



NATIONAL ASSOCIATION OF STATE FORESTERS
444 North Capitol Street, NW, Suite 540, Washington, DC 20001

March 2, 2004

**2004
 Executive
 Committee**

Conservation Operations Division
 Natural Resources Conservation Service
 P.O. Box 2890
 Washington, DC 20013

President

Burnell C. Fischer
 Indiana

Attn: Conservation Security Program

Vice President

Pat McElroy
 Washington

To Whom It May Concern:

On behalf of the National Association of State Foresters, I wish to submit comment on the proposed rule for the Conservation Security Program, published January 2, 2004, in the *Federal Register*. NASF is deeply committed to the conservation programs in the 2002 Farm Bill, and we offer the following comments:

Treasurer

James B. Hull
 Texas

1. Eligible land (Section 1238A(b)(2); Pg. 205): This section specifies eligible land as "cropland, grassland, improved pasture land, prairie land, rangeland, land under the jurisdiction of an Indian Tribe, as well as forestland that is *an incidental part of the agricultural operation.*"

*Northeastern
 Representative*

Philip A. Bryce
 New Hampshire

It is disconcerting that only forestland "incidental" to the operation is eligible. While mandated in statute, the inclusion of forestland, only if incidental to agriculture operations, seems arbitrary and categorically excludes most non-industrial private forest (NIPF) landowners from participating in the program. Non-industrial private forestlands make up nearly half of the nation's forestlands and play a critical role in achieving sustainable resource management nationwide by providing wood fiber, wildlife habitat, clean air and water, and countless other environmental benefits. The use of the term "incidental" clearly diminishes the importance of forestlands and their role in resource conservation.

*Western
 Representative*

Jeff Jahnke
 Alaska

NASF recommends including NIPF lands as land eligible for program participation. Until this can be changed in law, we urge the NRCS to consider the far-reaching impacts of restricting NIPF lands from being eligible for this important program.

*Southern
 Representative*

Bob Schowalter
 South Carolina

*Immediate
 Past President*

James L. Sledge
 Mississippi

Executive Director
 Anne E. Heissenbuttel

2. Forestland (Section 1469.3; Pg. 216): NASF agrees with the proposed definition of 'forestland' for lands included in a CSP contract as an incidental part of an agricultural operation. However, we recommend that forestry practices, including tree planting, be encouraged as an appropriate conservation practice on both agricultural and forest lands, under Section 1469.8. Tree planting is proven effective to help stabilize stream banks, provide soil and crop protection, as windbreaks, and to improve habitat for both agricultural and wildlife species, thereby improving watershed conditions and water quality, as well as the microclimate. With proper forestry practices, trees may also be used by the agricultural land owner for wood fiber production and specialty products as an incidental use, without impairment to the watershed.

3. Eligibility requirements based on selected priority watersheds (Pg. 198): The process for determining ranking criteria for priority watersheds is not clearly defined in the rule. Moreover, the rule proposes ranking priority watersheds on a national scale, which seems to deviate from NRCS' fundamental tenet of "locally led conservation." It is also questionable how NRCS proposes to rank and select priority watersheds between states once priority watersheds have been determined nationally. The rule also fails to identify an equitable method of distributing funds to states.

NASF supports the continued involvement of the State Technical Committees and local workgroups who play a key role in determining program direction. NASF emphasizes that it is of equal importance that State Foresters maintain their involvement and remain active during the development of these processes.

On behalf of the National Association of State Foresters, I thank you for the opportunity to offer constructive comment on the proposed rule for the Conservation Security Program.

Sincerely,



Burnell C. Fischer
President



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Forging a partnership between farmers and consumers
• Working together for Ohio's farmers •

February 29, 2004

Conservation Operations Division
Natural Resources Conservation Service
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Washington, DC 20013-2890
david.mckay@usda.gov

Re: Attention: Conservation Security Program

Dear NRCS Representative:

Thank you for the opportunity to comment on the Conservation Security Program (CSP) proposed rule. The Ohio Farm Bureau Federation is our state's largest farm organization, representing agricultural producers of every commodity in the state. Our members and organization have a strong history of dedication to conservation implementation. Conservation tillage is practiced on well over half of Ohio's tillable acres and Ohio producers have proven to be leaders in protecting water and air quality.

The Ohio Farm Bureau Federation has participated with the Ohio Livestock Coalition in the development and implementation of the six-year old Livestock Environmental Assurance Program that, to date, has trained over 5,000 Ohio livestock farmers on conservation practices. Several of these individuals have been nationally recognized for their conservation practices and are excellent examples of candidates for the CSP program. Recently launched is the OFBF-led Ohio Agricultural Environmental Assurance Program designed to assist Ohio crop producers in identifying resource concerns and implementing conservation practices. Developed in concert with NRCS, this program promises to be a useful tool in meeting CSP goals.

As demonstrated by our development of the above mentioned programs, our organization is supportive of the concept of the Conservation Security Program and believes it will provide many opportunities for farmers and the public to work together to implement conservation practices on working agricultural lands. Our members are encouraged by the opportunity to help implement a new voluntary, incentive-based conservation program.

The Ohio Farm Bureau Federation is disappointed with the overly restrictive approach for producer participation adopted in this proposed rule. Our organization is sensitive to the dollar restrictions faced by the agency at the time this proposed rule was promulgated. However, it is a disservice to the potential of this program to write rules for a temporary budget concern and not for what the program is intended to be – a program to “reward the best and motivate the rest.” Congress authorized a national program that allows all producers to apply for participation. The 2004 Omnibus Appropriations bill restores the funding

dedicated to the Conservation Security Program in the 2002 farm bill and now allows USDA to carry out CSP as enacted to compensate farmers across Ohio and America for conserving soil, water, air, energy, wildlife and other resources.

Section 1469.3 – Definition of Agricultural Operation: Farmers are concerned that the definition of agricultural operation may be too restrictive and result in an undue limitation on CSP participation. Congress directed the establishment of a broad and inclusive program to compensate producers of agricultural operations to implement and maintain conservation practices that improve soil, water, air, energy, plant and animal life and any other conservation purpose as determined by the Secretary.

Section 1469.5(a)(3) – Control of the Land: Our members have expressed concern about the requirement that agricultural operations must show control of all agricultural land for five years for Tier I payments, five to ten years for Tier II payments and ten years for Tier III payments. The majority of acres in Ohio are leased with most farmers renting a substantial portion of their operation. The ability to obtain long-term leases will result in many potential cooperators being unable to participate. This proposed provision is in conflict with the legislative language which explicitly allows a producer to apply to the Secretary for a modification if it is consistent with the purpose of the program and not require that a producer show control of agricultural land for the life of the contract. In fact, Congress anticipated that farmers would have to contend with circumstances beyond their control and explicitly directed the Secretary to permit modification of a conservation security contract for circumstances beyond the control of the producer. NRCS must revise this eligibility requirement.

Section 1469.5(a)(4)i - Tier Eligibility Requirements: This provision requires that any individual wishing to participate must address all nationally significant resource concerns, water quality and soil quality, before they become eligible to participate in CSP. We believe this requirement violates the basic intent of an incentive program designed to both encourage maintenance of existing practices AND promote the adoption of new practices. We encourage NRCS to revise the participation requirements to allow individuals wishing to adopt new practices or a higher “tier” to be eligible for incentives prior to participation. The statute was directed to individuals wishing to implement new conservation practices and to participants already maintaining conservation practices. Farm Bureau encourages NRCS to broaden the CSP proposal and encourage participants to adopt new and enhanced conservation practices, not just reward eligibility to those already internalizing the cost of NRCS standards.

Section 1469.5(a)(4)ii and iii- These sections require that participants address water quality and soil quality before a participant can broaden their conservation efforts to other resource concerns. We believe this approach is too restrictive, too narrowly focused and unnecessarily limits opportunities to address resource concerns. We suggest that NRCS broaden the eligibility process to allow farmers the opportunity to develop and enhance innovative conservation approaches that might address any of the resource concerns identified by the statute.

Section 1469.5(a)(8) – Additional Eligibility Criteria: This provision appears to indicate that additional eligibility criteria and contract requirements may be “included” at CSP signup. This proposal is already burdened with too many eligibility requirements. Ohio Farm Bureau

questions the rationale for proposing additional eligibility requirements without adequate public notice and comment and suggests that NRCS eliminate this section.

Section 1469.5(e)(1) – Selection and funding of priority watersheds: Farmers are disappointed with this limit in application. We were expecting a proposal that encouraged and set as a goal Tier III participation on all farming operations; not in a limited set of watersheds. In addition to the restricted access the watershed approach creates, one must question if this approach allows the program to reach the intended farmers – those who have done an exemplary job implementing effective conservation practices on their operations. These individuals may have, in fact, excluded themselves from eligibility for the dollars simply by improving their watershed and eliminating it from the priority list.

The proposed rule's strategy to prioritize watersheds based on a "score derived from a composite index of existing natural resource, environmental quality, and agricultural data raises concern among farmers. Given the inconsistency in data quality from state to state, considerable care should be given to data selected for determining watershed priorities. This approach also allows no provision for participation in each state, potentially eliminating the opportunity for state administrators to gain familiarity with the program and severely restricting farmer access. We encourage NRCS to revise this proposal into a national program and give all producers eligibility to apply.

Section 1469.7(2)(vii) Benchmark conditions – This section requires that the conservation security plan include an evaluation component that would "enable evaluation of the effectiveness of the plan in achieving its environmental objectives." Ohio Farm Bureau is supportive of an effective evaluation process and encourages NRCS to provide more information and details as to what may ultimately be required. We are specifically interested in the cost that might be associated with such a monitoring requirement. We also encourage NRCS to clarify this requirement and provide specific details on what will be expected of participating individuals.

Section 1469.8(a) Conservation Practices – This section indicates that NRCS will establish a "list" of approved conservation practices and intensive management activities eligible for CSP payments. This is an appropriate approach and will expedite the successful implementation of this program. This approach should be the primary operational mechanism for CSP implementation because it provides a clear indication to individuals wishing to participate and what practices are eligible for incentive payments.

Section 1469.8(e) - We encourage NRCS to use broad discretion when considering and approving new technologies or conservation practices. NRCS should encourage innovation by approving interim conservation standards and financial assistance for pioneering technology or cutting-edge conservation practices.

Section 1469.9 – Technical Assistance – Farm Bureau supports the use of NRCS-approved or certified Technical Service Providers in the performance of its program responsibilities.

Section 1469.21(d)(3)(iv) – Contract Requirements – The Ohio Farm Bureau Federation finds this section to be of the most concern and troublesome in the proposed regulation. Specifically, this section creates many artificial participation restrictions not authorized by the statute. We encourage NRCS to eliminate the following restrictions from its proposal: 1)

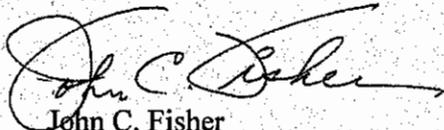
a participant can have only one CSP contract per agricultural operation; 2) the 18-month waiting period requirement for a participant to advance to a higher "tier," and 3) the requirement to refund all CSP payment received on the transfer of the right and interest of the owner or operator in land subject to the contract, unless the transferee of the right and interest agrees to assume all obligation of the contract. We encourage NRCS to keep the operational approach to this program as simple as a three-step process - a clear road map for individuals wishing to increase their environmental performance in exchange for implementing and maintaining clearly identified conservation practices and management activities.

Section 1469.24(d) – Contract Modifications: These requirements specify that program participants would need to refund all or a portion of any compensation earned under a CSP contract if the participant sells or loses control of the land under a CSP contract. Given the uncontrollable nature of agriculture in general and diverse makeup of our state and nation's farms, this type of requirement appears to be incompatible with the goals of a workable program. The legislation clearly directs the Secretary to allow cooperators to modify their contracts if the agricultural operation changes for "type, size, management or other aspect...if the modification does not...interfere with achieving the purpose of the program."

Section 1469.23 – Program Payments – The statute clearly directs the Secretary to establish a base payment. Specifically it requires the Secretary to determine "the average national per-acre rental rate for specific land use during the 2001 crop year or another appropriate rate for the 2001 crop year that ensures regional equity." Congress made it very clear that it intended for the base stewardship payment to be based on rental rates and the Statement of Managers specifically emphasized that "*the Secretary shall not provide a rate lower than the national average rental rate.*" We recommend NRCS revise the payment schedule included in the proposal to comply with the direction of Congress.

In conclusion, The Ohio Farm Bureau appreciates the opportunity to provide comment and recommendation on the proposed rule. Our members are encouraged by the opportunity to implement a new voluntary, incentive-based conservation program that provides financial and technical assistance. We believe the proposed program needs to be improved and implemented in a manner that identifies and rewards farmers and ranchers who strive to achieve the very highest standards of conservation and environmental management on their operations. We believe the CSP can create a new dynamic in conservation funding where incentives encourage farmers and ranchers to reach new and improved conservation standards and also reward ongoing conservation efforts.

Sincerely,



John C. Fisher
Executive Vice President

JF/CCJ