate amount of at least 0.6 percent of the funds made available for those conservation programs.

(f) ACCEPTANCE AND USE OF CONTRIBUTIONS FOR PUBLIC-PRIVATE PARTNERSHIPS.—

[(1) AUTHORITY TO ESTABLISH CONTRIBUTION ACCOUNTS.—Subject to paragraph (2), the Secretary may establish a sub-account for each conservation program administered by the Secretary under subtitle D to accept contributions of non-Federal funds to support the purposes of the program.]

(1) AUTHORITY TO ESTABLISH PUBLIC-PRIVATE PARTNERSHIP CONTRIBUTIONS ACCOUNTS.—*The Secretary, acting through the Natural Resources Conservation Service, may establish a sub-account for each covered program to accept contributions of non-Federal funds for the purposes of addressing the changing climate, sequestering carbon, improving wildlife habitat, protecting sources of drinking water, and addressing other natural resource priorities identified by the Secretary.*

(2) DEPOSIT AND USE OF CONTRIBUTIONS.—Contributions of non-Federal funds received for [a conservation program administered by the Secretary under subtitle D] *a covered program* shall be deposited into the sub-account established under this subsection for the program and shall be available to the Secretary, without further appropriation and until expended, to carry out the program.

(3) MATCH OF CONTRIBUTED FUNDS.—*The Secretary may provide matching funds for contributions received under this subsection, subject to the availability of funding under subsection (a) for the applicable covered program.*

(4) ROLE OF CONTRIBUTING ENTITY.—

- (A) *IN GENERAL.*—An entity contributing funds under this subsection may—
- (i) designate the covered program for which the contributed funds are intended to be used; and
 - (ii) specify the geographic area in which the contributed funds are intended to be used.
- (B) *SIGNIFICANT CONTRIBUTIONS.*—The Secretary shall establish a procedure under which an entity making a significant contribution may—
- (i) identify a natural resource concern the contributed funds are to be used to address; and
 - (ii) have the name or brand of the individual or entity associated with the use of the contributed funds.
- (5) *PRODUCER PARTICIPATION.*—
- (A) *PRIORITY.*—In selecting producers to carry out, through a covered program, an activity funded pursuant to this subsection, the Secretary shall give priority to—
- (i) socially disadvantaged farmers or ranchers, as defined in section 355(e) of the Agricultural Act of 1961 (7 U.S.C. 2003);
 - (ii) limited resource farmers or ranchers, as determined by the Secretary; and
 - (iii) beginning farmers or ranchers.
- (B) *SALE OF ECOSYSTEM BENEFITS.*—If an activity funded pursuant to this section may result in environmental services benefits to be sold through an environmental services market, the producer carrying out the activity and the entity that contributed the applicable funds shall negotiate a mutually beneficial sale of such benefits.
- (6) *RULES FOR EASEMENTS.*—An easement funded pursuant to this subsection shall be subject to the requirements of the covered program for which the contributed funds were used, except that the Secretary may modify such requirements, as they apply to the easement, for the purpose of addressing climate change, as the Secretary determines appropriate.
- (7) *DEFINITIONS.*—In this subsection:
- (A) *COVERED PROGRAM.*—The term “covered program” means a program carried out by the Secretary under—
- (i) subtitle D, subtitle H, or subtitle I;
 - (ii) section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203);
 - (iii) title V of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6571 et seq.); or
 - (iv) the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.), except for any program established by the Secretary to carry out section 14 of such Act (16 U.S.C. 1012).
- (B) *SIGNIFICANT CONTRIBUTION.*—The term “significant contribution” means a contribution under this subsection of at least a minimum dollar amount established by the Secretary.
- (g) *ALLOCATIONS REVIEW AND UPDATE.*—
- (1) *REVIEW.*—Not later than 1 year after the date of enactment of the Agriculture Improvement Act of 2018, the Secretary, acting through the Chief of the Natural Resources Con-

servation Service and the Administrator of the Farm Service Agency, shall conduct a review of conservation programs and authorities under this title that utilize annual allocation formulas to determine the sufficiency of the formulas in accounting for relevant data on local natural resource concerns, resource inventories, evaluations and reports, recommendations from State technical committees established under section 1261(a), State-level economic factors, level of agricultural infrastructure, or related factors that affect conservation program costs.

(2) UPDATE.—The Secretary shall improve conservation program allocation formulas as necessary to ensure that—

(A) the formulas adequately reflect the costs of carrying out the conservation programs;

(B) to the maximum extent practicable, local natural resource concerns are considered a leading factor in determining annual funding allocation to States;

(C) the process used at the national level to evaluate State budget proposals and to allocate funds is reviewed annually to assess the effect of allocations in addressing identified natural resource priorities and objectives; and

(D) the allocation of funds to States addresses priority natural resource concerns and objectives.

(h) ASSISTANCE TO CERTAIN FARMERS OR RANCHERS FOR CONSERVATION ACCESS.—

(1) ASSISTANCE.—

(A) FISCAL YEARS 2009 THROUGH 2018.—Of the funds made available for each of fiscal years 2009 through 2018 to carry out the environmental quality incentives program and the acres made available for each of such fiscal years to carry out the conservation stewardship program, the Secretary shall use, to the maximum extent practicable—

(i) 5 percent to assist beginning farmers or ranchers; and

(ii) 5 percent to assist socially disadvantaged farmers or ranchers.

(B) FISCAL YEARS 2019 THROUGH 2023.—Of the funds made available for each of fiscal years 2019 through 2023 to carry out the environmental quality incentives program under subchapter A of chapter 4 of subtitle D and the conservation stewardship program under subchapter B of chapter 4 of subtitle D, the Secretary shall use, to the maximum extent practicable—

(i) 5 percent to assist beginning farmers or ranchers; and

(ii) 5 percent to assist socially disadvantaged farmers or ranchers.

(2) REPOOLING OF FUNDS.—In any fiscal year, amounts not obligated under paragraph (1) by a date determined by the Secretary shall be available for payments and technical assistance to all persons eligible for payments or technical assistance in that fiscal year under the environmental quality incentives program and, in the case of fiscal years 2019 through 2023, under the conservation stewardship program under subchapter B of chapter 4 of subtitle D.

(3) REPOOLING OF ACRES.—In any fiscal year through fiscal year 2018, acres not obligated under paragraph (1)(A) by a date determined by the Secretary shall be available for use in that fiscal year under the conservation stewardship program.

(4) PREFERENCE.—In providing assistance under paragraph (1), the Secretary shall give preference to a veteran farmer or rancher (as defined in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e))) that qualifies under, as applicable, clause (i) or (ii) of paragraph (1)(A) or clause (i) or (ii) of paragraph (1)(B).

(i) REPORT ON PROGRAM ENROLLMENTS AND ASSISTANCE.—Not later than December 15 of each of calendar years 2019 through 2023, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report containing statistics by State related to enrollments in conservation programs under this title, as follows:

(1) The annual and current cumulative activity reflecting active agreement and contract enrollment statistics.

(2) Secretarial exceptions, waivers, and significant payments, including—

(A) payments made under the agricultural conservation easement program for easements valued at \$250,000 or greater;

(B) payments made under the regional conservation partnership program subject to the waiver of adjusted gross income limitations pursuant to section 1271C(c)(3);

(C) waivers granted by the Secretary under section 1001D(b)(3);

(D) exceptions and activity associated with section 1240B(h)(2); and

(E) exceptions provided by the Secretary under section 1265B(b)(2)(B)(ii).

(j) CONSERVATION STANDARDS AND REQUIREMENTS.—

(1) IN GENERAL.—Subject to the requirements of this title, the Natural Resources Conservation Service shall serve as the lead agency in developing and establishing technical standards and requirements for conservation programs carried out under this title, including—

(A) standards for conservation practices under this title;

(B) technical guidelines for implementing conservation practices under this title, including the location of the conservation practices; and

(C) standards for conservation plans.

(2) CONSISTENCY OF FARM SERVICE AGENCY TECHNICAL STANDARDS AND PAYMENT RATES.—The Administrator of the Farm Service Agency shall ensure that—

(A) technical standards of programs administered by the Farm Service Agency are consistent with the technical standards established by the Natural Resources Conservation Service under paragraph (1); and

(B) payment rates, to the extent practicable, are consistent between the Farm Service Agency and the Natural Resources Conservation Service.

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