

# The Minnesota Project

Strong Local Economies, Vibrant Communities, and a Healthy Environment  
*Working for Profitable Farms that Protect the Environment*

September 9, 2005

Financial Assistance Programs Division  
Natural Resources Conservation Service  
P.O. Box 2890  
Washington, DC 20013-2890

Email to: FarmBillRules@USDA.gov

Re: Conservation Security Program Rule Comments

Dear Chief Knight,

Please find below our comments on rules for the Conservation Security Program as published in the Federal Register by the Natural Resources Conservation Service (NRCS) on March 25, 2005.

The Minnesota Project, based in St. Paul, Minnesota, is a nonprofit organization focusing on agriculture, energy, and conservation, as well as other issues affecting quality of life in rural and urban America.

The Conservation Security Program that is being implemented this year does not yet live up to the intent of the legislation that was passed by Congress in the 2002 farm bill, nor does it live up to the expectations of the agriculture and conservation communities that commented on the proposed rules in record numbers last year.

The program rules that USDA has written are too restrictive and specialized. Only a fraction of the nation's farmers will be eligible to apply, and those few can only do so during an eight-week sign-up period that is available to them once every eight years.

As designed now, CSP *discourages* rather than *encourages* farmers who want to implement more conservation on their working lands. The eligibility requirements are rigid, the rules and payment rates are complex, and the implementation strategy creates short, frenzied periods of stress for farmer applicants and for conservation professionals in the field who are trying to understand and implement a new program at the same time.

The idea of paying for management activities through enhancement payments that farmers choose is a progressive concept that will encourage farmers to actually make conservation and natural resource protection planning an integral part of their farming operation. But under the

current Amended Interim Final Rule, too many farmers will never get to choose enhancement payments because they won't have the opportunity to design their own Conservation Stewardship Plan.

The USDA-NRCS now has an excellent opportunity to revise the rules in a way that will greatly enhance the CSP and help bring increased congressional funding and nationwide support. We are pleased to offer the following comments for changes that we believe are necessary to maximize the potential opportunities for conservation that CSP can achieve:

## **I. Fundamental Program Changes Needed**

### 1. Provide nationwide, continuous enrollment. Drop watershed selection and limited signup periods

Offering the CSP to a watershed only once in an eight or more year cycle poses staggering problems. Farmers will not perceive a need to learn about CSP until their watershed is announced, then they will only have a few weeks to learn the new program, consider their options, and go through the urgent application process. Encouraging preparation for CSP eligibility is a hard sell when the actual opportunity may be many years down the road. There is virtually no time for a farmer to plan and commit to new practices during the hectic signup.

For NRCS staff and Technical Service Providers, the challenge is even greater. Staff in selected watersheds must be trained for a totally new program in a matter of weeks, drop everything to help confused farmers enroll during a tight time period, and then most likely never get to use their knowledge again for nearly another decade. Rumors of differing interpretations of rules and eligibility are common -- and almost predictable given inexperienced staff.

While the use of watersheds could theoretically promote real solutions to identified watershed problems, the CSP in practice has made no connection to actual watershed planning or implementation that might be on going -- there simply is not time to consult local resource organizations or modify CSP guidelines.

Nationwide continuous enrollment would allow for better watershed collaboration amongst all resource conservation partners, and turn what are now perceived as enrollment barriers into conservation motivators. Farmers could learn about CSP when it meets their schedule, not the needs of the bureaucracy. They could determine what they need to do to earn the highest conservation rewards, and get their records and new practices in place before applying. CSP enrollment would then truly motivate and reward the best land care each farmer is willing to perform -- without putting him or her through a stressful application process seemingly designed to disqualify for any little infraction, with consequences lasting up to a decade. With nationwide continuous enrollment, staff could be thoroughly trained and build on their knowledge over time.

If NRCS decides to retain the priority watershed approach, then the watersheds must be selected at least a year in advance. Signup periods should last at least 120 days and should take place over the winter months.

## 2. Help farmers meet enrollment standards. Don't turn them away.

The high enrollment standards for conservation set by NRCS in the CSP are laudable – but farmers should be allowed to meet those standards in the first year of their CSP contract.

Alternatively, if nationwide, continuous enrollment was available, the high enrollment standards could be retained, allowing farmers to do what is necessary to meet the enrollment standards and then immediately apply for a CSP contract.

## 3. Restore full payments to farmers.

NRCS has designed the CSP rules to reduce every element of farmer payments from what Congress decreed. The rules have gone too far in reducing payments at the same time that environmental performance and accountability have been strengthened. **CSP is supposed to reward the best and motivate the rest with financial rewards – up to the very modest cap of \$45,000 for top of the line Tier 3 operations.** At a time when commodity payments skyrocket into the millions per farm in some cases, and even the President's controversial proposed commodity caps are at a quarter million dollars per farmer, why does USDA want to pinch payments for superb conservation that benefits all Americans?

Caps on enhancement payments should be eliminated, along with the variable rates contained in the latest rule version. The \$10,000 cap on cost-share for new practices should be eliminated, along with the cut to the cost-share rate. Maintenance payments for existing practices should be restored as the law provided, reflecting a share of actual costs. **Additionally, the per-acre stewardship payment cuts should be eliminated, because the law already provides reasonable caps on this element of the payment.** All of the above are subject to the absolute caps in the law of \$20,000, \$35,000 and \$45,000 for Tier 1, 2, and 3 and therefore the payment elements need not be minimized.

We see the payment reductions as miserly in an already under-funded conservation program that, ironically, many USDA and other agriculture leaders herald as the future venue for farm income support.

## **II. Specific Program Changes Needed:**

### 1. Enhancement payments

- Variable enhancement payments for existing conservation practices should be eliminated. This newly added provision punishes farmers who are already doing excellent practices by phasing out their payments. Perversely, it encourages farmers to

delay enhancements to the second or later years of the contract in order to secure fixed payments.

- While it is good that the USDA-imposed, regulatory per-acre payment cap was removed in this version of the rule, it is still important to also remove the cap on enhancement payments, now set in the rule at \$13,750, \$21,875, and \$28,125 for Tiers I, II, and III respectively. **Why discourage farmers from employing more enhancement practices up to their total contract cap, as long as those enhancements result in strong environmental outcomes?**
- The list of allowed enhancements should be greatly enlarged, especially to reward resource conserving crop rotations and all the other purposes enumerated in the CSP law. These are the heart and soul of CSP because they reward the very best conservation systems and stimulate additions of new practices and thus increase net conservation gains.
- Enhancement payments should be set at the value of the conservation benefit to society, rather than at adoption costs.

## 2. New Practices and Conservation Planning

- The \$10,000 one time limit for cost share should be increased, or the cap eliminated altogether. The fact that no new practices were included in 2004 contracts indicates a severe problem; **new practices represent net gains in conservation benefits and should be an integral part of CSP.** While EQIP may be available, it involves another set of applications and paperwork, and there are already enormous application backlogs in that competitive program.
- The cost share rate for beginning and limited resource farmers should be raised to the full 90% allowed by the law. For everyone else, the cost share rate should be raised to 75% allowed by law, or the county EQIP rate for the same practice, not 50% as provided in the rule.
- The brief list of new practices allowed is overly restrictive and should be expanded to the entire range of practices in the Filed Office Technical Guide that are relevant to the resource protection and enhancement goals of the individual farm.

## 3. Eligibility Barriers

- As mentioned above, high enrollment standards for conservation set by NRCS are laudable – but farmers should be allowed to meet those standards in the first year of their CSP contract. Instead of a barrier to entry into CSP, such standards should become the requirement of the first year of a CSP contract. The end result would be the same on the land, and farmers would feel encouraged instead of rejected.
- Cropland farmers who might have excellent conservation but don't happen to have current soil test records are banned from CSP until their watershed comes up again. Farmers should be allowed to get soil tests at application, to prove they are meeting water quality and nutrient management standards.
- The rules severely discriminate against farmers with pasture. If they have not used rotational grazed paddocks they are kept out of CSP. Of course, rotational grazing is

an excellent production system and should be rewarded with enhancement payments. However it is not the only way to prove excellent conservation on pasturelands. Proper forage-animal balance to prevent overgrazing, and proper timing of grazing are perfectly acceptable methods of pasture management. The rule should allow pasture management without rotations. Given that the perennial cover of pasture is inherently better for the environment than annual row crops, it is ludicrous to keep pasture farmers out of CSP.

- Even though the law already requires Tier III farms to address all resources of concern applicable to the operation including water quality and wildlife, the rule now adds a specific eligibility barrier before enrollment in Tier III that all riparian corridors on the farm must be buffered to provide water quality and habitat. A farm already meeting resource management standards without riparian buffers should not be kept out of Tier III. Riparian buffers should instead be encouraged and rewarded with cost-share and enhancement payments, as the law provides.

#### 4. Existing Practices

- The CSP rule ignores the intent of the law on this payment element. Instead of paying 75% of actual maintenance costs of existing practices – the one element that financially would have rewarded historic good conservationists – the rule adds on a 25% bonus to per-acre stewardship payments. In effect everyone gets a similar payment based on the size and value of their farmland with no reference to what they were investing all along in conservation maintenance. Instead, NRCS should use estimates of maintenance costs already calculated and pay 75% to enrolled farmers.

#### 5. Enrollment Categories

- Enrollment categories should be eliminated because the statute prohibits ranking of eligible applications. Instead, strict performance standards and quality criteria should be the “brake” used to keep enrollment matched to available funding.
- If enrollment categories are retained, Tier 2 and 3 applications should be ranked on the category of their best acres, not their worst acres as the rule is used now. As it stands, Tier 1 applications have an unfair advantage of being enrolled on the basis of their best acres no matter how small, while Tier 2 and 3 applications are ranked lower on the basis of their worst acres even if they constitute a small portion of the farm.

#### 6. Stewardship Payments

- Remove the reduction factors of 15, 25, and 40% per tier for per-acre stewardship payments. The law already set an appropriate payment reduction factor, and more importantly includes reasonable caps of \$10,000, \$17,500 or \$22,500 per tier on this payment element, which taken together adequately control this payment factor.

#### 7. Technical assistance funding at 15%

- NRCS should retain 15% of the full value of CSP contracts over the 5-10 years to pay for staff and implementation costs in the enrollment year, as the law allows. Instead, NRCS has only kept 15% of the current year's payments, thereby creating their own problem of tight funds for implementation.

#### 8. Tier II Additional Resource Concern

- The law requires a Tier II farm to address one additional local resource concern, beyond soil and water quality. The new rule says the local watershed will identify this additional resource concern. Further, if that concern is not applicable to the farm then that farmer does not have to add a resource concern at all. **The rule should require the farmer select a relevant additional resource concern of the farmer's choice, with encouragement but not a requirement that they address a list of locally identified concerns.**

#### 9. Resource Conserving Crop Rotations

- The amended Interim Final Rule still does not adequately address the importance of providing incentives for Resource Conserving Crop Rotations that include legumes, grasses, small grains, and other perennial covers. Resource Conserving Crop Rotations were specifically mentioned in the CSP statute and should be included in the rules as a rewarded practice. **Resource Conserving Crop Rotations should be required, where applicable, as part of a management plan for all Tier III CSP contracts.** The NRCS needs to update its Field Office Technical Guide practice standards to include a new standard that reflects a true resource-conserving rotation as defined in the CSP rules. The current Conservation Crop Rotation practice standard is not adequate for the CSP definition.

#### 10. Enhancement-Energy Management:

- The Minnesota Project strongly supports CSP enhancement payments for on-farm energy management that promotes the use of energy providing net environmental benefits, and with a focus on application to the highest sustainable use. New energy generation should be evaluated for its impact on water, soil and air quality, wildlife and farm diversity. Any new renewable energy projects should be evaluated based on their net energy balance: more energy should be produced than is consumed during the production of the energy source. Lastly, but most importantly, on-farm energy efficiency and energy conservation should be the highest priority for efficiently reducing current energy consumption and generation from non-renewable energy sources. Energy conservation and energy efficiency are also the cheapest, quickest and most efficient sources of new energy.

#### 11. National Organic Program (NOP):

- In the 2004 CSP Interim Final Rule, the NRCS announced that it would be "generating a crosswalk between the regulatory NOP practices and the NRCS FOTG practices."

The CSP is a program that can benefit organic growers, but because of their traditional lack of involvement in federal conservation programs organic growers are all too often unaware of the differences between organic agriculture and conservation agriculture. We still look forward to the NRCS “clear mechanism for coordinating participation in the NOP and CSP,” that the Final Rule preamble hopefully will contain.

#### 12. Developing Indices for Performance-Based Environmental Outcomes

- NRCS must ensure that their assessment tools, eligibility requirements and enhancement payments reflect the additional positive outcomes of conservation-based perennial cropping systems versus conservation-based annual row-cropping systems.

#### 13. Enrolling post-CRP lands in CSP

- As land in the Conservation Reserve Program comes out of retirement, whether due to an early-out provision, expiration of the ten-year contract, or at the end of a contract extension, it should be offered a special opportunity to enroll in CSP. The nation can retain its investment in conservation benefits by rewarding the farmer with CSP payments for retaining excellent conservation practices, including retention of permanent vegetation cover, while the farmer adds grazing or other production activities that do not disturb the soil. Whether pasture, forest, wetlands, orchards, or other types of perennial vegetation -- CSP would allow complementary production of livestock and other products (if the landowner so chooses) while prohibiting plowing up the soils for row crop production. We would predict that the vast majority would introduce some type of livestock in a managed grazing system.

Any farmer or rancher whose land is coming out of CRP should be eligible for enrollment in CSP for a certain window of time, for example, two years. The post-CRP opportunity would be offered no matter what watershed they are located in, or what sign-up periods and watersheds are scheduled for the general public.

The land operator must have a long-term arrangement with the landowner, as required for CSP. Post-CRP farmers and ranchers should develop a Conservation Security Plan for their land with the assistance of NRCS, as was originally envisioned for all CSP contracts. This plan should spell out the conservation practices of the land when it was in CRP, identify those that will be retained, and describe what is planned for conversion to working lands, as well as existing and planned enhancement activities. Rules should be modified as necessary to recognize the fact that the land was retired and some requirements would not be necessary. For example, two years of soil tests could be waived if no soil amendments were applied. A commitment to meet standards that would be required for the new livestock or other enterprises in the first few years of the contract would be spelled out. Payments would be calculated the same as all CSP contracts, allowing for stepping up in tiers and increasing payments as new practices are incorporated. Every state NRCS should develop a team of CSP staff who can assist

post-CRP farmers wherever they are located to apply for and enroll in CSP. These farmers could be required to assemble their information and complete the CSP self-assessment workbook to begin the process. State conservationists should be able to estimate the numbers of potential customers, plan adequate staff, and actively promote the CSP option to those landowners coming out of CRP.

We thank you for the opportunity to submit our comments on the Amended Interim Final Rule for the Conservation Security Program. The Minnesota Project strongly supports the Conservation Security Program, and we look forward to the publication of a Final Rule that addresses the concerns that we have described in these comments.

Sincerely,

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