

For more information contact Quinton Robinson or Lorette Picciano, Rural Coalition/Coalición Rural, 202-628-7160, or qrobinson@ruralco.org or lpicciano@ruralco.org.

March 2, 2004

Mr. David McKay
Attention: Conservation Security Program
Conservation Planning Team Leader
Conservation Operations Division
USDA NRCS
P.O. Box 2890
Washington, DC 20013-2890

Email: david.mckay@usda.gov, Attention: Conservation Security Program.

cc: Mr. Bruce Knight, Chief, NRCS
Mr. Dwight Holman
Mr. Andrew Johnson, NRCS Civil Rights

RE: Proposed Rule for the Conservation Security Program, published in the Federal Register on 1/2/04 (Fed. Reg. Vol. 69, No. 1, pages 194-224).

Dear Mr. Mc Kay:

On behalf of the undersigned organizations, as well as the nearly 80 diverse community-based organizations that make up the Rural Coalition, and the thousands of African-American, Asian-American, American Indian, Hispanic and other small farmers they represent, we submit to you the following comments regarding the Conservation Security Program.

I. Consolidated Comments on Behalf of Minority and other Limited Resource and Beginning Producers

In addition to the separate comments that may be submitted by the undersigned organizations, the member organizations of the Rural Coalition, and the individual members of any of these respective organizations, we have collaborated to produce consolidated comments that reflect the views of the thousands of farmers that we collectively represent. We would note that these comments should be accepted on behalf of all of the undersigned organizations and their members as representative of the broader constituency of minority, limited resource and beginning, including new immigrant, producers that NRCS is well aware that we collectively represent.

The Rural Coalition and the undersigned also endorse and support the comments submitted separately by the Intertribal Agriculture Council of Billings, MT.

In doing so, we are seeking to be responsive to the invitation of NRCS on page 201 of the proposed comment that "NRCS also welcomes comments on how other programs could best help limited resource and other less capitalized producers to become eligible for CSP, given the stewardship standards to participate in CSP." We take this comment to mean that NRCS itself has determined that the CSP program and priorities outlined in the proposed rule already pose substantive problems for participation by limited resource and other producers, and will require the use of

other programs and initiatives to overcome these structural barriers. We have attempted to include such recommendations while reiterating our deep concern that yet again, deep barriers must be surmounted in order to achieve equitable participation by the diverse and dedicated producers we the undersigned serve.

II. The Conservation Security Program Proposed Rule – Overall Comments

The CSP is a voluntary program that provides financial and technical assistance to producers who advance the conservation and improvement of soil, water, air, energy, plant and animal life, and other conservation purposes on Tribal and private working lands.

The Rural Coalition and the other groups undersigned are concerned that the provisions of the proposed rule regarding limited signup, its focus on priority watersheds and limited categories of enrollment, local control over approved CSP contracts, and the definition of small and limited resource, among others will have an adverse effect on small and limited resource farmers and ranchers.

We are further concerned that a number of the comments we provided in the earlier comment period were not fully addressed, including the required implementation of Sec. 10708 of the 2002 Farm Bill. The transparency and accountability provisions set forth in that section require each agency to publicly disclose the relative participation of socially disadvantaged farmers by race, ethnicity and gender down to the county level. Without implementation of these requirements, it will be difficult for NRCS to achieve transparency in program participation and outcomes, or to document the impact of any efforts to use this or other programs to assure that these populations were appropriately served by the Conservation Security Program or any other NRCS program.

The NRCS has in the proposed rule demonstrated a commitment to the legislative purposed of the program with emphasis on rewarding commitment to high conservation standards and practices, and also to improvements that achieve the highest conservation benefits.

At the same time, the USDA as a whole is required to equitably serve all producers according to the civil rights statutes of this nation. Absent the specific county-by county data the law requires from USDA on the relative participation of socially disadvantaged and other producers, that USDA is required by the 2002 Farm Bill to produce, it is difficult to assess the adequacy of participation by socially disadvantaged producers in NRCS programs. However, our deep familiarity with the population of such farmers indicates that a history of discriminatory treatment continues to serve to exclude them even from those farm programs with the best intention to achieve social benefits.

Programs like CRP and EQIP have favored producers who may have benefited from the earlier use of farm practices that damaged the environment. They also seem to favor producers on larger operations.

Research, Extension and other programs that provide direct services to farmers have similarly favored and better reached larger producers who have more assets and capital to employ production practices that at any point are favored and responsive to the array of federal farm programs available at a given time.

Discriminatory practices in the allocation of federal farm programs, including commodity and most notably, farm credit programs, have denied socially disadvantaged and limited resource producers access to land or consigned them to small operations on poor quality land.

As such, the population begins from behind. While we seek to demonstrate this population has a deep commitment to retaining and caring for land and the resource base, we are compelled to note that the construct of the CSP program of itself presents formidable barriers to the participation of this population. This situation serves to compound past discrimination and inequities and will require specific and concerted action to remedy.

Critical to this process is a system of transparency, accountability, outreach, partnerships and strategic access to training and resources, which we have attempted to outline below. We appreciate the willingness of NRCS to consider these needs and these specific remedies.

Our specific comments and recommendations follow.

A. Civil Rights Impact

RECOMMENDATION: A Comprehensive Civil Rights Impact Statement should be prepared and publicly released related to the impact of implement the CSP Program as proposed.

B. Focus on Working Lands

The Conservation Security Program focuses benefits on working lands. "*Working lands*" is defined as land that continues to be in production. Such lands include cropland, grassland, prairie land, improved pasture, and range land, as well as forested land and other non-cropped areas that are an incidental part of the agricultural operation.

We believe that the focus on working lands is an appropriate component of CSP. Most farms operated by Small and Limited Resource Farmers and Ranchers are working lands in dire need conservation management and enhancement. We have been concerned that other conservation initiatives have often focused on removing land from production with implications for socially disadvantaged farmers, those who rent land, and also on the rural community where production may contribute to the economy.

The working lands focus may serve to benefit both producers as well as rural communities where the economy benefits from continued production of goods.

C. Support for the general comments of our allies in the Sustainable Agriculture Movement

In addition to our concern for the needs of limited resource, minority and beginning producers, we offer general support to the wider comments of our allies in the Sustainable Agriculture Movement, including those undersigned. We have further indicated the special importance each comment has relative to minority, limited resource and underserved producers.

1. Make CSA a Comprehensive National Program and Restore Eligibility for All Farms - The proposed rule limits the scope of the program and focuses program benefits on priority watersheds and limited enrollment categories. The CSP is intended for all regions of the country and all types of agriculture. We strongly support the immediate implementation of the program on a comprehensive national basis without the enrollment restrictions in the rule.

The retention of these restrictions will almost certainly, for many reasons, serve to largely exclude minority, limited resource and American Indian producers from the programs. There is no guarantee that the priorities selected at the national, state and local levels will not exclude those areas and types of operations where minority, limited resource producers and Indian producers are concentrated.

RECOMMENDATION: To assure fairness and equity, implement a comprehensive national program and remove the restrictions of limited benefits to priority watersheds and limited categories of enrollment.

2. Utilize a Comprehensive Conservation Approach - It is essential that the program reward farmers for their conservation practices at a level that provides strong incentives to participate. We are concerned that the rule limits the range of conservation practices that the farmer may select as most appropriate in his or her operation, and that benefits provided are not at a level to consider it worth making the efforts to meet the stringent technical requirements of the program.

In addition, cost share rates being considered are far too low to motivate participation by farmers. These rates may severely limit the participation of minority producers who do not have the resources to invest so heavily in conservation practices.

RECOMMENDATION: Payment levels should be restored to the levels provided for by law. Cost share rates should be set at 75% as provide for in the law, and more consistent with those in the EQIP program. Similarly, cost share rates for limited resource producers should be set at 90%. Enhanced payments should be provided as a bonus for practices above NRCS standards within various categories of agriculture, including for limited resource and beginning producers. We also favor bonuses for collective action within a community or land area, and for developing comprehensive plans on Indian Reservations.

3. Motivate More Farmers to Develop and Achieve High Conservation Standards - The rule as written has the effect of excluding all but those farmers who already have in place a conservation plan, and excludes the many farmers who are committed to the development of such a plan.

Once again, we are concerned that this limitation will exclude many small, limited resource and minority farmers and will compound the effects of the many exclusions they have experienced in the past. The EQIP program, with its focus on achieving the most environmental improvement, had the effect of rewarding poor conservation practices and relatively larger producers. The priorities in the CSP program may further reward EQIP participants and those

who have had support to develop conservation plans, compounding the exclusions of minority and other small farmers.

At the same time, smaller producers have often been forced to farm on more marginal lands that would benefit greatly from the implementation of the practices encouraged under CSP.

RECOMMENDATION: Restore eligibility and incentives necessary to encourage all farmers, including limited resource, minority and beginning producers, to adopt new conservation practices and programs. NRCS must assure that these farmers are served at every stage of the program's evolution, both in the face of funding limits and as the program moves towards full entitlement status.

C. Equitable Participation of Minority, Limited Resource and Beginning Farmers

In research conducted by the Rural Coalition and its members in 2001 -2003 with our diverse minority and small farm members in locations across the country, we found that some 25% of the farmers had participated in conservation programs. This was the highest rate of participation in any of the USDA programs. A larger sector—more than half—of the target population were aware of conservation programs and had the desire to participate.

Despite their awareness and interest, many of the farmers expressed concern that they did not know how, or had been unable in the past, to access these programs. Many had the impression they did not qualify or did not understand procedures or decision making processes used in qualification for conservation programs. Our survey of their farming practices showed that conservation and environmental sustainability were central in their operations.

Of the minority and limited resource farmers we surveyed, only those who were in places where the Minority Outreach and Technical Assistance Program, 7 USC Section 2279 (e) was operating clearly understood and/or participated in USDA programs.

If these producers are going to have equitable access to the Conservation Security Program, and the substantial financial benefits that it offers now and may offer in the future, an investment must be made in appropriate outreach and technical assistance efforts, and assurances - such as set asides - that these producers will be able to participate.

We have also advocated the need for set-asides and for adequate payment levels and cost sharing for limited resource producers. We note the comment of the Intertribal Agriculture Council supporting the need for set-asides in order to serve producers and in order to offset the sometimes negative impacts of local control. "Since the advent of EQIP, for example, Indian producers and Tribes have only had access to EQIP through the Indian Earmark funding," noted IAC. "Only 2 states, AZ & MT have provided access to EQIP through State Priority Areas or state discretionary funds."

We believe that adequate data on program participation as required in the transparency and accountability provisions of the farm bill would demonstrate similar problems for all limited resource and minority producers in a majority of states.

1. Implementing Transparency and Accountability Requirements - The Transparency and Accountability Provisions passed in Section 10708 of the 2002 Farm Bill and encoded in 7 USC Section 2279-1 require USDA to report at the county level, the actual participation of socially disadvantaged farmers by race, ethnicity and gender, as compared to other farmers in all programs of the department serving producers. These requirements allow an accurate tracking of participation by minority and other producers and allow the efficacy of outreach and technical assistance to be measured and best practices identified.

These participation rates should be made public, preferably on web sites, down to the county level. The number of farmers participating by race, ethnicity and gender should be compared to agriculture census data, and any discrepancies analyzed and addressed. These figures should be monitored by the agency to assess the level and standards for equitable participation. The agency should use these rates and comparisons as a method to assess outreach efforts and technical assistance needs, in regular consultation with community-based organizations, Indian Tribes and related entities and minority serving institutions. Also in consultation with these partners, any discrepancies should be addressed in a proactive manner.

In addition, the Department indicates it is now prepared to institute the long awaited Minority Farm Register. This registry will allow farmers and landowners to identify themselves to the department by race and ethnicity, and to thereby update and clarify the data USDA already has. The registry will also allow the farmers and landowners to seek linkages with USDA Agencies and Community Based Organizations and Educational Institutions with the demonstrated capacity to serve them.

RECOMMENDATIONS: In establishing the Conservation Security Program, NRCS must set forth a method and plan to meet the transparency and accountability requirements set forth in 7 USC Section 2279-1, including public disclosure of program participation rates to the county level. NRCS should also develop a plan to use these as a regular tool for evaluating the efficacy of outreach efforts in partnership with community based organizations, Indian Tribes and entities, and minority serving educational institutions.

NRCS should also implement these requirements in the current year for all current NRCS programs to establish a baseline of participation and should make this baseline publicly available. The baseline should be included in the report to Congress that is required after each agriculture census per 7 USC Section 2279-1. NRCS should provide the opportunity for dialogue with community based organizations and minority-serving institutions serving socially disadvantaged producers on the findings of the baseline report and any action necessary to remedy problems that can be identified even as the CSP program is implemented.

NRCS should collaborate to determine how the Minority Farm Register could be utilized as an outreach tool by NRCS with its CBO and minority serving educational institution partners. Both the registry and the accountability requirements should be used as a tool by NRCS to identify critical areas of need for technical assistance, technical service providers and other related outreach and intervention with the goal of assuring equitable access to the program and equitable participation by limited resource, minority, socially disadvantaged, beginning and women producers.

2. The Impact of Limited Sign-Up on Minority and Limited Resource Producers- Within the current proposed rule, NRCS would identify and reward those farmers and ranchers who are meeting the highest standard of conservation and environmental management on their operations; we are concerned that this would eliminate a fair amount if not all small and limited resource farmers and ranches.

Although most socially disadvantaged farm operators harvest cropland, crops generally provide a smaller share of their income than livestock. Many small and limited resource farmers and ranchers have engaged in livestock production, including the contract production of poultry and pork. It is well documented that contract farming has caused severe damage to the local ecological systems, including watersheds.

In addition, small and limited resource farmers and ranchers are not exempt from environmental laws and must substantially comply with stringent state and federal environmental standards. Without the adequate farm income, support or technical assistance, small and limited resource farmers and ranchers may find themselves in violation of the law and subject to insurmountable fines and penalties. Limited resource and beginning farmers face a critical need for the program and the current law would have the effect of denying them access to the benefits. It would compound the impact of previous and continuing disparate treatment.

Thus, the proposed rule should ensure that small and limited resource farmers and ranchers are given the support they require to adopt new conservation methods to maintain and develop economic viability in farm operations.

We also call to the attention that the limited sign up method proposed by NRCS for CSP contract selection may be contrary to the statute's prohibition on competitive bidding. The statute states in relevant part:

(f) Enrollment Procedure - In entering into conservation security contracts with producers under this subchapter, the Secretary shall not use competitive bidding or any similar procedure. The process of rewarding the best and encouraging the rest is contrary to the spirit and intent of the statute.

16 USC Section 3838 (f).

We believe that the rule should instead allow flexibility so that small farms where there may not be tangible evidence of the highest standard of existing conservation practices can participate under CSP, requiring the removal of selectivity expressed by NRCS in the proposed rule.

RECOMMENDATION: NRCS should remove limitations on sign up and adopt special measures to ensure adequate participation of all producers in the signup and entry into CSP.

3. Continuous Sign-Up, Transparency in Funds Allocation Methods and Receipt for Service – The rule should provide for continuous sign up rather than periodic sign up. There is a historical and continuing problem with minority producers in particular in learning about and accessing programs of USDA. They often learn about programs later and experience frustration particularly when there are limited funds to be allocated at the county or state level. Thus outreach efforts, particularly at this early stage of the program, will suffer in the long term if organizations have to inform and educate producers about the program, only to have them learn later that the process was for naught and the funds exhausted.

Similarly, it is very important that USDA educate its partners with critical information about the program as it is implemented, including information on precisely how, in the long term, and in the interim periods, the funds for this program will be allocated at the state and county level. The first-come, first served method of allocation has worked in many programs to effectively exclude minority producers. Thus it is critical that the organizations and institutions that serve minority producers know exactly what to expect when farmers go to the office at their recommendation.

In order to provide for more complete transparency and accountability, NRCS (and all USDA agencies that serve farmers) should also institute a receipt for service that will be held by the agency with a copy to the farmer to document what services and applications were requested by farmers, which were offered, which were provided, which were not, and what follow-up was recommended. This receipt should be provided to all farmers who seek to access services either in the offices or in the field.

The receipt for service is a recommendation from community-based organizations and minority serving institutions based on our years of experience working with limited resource and socially disadvantaged producers. Our constituents often hear of programs belatedly, do not receive information unless they request it, or lack the training or confidence to seek information about resources they continue to be told are not for them.

The receipt for service would document what was requested, documented, provided, not provided and what follow-up was recommended for all who seek USDA services. We believe the receipt would become a tool to help all field staff be cognizant of the services they are required to provide every farmer.

RECOMMENDATION: The final rule should allow for continuous sign-up. The method of allocation of funds at the county and state level should be made clear to the public and community based organizations and minority serving institutions serving limited resource producers. Training in the details of the programs should be provided to the aforementioned entities that are the groups that most frequently reach and serve minority producers.

NRCS should institute a receipt for service as outlined above (template is attached) that will document the services provided to all farmers and should use this receipt to identify counties and states where more outreach and training efforts are needed to ensure equitable information and service to all farmers.

In addition, NRCS should strive to assure that all applications that meet established standards be approved. The reasons for any denials should be clearly stipulated. NRCS should track the number of applications and those accepted and those denied, by race, gender and ethnicity. Applications from all farmers who seek to apply should be accepted. NRCS should disclose to the county and state level the number and the race, gender and ethnicity of denials for participation related to insufficient funds.

"First-come, first served" should not be allowed to serve as an excuse for a lack of service to farmers to whom the agency did not reach out or make aware of program funds availability. In the coming year and any year when funding limitations cause rejection of applications, it is incumbent upon NRCS to fully disclose both the number of those funded by race, ethnicity and gender, along with the number of those rejected in the same categories, down to the county level.

If disparities are found to exist, NRCS should institute proactive strategies to cure them.

NRCS should also track those applications that are rejected as not meeting standards and quantify the demographic status of applications rejected in order to determine the need for technical services and other outreach efforts to assure that farmers who need assistance to qualify will receive such assistance.

4. Service to Small and Limited Resource Producers - In order to effectuate full participation by small and limited resource farmers and ranchers, NRCS should vigorously use its statutory authority in the "*Small or Limited Resource Farmers Initiative*" as authorized under Section 622 of the Agricultural Credit Act of 1987, Public Law 100-233, 101 Stat. 1985, in harmony with its statutory authority in Section 1238 of the CSP authorizing legislation.

Furthermore, we believe that 16 USC 3844 (a) gives the Secretary of Agriculture and NRCS authority to engage in set aside contracts for limited resource farmers. The statute states in relevant part:

Beginning Farmers and Ranchers and Indian Tribes. - In carrying out any conservation program administered by the Secretary, the Secretary may provide to beginning farmers and ranchers and Indian tribes (as those terms are defined in Section 1238) and limited resource agricultural producers

incentives to participate in the conservation program to – (1) foster new farming and ranching opportunities; and (2) enhance environmental stewardship over the long term.

16 USC 3844 (a).

The proposed rule states that NRCS is committed to making CSP accessible to limited resource farmers and ranchers. We commend the authors of the proposed rule for recognizing the conservation needs of small and limited resource farmers and ranchers. As the rule is currently drafted, NRCS would be limited to targeted limited resource producers with particular conservation concerns. However, the phrase particular conservation concerns is dangerously vague, creating avenues for the exclusion of participation by small and limited resource farmers and ranchers.

RECOMMENDATIONS: Thus the CSP proposed rule should include specific language for set asides for small and limited resource farmers and ranchers while specifically enumerating conservation practices that can be funded. Small farm set aside concerns should include the following: systems to control animal waste on poultry, pork, or cattle operations and efforts to control pesticide residue on fresh vegetable operations. The rule needs to clarify specific documents needed by new and beginning farmers and ranchers since the rule states that an existing practice must be in place before being eligible for a CSP contract. This helps to effectuate the set aside program while addressing the capped entitlement issue and delivering an effective CSP program.

It is especially critical that minority producers, who already participate in conservation programs in lower numbers, receive special outreach and assistance from community based organizations to help them meet the standards of the program. Positive environmental outcomes achieved by innovative producers should be a major objective of the CSP, and minority producers should have the same opportunity to avail themselves of these opportunities and demonstrate innovation on the type of farms they operate.

In order to foster participation, NRCS should assure that payments to limited resource farmers are substantive enough to foster their participation, and should exercise some latitude in defining these payment levels.

5. Emphasis on Local Control and the need for a National Set-Aside - The proposed rule includes a strong emphasis over local control of CSP contracts. The statute states:

(B) State and Local Conservation Priorities – The conservation priorities of a State or locality in which an agricultural operation is situated shall be determined by the State Conservationist, in consultation with – (i) the State technical committee established by subtitle G; and (ii) local agricultural producers and conservation working groups.

The Rural Coalition is concerned that minority participation on local, district and state conservation boards is not sufficient and that minority and small farmers have not had adequate training in the function and operation of these boards. In addition, because these boards and state technical committees

and other NRCS entities are not representative, they are often not aware of the special local circumstances and needs of socially disadvantaged and limited resource producers.

Thus, the priorities these boards may select are likely in some, if not the majority of areas not to reflect the needs of limited resource and minority producers.

Limited resource and minority producers will require special outreach efforts to assure that state and local entities learn how to address their special needs. In the interim, collaboration between the national outreach office of NRCS and the community based and minority serving institutions that serve these populations will be essential to overcome those barriers that may exist to equitable service and to establish the system of relationships necessary to link these producers with services and to increase their confidence in USDA in general and NRCS in particular.

Previous experience with some USDA agencies of a less than positive nature may reduce the overall confidence minority and limited resource producers have in USDA programs and agencies in general and may impede their willingness to try again to interact with USDA.

In order to ensure participation, a set-aside should be provided for the clear and express purpose of encouraging the participation of limited resource, beginning, and socially disadvantaged producers. Once again, many minority farmers are excluded when programs are provided on a first come first served basis. These farmers often receive notice of programs later than other farmers in their county, and less technical assistance, personal contact or encouragement to participate.

RECOMMENDATIONS: As such, it would be important to assure that provision is made for a set-aside of funds for payments to limited resource, socially disadvantaged and beginning producers that can be accessed at the national level with appropriate provision for technical assistance. We recommend that up to 5% of funds be so set aside and that where necessary, NRCS nationally work with the states to assure the set-aside funds are allocated to assure equitable participation of these groups of producers in all region of the nation.

In addition, the rule should require that any set aside projects determined by the Secretary or at the National level must be recognized and implemented by the local Soil and Water Districts in direct cooperation with farmers and the community based organizations and minority serving institutions in the area.

What is more, Section 1243 of the Food and Security Act of 1985 (16 U.S.C. 3843) provides for special projects as recommended by the State Conservationist, after consultation with the State technical committee. Spending on special projects is limited to 5% of annual spending on CSP. The final rule should target these special project funds to small and limited resource farmers and ranchers without regard to any set aside contracts established by NRCS.

6. Fairness for Tenants

A large number of small and limited resource farmers and ranchers rent productive cropland. *In many instances, the farmland rental agreement is limited to one year. Section 1238 (d)(1), provides a safeguard for tenants. The relevant statute states:*

the Secretary shall promulgate regulations that provide for adequate safeguards to protect the interests of tenants and sharecroppers, including provisions for sharing of payments on a fair and equitable basis. 16 USC 3838 (d) (1).

RECOMMENDATIONS: The proposed rule attempts to safeguard the interest of the tenant by prohibiting CSP contracts on rented land unless and until the tenant and landlord reach a payment sharing agreement. We believe that the final rule should require that the landowner consider the efforts of time and money expended by the tenant when deciding which conservations efforts will be funded.

NRCS should also develop methods to monitor the impact of the CSP program on changes in land tenure status as the program is fully implemented. If payments provided are substantive enough, is there a danger that tenants may be displaced or leases not renewed if there would be more value to adopting conservation practices under CSP. In addition, NRCS should require that the current term of the lease in months or years be disclosed as agreements are developed and that oversight be provided to identify contracting patterns where expenses or payments may be influenced by the term of the lease.

7. Training in Election Procedures and NRCS Program Procedures

Many USDA programs, including NRCS programs like the CSP program, include significant elements of local control. While the system of local control, including conservation districts and their boards, and state technical committees, often are aware of the expressed needs of some groups of producers, the decision-making process is far from transparent from the perspective of limited resource, socially disadvantaged and beginning farmers.

The undersigned organizations and the groups of producers they represent have been working with the USDA to reinstitute trainings that were held in 1996 and 1997 with the support of both the Farm Service Agency and the Natural Resources and Conservation Service. Training in the operation and procedures of FSA county committees proved beneficial in increasing the understanding of limited resource and minority producers on the decision making power and responsibilities of these entities and on increasing their involvement in the election process. The trainings also provided an overview of the program requirements of many FSA and NRCS programs at that time.

Stakeholders interested in program equity have recently been in dialogue with USDA Agencies, including NRCS and have noted the importance of repeating these training. Of particular interest to limited resource and minority producers is a national level training of convened in partnership between the

NRCS Outreach and National Outreach Office with community based organization and minority serving institution staff on the basic operation of the structure of conservation districts and the election procedures and policies therein. We strongly recommend such a program and will provide the reports and recommendations generated under the previous contracts to NRCS as models of the training we envision.

The Outreach staff of NRCS has done a good job of reaching many limited resource producers on a wide number of programs. However, additional and strategic training, and implementation of transparency and accountability measures will help identify areas where more work is needed.

One of these should include a baseline measurement of the representation of limited resource and minority producers as well as women producers on conservation district boards and committees, with specific measures to provide transparency in the operation and functions of these entities.

A goal of such work is to increase the number of productive field level contacts with and increase agency and conservation district awareness of the needs of this group of producers.

8. Technical Service Providers

Section 1469.9 of the proposed rule describes the tasks needed to conduct sign-up, conservation planning, and training and certification of conservationists as well as evaluation and assessment of producers needs. The proposed rule stipulates that Conservation Security Plans will be completed by certified conservation planners and notes that this description is consistent with technical assistance requirements for other NRCS programs.

The undersigned groups are concerned that there already exists a lack of transparency in the whole arena of technical service providers. Our groups have in recent years conducted a substantive inquiry into the entry into the business of crop insurance and have concluded that a primary barrier to the equitable participation of socially disadvantaged producers into crop insurance stems directly from the lack of agents with any real commitment to fair service to producers. Our efforts to supply such agents to work in minority and limited resource communities are severely hampered because we have found that the training process to become a crop insurance agent is a closed one that requires resources for entry.

We believe some of our same findings apply to the area of technical service providers and certified conservation planners. The government confers a benefit on certified planners who become the required providers of services. While the situations are not totally analogous, they bear some similarity.

However, without technical service providers who are familiar with the operation of limited resource, beginning and socially disadvantaged producers, these producers will be effectively denied entry into the CSP program.

RECOMMENDATION: We recommend that NRCS provide training and information on the requirements necessary to qualify as a technical service

provider for CSP and other NRCS programs. We further recommend that NRCS work in cooperation with its partners representing limited resource and socially disadvantaged farmers and land owners to develop a comprehensive plan for recruiting and training certified conservation planners to provide service to the farmers within these organizations.

Included in this plan should be a national level training program developed in partnership between community based organizations and minority serving institutions who represent and serve limited resource and socially disadvantaged producers that will include recruitment guidelines, certification procedures, access to training, and linkages between trainers and the organizational partners.

Potential Technical Service Providers (Federal, State, and local agencies, or Indian Tribes) should include community-based organizations with experience serving socially disadvantaged, limited resource and beginning producers, and minority serving institutions including the 1890 and 1994 Land Grant Colleges. Inclusion of these entities would provide the creation of a battery of employable conservation planners as well as cause the creation of a link between NRCS and the colleges and organizations. This relationship has been attained with the 1862 and some 1890 land grants and must be attained with the 1994's and the community based organization partners. TSP provides the opportunity and allocates resources that should be fairly applied to serve these populations. .

9. Definition of Limited Resource Producer - Section 1469.3 sets forth a definition of Limited Resource Farmer/Producer as follows:

Limited Resource Producers means a person

" (1) With direct or indirect gross farm sales not more than \$100,000 in each of the two previous years (to be increased starting in FY 2004 to adjust for inflation using Prices Paid by Farmer Index compiled by the National Agricultural Statistics Service (NASS)); and

(2) That has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the two previous years (to be determined annually using Commerce Department data."

We reiterate our previous comments to state our continuing support for an adjustment to this definition.

The definition set forth under section 1469.3 limits the definition to producers with a household income equal to the poverty line for a family of four—a level that would be below the poverty line in many cases.

Due to the unique characteristics of farm operations, where business and family finances and costs are combined, the definition tied to the poverty line would exclude the many more farm families who are struggling to maintain their operations. We have proposed an alternative to this definition below.

The characteristic that links the definition to a percentage of the median household income in a state or county has a number of even more serious

deficits. First, it is not clear what "county median household net income" means. Second, it is not made clear who will determine that definition. This definition could produce vastly different standards for defining limited resource farmers in different states. Third, the definition does expressly stipulate that the standard that would include the most farmers in a specific county or state be applied and who will decide.

Finally, the use of median income is likely to have the effect of excluding more farmers who live in high poverty counties where median income levels may be much lower than in counties on the urban fringe or with greater income disparity. This is precisely where many limited resource producers reside. In either case, the standard is very subjective and of questionable usefulness and fairness in identifying limited resource producers.

In suggesting a revised definition we have also taken into consideration our particular concerns with respect to Native American applicants: The socio-demographics utilized to develop the foundation for the above qualifiers were derived from National Agriculture Statistics Service (NASS) data. However, this data does not contain information derived from the Indian Reservations. The 7 Reservations in Montana are the only Reservations nationally that NASS has completed agriculture census at the same level of data collection from agricultural producers nationally. The initial Montana Reservation survey was done in 1994. The 1997 NASS census did not attempt to produce Indian specific data beyond asking one nationality question nor was there an attempt to insure agricultural producers on Reservations were provided the census document.

Missing from the data utilized to develop *Limited Resource Farmer or Rancher* qualifiers is socio-demographics for over 164,000 Indian families that derive their livelihood from agriculture. Missing from the qualifiers is the crop type, crop production, crop sales, number and type of livestock, as well as the quantified sales of livestock. This missing data adds to the problem further compounded by the fact that until 1990, this group of agrarians was excluded from the programs and services of USDA. Since the advent of EQIP, for example, Indian producers and Tribes have only had access to EQIP through the Indian Earmark funding. Only 2 states, AZ & MT have provided access to EQIP through State Priority Areas or state discretionary funds.

RECOMMENDATIONS: We propose the following changes to the definition of limited resource producer, and recommend that USDA develop and test a consistent definition across its programs.

1) The references to county median household income are dropped from the definition.

2) The definition be modified as follows:

Limited Resource Producer means a person

" (1) Who is a Native American CSP applicant on Native American controlled/owned lands, or

(2) With direct or indirect gross farm sales not more than \$100,000, or \$150,000 for livestock producers, in each of the two previous years (to be increased starting in FY 2004 to adjust for inflation using Prices Paid by

Farmer Index compiled by the National Agricultural Statistics Service (NASS)): and

(2) That has a total household income based on family size at or below 200% of the national poverty level in each of the two previous years (to be determined annually using Commerce Department data."

We believe the latter definition is more useful and accurate and there is precedent for a higher level.

Many other federal benefits are indexed to the poverty line. For example, eligibility for the Child Health Insurance Program is indexed to 175% of the poverty line. Eligibility for Reduced-Price School Lunches is set at 185% of the poverty line.

The indexing of the standard to the poverty line has two advantages:

- 1) The poverty line is automatically adjusted regularly for inflation over time.
- 2) The poverty line takes into account family size.

As such, it more accurately reflects the financial status of a given family.

We have suggested that the level be indexed to 200% of the poverty line. Our reasoning is as follows. Many limited resource farm families have years in which the family income is used not only to support the family but also to maintain the farm and hold onto the land base. Farm families often have high levels of debt to service. We believe that a level of 200% of the poverty line would help take into account these additional expenses that are unique to agricultural producers.

With specific reference to the CSP program, we advocate the use of the higher level because if NRCS also sets the cost share at 90% for limited resource and beginning farmers, the 200% of the poverty line level will help assure that limited resource producers will be able to provide the cost share and thereby qualify for the program.

We believe the standard we have proposed would apply fairly to the large population of minority and limited resource farmers that we serve.

10. The Need for Strategic and Effective Outreach - Outreach to Limited Resource Farmers/Ranchers and Beginning Farmers and Ranchers: We believe that beginning farmers and ranchers who meet the definition we have supplied above of Limited Resource Farmers/Ranchers will require special outreach services and program considerations.

Thus, such farmers should be eligible for the 90% cost share and the other specified benefits as noted in other areas of these comments.

We also believe that outreach and technical assistance funds are essential to meet both of these populations. Outreach activities should be conducted in cooperation with qualified community based organizations with demonstrated experience in serving the needs of these farmers, as well as minority serving institutions.

NRCS should seek any clear authority it currently lacks to specifically enter into grants and contracts with these organizations and institutions to conduct outreach

and training activities. Outreach funds should be made available specifically to assure that NRCS programs reach producers through the organizations and institutions who have demonstrated the experience necessary to reach them and provide appropriate technical assistance.

Overwhelmingly, our research showed that producers wanted technical assistance delivered by their own cooperatives and community-based organizations, which remained the single largest and most common source of assistance to them in agriculture.

RECOMMENDATIONS: In addition to the recommendations above related to training and additional outreach activities, we recommend that the \$10 million set aside for outreach to minority and limited resource producers that was originally included in the farm bill be reestablished administratively or that any additional authority needed be sought by the agency. These funds should be used for field activities to help farmers secure the capacity and services they need to qualify for the CSP program.

We also call for the clarification and where necessary, the establishment of clear and direct authorities for NRCS, through its national outreach office, to enter into grants, partnerships and contracts with community-based groups that have demonstrated experience working with minority and other limited resource producers in order to assure that limited resource, socially disadvantaged and beginning producers have access to resources to build the capacity they will need to participate in the program.

We thank you for the opportunity to provide comments.

Submitted by

Rural Coalition/Coalición Rural, Washington, DC
Intertribal Agriculture Council, Billings, MT
Association of Research Directors of the 1890 Colleges and Universities
Land Loss Prevention Project, Durham, NC
Rural Advancement Fund, Carolinas
Family Farm Defenders, WI
Federation of Southern Cooperatives/Land Assistance Fund, Atlanta, GA
New York Sustainable Agriculture Working Group
Operation Spring Plant, Oxford, NC
AFGE Local 1354, St. Louis, MO
Center for Popular Research, Education and Policy, Rochester, NY
Hispanic Organizations Leadership Alliance, Takoma Park, MD
Mississippi Association of Cooperatives
Sin Fronteras Organizing Project, El Paso, TX
Growing Power, Milwaukee, WI
Markham Center, Montpelier, VT
Black Family Land Trust, Durham, NC
Black Farmers and Agriculturalists Association, Tillery, NC
Concerned Citizens of Tillery, NC
Rural Community Development Resources-Center for Latino Farmers, Yakima, WA

APPENDIX 1: PROPOSED USDA RECEIPT FOR SERVICE

(To be provided in duplicate signed by USDA and farmer for each visit by a USDA staff member or visit to a USDA office)

DATE and TIME

County and State

FARMER NAME

FARM NUMBER

Farmer Included on FSA List of Eligible Voters (or in Minority Farm Registry
___Yes ___No (if no, provide appropriate form))

Purpose of Visit (Specify: request application (which) form, submit (which) application, provide additional documents, submit information, request clarification)

Additional Information, Applications, Services Offered:

Applications, Information, Other Provided to Farmer: (Specify all):

Requested information and Services not provided, with reason:

Follow-up specified (additional document, instructions to return to office, etc.):

Signed:

USDA Staff

Farmer or Landowner