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October 5, 2004

Mr. Craig Derickson  
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 Natural Resources Conservation Service  
 P.O. Box 2890  
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Attached are comments from the Iowa Farm Bureau Federation, West Des Moines, Iowa, regarding 7 CFR, Part 1469, Conservation Security Program; Interim Final Rule and Notice.

Thank you for including these in the record and considering these comments.

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## **IOWA FARM BUREAU FEDERATION**

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October 6, 2004

Mr. Craig Derickson  
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**RE: Conservation Security Program Interim Final Rule, 7 CFR Part 1469**

The Iowa Farm Bureau Federation and its 152,000 member families across the state of Iowa have voiced their support for the Conservation Security Program, and we continue to be supportive of a program that meets the intent of the enacting legislation. However, implementation of the 2004 program does not seem to meet these minimum requirements.

We believe the program implementation should reflect the statutory language and congressional intent. As proposed in the interim rule and implemented in 2004, the Conservation Security Program directly conflicts in many areas with the statutory language. The Conservation Security Program is a program that our organization hopes will have long-term viability. Its original design should mirror the intent of Congress, not simply address the budgetary shortfalls.

We recognize that funding constraints limit the ability of USDA to fully implement the program in FY 2004. However, our goal is to create a program that is sustainable into the future. Short-term funding constraints should be dealt with administratively, not in rules. The interim rule includes mechanisms to address a capped entitlement program and still deliver an effective program. However, clearly this attempt was not successful. We believe all producers should be eligible for the program and payments commensurate with the expectations from the producers.

In addition, as more funds become available for the program, priority should be given to making payments commensurate with the expectations of producers, rather than increasing the number of participating watersheds to the detriment of a quality program and expectations of producers.

We also have some serious concerns with several key aspects of 2004 program implementation that are clearly not consistent with statutory language and congressional intent and that limited participation in program in Iowa this year and will certainly jeopardize program success in the future. This letter details some of those concerns, in addition to concerns previously outlined. We ask that the NRCS address these issues in the final rule so that interest and participation in the program now and in future years will not be irreparably harmed.

### **Program Implementation Inconsistent with Law & Congressional Intent**

The sign-up period was inadequate for producers to absorb program requirements and to collect the documentation necessary to prove eligibility. NRCS, despite previous comments to the contrary, chose to go with a discrete sign-up period rather than a continuous sign-up. The rule provides no limit on the length of the sign-up period, and so the NRCS must go with a year-round sign-up in the future to meet customer needs and to facilitate local program management.

In the national Producer Eligibility section of the NRCS CSP Self-Assessment Workbook used from 2004 program implementation, question no. 3 asks if the producer has "...control of some or all of the land you manage for the life of the proposed 5- to 10-year contract period?" Also, Iowa NRCS narrows this further in its a "preliminary checklist" by asking, "If you are a renter, could you show in writing that you are likely to have control of the land for the length of the contract?" Rental contracts in Iowa are generally year-to-year, and most land owners do not want to put in writing any indication of their future intent to rent land to a particular person, should circumstances change. The requirement to obtain long-term leases results in the majority of Iowa's farms being unable to participate.

Also, renters, or a court, could consider the kind of documentation asked for by the NRCS to be a contract. We see resistance to this requirement that may limit long-term participation in the CSP. We suggest revision to this requirement by asking the applicant only for their future intent to rent this land, or to drop this proposal altogether. NRCS should not have an expectation that the landlord will put his or her intent in writing. There must be recognition by NRCS that a contract may need to be cancelled if control of land is lost in future years. In fact, Congress anticipated that farmers and ranchers would have to contend with circumstances beyond their control and explicitly directed the secretary to permit modification of a conservation security contract for these types of circumstances. NRCS must revise this eligibility requirement.

In the Cropland, Vineyards and Orchards section, question no. 2 asks, "Are you managing nutrients by following a nutrient management plan or schedule that budgets nutrients based on soil and crop needs, and environmental risk?" While this seems to be an appropriate question and can be documented in different ways by producers, the Iowa NRCS has modified the question in a "preliminary checklist" to say, "In general, are you currently applying less than 130 pounds of total nitrogen on corn following soybeans, and are all phosphorus applications being applied according to soil tests no older than four years?" NRCS is using this question, it seems, to limit participation in the CSP. The preliminary checklist question is further explained by Iowa NRCS that producers need to be compliant with Iowa Practice Standard 590 for nutrient management. This practice

standard is only partially being applied, and NRCS practice standards are not being used as eligibility criteria in other workbook sections. This seems to be arbitrary and capricious relative to all other criteria.

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In addition, the Iowa preliminary checklist implies that the use of more than 130 pounds of total nitrogen is inappropriate in a corn-following-soybeans rotation. We are concerned with false impressions the general public may have about farmers' nutrient management decisions as a result of this statement. The same Iowa State University nutrient management publications referenced in the Iowa Practice Standard 590 indicate that producers need to make adjustments toward "optimal rates" (ISU Publication PM 1584). Further, PM 1714 says producers who apply all their N before emergence of the crop (i.e., before planting, at planting, soon after planting) in a corn-following soybeans rotation should apply N at rates in a range from 100-150 pounds, and use the late-spring test to evaluate their N management. It recognizes that this is a site-specific issue. Again, Iowa CSP implementation and eligibility criteria are clearly inconsistent with Iowa's own nutrient management practice standard referenced by the CSP criteria. The original national workbook question is sufficient to qualify producers for program eligibility.

Also in the same section, the national workbook asks if "...sheet and rill erosion is controlled?" Iowa NRCS again further narrows the intent of this by asking in its preliminary checklist, "Are all areas of concentrated water flow stabilized with grass waterways or terraces, which have eliminated the need for grass waterways?" No field is perfect without some problem areas, especially this year, and this zero-tolerance goes too far. Most farmers would be disqualified from the preliminary eligibility if this qualification were followed to its logical end.

And in the Pastureland section, question no. 4 in the national workbook asks, "Are you managing livestock access to rivers, streams and other surface waters?" Iowa NRCS staff says that this means you must currently limit access to streams by fencing or other means. This is clearly not the current practice by a majority of producers. It may be appropriate for an enhancement payment, but not for minimum eligibility requirements.

### **Specific Comments on CSP Interim Final Rule**

Iowa Farm Bureau opposes limiting eligibility based on a watershed approach, as stated in Sections 1469.6 of the interim final rule. This approach is not consistent with the intent of the CSP program, drastically reduces producer participation eligibility, and also takes away the state and local decision-making intended by Congress. The Farm Bill states: "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 the State Technical Committee...and local agricultural producers and conservation working groups..." (Section 1238A(d)(3)(b)). We believe that it is contrary to the intent of the law to impose eligibility requirements based on selected priority watersheds determined by a national formula.

In addition, there are other federal programs with funding concentrated in specific watersheds, such as in the TMDL program funds and EQIP program funds. The same farmers who are currently eligible for watershed-based funding would have more funds

eligible to them, and the rest of the nation's producers will have no such opportunity. The CSP program was not meant to duplicate the efforts of these programs, but was intended to be for all producers across the nation. It would be more appropriate to provide enhanced payments when a majority of the agricultural operation is in a watershed and chooses to participate, rather than making the location a threshold enrollment criteria.

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The rules are unnecessarily harsh toward modified contracts, stating in Section 1469.24 (d) that participants would need to refund all or a portion of any assistance earned under a CSP contract if the participant sells or loses control of the land under a CSP contract, and the new owner is not eligible to participate in CSP. Given the uncontrollable nature of agriculture in general, changes in landlord-tenant relations and diverse makeup of farming operations, this requirement appears to be unworkable. The farm bill legislation clearly directed 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 1238A(e)(2)(B)(i). The rules should follow the requirements of the farm bill.

We do not support the requirement that producers must implement new and costly conservation practices prior to their eligibility for CSP. Section 1469.5(c)(4)(i)(B) requires that participants meet minimum levels of treatment before a farmer can participate. For example, the Section states: "An applicant is eligible...only if the benchmark condition inventory demonstrates to the satisfaction of NRCS that the applicant has addressed all of the nationally significant resource concerns..." The purpose of the CSP is to provide payments to farmers that promote investment in practices, techniques and management systems, which result in positive environmental practices. This threshold requirement will discourage interest in CSP and reduce the number of farmers eligible to participate. The effect would also result in producers needing to participate in other programs, like EQIP, before they are eligible for CSP. The demands for EQIP funding already far exceed the funds available, so many farmers would be left with no financial assistance. Without needed funding, many farmers will be unable to participate in the CSP program. The CSP program was intended to provide contracts for environmental improvement during the term of the contract – not prior to enrolling. By requiring conservation activities to be complete prior to eligibility, the NRCS shifts the cost of this program to the farmers – the very people that the program was meant to assist.

Farm Bureau is also concerned that the reduced level of payment will not be fair compensation for the environmental enhancements required in the contracts. In general, the interim final rule in Section 1469.23 would provide producers with a much smaller payment than they were promised in the farm bill. The rule reduces the final stewardship payment lower by "a reduction factor" of 25-75 percent, depending on the tier of participation. An arbitrary reduction, especially to such a low percentage, has obviously, as evidenced by the low sign-up and applicant comments, resulted in insufficient funding to cover a producer's cost. This lower payment will surely decrease the incentive to participate in the program more in the future. Decreased participation rates would result in reduced environmental benefits to the nation as well.

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The statute allows the secretary to use the national rental rate for the base payment or to use an appropriate rate that ensures regional equity. The use of a regional, reduced rental rate scheme does serve the purpose of regional equity because the local rates best reflect the costs of the land and the best estimate for an incentive to participate in the program. However, an arbitrary reduction in the stewardship payment to all producers does not ensure regional equity, and is inconsistent with the law. Instead, we believe that the program should include a full stewardship payment, based on local rates, without an arbitrary reduction of the base payment. In the farm bill, Section 1238C, the statute clearly directs the secretary to establish a base payment, requiring 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 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, we believe that the proposed CSP rules as written were designed to restrict participation to save money and meet the budget targets. The rules must be substantially revised in order to ensure that all willing and eligible producers are able to take advantage of this program. The USDA should publish a final rule that removes wide-ranging barriers to participation, provides fair payments to producers, and conforms to Congressional intent.

Sincerely,



Rick Robinson  
Director, Environmental Affairs