

United States Senate

WASHINGTON, D.C. 20510

March 2, 2004

The Honorable Ann M. Veneman
Secretary of Agriculture
200-A Jamie L. Whitten Building
Washington, D.C. 20250

Dear Secretary Veneman:

As the original Senate co-sponsors of the Conservation Security Program (CSP), we are writing to provide comments on the proposed rule issued in the Federal Register on January 2, 2004. As you know, farmers and ranchers were supposed to be able to enroll in CSP in 2003, and so we strongly urge you to issue regulations expeditiously that will implement and allow enrollment in the program well before the end of fiscal 2004.

It is essential that these regulations faithfully carry out CSP as it was signed into law by President Bush as part of the Farm Security and Rural Investment Act of 2002 (2002 farm bill). CSP provisions in that legislation reflect extensive work, negotiations and suggestions from all interested parties, including thorough consultation with USDA staff. Indeed, CSP as enacted is fully consistent with policy ideas that you favorably discussed in your September 2001 report on food and agriculture policy. For these reasons, CSP is widely supported by farm, commodity, conservation and environmental groups across America.

CSP is unique among USDA conservation programs because it encourages farmers and ranchers to adopt a comprehensive approach to conservation and rewards them for both maintaining sound conservation practices and adopting new ones on working agricultural lands. In return for CSP's financial incentives, agricultural producers deliver increased conservation and environmental benefits to society. These benefits accrue from conserving and enhancing the broad range of resources involved in agriculture: soil, water, air, plants, animals (including wildlife) and energy.

As a voluntary program, CSP enables agricultural producers to adopt sound conservation and environmental practices that help avoid additional regulations. By rewarding farmers and ranchers for their conservation efforts, CSP will provide resources that can help them survive financially and remain on the land, which has the added bonus of stemming urban development of agricultural lands. Since CSP focuses on working land, it does not require removing land from production. And it will significantly boost rural economies through jobs and increased spending in support of conservation efforts. Moreover, as a robust "green payments" program,

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CSP provides a critical foundation for future farm bills and international agricultural trade negotiations.

In sum, if CSP is implemented consistent with the law and Congressional intent, it will deliver enormous environmental and economic dividends to agricultural producers, rural communities and all Americans. According to the benefit cost assessment for the proposed rule, a fully implemented CSP would provide overall net public benefits of \$62 billion over ten years, largely through substantial improvements in our nation's vital natural resources.

Unfortunately, if USDA implements CSP as described in the proposed rule, most of these benefits will be lost due to minimal participation by agricultural producers.

I. Underlying Assumptions of the Proposed Rule

The proposed rule rests on two basic assumptions or approaches. First, the rule treats CSP as a "capped entitlement" program in which spending may not exceed \$3.773 billion over the 2003-13 fiscal years. Second, the rule evidently assumes that even a very small incentive or reward will cause producers to respond by enrolling in CSP and making substantial conservation efforts. In turn, NRCS exaggerates the potential number of CSP applicants and then throughout the proposed rule creates a multilayered and unnecessarily complex scheme of eligibility hurdles, sharply-reduced payments, geographical limitations and other constraints and restrictions – all designed to quell interest and deter enrollment in CSP.

The proposed rule must now be modified to conform to the provisions of the 2004 Consolidated Appropriations Act, which for fiscal 2005 and subsequent years restores CSP to the form in which it was enacted in the farm bill: a full mandatory program without annual or overall funding limits. In fact, NRCS clearly stated in the proposed rule that it intended to issue a supplement to address this (then-potential) change in the law. With this restoration, CSP regulations must allow all producers who meet the program's conservation requirements to enroll and receive payments, subject only to the funding limit in fiscal 2004.

As we noted in our letter of January 28, 2004, the proposed rule has many problems that make it unworkable for the overwhelming majority of producers. Most of these problems are linked directly to the overall spending limit on CSP, which no longer applies, and need to be discarded. If not changed, the proposed rule would, in effect, extend the repealed CSP funding limit to fiscal 2005 and subsequent years. We suggest that USDA issue an integrated rule for fiscal 2004 and subsequent years as means of ensuring fluid implementation of CSP, while recognizing the need to provide a rapid distribution of funds for fiscal 2004.

It is also critical that NRCS abandon the assumptions, evidently underlying the proposed rule, about how producers will respond to financial incentives and rewards for conservation. In referring to modeling used in the benefit cost analysis, the proposed rule notes, "NRCS also assumes that producers would enroll in CSP if the program provided any positive net benefit to

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them (i.e., even as small as \$1). This assumption does not take into consideration producers' cash flow constraints, which along with other factors could affect participation." Seemingly, NRCS carried this assumption about producer response over into writing the proposed rule – even though, as NRCS acknowledges, it would not be valid for this purpose.

As we show below, through a variety of mechanisms the proposed rule would limit CSP eligibility to only a small fraction of producers and provide exceedingly little reward to the few who are able to enroll. Simply put, the proposed rule downsizes and cheapens CSP to the point that few agricultural producers will be willing or able to enroll. This approach appears to be a repeat of the mistake made in early sign-ups for the Conservation Reserve Program, in which USDA significantly underestimated the payment necessary to gain participation.

If the proposed rule is adopted, the vast majority of American producers who relied on the promise of CSP when President Bush signed the 2002 farm bill into law will be greatly disappointed. This sentiment has been clearly demonstrated at the numerous CSP listening sessions and through the public comments USDA has already received. In addition, if NRCS rules exclude farmers and ranchers from CSP or make it economically impossible for them to participate, our nation will clearly lose tremendous conservation and environmental benefits. It is thus critical that USDA issue a final rule for CSP containing the following suggested modifications.

II. Eligibility Requirements Will Minimize Producer Participation and Conservation

The eligibility requirements in the proposed rule severely restrict participation through eligibility requirements that are far more restrictive than the resource conservation requirement in the statute. Congress designed CSP to allow maximum participation by agricultural producers. As stated in the Statement of Managers, "agricultural producers who choose to employ conservation practices should have access to funding." In order to accomplish this goal the final rule must reflect reasonable eligibility requirements. There is no need or justification to impose new layers of restrictions.

A. Watershed Restricted Eligibility: Limiting eligibility to producers in watersheds selected by NRCS staff in Washington, DC, using a yet undisclosed manner, will greatly reduce participation and deny conservation where needed. CSP is not simply a watershed program, but instead a program open to all qualifying agricultural producers in all regions of the country.

Plainly, the proposed rule incorporates a watershed approach as a means of reducing producer access to CSP. Since funding is not limited in fiscal 2005 forward, there is no need or justification for using this barrier to eligibility. One of the most valuable features of CSP is that producers across the nation, including those who normally do not use or have access to USDA programs, would have access to conservation funds through CSP. Restricting participation to producers within priority watersheds will deny the majority of producers an opportunity to participate in CSP and thus reduce environmental benefits.

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The statute does not limit participation to select geographic areas, and USDA does not have the legal authority to so limit the program. The Statement of Managers requires "CSP, which is open to all producers for maintaining or adopting practices on private agricultural land... to begin CSP at the full national level as soon as possible." This leaves no doubt that a full national program open to all qualifying producers - not a limited watershed program - was intended.

It is very unclear how the watersheds will be selected, and our understanding of the selection process has been further complicated by statements of USDA officials. While the proposed rule indicates watersheds will be selected using an undisclosed scientifically-based process, subsequent statements by USDA officials contradict that. According to comments by USDA officials, watersheds will be selected on a rotational basis, once every nine years. Rotating watersheds or selecting only a few each year totally excludes worthy applicants in other watersheds who would have to wait years to even apply for the program and denies reasonable and timely access to agricultural producers. It is also unclear how this rotational approach will maximize environmental benefits, especially if a scientifically-based approach is not used. Such an approach will leave producers guessing when and if they will be eligible and will significantly dampen enthusiasm for a program that was designed to reach producers across the nation.

Notably, the 2002 farm bill specifically eliminated priority watershed areas from the Environmental Quality Incentives Program (EQIP) to put all producers on an equal basis to participate. This change to treat all producers equitably was incorporated into the EQIP final rule. We find it ironic that, as the priority areas were removed from EQIP, very similar scheme is included in the proposed rule for CSP - an open, uncapped program that was never targeted by watershed designations.

It is critically important that the final rule does not adopt the watershed approach and instead allows producers in all geographic areas to apply for the program. Even with a limited source of funds for fiscal 2004, the watershed approach will not work and violates the intent and spirit of the law.

B. Soil and Water Quality Focus: The proposed rule identifies water quality and soil quality as national concerns that outweigh all other resource concerns. CSP does not prioritize resources as national concerns, but specifically enables producers to address those resources important to their operation. As the Statement of Managers states, "[t]he Managers intend to assist agricultural producers to concentrate on resource problems, including soil, air, water, plant and animal (including wildlife) [life] and energy conservation on their particular operation using a broad array of conservation practices." The approach put forth in the proposed rule belies the incorporation of all of these resources, except energy, as full resource concerns in NRCS'S Field Office Technical Guide (FOTG).

Important as they may be, designating soil and water quality as the primary national resource concerns not only relegates the other natural resources to second class status, but will

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undermine the nationwide reach of CSP. Specifically, this approach tends to put certain producers and regions of the nation at a disadvantage, depending on the respective status of soil and water quality.

This limited focus on soil and water quality is also inconsistent with previous USDA descriptions of the CSP that recognized the multi-resource approach of CSP. For example, the press release for the Advance Notice of Proposed Rule Making states "CSP is a voluntary program that provides financial and technical assistance to conserve and improve soil, water, air, energy, plant and animal life on tribal and private working lands..." Producers should be allowed to participate fully in CSP with plans that address air, water conservation, energy, plants and wildlife, without the heavy predominance of soil and water quality.

C. Requirement to Have Already Reached Soil and Water Quality Standards: The proposed rule unreasonably requires producers to have already reached the quality criteria level (as stated in NRCS conservation handbooks) for both water and soil quality prior to eligibility. This turns the program backwards and denies most of the gains that result from improving environmental practices and performance. Requiring such a high standard prior to enrollment will severely limit eligibility and result in the loss of much of the potential environmental gain.

CSP was designed to encourage maintenance of existing practices and the adoption of new practices, including practices necessary to meet the requirements of each tier by the end of the contract period. To maximize environmental and conservation benefits, the law clearly provides for producers to utilize CSP to reach NRCS quality criteria levels. Conservation compliance is the only valid entry requirement to CSP. The CSP minimum standards require that, by the end of a CSP contract, a producer must meet the quality criteria for one resource appropriate for the operation. For Tier I that requirement would be on a portion of the operation, for Tier II that requirement would extend to the entire operation and for Tier III a producer must meet the quality criteria for all resources pertinent to the operation over the entire operation. Allowing adoption of new practices to reach quality criteria levels through CSP encourages increased conservation which generates significant environmental benefits.

Again, the approach outlined in the proposed rule greatly reduces the number of producers eligible to participate and also directs most producers who cannot self-finance conservation to other programs, like EQIP, before they are eligible for CSP. We strongly object to this approach. CSP was designed to provide an alternative to the existing programs and should be fully open to all qualified producers to maintain existing practices and adopt the full range of new practices. Access to CSP is even more critical since there are insufficient funds for all producers to participate in EQIP. So directing producers away from CSP to EQIP is not a workable solution.

In order to allow for maximum benefit for producers and the public, the proposed rule should be modified, consistent with the law and Congressional intent, to allow producers to participate once they agree to address the significant natural resource concern on their operation

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to the quality criteria level contained in the NRCS FOTG by the end of the CSP contract. Without this change, we risk losing most of the benefits expected from producer participation in CSP.

D. Categories and Subcategories: The use of categories in the proposed rule creates a ranking system that is inconsistent with the clear intent of the law and will inevitably eliminate producers from the program. The use of a ranking process was debated and rejected repeatedly during the farm bill conference. Specifically, the Statement of Managers makes clear that "the Secretary will not employ an environmental bidding or ranking system...and should approve a producer's contract that meets the standards of the program."

It appears that funds will be available only to producers who rank in a high category, i.e. those producers who already do significant conservation and have the financial resources to do more for little reward. This proposed ranking system will disadvantage typical and limited resource producers who cannot afford to compete in this category ranking system. Categories were included in the proposed rule partially because of the limit on CSP funding. With the dollar removed, it is unnecessary to limit enrollment through the use of categories.

Instead of a ranking system, all producers who wish to participate should be allowed to apply and participate if they meet the minimum requirements. Then, incentives provided under the law can be used to encourage producers to implement more conservation through a higher level of payments. We strongly urge you to drop the category ranking approach.

E. Definition of an Agricultural Operation and Cash Rent: The proposed rule broadly defines agricultural operations and requires proof of control of all land in the operation for the entire contract period. Many American producers cash-rent at least some of the land on which they produce. For these producers, the proposed rule may severely limit their options to participate in CSP, particularly to enroll in Tiers II and III.

We strongly urge you to issue a final rule to allow producers who lease some or all of the land in the agricultural operation to sign a CSP contract that can be modified or terminated if the producer loses the lease to that land. Moreover, there needs to be sufficient flexibility in the final rule allow a producer to enroll in Tier II or Tier III despite an uncooperative landowner. USDA was able to make Agricultural Market Transition Act payments under the 1996 farm bill work for similarly situated producers and we strongly encourage USDA to again show that same flexibility. A reasonable approach to demonstrating control of the land should eliminate the anomaly of requiring producers to conduct practices on leased land while refusing to compensate them for the work.

F. Incidental Lands: We commend USDA for including, consistent with the law and Congressional intent, non-cropped areas, such as turn rows or riparian areas, under the CSP contract. Since these lands can generate important environmental and conservation benefits, the final rule should include these areas as broadly as possible and should allow producers to receive

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payments for such areas. As stated in the Statement of Managers, "the Managers recognize that some land use practices may involve alternative uses of the land, such as providing for wildlife habitat or the corners on center-pivot irrigation systems, and expect the Secretary to include these parcels."

III. Payments Inadequate to Compensate Producers and Deliver Conservation Benefits

The payment structure under the proposed rule is inconsistent with the law and generates such low payments that producers will not participate. CSP funds should be paid to all qualifying producers at fair rates as reflected in the law. Restricting the payments in the manner proposed would severely limit enrollment and completely undermine the substantial potential conservation and environmental benefits of the CSP. We believe this approach unfairly favors producers with considerable financial means over typical producers. The very stringent eligibility requirements and minimal payments would make it economically impossible for the majority of producers to participate.

A. Base Payment: We strongly encourage you to maintain the approach under the proposed rule of using state and local rental rates instead of national rates as a means of addressing regional equity and encouraging participation. However, we object strongly to the proposal drastically to cut the base payment. The law requires the Secretary to make a base payment that equals the national rental rate or other rental rate that ensures regional equity (like local rental rates) for all land enrolled in a CSP contract. The law establishes the percentage of base payment as 5 percent for Tier I, 10 percent for Tier II and 15 percent for Tier III.

This proposal to reduce the base payment to one-tenth of the statutory level undermines the purpose of the base payment: to serve as an important incentive to bring producers into the program and reward their conservation efforts. The proposed reduction will only serve to reduce participation and the potential environmental benefits.

The law allows USDA to establish an appropriate rate that ensures regional equity as an alternative to the national rental rate. Nothing in this provision authorizes USDA to "apply a consistent reduction factor to all regional rental rates to scale down the share of payments going to base payments." The law already limits the base payment to no more than 25 percent of the base payment for Tier I and 30 percent limit on the base payment for Tiers II and III.

The base payment was included to provide transparency and is widely understood by producers. USDA's approach turns that on its head by diminishing the value of the base payment that was the clear in the law and shifting the payments to enhanced payments that are very opaque in the proposed rule.

This dramatic reduction in base payment will directly reduce a producer's incentive to participate. Consider, for example, a producer with a Tier II contract covering 1,000 acres in a county with an average rental rate of \$100 per acre. Instead of receiving the annual \$10,000 as

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envisioned under the law, the producer would only receive \$1,000 a year under the proposed rule.

Further, the base payment should cover all land enrolled under a CSP contract, including land with approved conservation practices that address a resource other than the resource of concern identified in a CSP contract. For example, even if the significant resource of concern of the operation is air quality, the base payment should include land on which a producer implements practices that aid wildlife. In this example, the base payment should not be limited to the land on which practices addressing air quality are being implemented.

The final rule should establish base payments utilizing NRCS land capability classes, not strictly based on current land use. For example, land that is fully capable of producing crops, but is now used for pasture or grazing, should be compensated at the cropland base rate. Producers who have placed cropland in permanent cover, a practice with enormous environmental benefits, should not be penalized by limiting their base payment to the rate for grazing or pasture land.

B. Cost-Based Payment:

Reduced Payment Rates: The proposed rule restricts the practices eligible for reimbursement and provides payment at a lower rate than those provided for EQIP and other USDA conservation programs. In fact, the benefit cost assessment refers to a rate as low as five percent. This approach is counter-productive and clearly violates the intent of the law by making it difficult or impossible for most producers to afford to participate in CSP.

The law adopted the same approach for CSP as used in EQIP of limiting cost-share to 75 percent of the cost (90 percent for beginning farmers and ranchers) and never envisioned payments reduced below EQIP levels. As the Statement of Managers makes clear, "[t]he Secretary should provide cost-share assistance at a comparable rate as that provided under the Environmental Quality Incentives Program for the same practices."

We believe the decision to reduce CSP the cost-based component is arbitrary and damages the potential for farmers and ranchers to participate in the CSP because it makes doing so too costly. For example, a producer on a relatively small farm who needs to install fencing to protect a riparian area and install water conservation measures, the costs could be more than \$83,000. Under the proposed rule with five percent cost-share, the farmer would have to cover nearly \$80,000 in costs, while under the statute at 75 percent cost-share that amount would fall to less than \$20,000.

There is no justification for providing cost payments for CSP that are less than payments provided under EQIP. If anything, since CSP does not have the limited funding cap of EQIP, the State Conservationist should have the ability to provide higher rates than EQIP if that would generate additional conservation benefits.

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Limitation on Eligible Practices: The proposed rule arbitrarily limits those practices eligible for reimbursement under CSP. This will limit the ability of producers to take a comprehensive approach to conservation and may inhibit innovation and new conservation efforts. All practices approved under a CSP contract should be eligible for the cost component payment, not just those that are implemented to address the significant resource of concern. Further, limitations against payments for equipment that is necessary to carry out an approved conservation practice will make it difficult for producers to implement the practice. To avoid this problem, producers should receive payment to help cover the costs of buying any equipment that is necessary to implement the practice.

The law only prohibits payments for the transport and storage of animal waste, but does not otherwise limit the number or type of eligible practices. All practices available under the FOTG and integral to conservation should be eligible under CSP, including no-till, innovative pest management and wildlife-related practices. The law further contemplates support for the timely incorporation into the FOTG of developing conservation technologies, including those related to new agricultural equipment, data collection and information management and biotechnology that lead to environmental benefits.

The result of severely limiting eligible practices and payments is that for producers to take part in CSP they will have to self-finance their conservation practices or go to other conservation programs, all of which have limited funding. CSP is a stand-alone program, not a stepping stone to or from any other conservation program. Legislative proposals to link EQIP and CSP were considered, debated, and rejected during farm bill consideration.

C. Enhanced Payments: Under the law, participating producers are eligible to receive enhanced payments for a variety of activities that exceed the minimum requirements of participation. The five types of activities for which a producer can receive an enhanced payment under CSP are:

1. Implementing practices that exceed tier requirements for a natural resource concern.
2. Implementing practices that exceed tier requirements for state or local resource concerns.
3. On-farm demonstration and pilot projects or research projects.
4. Cooperative watershed or regional resource conservation activities.
5. Assessment and evaluation activities.

As a general rule, we encourage USDA to develop an enhanced payment structure that truly rewards those producers who do more than the minimum required activities. Some guiding principles for the enhanced payments would include ensuring that the enhanced payments are sufficiently large to encourage producers to engage in the desired activities and allowing the State Conservationist the flexibility to provide payments that will ensure adoption or maintenance of environmentally beneficial practices.

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Specifically, we would encourage payments under the first factor for activities that are more comprehensive in scope than what is required for a producer to qualify at a given tier. For example, if a producer needs to address water quality on the operation by constructing buffers and terraces to qualify, but then agrees to manage the buffer extensively in a manner that increases conservation benefits or adds other practices to help with water quality, such as reconstructed wetlands, the producer should receive an increased payment under the first factor. The same argument for an enhanced payment under the second factor would apply if this producer added wildlife practices, like food plots, in an area where wildlife is a resource of concern.

In order to encourage innovation and improved conservation practices, the enhanced payments for factors three and five should cover the full additional costs of participating in any demonstration, pilot or research projects and the full costs of any data collection or assessment activities, including at least some compensation for the value of the farmer's time. Providing payments to cover the full costs of these activities is the best way to ensure that conservation practices will be improved over time and to encourage producer ingenuity. Finally, the rule should provide guidance so the State Conservationist may establish a payment that encourages watershed and regional participation under factor four.

CSP is a locally-led program that will succeed best with state and local input. For that reason, we support strong involvement of state and local entities in determining enhanced payments. The payments should focus on the costs associated with activities eligible for enhanced payments as well as income foregone and the value of producers' time. In addition, it is important to provide incentives where economic costs to producers are not evident. In that case, a measure should be the environmental benefit and the incentive that is needed as a practical matter to secure the effort.

Again, the proposed rule dramatically shifts from objective criteria for base and cost-based payments to what is now a very uncertain, murky category of payment. This is particularly troublesome, since the proposed rule suggests that the bulk of producers' payments will come from the enhanced payments. Without a transparent structure for enhanced payments, it is extremely difficult for producers to know if the payments will be economically sufficient to allow participation in the program. This problem is further complicated by the fact that many producers who wish to address resources of concern beyond soil and water quality will rely heavily on enhanced payments under the proposed rule, so they are left with even more uncertainty of the payment for their participation. For that reason, we strongly encourage USDA to issue a final rule with more concrete details on how enhanced payments will be determined.

Finally, we are concerned that the proposed rule does not reference the practices that exceed minimum requirements and involve a change in land use, such as resource-conserving crop rotations, managed rotational grazing systems, or conservation buffers as eligible for an enhanced payment. The final rule should provide guidance specifically addressing these practices.

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IV. Unnecessary Enrollment Hurdles Will Impede Participation and Conservation

While we recognize that implementation of CSP will generate additional work for NRCS employees and technical service providers, we fear that the multiple hurdles and layers of complexity in the proposed rule will dramatically discourage participation and consequently reduce environmental benefits. USDA included significant hurdles to restrict eligibility and reduce participation as a means to limit expenditures. With the lifting of the funding cap, these impediments need to be removed.

As described in the proposed rule, if a producer meets the onerous eligibility requirements that vary with each proposed sign-up, the producer must then complete a self screening questionnaire for each land use to be enrolled. If the producer passes the self screening questionnaire successfully, then the producer must complete a benchmark condition inventory. After that step, the producer must satisfy the sign-up criteria, including information about enhancement activities. After all these steps, the producer develops an application to the program. If NRCS determines that the producer and the level of resource treatment meet the requirements established for that particular sign-up (because they vary with each sign-up), NRCS places the producer's application in a tier of participation and an enrollment category. At this point, NRCS conducts a follow-up interview to confirm the application information and then NRCS staff works with the applicant to complete a CSP plan. Once NRCS verifies the information, the producer can enter a CSP contract with NRCS.

Producers should not be required to go through these multiple unnecessary steps prior to enrolling in the program. Instead, we urge you to adopt a more streamlined approach that requires an application, including a resource inventory, a CSP plan and a CSP contract. Finally, while we support the idea of allowing producers the option to complete a resource inventory on their own, producers should also have access to assistance through their local NRCS office.

The statutory cap on technical assistance (TA) of 15 percent of the total funds available does not justify dramatically limiting enrollment as claimed by USDA. Prior to the 2002 farm bill, TA for EQIP was capped at 19 percent. EQIP covers TA for more expensive new practices. Since a larger portion of funds are required for TA when implementing new practices than are required for maintaining existing practices, which are expected to make up a sizeable percentage of the practices covered by a CSP contract, the 15 percent cap should fully cover TA needs in CSP.

Further, once the proposed rule is corrected to reflect full funding of CSP and so producers receive full payments as anticipated under the law, the 15 percent cap on funds for TA out of the total funds will not be restrictive or impede enrollment. Using the example previously used with respect to the base payment, a base payment of \$10,000 will allow expenditures of up to \$1,500 for TA, but the proposed \$1,000 base payment would leave only \$150 for TA. While the base payment is only a portion of the total contract, this example clearly demonstrates the need for full payments required under the law. Finally, we expect USDA to use the same

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approach as used in other conservation programs in determining which activities are charged as TA against CSP funds.

V. Periodic Sign-ups Will Complicate Administration

In order to maximize participation and consequent environmental benefits, producers should have the ability to sign-up for CSP any time of the year. Because the time demands of agricultural production vary seasonally around the nation, a single sign-up period would limit producers' access to CSP. Using a continuous sign-up approach gives USDA and producers flexibility and reduces the burden on NRCS staff and third-party providers by enabling them to spread their workload more evenly throughout the year.

VI. Resource Standards for Energy Should Be Developed

The proposed rule contains very little reference to energy as a natural resource of concern. Energy was specifically included so NRCS will allow and encourage producers to develop CSP practices that help conserve energy. Such practices may, for example, include the use of a windmill to help supply energy to run an irrigation pump or the production or use of biomass that may also serve to protect or enhance other natural resources. The final rules should support a broad range of renewable energy production and energy conservation practices through base, cost and enhanced payments. However, without developing reasonable technical standards, minimum requirements for energy should not be applied as a tier requirement, such as for Tier III. Energy practices should be developed and fully incorporated into the NRCS FOTG and handbooks as soon as possible.

VII. CSP and Organic Plans Should be Coordinated

As a practical matter, we are concerned that the proposed rule is silent on how USDA intends to handle plans of organic producers who are certified under USDA's National Organic Program (NOP). The rule should include a clear mechanism for coordinating participation in NOP and CSP. USDA staff should deliver these complementary programs in the most farmer-friendly, least burdensome fashion possible. We encourage the Agriculture Marketing Service and NRCS to coordinate on this issue to ensure that the final CSP rule includes a reasonable and practical approach for allowing NOP certified producers to utilize their plans in the CSP enrollment process.

We strongly believe that CSP offers great promise for farmers, ranchers, the environment, wildlife and the general public and we hope that these suggestions will help USDA implement CSP in a manner that fulfills that promise. We are disappointed that the proposed rule as it stands will deprive American farmers and ranchers of the full opportunity to participate in a new, voluntary program that offers tremendous societal benefits. We hope that the final rule will more properly reflect the law and be issued in a timely manner to allow for successful implementation

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in fiscal 2004. It is evident from comments already submitted, and from the many listening sessions held around the country, that substantial changes are needed. We strongly suggest that USDA publish without delay a final rule that fully reflects these changes.

We appreciate your attention to this important matter. Should you have any questions, please contact Matt Hill of Senator Smith's staff at 224-8319 or Alison Fox of Senator Harkin's staff at 224-5929.

Sincerely yours,



Tom Harkin
United States Senator



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United States Senator

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