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October 5, 2004

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

RE: Conservation Security Program Interim Final Rule, 7 CFR Part 1469

Dear Mr. Derickson:

The American Farm Bureau Federation appreciates the opportunity to comment on the Interim Final Rule (IFR) implementing the Conservation Security Program (CSP). We appreciate that USDA conducted the first CSP sign-up, however, it is clear from the sign-up that the IFR contains significant flaws that must be changed in order to provide our nation's farmers and ranchers a program that more closely tracks the legislative language contained in the Farm Security and Rural Investment Act of 2002 (2002 farm bill). With more than 14,000 comments submitted, it is unfortunate that USDA has chosen to largely ignore so many of those comments. Despite the difficulties, complexity, and disappointment with USDA's IFR, CSP's potential is still widely supported.

The potential environmental benefits of CSP outweigh the costs of a fully implemented nationwide program. USDA should be cautiously encouraged and also greatly disappointed at the attitudes of farmers and ranchers participating in the informational stage of the initial sign-up. Many believe CSP holds promise, but are concerned that if USDA continues to maintain such extreme eligibility requirements for participation it will never recognize its full potential. Unless USDA makes significant modifications to the IFR, agricultural producers will simply choose to forgo participation. In addition, if the IFR is finalized in its current form, USDA runs the risk of losing the support of the vast majority of farmers and ranchers.

USDA should be concerned with the rate of attrition by individuals who showed interest in the initial sign-up. Far too many walked away from informational meetings with an overall lack of engagement and a belief that this program will never fully get off the ground or benefit them in some way. If the goal of the IFR was to "motivate" farmers and ranchers to achieve a high level of environmental enhancement, to support conservation funding in general or, more importantly, view this program as a potential "green box" alternative for future farm programs, it failed. Many individuals who took the initiative to learn more about this program ultimately left with the impression that they will not qualify. USDA should also consider the signals that the IFR sends to farmers and ranchers about its reliability as an option for traditional farm programs.

We believe an unintended consequence of the “selected” watershed approach has been that farmers and ranchers outside those “selected” areas now question their support for the program. This is especially prevalent among tradition program crop producers. Many individuals saw CSP as an opportunity to rely less on traditional commodity programs. However the lack of consistency and reliability has undermined their confidence and raises significant hurdles to those who might be willing to try this new and innovative program. The manner in which NRCS has administrated CSP during the IFR has left more questions in the minds of individual farmers and ranchers and may have created more resistance to change.

USDA indicated there is a national pool of about 1.8 million eligible farms, but that they only expect to fund 50,000 contracts over the life of the program. For 2004, preliminary data shows only 2,188 contracts were approved nationwide. If 50,000 contracts are to be funded over the life of the farm bill, this initial sign-up represents only 2.7 percent of the eligible farms. This suggests that participating farms and ranches will fall well short of the goals and intentions of the Conservation Security Program. Farmers and ranchers indicate that a combination of the reduced stewardship base payment, per acre caps, cost-share limit and caps on enhanced payments, turned many producers away because the payment did not justify their efforts.

Despite the interest of approximately 5,000 participants in the initial sign-up, NRCS only enrolled 2,180. We recognize that the short sign-up period occurred when many farmers we engaged in field work and the confusion that typically comes with a first sign-up contributed to the lower numbers. We also believe that the low numbers are a reflection of the extreme eligibility requirements and reduced financial incentive. As we stated in our initial comments, the IFR limits CSP eligibility to only a small fraction of producers and provides little reward to the few who are able to enroll. Unless USDA makes significant changes to the IFR rule, only a small minority of agricultural producers across the nation will be willing or able to enroll.

Eligibility Requirements

Eligibility requirements contained within the IFR remains a concern because they exclude a majority of farmers and ranchers from having the opportunity to participate. Furthermore, these sections contain so many disincentives that farmers and ranchers are simply turning their backs and will never try to participate. We encourage USDA to take note of the many criticisms of the IFR during USDA’s listening sessions and revise the eligibility requirements so that all farmers and ranchers are eligible. CSP was designed to allow maximum participation, but the IFR continued to impose layer upon layer of restrictions, resulting in confusion and reduced sign-up.

Watershed Eligibility

We disagree with USDA’s approach of continuing to advance the selection and funding of “priority” watersheds. The statute did not single out any specific priority ranking system or envision limiting this program to “selected” watersheds. It is critically important that the final rule does not adopt the watershed approach and instead allows producers in all geographic areas to apply for the program. Even with a limited source of funds for fiscal 2004, the watershed approach had only limited success and violates the intent and spirit of the law.

Control of Land

In the national Producer Eligibility section of the NRCS CSP Self-Assessment Workbook used for 2004 program implementation, question number three asks if the producer has "...control of some or all of the land you manage for the life of the proposed five- to 10-year contract period?" NRCS appears to have narrowed this further in its "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?" Across much of the nation, rental contracts 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. We are concerned that this written documentation requirement could be considered by renters, or a court, as a binding contract. We are aware of significant resistance to this requirement during this last sign-up and believe it creates a huge problem that will simply limit participation in CSP. We strongly suggest NRCS revise this requirement and ask the applicant of their future intent to rent this land, and not have expectations 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. This provision is unworkable and unnecessary and Farm Bureau strongly suggests NRCS drop this proposal.

Resource of Concern

The IFR unreasonably requires producers to have already reached the quality criteria level (as stated in NRCS conservation handbooks) for both water and soil quality prior to eligibility. This turns the program on its head and denies most of the gains that result from improving environmental practices and performance. Requiring such a high standard prior to enrollment severely limits eligibility and results in the loss of much of the potential environmental gain. And, many producers that should have been in Tier II or Tier III were limited to Tier I. We continue to believe this requirement violates the basic statutory construction 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 existing 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. We believe the IFR is too restrictive, too narrowly focused and unnecessarily limits resource concerns. We suggest that NRCS broaden the eligibility process to allow farmers and ranchers the opportunity to develop and enhance innovative conservation approaches that might address any of the resource concern identified by the statute.

Enrollment Categories

The establishment of enrollment categories and sub-categories appears to set up a ranking system that is overly complicated and confusing. We encourage NRCS to make this program broadly available to producers who meet the standards of participation.

Contract Requirements

Numerous questions have surfaced about how NRCS plans to allow farmers to move from Tier I into Tier II or even into Tier III. We are interested in how NRCS might allow individuals who

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originally qualified for a lower Tier to move up and extend their contract term from five to 10 years. Farm Bureau supports allowing individuals to move up and increase their contract terms as they qualify. 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.

Program Payments

The payment structure contained in the IFR generated such low payments that many eligible producers chose not to participate. As a result, USDA has forgone an opportunity to maximize environmental benefits. The statute clearly directs the Secretary to establish a base payment using "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 its intention very clear - for the base stewardship payment to be based on rental rates. 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 scheme included in the proposal to comply with the direction of Congress.

In conclusion, the Conservation Security Program provides many opportunities for farmers and ranchers and the public to work together to implement conservation practices on working agricultural lands. We believe the program can be 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. Despite the interest of approximately 5,000 participants in the initial sign-up, NRCS only enrolled 2,180. While we recognize the short sign-up period left many farmers in the fields and the anticipated confusion that comes from the first sign-up contributed to the lower numbers, we believe that the low numbers are more a reflection of the difficult eligibility requirements and reduced financial incentive. The IFR rule limits CSP to the point that only a small minority of agricultural producers will be willing or able to enroll. The experience gained from the initial sign-up indicates that the IFR not only limits participation but also may jeopardize the overall long-term success of this program. We encourage USDA to address these overarching concerns so that interest and participation will not be diminished.

Sincerely,



Mark Maslyn
Executive Director,
Public Policy