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From: tracib@huntel.net
Sent: Tuesday, October 05, 2004 9:46 PM
To: FarmBillRules
Cc: tracib@cfra.org
Subject: Conservation Security Program

Attachments: Interim Final Rule Comments.doc



Interim Final Rule
Comments.do...

Please ignore the first two messages just sent moments ago. The wrong file was attached the first time and then the second time I forgot to attach. However, the following paragraph still applies.

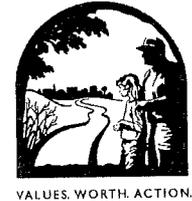
Attached are the comments of the Center for Rural Affairs. I sometimes have difficulty sending attachments from this computer to other computers as they have problems opening attachments. Currently the server on my office computer is down but will be back up again in the morning. Therefore, I will be sure and email these comments again tomorrow morning in case there are problems opening this attachment. Thank you and if you could let me know if this file attachment would open, that would be helpful.

Traci Bruckner
Center for Rural Affairs
Lyons, NE
402.687.2103 ext 1016

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CENTER *for*
RURAL AFFAIRS



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October 5, 2004

Mr. Craig Derickson, Conservation Security Program Manager
Financial Assistance Programs Division
Natural Resource Conservation Service
P.O. Box 2890
Washington, DC 20013-2890

Dear Mr. Derickson,

This letter contains the comments and recommendations of the Center for Rural Affairs in response to the Interim Final Rule for the Conservation Security Program (7 CFR 1469), published in the Federal Register on June 21, 2004 (Fed. Reg. Vol. 69, pages 34501-34532).

The Center for Rural Affairs is a private, non-profit organization incorporated under the laws of the State of Nebraska. The Center for Rural Affairs is located in Lyons, Nebraska, a farm trade and service center in northeast Nebraska with a population just under 1000. Founded in 1973, the Center for Rural Affairs is committed to building rural communities that stand for social justice, economic opportunity, and environmental stewardship. We encourage people to accept both personal and social responsibility for creating such communities. We provide opportunities for people to participate in decisions that shape the quality of their lives and the futures of their communities. The Center engages in research, education, advocacy, and service work to further this vision of rural America.

As you may know, the Center for Rural Affairs is a member of the Sustainable Agriculture Coalition (SAC.) Therefore, in addition to the comments below, we are also represented through the comments submitted by SAC. We endorse and concur with the comments submitted by SAC and expect that you will strongly consider those comments and enact their recommendations when preparing the final rule.

Our comments herein will focus on the issues that we believe to be critical to the success of this program. Most of these issues were also addressed in our comments regarding the proposed rule, as were the other thousands of comments received by the NRCS. However, the great majority of those comments were ignored by the NRCS. We hope that will not be the case for the final rule and that a great majority of our recommendations will be worked in this time. We will also include some information we gained through the operation of our Conservation Hotline that was available to provide farmers and ranchers assistance with the sign-up process.

The Center for Rural Affairs has played an important role in the advent of the Conservation Security Program. We supported this program during the farm bill debate. We performed outreach and education on this program and we have continued those efforts to date. We launched our Conservation Hotline on a nation-wide basis despite the very geographically limited nature of the first CSP sign-up.

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We gained national farm media on the hotline and the Conservation Security Program as well as calls from across the country, all still despite the limited geographical scope of the program for this first sign-up. That clearly demonstrates the vast interest in the CSP, an interest that we have helped generate and have been well aware of all along.

Our hotline provided some much needed assistance to farmers and ranchers regarding the CSP. We were able to help them understand some of the complexities of the CSP and encouraged them to challenge some local decision making that was taking place based on limited information. That encouragement lead to one and maybe two applicants (have not been able to reach one of them by phone) achieving a different outcome than originally anticipated.

Nonetheless, our hat goes off to the local NRCS staff members that worked extremely hard to roll this program out during this first sign-up. Considering the limited information, training and resources they had to work with, they should be commended for the efforts they put forth during this sign-up. Without their hard work and dedication, this first sign-up would have certainly failed.

We would also like to request an extension for the comment period. We realize that there was a two-week extension granted for the comment period but we believe it is imperative there be additional time given that would allow for further investigation of how this program operated under the interim final rule. The goal of operating a program under an interim final rule is to allow the program to be rolled out and fully analyzed before implementing a final rule. NRCS has failed to make all of the information from this first sign-up available to the public.

This information is crucial in determining how this program worked and what some of the additional pitfalls may be. Therefore, we believe it is in the interest of the NRCS to extend the comment period and allow for a full analysis of the program as it operated under the interim final rule.

We understand that it works best for farmers and ranchers to hold sign-ups during the winter months and we support the idea that there will likely be another sign-up announcement for this coming winter. However, we do not believe that the program and its long-term success should be sacrificed. If you wish to roll-out the second CSP sign-up this winter, we recommend that this be done under the interim final rule again and wait to publish a final rule until the data has been properly analyzed to ensure the program is operating successfully and fulfilling original Congressional intent.

Recommendations for Changes to the Interim Final Rule for the Conservation Security Program

1. The sign-up must be nationwide, continuous, clearly transparent and predictable.

We strongly urge the NRCS to eliminate all reference to the "watershed approach" and allow this program to be available to all qualifying farmers and ranchers nationwide. The watershed approach is clear evasion of Congressional intent. Yes, there were funding restrictions for this first sign-up but that does not extend NRCS the right to implement a program in such an extremely limited geographical region. Congressional intent was clear that this is to be a nationwide program, not a watershed-based program.

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There were many references throughout the interim final rule that would allow the Chief to alter program rules in subsequent sign-ups. Some of these references indicated “additional requirements” that would be announced at the time of sign-up. This is not transparent and goes against the argument supplied for the watershed approach that says farmers and ranchers would be able to plan for the program. The only way to be able to plan to participate in a program is for the program rules to be clear and concise and absent of and undefined or additional requirements. All requirements must be spelled out up-front so that farmers and ranchers will be able to understand them fully.

This program should be accessible all-year through a continuous sign-up process so that farmers and ranchers can truly practice whole-farm conservation planning. Short, limited sign-ups fail to facilitate such a process and that was evident with the first sign-up as a majority of cropland farmers did not receive a site visit from NRCS.

2. Eliminate all reference to categories and subcategories used to establish a ranking system.

The statute, and subsequently elaborated on through the Statement of the Managers, clearly and unambiguously states that “the Secretary shall not use competitive bidding or any similar procedure” as an enrollment procedure. By creating such a ranking system, NRCS is simply choosing to ignore the letter of the law. We urge NRCS to completely eliminate the categories and subcategories from the final rule.

3. Eliminate the overall contract limitation which discriminates against smaller farmers and ranchers doing more conservation. This limitation imposes a cap on the base, existing practice and enhancement payments based on the rental rate of the acreage enrolled in the CSP.

This overall contract limit, which works out to be a per acre cap, places an extreme favor on large-scale operators with high-value cropland. This clearly discriminates against the small farmers and ranchers who are doing more conservation. This cap stands to place true conservation at a disadvantage as well because it essential limits the amount of reward a small acreage farmer or rancher would receive for doing additional conservation practices. To continue this path, NRCS would only stand to uphold the model that exists through current commodity policy, which has wreaked havoc on small farmers and ranchers as well as the environment.

This limitation did not exist in the law and should be eliminated from the final rule. The law calls for very specified payment limitations that if adhered to (please see point number 6) will provide an equal playing field for all participants and support top-notch conservation.

4. Provide for the same cost-share levels that are available through other conservation programs and eliminate the 50% limit on cost-share for new practice payments.

Cost-share levels for a new practice should be considered at the same rate under the CSP as it is for other conservation programs. The CSP is to reward farmers and ranchers who have been doing good conservation all along. That conservation has not been rewarded in the past and true conservation-minded farmers and ranchers implement highly complex farming systems that do not allow them to benefit under the traditional commodity programs, which has a very limited scope. And even though this program was designed by Congress to reward those doing it right, there are still some practices that some of these farmers and ranchers would like to implement but maybe have not been able to for economic reasons. Therefore, it would be in the best interest

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of conservation and the environment for these cost-share levels to be as high under the CSP as they are for other conservation programs.

5. Make all practices eligible for payments under the CSP, especially through the enhanced component.

This program is about supporting whole-farm conservation systems, not just a short laundry list of practices. Each and every farm and ranch are different, thus a short laundry list of eligible practices fails to acknowledge that difference. For this program to fulfill its intended design then all of the conservation practices should be made available for payment under a conservation plan.

6. Amend the CSP rule to incorporate the statutory requirement for direct attribution of payments.

The law requires direct attribution of CSP payments back to the individual or entity. CSP payments are attributed directly to real persons regardless of the type or number of business entities, farms, locations or any other factor. The intent of Congress is clear that whichever tier a producer will fit within, there are specific payment limitations they cannot exceed. After extensive debate, the CSP was passed by Congress and signed by the President with strong limits on the payments any one producer can receive from the program -- \$20,000 (of which not more than \$5,000 may consist of base payments) for those enrolled at Tier 1, \$35,000 (of which not more than \$10,500 may consist of base payments) for those enrolled at Tier 2, and \$45,000 (of which not more than \$13,500 may consist of base payments) for those enrolled at Tier 3. USDA must implement the CSP to clearly require that the direct attribution requirement is met.

This oversight must be corrected and the CSP rule amended to include direct attribution provisions. It is quite important that the regulations, program manual, and all other CSP implementing guidance materials clearly and strictly follow the law and the legislative history concerning payment limits and direct attribution of all payments to real persons. This is critical both to the program's integrity, to controlling the program cost, and to providing clear information to farmers and ranchers throughout the program's implementation.

7. Provide CSP enhancement payments to farmers and ranchers who establish and maintain complex management systems and practices that provide a high level of environmental and natural resource benefits.

The interim final rule ignores specific CSP legislative directives to provide enhancement payments for farmers and ranchers who have, or will, establish complex management systems and practices. Instead, USDA appears to be setting high payment rates for simple conservation tillage systems in many regions, while ignoring other systems and practices which may require more management but provide higher returns to the public in environmental and natural resource benefits.

In order to correct this, we urge USDA to provide the comprehensive package of enhancement payments required by the CSP statute, including the following:

- For cropland, the CSP rule should include enhancement payments for complex Resource Conserving Crop rotations with a diversity index for enhanced payments.
- Enhancement payments should also be available for rotational grazing systems, conservation buffers, conservation and regeneration of plant and animal germplasm,

environmentally sound management of invasive species, agroforestry practices, native prairie restoration, and pollinator protection and enhancement.

- Continue the enhancement payments for energy conservation provided in the interim final rule.
- Retain the enhancements payments for on-farm/ranch research and demonstration activities and for on-farm/ranch assessment and evaluation activities provided in the interim final rule and ensure that these enhancement payments are provided for in every state and sign-up.

8. Allow for contract renewals

The interim final rule does not provide information regarding contract renewals. All contracts should be allowed to be renewed in order for the Conservation Security Program to provide long-term, beneficial environmental impacts.

Also, those participating in a Tier I contract and as part of that contract will move up to Tier II are still limited to a five year contract. This should be changed to recognize the additional commitment of the farmer or rancher willing to step up and do more conservation.

The above-mentioned items are the elements that we believe are critical to the CSP. There are many more details that have been addressed through the comments submitted on behalf of the members of the Sustainable Agriculture Coalition. As stated earlier, as a member of that coalition, we concur and endorse those comments.

Information Gained Through the Hotline

Th. We have gained some insights into some potential problems with CSP through this hotline. Some of them directly relate to the issues mentioned above, some others do not.

1. Record keeping and soil testing appeared to be the biggest barriers for some.

We understand the need for recordkeeping and soil testing, especially for the more intensively farmed land that may only see a corn and soybean rotation. In regards to the soil testing, it does not appear that there are strict guidelines set out in the interim final rule suggesting annual soil tests. However, we received some calls from farmers that were being told they needed annual soil tests to qualify. One caller said he was being told he could only be a Tier II participant due to soil testing issues. He disputed that after visiting with us and we believe the issue was rectified.

There should not be such discrepancies at the local level. We believe it is unnecessary for the farmers and ranchers employing resource-conserving crop rotations and also following strict carrying capacity guidelines for livestock, to conduct annual soil tests. As long as those farmers and ranchers continue to follow those same conservation-based farming methods, which would be part of their Conservation Security Contract, soil testing every three to four years should be sufficient.

2. Nitrogen application.

In the Iowa watersheds there appeared to be a local decision that was cutting anyone off that applied more than 130 lbs. of nitrogen, irregardless. We can understand the need to make thing

simple for the local staff so that they can get through the workload. However, such a provision was cutting out some people that would have otherwise qualified. The 130 lbs. of nitrogen cut-off point was based on the assumption there was a 50 bushels/acre soybean yield the year before. Many of the farmers in that watershed suffered from the drought the previous year and had records to prove they only raised 20 bushels/acre that year and so accounted for that in their nitrogen application. N426

This illustrates that one-size-fits-all policies are not the best as every farm is different. The process must allow for each farm to walk through their farming practices and explain any discrepancies that may exist. Cookie cutter approaches should not take the place of real on the ground technical assistance and site visits, allowing the farmer to demonstrate their issues.

3. FSA Information?

One of the callers to the hotline was troubled by the idea that she was being forced to use the same field numbers that are used for programs through FSA. At the same time, they would not allow her to use her FSA yield records for the nitrogen issue described above.

To the best of our knowledge, the interim final rule is silent on this issue and does not indicate that FSA field numbers must be used for the CSP as well. In fact, field is defined in the interim final rule as:

Field means a part of an agricultural operation which is separated from the balance of the agricultural operation by permanent boundaries, such as fences, permanent waterways, woodlands, and crop lines in cases where farming practices make it probable that such cropline is not subject to change, or other similar features.

This is an issue that needs to be clarified to local level staff through additional trainings on the CSP implementation. For farmers and ranchers wanting to enroll that may only qualify for Tier I level, they need to have the flexibility the definition allows for when enrolling. Being forced to use FSA field numbers would not allow for that flexibility.

4. Watershed approach hindered participation.

More than 50% of the calls to the hotline came from farmers and ranchers outside of the applicable watersheds. They expressed great interest in the program and want to be kept informed about the CSP and how it progresses. This illustrates that the watershed approach is the wrong approach for this program and that it should be administered nationwide as legislated through the farm bill.

These are some of the more critical issues addressed through our hotline. We are continuing additional follow-up as well and would have enjoyed the opportunity to include that information within our comments. Should NRCS decide to extend the deadline further as we have requested so that this first sign-up can be thoroughly analyzed, we would submit any additional information gleaned from our follow-up activities.

Thank you for the opportunity to submit comments on the Conservation Security Program. We will look forward to reviewing the final rule with the recommendations provided here and through SAC incorporated into that final rule.

Sincerely,
Traci Bruckner
Rural Policy Program Assistant Director