



Natural Resources Conservation Service
10 East Babcock Street
Bozeman, MT 59715-4704

SUBJECT: LTP--CSP Comments

March 1, 2004

TO: David McKay
Conservation Operations Division

File Code: 300

Montana NRCS held a Conservation Security Program (CSP) listening session in conjunction with the most recent meeting of the State Technical Advisory Committee (STAC). This session was recorded and the comments have been transcribed into written form. These comments are enclosed for inclusion within the official proposed rule comments. As part of the STAC meeting comments, one organization, Alternative Energy Resources Organization (AERO), provided written comments and these are included as well. I have also received written comments from the Fort Peck Indian Reservation in Poplar, Montana, and I have enclosed these as well. Please let me know if you have questions or require clarification.

A handwritten signature in black ink that reads "Dave White".

DAVE WHITE
State Conservationist

Enclosures

Montana State Technical Advisory Committee CSP Comments
February 24, 2004, Great Falls, Montana

1. Lisa Bay, The Nature Conservancy:
 - Make payments equal to at least \$4.00 per acre minimum for all applicants
 - Streamline eligibility requirements
 - Include wildlife habitat for imperiled species (T&E and state species of special concern)
 - Allow more flexibility to state NRCS for adapting program to state needs
 - Has concerns over mandatory TA 15% cap, so emphasize Tier III enrollment
 - Piggyback on existing monitoring activities and collaborative activities to keep costs down
 - Should choose the watersheds that are good shape, reward those producers that are doing a good job

2. Dave Rice, Environmental Protection Agency:
 - A clear definition on Tribal Lands is needed in section 1469.5 in order to insure tribes can fully participate

3. Doug Dupuis, Confederated Smallish Kootenai Tribes:
 - Where tribes are directly managing and providing substantial investment to conservation of Tribal Lands they should be considered as having "control" as specified in 1469.5 (3)(i)

4. Jeff Schahczenski, Alternative Energy Resources Organization: See Attachment

5. Tom France, National Wildlife Federation:
 - More emphasis on fish and wildlife habitat in rule
 - Use State Wildlife Plans as part of criteria used to determine priority watersheds (if that is the approach taken)

6. Mike Morris, National Center for Appropriate Technology:
 - Disappointed in the watering down of the original intent of legislation; hold to original intent
 - Do not use priority watersheds
 - Reward high levels of stewardship

7. Jerry Lunak, Blackfeet Tribe Agricultural Director:
 - Consider all conservation efforts taking place on Tribal Lands
 - Better define what involuntary or voluntary loss of control means

8. Chris Christiaens, Montana Farmers Union:
 - More emphasis on water conservation
 - Simplify sign-up criteria
9. Dale Marxer, Montana Association of Conservation Districts, Area 3:
 - Proposed rule takes away from CSP being a rewards program
 - Do not use priority watersheds, as they limit participation
10. Mary Schuler, Women In Farm Economics:
 - Concerned that rental rates (2001) are too low
 - Keep as an entitlement – do not make discretionary
11. Randy Reed, Milk River Project:
 - Look at land use categories rather than rental rates
 - Likes concept of program; likes equal treatment for all producers, rewards system is better than the regulatory approach
12. Fred Booth, FSA State Committee:
 - Concerned over monitoring aspect of program, if it is an outside agency farmers will object, it should be USDA
 - Program should be flexible and dynamic to adapt to changing conditions
 - County Committees should make decisions on appeals
13. Carl Matson, Precision Agriculture Research Association:
 - Producers or local agency should do on-farm monitoring, if needed
14. Jeff Wivholm, Montana Association of Conservation Districts, Area 1:
 - More emphasis on production agriculture, particularly agronomy
15. Larry Simonsen, FSA County Committee Richland County:
 - Tier I and Tier II should not be penalized or ignored in enrollment
16. Loretta Standley, FSA County Committee Cascade County:
 - Does not like priority watershed approach, believes it will discourage farmers from being interested in program
17. Steve Hutton, MSU Extension:
 - Don't ignore conservation education as a vital component
18. Steve Hess, FSA Beaverhead County:
 - Concerned that young farmers will not be able to participate fully
 - Concerned that most financially well-off producers will receive most of the benefits

19. Jane Holzer, Montana Salinity Control:

- Plans should be dynamic - contracts should be modified as needed
- Emphasize locally identified resource concerns
- Section 1470.5 should be able to exclude some lands producers don't have control over

19. Walter Borntreger, Montana Association of Conservation Districts, Area 2:

- Stay uncapped, keep original intent

20. Robert Ray, DEQ:

- Target healthy watersheds
- Utilize EQIP for restoration

A vast majority of the Montana State Technical Advisory Committee recommended full funding for the CSP.

Conservation Security Program Comment Sheet

Publication of the proposed rule for the Conservation Security Program (CSP) on January 2, 2004, marks the start of the 60-day public comment period. Public comment will be an important part of creating the Conservation Security Program. You may access it via the Internet through the NRCS home page at <http://www.nrcs.usda.gov>. Select "Farm Bill." People can submit comments to david.mckay@usda.gov or mail their comments to Conservation Security Program Comments, ATTN: David McKay, NRCS Conservation Operations Division, P.O. Box 2890, Washington, D.C. 20013.

Comments are sought on all facets of the program. The intent of this document is to summate those areas. You are encouraged to refer to the proposed rule publication for detailed information.

1. Preferred Approach (page 197): Under the constraints of a capped entitlement, the Secretary has proposed ways to still deliver an effective CSP program. NRCS is proposing an approach based on five elements. Comments are requested on this overall approach:

- **Limit sign-ups:** Conduct periodic CSP sign-ups
- **Eligibility:** Criteria should be sufficiently rigorous to insure that participants are committed to conservation stewardship. Additionally, eligibility criteria should ensure that the most pressing resource concerns are addressed.
- **Contracts:** Requirements should be sufficiently rigorous to ensure that participants undertake and maintain high levels of stewardship.
- **Enrollment categories:** Prioritize funding to insure that those producer with the highest commitment to conservation are funded first.
- **Payments:** Structure payments to ensure that environmental benefits will be achieved.

(A more detailed description of this approach can be found on page 197 under the heading *NRCS Preferred Approach*.)

Comments: _____

2. Funding Enrollment Categories (page 198, 3rd column). Under "4. Prioritize Funding To Ensure That Those Producers With the Highest Commitment to Conservation Are Funded First", NRCS is inviting comment on how to handle situations where there may be insufficient funds for all enrollment categories.

Comments: _____

3. Enhancement Activities (page 199, column 1 and 2). The Statute offers five types of enhancement activities and NRCS is seeking comments on the following concepts:

- The improvement of a significant resource concern to a condition that exceeds the requirements for the participant's tier of participation and contract requirements.
- An improvement in a priority local resource condition.
- Participation in an on-farm conservation research, demonstration or pilot project.
- Cooperation with other producers to implement watershed or regional resource conservation plans that involve at least 75% of the producers in the targeted area.
- Implementation of assessment and evaluation activities relating to practices included in the CSP.

Comments: _____

4. Alternative Approaches (page 199 and 200). In addition to the preferred approach, NRCS considered several alternatives. NRCS is seeking comments on the proposed approach and these alternatives.

- Use enrollment categories to prioritize CSP resources in high priority watersheds identified by NRCS administrative regions.
- Apportion the limited budget according to a formula of some kind, for example by discounting each participant's contract payment equally.
- Close sign-up once available funds are exhausted.
- Limit the number of tiers of participation offered.
- Only allow historic stewards to participate – only those who have already completed the highest conservation achievement would be funded.

Comments: _____

5. Limited Resource Producers (page 201, column 3). NRCS welcomes examples and suggestions for identifying conservation opportunities related to limited resource operations. Comments regarding how other programs could best help limited resource

and other less capitalized producers to become eligible for CSP, given the stewardship standards to participate are also welcome.

Comments: _____

6. Leveraging CSP (page 201, column 3). NRCS is seeking comment on the opportunity to use CSP in a collaborative mode with other programs to effectively leverage the Federal contribution to resource improvement and enhancement.

Comments: _____

7. Leveraging CSP (page 202, column 1). NRCS is seeking comment on how to implement a program that uses collaboration and leveraging of funds to achieve resource improvements on working agricultural lands through intensive management activities and innovative technologies.

Comments: _____

8. Environmental Performance, Evaluation and Accountability (page 202, column 3). NRCS welcomes comments and suggestions for designing and implementing monitoring approaches, and suggestions as to what data and information would be most useful to ensure a high level of accountability for CSP.

Comments: _____

9. Significant Resource Concerns (page 203). NRCS is proposing to designate water quality and soil quality as nationally significant resource concerns. NRCS requests additional public comment on the use of nationally significant resource concerns.

Comments: _____

10. Definition of Agricultural Operation (page 205, column 2). The Act refers to “agricultural operation” without defining the term. NRCS has evaluated various definition alternatives and is seeking comment on their chosen proposed definition found on page 205, column 2. This definition is the same as used in the Great Plains Conservation Program (GPCP).

Comments: _____

11. Incidental Forest Land (page 206, column 1). Forestland offered for inclusion in a CSP contract as an incidental part of the agricultural operation must meet the guidelines listed on page 206, column 1. NRCS is seeking comments on the usefulness of these guidelines for managing questions relative to the inclusion of incidental forested lands in CSP contracts.

Comments: _____

12. Incidental Forest Land Treatment (page 206, column 1). Another issue that NRCS seeks guidance on is the question of what level of treatment should be required for the forestland that is included in the CSP contract as land incidental to the agricultural operation?

Comments: _____

13. Enhancement Payments (page 206, column 3). NRCS seeks additional comments on the construction and calculation of enhancement payments.

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14. Contract Limits (page 206, column 3). NRCS seeking additional comments on the idea of a one-producer, one-contract approach brought up by the respondents to the Advanced Notice of Proposed Rule.

Comments: _____

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Comments: _____

16. Administration (page 208, column 2). One important aspect of CSP administration is the procedures NRCS will follow if NRCS receives more eligible applications than it can fund. NRCS is specifically seeking comment on how to select the contracts of the pool of eligible producers to best serve the purpose of the program.

Comments: _____

17. Changes in Landuse (page 209, column 3). In some instances a management decision may be made that causes a major shift in land use, such as changes from a less intensive use or from a more intensive landuse. This change in land use may change the base payment eligibility. NRCS is asking comment on how this situation can be addressed in the rule.

Comments: _____

18. Eligibility Requirements (page 210, column 1). Concerns were expressed through the Advanced Notice of Proposed Rule process that producers not accept stewardship payments while at the same time operating land outside the CSP contract at a less-than-acceptable level of treatment. NRCS is seeking comments on this provision.

Comments: _____

19. Eligibility Requirements (page 210, column 2). Producers who have historically met or exceeded the requirements, in some cases, may have endured a flood, fire, or other event that has either destroyed or damaged practices that would have made them eligible for CSP. NRCS is seeking comment on whether there should be any special dispensation or consideration given for this situation.

Comments: _____

20. Eligibility Requirements (page 210, column 2). Once the highest ranked watershed's applications were funded, the next watershed would be funded, etc. Funding would be distributed to each priority watershed to fund subcategories until it was exhausted. NRCS is seeking comment on how each watershed would be funded.

Comments: _____

21. Eligibility Requirements (page 210, column 3). As a contract requirement, the participant will be required to do additional conservation practices, measures, or enhancements as outlined in this section and in the sign-up announcement. NRCS is seeking comment on these minimum eligibility and contract requirements.

Comments: _____

22. Eligibility Requirements (page 210, column 3). NRCS is also seeking comments on the utility of a self screening tool (both Web-based and hardcopy) to assist producers in determining if they should consider application to CSP. Should this self screening tool be a regulatory requirement and described in the proposed rule?

Comments: _____

23. Enrollment Categories (page 211, column 1). NRCS proposing to fund as many subcategories within the last category to be funded as possible. Additionally, NRCS is seeking comments on whether the remaining subcategories should be offered pro-rated payments, or not funded at all

Comments: _____

24. Enrollment Categories (page 211, column 1). NRCS is seeking comments on whether it should partially fund applications, or whether only those categories and subcategories that could be fully funded would be offered a CSP contract.

Comments: _____

25. Conservation Practices (page 211, column 3). NRCS is proposing to utilize the new practice component of CSP to provide cost-share when practices are needed although at a lower cost share than other USDA programs, to minimize redundancy between CSP and other existing USDA conservation programs. NRCS seeks comment on whether this approach will encourage participants to install practices through their programs in order to become eligible for CSP.

Comments: _____

26. Technical Assistance (page 211 and 212). CSP technical assistance tasks identified include: 1) Conduct the sign-up and application process; 2) Conduct conservation planning; conservation practice survey, layout, design, installation, and certification; 3) Training, certification, and quality assurance of professional conservationists; and 4) Evaluation and assessment of the producer's operation and maintenance needs. NRCS is seeking comments on which tasks would be appropriate for approved or certified Technical Service Providers.

Comments: _____

27. Additional Requirements for Tier I and Tier II (page 212, column 2). NRCS is proposing that CSP participants must address the following by the end of their contract:

- Tier I contracts must address the national significant resource concerns and any additional requirements as required in the enrollment category or sign-up announcement; and
- Tier II would require a significant resource concern, other than the national significant resource concerns to be selected by the applicant over the entire agricultural operation.

NRCS is seeking comment on the value of these additional requirements for Tier I and II contract in order to maximize the environmental performance of the CSP program.

Comments: _____

28. Tier Transition (page 212, column 2). NRCS is proposing a mechanism for a participant to transition to a higher tier of participation and is seeking comment on this proposal (see page 212).

Comments: _____

29. Contract Noncompliance (page 212, column 3). If the participant cannot fulfill his CSP contract commitment, the contract calls for the participant to refund any CSP payments received with interest, and forfeit any future payments under CSP. NRCS is interested in comments on this and other concerns that the public might have on noncompliance with the CSP contract requirements.

Comments: _____

30. Rental Payment Reduction Factor (page 213, column 1). NRCS is seeking comment on whether the reduction factor should be fixed or variable over the life of the program, with the 0.1 factor being the upper limit.

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Comments: _____

33. Assessment and Evaluation (page 214, column 1). NRCS is seeking comments on which assessment and evaluation projects would most benefit from the involvement of CSP participants and would be most useful for program evaluation.

Comments: _____

34. Enhancement Activity Payments (page 214, column 1). NRCS is seeking comments on how to determine the appropriate payment rates for those types of enhancement activities where the payment is intended to encourage producers to change their mode of operation, but not necessarily to offset additional or more expensive activities.

Comments: _____

11312 - CSP should only apply to working lands, not retirement lands

16. Bottom LINE - IF the program cannot be Adequately Funded, it should not be funded at all

17. Payments should only apply to working lands NOT retired lands. i.e. CRP

18. each contract by land owner should be all or nothing

19. ¹⁸ VARIANCES should be allowed for drought or other NATURAL DISASTERS

21. Could coincide with EQIP for practice installations, AS A MATTER OF FACT, CSP could be an extension of EQIP AS A management item. to extend CONSERVATION PRACTICE Benefits beyond the life of the contract.

**Conservation Security Program
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- **Contracts:** Requirements should be sufficiently rigorous to ensure that participants undertake and maintain high levels of stewardship.
- **Enrollment categories:** Prioritize funding to insure that those producers with the highest commitment to conservation are funded first.
- **Payments:** Structure payments to ensure that environmental benefits will be achieved.

(A more detailed description of this approach can be found on page 197 under the heading *NRCS Preferred Approach*.)

Comments: CSP is not a capped program; it is an full-fledged, uncapped entitlement beginning October 2004. Many aspects of the so-called "preferred approach" are contrary to the letter and spirit of the law. NRCS should: drop the watershed limitation; drop enrollment "categories" limitation; make stewardship farmers who agree to resolve resources of concern during the contract period eligible to participate; dramatically increase payments to farmers; offer continuous rather than limited signups; and allow states to select their most pressing resource concerns to which farmers can respond.

2. **Funding Enrollment Categories** (page 198, 3rd column). Under "4: Prioritize Funding To Ensure That Those Producers With the Highest Commitment to Conservation Are Funded First," NRCS is inviting comment on how to handle situations where there may be insufficient funds for all enrollment categories.

entitlement status were to change in the future, however, enrolling Tier 3 participants first would be a better approach than the "preferred approach." Finally, to only "reward the best" and not "motivate the rest" would seriously harm the CSP because there would be no focus on increasing conservation benefits.

5. Limited Resource Producers (page 201, column 3). NRCS welcomes examples and suggestions for identifying conservation opportunities related to limited resource operations. Comments regarding how other programs could best help limited resource and other less capitalized producers to become eligible for CSP, given the stewardship standards to participate, are also welcome.

Comments: Limited resource producers will benefit from raising the cost-share rate to 75%. Limited resource beginning farmers will benefit from the statute's provision for 90% cost share for these farmers. Promoting the most cost-effective practices requiring the least expenditure for the farmer's share of cost to solve resource concerns would also be advantageous. Increasing base and enhancement payments for everyone, so that CSP payments would contribute to the farm's bottom line, would make it easier for limited resource farmers to come up with their portion of cost share.

6. Leveraging CSP (page 201, column 3). NRCS is seeking comment on the opportunity to use CSP in a collaborative mode with other programs to effectively leverage the Federal contribution to resource improvement and enhancement.

Comments: Creating collaboration among conservation programs to increase leveraging capabilities sounds good. NRCS has the perfect tool to make this happen – the Partnerships and Cooperation provision (Section 2003) of the 2002 Farm Bill. This initiative specifically calls for collaboration among state and local agencies, Indian tribes, and nongovernmental organizations to encourage cumulative conservation benefits through cooperation of producers spanning multiple agricultural operations. To carry out this provision the Secretary may use resources from any and all of the available conservation programs. NRCS should focus efforts to increase collaboration by implementing this long-delayed provision of the Farm Bill.

7. Leveraging CSP (page 202, column 1). NRCS is seeking comment on how to implement a program that uses collaboration and leveraging of funds to achieve resource improvements on working agricultural lands through intensive management activities and innovative technologies.

Comments: Collaboration efforts should be encouraged through implementation of the Partnerships and Cooperation provision (see above). The CSP proposed rule "collaboration" model, such as it is, requires the farm family to carry the financial load. It would limit cost-share to a very short list of practices and very low cost-share rates and limit enhancement payments to a low percentage of conservation costs. This will minimize participation and result in fewer conservation systems on working agricultural land, defeating the goals of the program.

farmer/rancher to include such land under a CSP contract and simply make contract and payment modifications if they lose the particular lease in question. Alternatively, NRCS could simply exclude such land from the contract altogether, though this would be a poor second choice.

11. Incidental Forest Land (page 206, column 1). Forestland offered for inclusion in a CSP contract as an incidental part of the agricultural operation must meet the guidelines listed on page 206, column 1. NRCS is seeking comments on the usefulness of these guidelines for managing questions relative to the inclusion of incidental forested lands in CSP contracts.

Comments: The specific definition of 'forest' proposed by NRCS may work in some parts of the USA, but is unlikely to work everywhere. NRCS should focus instead on the actual land use of the forested area and include all agroforestry practices (e.g., windbreaks and shelterbelts, forest farming, nut harvest, alley cropping, forest buffers, silvopasture systems, etc.), perhaps with a maximum number of acres of such land that would be eligible under this category.

12. Incidental Forest Land Treatment (page 206, column 1). Another issue that NRCS seeks guidance on is the question of what level of treatment should be required for the forestland that is included in the CSP contract as land incidental to the agricultural operation?

Comments: Incidental forest land should both meet relevant quality criteria and be eligible for all forms of CSP payments. Agroforestry practices that assist the producer enhance resource conservation should be included in enhanced payment formulas.

13. Enhancement Payments (page 206, column 3). NRCS seeks additional comments on the construction and calculation of enhancement payments.

Comments: The enhanced payments section of the rules should clearly provide very substantial enhancement payments nationwide for resource-conserving crop rotations, managed rotational grazing, and comprehensive conservation buffer practices, as required by the law. Enhancement payments should also be available for high levels of management intensity leading to demonstrable resource and environmental enhancement. NRCS should emphasize enhancement payments for on-farm research, demonstration, monitoring, and evaluation, and should reflect the full cost of those practices (including producer time), since they provide substantial benefits to NRCS and society but often have little financial benefit to producers. The State Technical Committees should be authorized to approve enhancement payments for additional practices or systems that address local priority resource concerns, and for reaching participation targets in targeted areas.

14. Contract Limits (page 206, column 3). NRCS seeking additional comments on the idea of a one-producer, one-contract approach brought up by the respondents to the Advanced Notice of Proposed Rule.

Comments: One-producer, one contract is the proper approach. It would provide the fairest treatment of all producers and would reduce NRCS administrative costs. The rule

18. Eligibility Requirements (page 210, column 2). Producers who have historically met or exceeded the requirements, in some cases, may have endured a flood, fire, or other event that has either destroyed or damaged practices that would have made them eligible for CSP. NRCS is seeking comment on whether there should be any special dispensation or consideration given for this situation.

Comments: Yes there should be some considerations factored in for forces beyond human control. It would unfairly penalize those who have implemented sound conservation practices to exclude them from the program.

19. Eligibility Requirements (page 210, column 3). As a contract requirement, the participant will be required to do additional conservation practices, measures, or enhancements as outlined in this section and in the sign-up announcement. NRCS is seeking comment on these minimum eligibility and contract requirements.

Comments: The ultimate goal of the participants should be focused toward regeneration and enhancement of resources. The program's tiered approach and enhancement payments will foster this objective. In regards to minimum eligibility, however, the proposed rule has established too high of a bar by proposing that participants need to have already fully achieved all soil and water quality resource quality criteria for Tiers 1 and 2 and all resource quality criteria for Tier 3. The legislation indicates these must be solved as a result of CSP participation. Participants should be close enough to achieving all relevant quality criteria that within the timeframe of their first CSP contract this goal will be met. If NRCS has other ideas in mind for "additional requirements" for eligibility, it is incumbent on the agency to release those in detail for public comment.

20. Eligibility Requirements (page 210, column 3). NRCS is also seeking comments on the utility of a self-screening tool (both Web-based and hardcopy) to assist producers in determining if they should consider application to CSP. Should this self-screening tool be a regulatory requirement as described in the proposed rule?

Comments: The self-screening tool could help manage the work load for NRCS. However, farmers and ranchers should be free to come into their local NRCS office to seek assistance with program sign-up including help with particular screening tool questions for which they need assistance. While use of such a tool may greatly reduce demands on staff time, it is unrealistic to expect any screening instrument to totally eliminate face to face contact with resource professionals.

21. Enrollment Categories (page 211, column 1). NRCS is proposing to fund as many subcategories within the last category to be funded as possible. Additionally, NRCS is seeking comments on whether the remaining subcategories should be offered pro-rated payments, or not funded at all

Comments: If the program is administered as an entitlement program as required by law, this question is no longer relevant. Should the program be capped in a particular year,

25. Additional Requirements for Tier I and Tier II (page 212, column 2). NRCS is proposing that CSP participants must address the following by the end of their contract:

- Tier I contracts must address the national significant resource concerns and any additional requirements as required in the enrollment category or sign-up announcement; and
- Tier II would require a significant resource concern, other than the national significant resource concerns, to be selected by the applicant over the entire agricultural operation.

NRCS is seeking comment on the value of these additional requirements for Tier I and II contracts in order to maximize the environmental performance of the CSP program.

Comments: The nature of any additional requirements should be delineated and issued for public notice and comment within the rule for the program. It is impossible to comment on the value of unnamed requirements. The agency does itself and the public a disservice in rulemaking by "placeholder."

26. Tier Transition (page 212, column 2). NRCS is proposing a mechanism for a participant to transition to a higher tier of participation and is seeking comment on this proposal (see page 212).

Comments: Transitioning to a higher tier should be an objective of the program. Contract modification procedures should be as fair and simple as possible. The proposal to delay tier transition and thus higher payment for 18 months following the actual transition seems unreasonable as the financial assistance to help make the transition would be provided too late. The payment delay should be limited to base payments only, not to cost share or enhancement payments necessary to bring the transition to fruition.

27. Contract Noncompliance (page 212, column 3). If the participant cannot fulfill his CSP contract commitment, the contract calls for the participant to refund any CSP payments received with interest, and forfeit any future payments under CSP. NRCS is interested in comments on this and other concerns that the public might have on noncompliance with the CSP contract requirements.

Comments: The law is very clear on this point. The CSP, like all other NRCS programs, is to operate with wide agency discretion with respect to contract noncompliance, so that the penalty, if any, fits the particular circumstance. The rule is correct to provide for reasonable time periods to return to compliance and to provide for retention of CSP payments in cases of good faith participation and in cases of compliance problems resulting from hardships beyond the producer's control. However, the rule misstates the law on this point in the section on contract requirements and should be corrected to reflect the agency's considerable discretion.

28. Rental Payment Reduction Factor (page 213, column 1). NRCS is seeking comment on whether the reduction factor should be fixed or variable over the life of the program, with the 0.1 factor being the upper limit.

Conservation Security Program: Cheat the best and ignore the rest

In legislation President Bush signed into law last week, Congress has restored full, uncapped funding for 2005 and beyond to the Conservation Security Program, the landmark green payments initiative from the 2002 farm bill to provide stewardship payments in support of excellence in private working farmland conservation.

Unfortunately, less than a month earlier, the administration issued a proposed rule to guide implementation of the CSP that assumed the program would be limited to a capped, very low spending level each year. In fact, the proposed rule is so restrictive and proposes such low levels of financial assistance it is doubtful whether many farmers could qualify or if any would bother trying.

The CSP can offer one of the best opportunities in U.S. history to build a sustainable Western agriculture on working lands. With so much potential at stake, it is truly amazing that the United States Department of Agriculture cannot propose rules for this innovative conservation program that are so completely out of touch with the intent of Congress.

In announcing the proposed rules for this innovative conservation program last month, Secretary of Agriculture Ann



Guest Comment
Jeff Schatzganski

Veneman stated that the proposed rules for the CSP "will reward the best and make the rest." However, by any reading of these rules, what we really have is a program gifted of all its potential to be a truly new way to support conservation in agriculture. What these proposed rules offer is a program that will cheat the best and ignore the rest. With Congress fully funding the CSP, these major items must be addressed quickly:

■ The USDA must immediately write a supplemental rule that recognizes this as an uncapped entitlement program. The current proposed rules must reflect the reality that this program was created to last at least seven years. The NRCS and USDA should not be wasting time creating a narrow set of rules that worry too much about the unfortunate fact that Congress has appropriated only \$4.1 billion for this program in the current fiscal year. Given the incredible foot drag-

ing of this administration in implementing this program, it is unlikely that there will be final rules ready to spend much of the \$4.1 billion dollars appropriated this fiscal year anyway and it would seem prudent to at least "trial run" a few CSP contracts under rules that reflect true entitlement status.

■ The proposed rules set eligibility criteria that are so out of step with the legislation, that if one could effectively sue the USDA for violating the intent of Congress it is very likely that the plaintiffs would easily win a settlement. For instance, the proposed rules set incredibly high standards of eligibility, limit support to unnamed priority watersheds, set two resources of concern as the only program signing periods, and wish to limit support to an unnamed set of restricted conservation practices.

■ Finally, the benefits of the program outlined in the rules are so limited that even if one can become eligible for the program it is doubtful that it would be worth applying. As one major example, the cost share rules proposed under the rule are only 5 percent of the estimated conservation practice cost. This is unreal considering that other conservation programs like the Ecosystem Quality Incentive Payment Pro-

gram) that try to bring farmers and ranchers in compliance with federal environmental laws will get up to 75 percent cost share. Thus a program supposedly rewarding proven conservation farmers only provides 5 percent cost share from the USDA while another government program provides 75 percent cost share with no assurance of positive environmental outcomes.

These proposed rules highlight one of the most important new conservation programs in our nation's history. As Sen. Gordon Smith, one of the original sponsors of the CSP, relates in recent comments, "This is one good program to shortchange. We have the opportunity to help farmers in their efforts to protect the environment, and we should be doing all we can to realize the full potential."

While this administration gives the impression of wanting to make new, serious efforts for conservation in agriculture, when the time really we are left with a monumental failure of delivery.

Jeff Schatzganski is executive director of the Western Sustainable Agriculture Working Group, a network of groups and individuals engaged in developing sustainable agricultural and food systems in the West.
Capital News, Feb 6, 2004

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Comments are sought on all facets of the program. The intent of this document is to summate those areas. You are encouraged to refer to the proposed rule publication for detailed information.

1. Preferred Approach (page 197): Under the constraints of a capped entitlement, the Secretary has proposed ways to still deliver an effective CSP program. NRCS is proposing an approach based on five elements. Comments are requested on this overall approach:

- **Limit sign-ups:** Conduct periodic CSP sign-ups
- **Eligibility:** Criteria should be sufficiently rigorous to insure that participants are committed to conservation stewardship. Additionally, eligibility criteria should ensure that the most pressing resource concerns are addressed.
- **Contracts:** Requirements should be sufficiently rigorous to ensure that participants undertake and maintain high levels of stewardship.
- **Enrollment categories:** Prioritize funding to insure that those producers with the highest commitment to conservation are funded first.
- **Payments:** Structure payments to ensure that environmental benefits will be achieved.

(A more detailed description of this approach can be found on page 197 under the heading *NRCS Preferred Approach*.)

Comments: _____

2. Funding Enrollment Categories (page 198, 3rd column). Under "4. Prioritize Funding To Ensure That Those Producers With the Highest Commitment to Conservation Are Funded First", NRCS is inviting comment on how to handle situations where there may be insufficient funds for all enrollment categories.

Comments: _____

3. Enhancement Activities (page 199, column 1 and 2). The Statute offers five types of enhancement activities and NRCS is seeking comments on the following concepts:

- The improvement of a significant resource concern to a condition that exceeds the requirements for the participant's tier of participation and contract requirements.
- An improvement in a priority local resource condition.
- Participation in an on-farm conservation research, demonstration or pilot project.
- Cooperation with other producers to implement watershed or regional resource conservation plans that involve at least 75% of the producers in the targeted area.
- Implementation of assessment and evaluation activities relating to practices included in the CSP.

Comments: _____

4. Alternative Approaches (page 199 and 200). In addition to the preferred approach, NRCS considered several alternatives. NRCS is seeking comments on the proposed approach and these alternatives.

- Use enrollment categories to prioritize CSP resources in high priority watersheds identified by NRCS administrative regions.
- Apportion the limited budget according to a formula of some kind, for example by discounting each participant's contract payment equally.
- Close sign-up once available funds are exhausted.
- Limit the number of tiers of participation offered.
- Only allow historic stewards to participate – only those who have already completed the highest conservation achievement would be funded.

Comments: _____

5. Limited Resource Producers (page 201, column 3). NRCS welcomes examples and suggestions for identifying conservation opportunities related to limited resource operations. Comments regarding how other programs could best help limited resource

and other less capitalized producers to become eligible for CSP, given the stewardship standards to participate are also welcome.

Comments: _____

6. Leveraging CSP (page 201, column 3). NRCS is seeking comment on the opportunity to use CSP in a collaborative mode with other programs to effectively leverage the Federal contribution to resource improvement and enhancement.

Comments: _____

7. Leveraging CSP (page 202, column 1). NRCS is seeking comment on how to implement a program that uses collaboration and leveraging of funds to achieve resource improvements on working agricultural lands through intensive management activities and innovative technologies.

Comments: _____

8. Environmental Performance, Evaluation and Accountability (page 202, column 3). NRCS welcomes comments and suggestions for designing and implementing monitoring approaches, and suggestions as to what data and information would be most useful to ensure a high level of accountability for CSP.

Comments: _____

9. Significant Resource Concerns (page 203). NRCS is proposing to designate water quality and soil quality as nationally significant resource concerns. NRCS requests additional public comment on the use of nationally significant resource concerns.

Comments: _____

10. Definition of Agricultural Operation (page 205, column 2). The Act refers to “agricultural operation” without defining the term. NRCS has evaluated various definition alternatives and is seeking comment on their chosen proposed definition found on page 205, column 2. This definition is the same as used in the Great Plains Conservation Program (GPCP).

Comments: _____

11. Incidental Forest Land (page 206, column 1). Forestland offered for inclusion in a CSP contract as an incidental part of the agricultural operation must meet the guidelines listed on page 206, column 1. NRCS is seeking comments on the usefulness of these guidelines for managing questions relative to the inclusion of incidental forested lands in CSP contracts.

Comments: _____

12. Incidental Forest Land Treatment (page 206, column 1). Another issue that NRCS seeks guidance on is the question of what level of treatment should be required for the forestland that is included in the CSP contract as land incidental to the agricultural operation?

Comments: _____

13. Enhancement Payments (page 206, column 3). NRCS seeks additional comments on the construction and calculation of enhancement payments.

Comments: _____

14. Contract Limits (page 206, column 3). NRCS seeking additional comments on the idea of a one-producer, one-contract approach brought up by the respondents to the Advanced Notice of Proposed Rule.

Comments: _____

15. Contract Limits (page 206, column 3). NRCS seeking additional comments on the idea of a one-producer, one-contract approach brought up by the respondents to the Advanced Notice of Proposed Rule.

Comments: _____

16. Administration (page 208, column 2). One important aspect of CSP administration is the procedures NRCS will follow if NRCS receives more eligible applications than it can fund. NRCS is specifically seeking comment on how to select the contracts of the pool of eligible producers to best serve the purpose of the program.

Comments: _____

17. Changes in Landuse (page 209, column 3). In some instances a management decision may be made that causes a major shift in land use, such as changes from a less intensive use or from a more intensive landuse. This change in land use may change the base payment eligibility. NRCS is asking comment on how this situation can be addressed in the rule.

Comments: _____

18. Eligibility Requirements (page 210, column 1). Concerns were expressed through the Advanced Notice of Proposed Rule process that producers not accept stewardship payments while at the same time operating land outside the CSP contract at a less-than-acceptable level of treatment. NRCS is seeking comments on this provision.

Comments: _____

19. Eligibility Requirements (page 210, column 2). Producers who have historically met or exceeded the requirements, in some cases, may have endured a flood, fire, or other event that has either destroyed or damaged practices that would have made them eligible for CSP. NRCS is seeking comment on whether there should be any special dispensation or consideration given for this situation.

Comments: _____

20. Eligibility Requirements (page 210, column 2). Once the highest ranked watershed's applications were funded, the next watershed would be funded, etc. Funding would be distributed to each priority watershed to fund subcategories until it was exhausted. NRCS is seeking comment on how each watershed would be funded.

Comments: _____

21. Eligibility Requirements (page 210, column 3). As a contract requirement, the participant will be required to do additional conservation practices, measures, or enhancements as outlined in this section and in the sign-up announcement. NRCS is seeking comment on these minimum eligibility and contract requirements.

Comments: _____

22. Eligibility Requirements (page 210, column 3). NRCS is also seeking comments on the utility of a self screening tool (both Web-based and hardcopy) to assist producers in determining if they should consider application to CSP. Should this self screening tool be a regulatory requirement and described in the proposed rule?

Comments: _____

23. Enrollment Categories (page 211, column 1). NRCS proposing to fund as many subcategories within the last category to be funded as possible. Additionally, NRCS is seeking comments on whether the remaining subcategories should be offered pro-rated payments, or not funded at all

Comments: _____

24. Enrollment Categories (page 211, column 1). NRCS is seeking comments on whether it should partially fund applications, or whether only those categories and subcategories that could be fully funded would be offered a CSP contract.

Comments: _____

25. Conservation Practices (page 211, column 3). NRCS is proposing to utilize the new practice component of CSP to provide cost-share when practices are needed although at a lower cost share than other USDA programs, to minimize redundancy between CSP and other existing USDA conservation programs. NRCS seeks comment on whether this approach will encourage participants to install practices through their programs in order to become eligible for CSP.

Comments: _____

26. Technical Assistance (page 211 and 212). CSP technical assistance tasks identified include: 1) Conduct the sign-up and application process; 2) Conduct conservation planning; conservation practice survey, layout, design, installation, and certification; 3) Training, certification, and quality assurance of professional conservationists; and 4) Evaluation and assessment of the producer's operation and maintenance needs. NRCS is seeking comments on which tasks would be appropriate for approved or certified Technical Service Providers.

Comments: _____

27. Additional Requirements for Tier I and Tier II (page 212, column 2). NRCS is proposing that CSP participants must address the following by the end of their contract:

- Tier I contracts must address the national significant resource concerns and any additional requirements as required in the enrollment category or sign-up announcement; and
- Tier II would require a significant resource concern, other than the national significant resource concerns to be selected by the applicant over the entire agricultural operation.

NRCS is seeking comment on the value of these additional requirements for Tier I and II contract in order to maximize the environmental performance of the CSP program.

Comments: _____

28. Tier Transition (page 212, column 2). NRCS is proposing a mechanism for a participant to transition to a higher tier of participation and is seeking comment on this proposal (see page 212).

Comments: _____

29. Contract Noncompliance (page 212, column 3). If the participant cannot fulfill his CSP contract commitment, the contract calls for the participant to refund any CSP payments received with interest, and forfeit any future payments under CSP. NRCS is interested in comments on this and other concerns that the public might have on noncompliance with the CSP contract requirements.

Comments: _____

30. Rental Payment Reduction Factor (page 213, column 1). NRCS is seeking comment on whether the reduction factor should be fixed or variable over the life of the program, with the 0.1 factor being the upper limit.

Comments: _____

31. Rental Payment Reduction Factor (page 213, column 1). NRCS is seeking comment on whether the reduction factor should be fixed or variable over the life of the program, with the 0.1 factor being the upper limit.

Comments: _____

32. Rental Payment Reduction Factor (page 213, column 1). NRCS is seeking comment on whether the reduction factor should be fixed or variable over the life of the program, with the 0.1 factor being the upper limit.

Comments: _____

33. Assessment and Evaluation (page 214, column 1). NRCS is seeking comments on which assessment and evaluation projects would most benefit from the involvement of CSP participants and would be most useful for program evaluation.

Comments: _____

34. Enhancement Activity Payments (page 214, column 1). NRCS is seeking comments on how to determine the appropriate payment rates for those types of enhancement activities where the payment is intended to encourage producers to change their mode of operation, but not necessarily to offset additional or more expensive activities.

Comments: _____

1. if there is to be limited signups
monies should be earmarked for limited resource or
MINORITY PRODUCERS

2. PRIORITIZED Funding should be for Lower CONSERVATION
CLIENTS TO improve to higher CONSERVATION GOALS "MORE
BANG for the buck"

2. IF there is insufficient funds - efforts should be made
to spend the money on lower conservation levels, raising them to
higher levels rather than compensating those already @ high levels.

3. Instead of WATERSHED - how about Adjacent Landowners.

4. Leveraging typically only applies where wildlife resources
ARE PRIMARY concern, typically, wildlife groups very
RARELY view cultivated land as a benefit to wildlife habitat
unless the land is returning to permanent veg cover - land
retirement

5. No Conservation Benefit increase in providing
Monies to historic stewards.

6. This looks fine as long as mgmt measurement criteria
is realistic, water quality measurements are measurable.
Soil quality on the other hand is much more comprehensive
& quality measures vary by individual soil type. Using
Chemical/biological indicators is a mistake. The only VARIABLE
that is constant in all soils is moisture.

1312 - CSP should only apply to working LANDS, NOT retirement LANDS

16. Bottom LINE- IF the program CANNOT Be Adequately Funded, it should not be funded at all

17. Payments should only apply to WORKING LANDS NOT retired LANDS. i.e. CRP

18. each contract by land owner should be all or nothing

⁵
19 VARIANCES should be allowed for drought or other NATURAL DISASTERS

21. Could coincide with EQIP for practice installations
AS A MATTER OF FACT, CSP could be an extension of EQIP
AS A management item to extend CONSERVATION PRACTICE
Benefits beyond the life of the contract.