

February 11, 2004

Bruce I. Knight, Chief
Conservation Operations Division
Natural Resources Conservation Services
PO Box 2890
Washington, DC 20013-2890



Dear Chief Bruce I. Knight:

Clean Up the River Environment (CURE) prepared the following comments for your consideration in finalizing the Proposed Rule for the Conservation Security Program (CSP) (7CFR Part 1459).

CURE has been actively working for over 5 years to help implement a working-land farm conservation program that would reduce agricultural associated water pollution in the Upper Minnesota River Watershed. We held Minnesota River Watershed farmer input meetings during 1999 and 2000 to gather their recommendations about what practices they could implement to keep more soil, fertilizers/farm chemicals and fecal coliform bacteria on their working lands and out of our rivers, lakes and wetlands and how large of incentive payments it would take to get them and 50 percent of their neighbors to implement those practices.

CURE compiled the farmer's recommendations from these meetings and submitted them to Congressman David Minge for consideration in creating/supporting legislation for rewarding farmers who protect their soils and help clean up our polluted rivers and lakes. Congressman Minge met three times with CURE, other interested groups, and the public and formulated a coordinated plan which culminated in his introducing the Conservation Security Act (CSA) in the House during October, 2000. Senator Harkins did the same in the Senate.

As you know, that original CSA survived verbatim to become the CSP part of the 2002 Farm Bill. CURE and many other like-minded groups worked long and hard to ensure passage of the CSP, and we expect the Natural Resources Conservation Service (NRCS) to promulgate a Final Rule which fully meets the intent and letter of that law.

GENERAL COMMENTS:

The Proposed Rule should have been written specifically to address the CSP as a fully funded entitlement program as stated in the law. The Proposed Rule should have been first written to address the letter-of-the-law as passed by Congress and signed by the President. These are the rules which Congress and the public want to see, evaluate, and comment on to NRCS. Subsequent modifications resulting from further Congressional action, such as capping funding for the first year, then just become an addendum or addition to the comprehensive Final Rule.

NRCS's decision to write the Proposed Rule based mostly on a severely restrictive funding cap for 2004 will lead many people to believe that the CSP has little potential for achieving the success envisioned by its supporters. To rectify this glaring oversight by NRCS, the agency should immediately write a comprehensive Final Rule based on a fully funded CSP available to all farmers and ranchers who want to voluntarily participate in the program.

Within the newly written comprehensive Final Rule, NRCS should address the fact that the law states the Secretary is to ASSIST producers in promoting conservation. Nowhere in the law can

we find reference that only producers who are already meeting NRCS technical guide quality criteria for soil and water are eligible to apply for and participate in CSP.

CURE fully supports programs that first reward the producers, who are already meeting the minimum quality criteria for soil and water as stated in NRCS's Technical Guide. NRCS, however, cannot close the CSP door on the majority of producers who want and need financial assistance to convert over to more sustainable and conservation based agriculture. NRCS has never written such a restrictive rule in the past. There would have been little if any participation in EQIP, WHIP, WRP, CRP, etc. if the producers would have had to expend all their own money to first implement the associated practices before NRCS offered them the opportunity to seek reimbursement if the programs ever became available in their counties. The Current Proposed Rule language will be a disincentive to most producers who want to participate in the CSP.

Farmers and ranchers who are not currently achieving minimum quality criteria for soil and water must be allowed to participate in CSP after all those, who are currently meeting soil and water goals and wish to sign up, have had a chance to do so. The rule should be stringent but sufficiently helpful to ensure that the second group can achieve the soil and water minimum quality criteria in a timely manner. As currently written, the Rule is so restrictive that only a very small percentage of farmers and ranchers will qualify, and the program will die from apparent lack of interest. This was not the intent of Congress or the Law.

Another glaring disincentive is NRCS's proposal to only fund CSP in specific small watersheds selected in Washington, DC. The CSP law was passed to allow all farmers equal opportunities to participate in the program. This cannot be achieved unless every state is provided its fair share of CSP funding each year. State conservationists must be given full responsibility for making the determinations on how to best distribute the money in their states to achieve maximum soil and water benefits. This is the only way to move the selections process out of the political arena of Washington, D.C. and into that of an objective, local, science-based process.

The current Proposed Rule is much more stringent than the law implies relative to modifying and terminating CSP contracts. In addition, the law says that CSP contracts can be renewed, whereas the Rule proposes that participants must re-compete for acceptance after their first contract expires. This is another disincentive to participate in CSP. Renewal options must be included in the forthcoming Comprehensive Final Rule which addresses CSP as a fully funded entitlement program.

The recurring comments heard over and over at CURE's farmer input meetings were that any CSP type program for working lands must be "FARMER FRIENDLY" and available to all farmers, if it is to be successful. The farmers recognize that NRCS must write enforceable rules and regulations in order to make the program an environmental success, but even this requirement can be stated in a manner that does not scare away potential participants.

NRCS has the opportunity to make the CSP the most environmentally and farmer beneficial of any and all farm conservation programs of the past. As the Proposed Rule is currently written, however, CSP is doomed to a short, painful life. CURE urges NRCS to write the Final Rule to fit the letter and spirit of the CSP legislation.

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Page 196, Column 3, paragraph 2: The CSP law does not imply that producers, who do not currently meet minimum soil and water quality criteria, cannot qualify for CSP participation. As stated previously, excluding these producers from qualifying will basically kill the potential practical benefits of the CSP in helping to clean up our agriculturally polluted rivers and lakes and to restore soil quality.

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Page 199, Column 2, Paragraph 8: Setting the "high bar" for 2004 participation with its capped funding is not the best solution and it is totally unacceptable for a fully funded CSP. As mentioned previously, restricting eligibility is totally contrary to the intent and letter of the original legislation. The intent was always to first reward the best and secondly to motivate the rest with financial assistance to bring their operations up to par. Setting the bar too high ultimately will lead to CSP failure. Restricting eligibility to only high priority watersheds selected in Washington, D.C. is not acceptable for 2004, and is totally unacceptable for a fully funded CPS. Also, any prioritization of watersheds must give strong consideration to those where groups and producers have already taken the initiative to cooperatively organize their own active soil and water conservation protection programs. Some of these watersheds represent the best-of-the-best and should be rewarded with the first CSP sign-ups in each state during 2004, and not necessarily those facing the greatest environmental challenges caused by continued poor farming practices. With such limited funding for 2004, NRCS should give consideration to funding a group of operators representing a variety of different agricultural operations in each state as CSP Demonstration Farms and Ranches. This would give more positive publicity to CSP in 2004 than randomly spreading the money around as proposed and would provide on-the-ground examples to farmers and the public about the ultimate goal of the CSP in each state.

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Page 202, Column 3, Paragraph 3: The best initial effort NRCS can take to monitor environmental changes resulting from CSP implementations is to establish CSP farms which can serve as visible focal points for demonstrating stewardship practices. This also would be an acceptable manner to expend available CSP funds in 2004. There are four such conventional farms already in existence which have been funded within a mini-type CSP by the North Dakota Natural Resources Trust. For more information you can reach the Trust at (701) 223-8501.

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Page 218, Column 2, Paragraph 1, (e)-(1): The enabling legislation made CSP a national program that is to be available to all farmers. Limiting CSP to only watersheds selected in Washington, DC will effectively kill the program because most farmers will be automatically excluded from participation. Every state and territory should be given its fair share of the 2004 CSP funding to implement the program as the State Conservationists determine priorities, be it by watershed, counties, or regions under their jurisdiction. In subsequent years, without funding caps, every farmer who qualifies should be given the opportunity to sign up for CSP.

Page 220, Column 2, Paragraph 1 (c) (2): See previous comments on Page 212, Column 2, Paragraphs 3, 4 & 6 about the addition of another significant resource concern during the contract period for Tier II qualification.

Page 221, Column 1, Paragraph 1, (f): The law says contracts for Tier II and III are renewable. There needs to be strong justification to make the Rule more restrictive than the law. Non-renewability of Tier I and Tier II contracts could be useful to provide an incentive for participants to pursue automatic renewal at the next higher Tier and/or to give other new CSP applicants a better chance if funding caps occur. Cooperative Tier III participants should be given the automatic chance to go through at least two contract periods. The lack of a renewability clause could serve as another disincentive for farmers and ranchers to expend significant funds to initially apply for CSP Tier II and III participation, especially if only 5-year contracts are allowed.

Page 221, Column 2, Paragraph 7, (a) (2) (v) and (3): See Previous comment (Page 213, Column 1, Paragraph 3) about the calculation of base rates relative to enhancement payments and above average sized cohesive units being reasonably able to achieve full Tier II and III payment limits through implementation of enhancement activities.

Page 222, Column 3, Paragraph 6, (d): See previous comments, (Page 213, Column 3, Paragraphs 1 & 6) about the Rule exceeding the law relative to repayment when operators lose control of CSP contract land through no fault of their own.

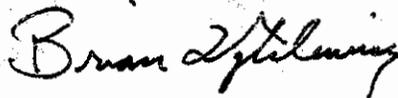
In summary, the Final Rule must be written to (1) specifically address the CSP law as an entitlement program without funding caps, (2) allow producers, who are not currently meeting minimum soil and water performance standards, to sign-up for CSP as a mechanism to achieve those standards in a timely manner (3) allocate CSP funding to all states in a fair manner and allow State Conservationists to prioritize distribution of those funds, (4) make it as farmer friendly and environmentally beneficial as practical for each state, and (5) allow the CSP to succeed in all states and become the working-land cornerstone of future farm bills.

Thank you for the opportunity to comment on the Proposed Rule for the CSP. Please call or write me if you need additional clarification on our comment or have other questions.

Sincerely,



Dick Kroger
CURE Conservation Ag Advisor



Brian Wojtaiewicz
CURE Board Chairman

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Page 218, Column 2, Paragraph 1, (e)(1): The enabling legislation made CSP a national program that is to be available to all farmers. Limiting CSP to only watersheds selected in Washington, DC will effectively kill the program because most farmers will be automatically excluded from participation. Every state and territory should be given its fair share of the 2004 CSP funding to implement the program as the State Conservationists determine priorities, be it by watershed, counties, or regions under their jurisdiction. In subsequent years, without funding caps, every farmer who qualifies should be given the opportunity to sign up for CSP.

Page 220, Column 2, Paragraph 1 (c) (2): See previous comments on Page 212, Column 2, Paragraphs 3, 4 & 6 about the addition of another significant resource concern during the contract period for Tier II qualification.

Page 221, Column 1, Paragraph 1, (f): The law says contracts for Tier II and III are renewable. There needs to be strong justification to make the Rule more restrictive than the law. Non-renewability of Tier I and Tier II contracts could be useful to provide an incentive for participants to pursue automatic renewal at the next higher Tier and/or to give other new CSP applicants a better chance if funding caps occur. Cooperative Tier III participants should be given the automatic chance to go through at least two contract periods. The lack of a renewability clause could serve as another disincentive for farmers and ranchers to expend significant funds to initially apply for CSP Tier II and III participation, especially if only 5-year contracts are allowed.

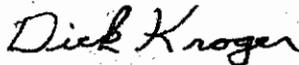
Page 221, Column 2, Paragraph 7, (a) (2) (v) and (3): See Previous comment (Page 213, Column 1, Paragraph 3) about the calculation of base rates relative to enhancement payments and above average sized cohesive units being reasonably able to achieve full Tier II and III payment limits through implementation of enhancement activities.

Page 222, Column 3, Paragraph 6, (d): See previous comments, (Page 213, Column 3, Paragraphs 1 & 6) about the Rule exceeding the law relative to repayment when operators lose control of CSP contract land through no fault of their own.

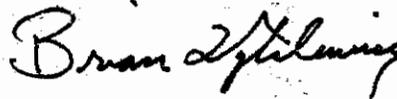
In summary, the Final Rule must be written to (1) specifically address the CSP law as an entitlement program without funding caps, (2) allow producers, who are not currently meeting minimum soil and water performance standards, to sign-up for CSP as a mechanism to achieve those standards in a timely manner (3) allocate CSP funding to all states in a fair manner and allow State Conservationists to prioritize distribution of those funds, (4) make it as farmer friendly and environmentally beneficial as practical for each state, and (5) allow the CSP to succeed in all states and become the working-land cornerstone of future farm bills.

Thank you for the opportunity to comment on the Proposed Rule for the CSP. Please call or write me if you need additional clarification on our comment or have other questions.

Sincerely,



Dick Kroger
CURE Conservation Ag Advisor



Brian Wojtalewicz
CURE Board Chairman