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USDA Moving Forward On the Conservation Security Program

Advance Notice of Proposed Rulemaking seeks Public Input

By Loni Kemp

The U.S. Department of Agriculture (USDA) is requesting comments on key implementation issues for the Conservation Security Program. An Advanced Notice of Proposed Rulemaking was posted on Natural Resources Conservation Service (NRCS) website on February 10. A 30-day public comment period will close on March 20, 2003.

USDA is taking positive steps forward in implementing the most progressive farm program in history. Overwhelming support for the new Conservation Security Program is evident across the country, and USDA ought to reflect that enthusiasm and quickly polish up the rules and launch the program.

The NRCS rulemaking process for the Conservation Security Program has moved slowly since passage of the 2002 Farm Bill last May. According to the farm bill law, the Secretary of Agriculture was to release draft rules on the new program by February 7, 2003. The issuance of the Advance Notice of Proposed Rulemaking signals that the NRCS has reached a point in the process where they are seeking public comment to help guide the development of some key areas of the program.

It will be very important for both groups and individuals to submit their comments expressing

strong support for nationwide implementation as soon as possible.

The rulemaking process currently ongoing at USDA will determine how this program is shaped and implemented. The results of the process should be a conservation program that can stand the test of time through proven conservation and wildlife benefits.

The 15 questions highlighted by NRCS seek public input on specific aspects of the Conservation Security Program, such as criteria for resource concerns, minimum requirements, how to define an operation, and whether there should be a selection process for applications.

The Advanced Notice of Proposed Rulemaking, including the 15 questions for comment, are posted at www.nrcs.usda.gov/programs/farmbill/2002/rules/csp_030110.htm. For further information and to review the comments developed by the Minnesota Project and the Sustainable Agriculture Coalition, go to www.mnproject.org/csp.



Photo courtesy of the Natural Resources Conservation Service

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Dust settles in appropriations battle: CSP capped at \$3.7 billion

By Editorial Staff

Some are calling it “budget hocus pocus.” Others are scratching their heads in disbelief as they ponder the loss, or the gain, in funding for the Conservation Security Program. Still others wonder if the whole affair was just another Administration “Texas Two-Step” shuffle as it slammed a cap on the nation’s first entitlement conservation program.

Regardless of how one views it, after the dust settled from the FY03 omnibus appropriations battle the Conservation Security Program (CSP) was intact as a national program. It is now in the FY03 budget for \$3.7 billion over 10 years and carries an official commitment from two Republican Senators to work to restore the \$4 billion in funding that was lost in final negotiations.

The CSP had recently received a new score from the Congressional Budget Office of \$7.77 billion for 11 years, up significantly from the \$2 billion score for 10 years that the Congressional Budget Office gave last year during consideration of the farm bill, presumably a reflection of high enthusiasm for the new program among farmers and ranchers. The \$4 billion cut came in a last minute deal on disaster assistance, transferring \$3.1 billion from CSP to offset disaster aid, and an additional \$900 million to pay for technical assistance to deliver CSP and other conservation programs.

Less than 24 hours before the bill went to the floor, the White House, acting through the Vice President who was meeting privately with the GOP leadership, decided to offset the entire \$3.1 billion disaster package by capping the CSP at \$3.77 billion over ten years. Oddly enough, the Administration, which had been insisting on immediate farm bill cuts to offset the disaster funds that will all be spent this year, in the end pushed for CSP cuts in future, distant years as the offset, a move that technically is not in accord with

normal budget rules.

Meanwhile, the commitment to restore full funding to the CSP later this year was made to Senator Tom Harkin when he threatened to hold up the entire omnibus spending bill on the Senate floor in protest of the funding cut to CSP. The sudden move to alter the program led CSP lead sponsors Harkin and Gordon Smith (R-OR) to vehemently object to the deal, with Harkin taking the added step of putting a “hold” on a Bush nominee who was awaiting Senate confirmation the same day. After some intense discussions, the Senate appropriations leadership – Chairman Ted Stevens (R-AL) and Agriculture Appropriations Chairman Thad Cochran (R-MS) committed themselves in a signed floor statement to removing the cap on CSP funding and seeking the full restoration of the program in a must-pass bill later this year.

The vehicle for restoration will most likely be the upcoming supplemental appropriations bill. The Administration is expected in early March to send the Congress a supplemental request with a variety of emergency spending items, primarily related to war, terrorism and homeland security. Appropriators expect the supplemental bill to reach as high as \$20 billion in new emergency spending.

If the \$3.77 billion cap were to stay in place, CSP would still be a conservation entitlement program, but with one big difference. Interested farmers and ranchers with approved conservation plans would be enrolled until total obligations reach the cap, at which point enrollment would halt until Congress authorized additional funds. If funding were restored as proposed by Senators Stevens and Cochran, enrollment would be open as originally intended.

Early Input on CSP Rules

By Loni Kemp

The law establishing the Conservation Security Program requires that specific rules be written by the agency that will administer the program, the Natural Resources Conservation Service (NRCS). To help jump-start that process, some 65 conservation and farm groups made initial suggestions for implementation in a group letter to NRCS Chief Bruce Knight dated July 1, 2002. (For full text and list of groups, see <http://www.sustainableagriculture.net/so1712.php>)

Streamlined enrollment—As a mandatory, entitlement

program, funded out of the Commodity Credit Corporation, CSP is the first conservation program that can enroll all eligible producers with approved conservation security plans, without a funding or acreage cap. NRCS should tell farmers and ranchers this is an accessible, equal opportunity, “one-stop shopping” program.

Rigorous cost effectiveness -- It is essential for the integrity of the program that measurable

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conservation outcomes result from CSP. Every plan must address one or more identified resource of concern, and resolve the concern to a non-degradation standard. Other aspects of the CSP also should be implemented rigorously, including:

- Requiring least cost alternatives
- Providing enhanced payments for resource-conserving crop rotations, rotational grazing, and other sustainable systems
- Prohibiting payments for basic conservation compliance measures
- Prohibiting payment on newly broken out cropland
- Excluding payments for equipment and structures not an essential part of the conservation system
- Excluding payments for animal waste storage and related structures

WTO compatibility -- CSP is designed to be compatible with trade commitments under the World Trade Organization.

Broad environmental purposes -- The CSP addresses a full range of natural resource issues, including soil, water, air, energy, plants, and animals. Rules should encourage addressing biodiversity, conservation of plant germplasm and other biological resources, nutrient and pesticide reduction, energy conservation, wildlife habitat management, greenhouse gas reductions, and carbon sequestration. In some cases, conservation practice standards and quality criteria will have to be developed.

Resources of concern -- State Conservationists should name statewide and local resources of concern, based on the input of the State Technical Committee. USDA should give final approval to each state's list when a factual basis for impairment of resources exists, and when a reasonable basis for prioritization of concerns has been demonstrated. USDA should consider establishing a few national resource concerns that cut across state and regional boundaries.

Non-degradation standard -- Conservation security plans must achieve "quality criteria" for the resource of concern. Simply doing a helpful practice is not enough. Each farm plan must include a mix of practices, whether existing or newly implemented, that can reasonably be expected to achieve a sustainable use, non-degradation, and resource enhancement level of protection.

Minimum requirements -- Conservation practices should be implemented to a degree and on a sufficient portion of the farm to contribute to significant resource protection.

Sustainable farming systems rewarded -- The importance of the first enhanced payment cannot be overstated. It rewards farming systems that achieve high environmental benefits, including resource-conserving crop rotations, managed rotational grazing, conservation buffer practices, and other high pay-off practices the Secretary designates. Whole farm organic certification plans should also be rewarded through this enhanced payment, as should major ecosystem restoration efforts.

Coordination with other programs -- Producers should be able to easily convert from one or more conservation programs to CSP if all conservation values are retained. With respect to organic certification plans under the National Organic Program, producers should have the option to simultaneously certify under CSP.

Cost-share payments -- Payment rates for conservation cost share should ensure that environmental performance is taken into account. In determining payment rates for existing practices being maintained under CSP, the cost-share portion of the payment stream should reflect actual management and/or maintenance costs involved.

Enhanced payments -- The enhanced payments are a central feature of the CSP, and ought to be a significant part of the total payments for producers prepared to take advantage of them. In order for CSP to work as an incentive, the enhanced payment structure must be simple, easy to understand, and clearly related to the choices farmers are considering as they prepare their conservation security plans.

On-farm research and demonstration -- CSP should aggressively promote research and educational programs in CSP contracts, and reward such activities with a significant enhanced payment.

Monitoring and evaluation -- CSP ought to include both on-farm and comprehensive assessment, in order to demonstrate to the American taxpayer the environmental and cost effectiveness of the practices it is rewarding.

Education, outreach, and training -- NRCS should train its staff and outside technical service providers on CSP. Special efforts should be made to reach beginning, limited resource, and socially disadvantaged producers. Partnerships with non-governmental organizations, Extension, state agencies, and universities, as well as specific funding allocations, can help achieve these goals.

Technical Assistance and Technical Service Providers

By Daryn McBeth

In a significant step that will help expand the accessibility of federal conservation programs, Congress included authority in the Farm Security and Rural Investment Act of 2002 (Farm Bill) for the Department of Agriculture (USDA) to certify outside technical experts to help deliver conservation planning and technical assistance. Specifically, section 2701 of the 2002 Farm Bill states that USDA “shall provide technical assistance ... to a producer ... (1) directly; or (2) at the option of the producer, through a payment ... to the producer for an *approved third party*...” (emphasis added).

Congress also included a measure in the bill making funding more accessible for delivery of federal conservation programs. The 2002 Farm Bill directs USDA to “use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out...” the Conservation Reserve Program (CRP), the Wetlands Reserve Program (WRP), the Conservation Security Program (CSP), the Farmland and Ranch Protection Program (FPP), the Grasslands Reserve Program (GRP), the Environmental Quality Incentives Program (EQIP), and the Wildlife Habitat Incentives Program (WHIP). Whether those who help deliver programs to landowners are third party technical service providers or Natural Resources Conservation Service (NRCS) personnel, the measure providing funding from the Commodity Credit Corporation for reimbursement of this work is a significant provision and critical to effective delivery of these conservation programs.

Technical assistance and program “delivery”

While the public and agricultural producers are mostly familiar with the federal conservation programs administered by the NRCS and the Farm Service Agency, many are less familiar with the “delivery” of those programs. It is one thing to understand the legislative and regulatory terms of a conservation program, recognize which program has funding “available,” or discern how a program would work on a parcel of land. But it’s quite another thing to understand – and appreciate – the nature of program delivery: the technical and logistical aspect of planning how a landowner may apply a national program locally, on his or her operation.

The delivery of conservation programs through technical assistance is akin to a pharmacist dispensing the right prescription. Like the need for proper medicine that addresses an illness, without the expert guidance from a qualified individual, there may be no

opportunity to enroll and successfully participate in a program. What good is the best program if you can’t enroll in it, or apply it to your operation to achieve conservation benefits (and income)?

Thus, Congress authorized USDA to provide technical assistance to help landowners apply conservation practices and programs to their operations. Those who provide technical assistance are trained individuals who assist landowners in the development of conservation plans that form the roadmap for participation in various programs. Historically, most providers have been NRCS employees in addition to some state and Soil and Water Conservation District personnel. In special circumstances, or where traditional technical assistance providers are unavailable, NRCS has contracted with nonprofit organizations to provide services. For instance Ducks Unlimited has provided service under cooperative agreement to many Wetlands Reserve Program sites.

Technical Service Providers (TSPs)

While the 2002 Farm Bill expanded the scope of existing programs, contained the vast new Conservation Security Program, and increased conservation funding by a whopping 80 percent, Congress did not authorize NRCS to hire a fleet of new federal employees to help implement all the changes and deliver the programs to participants. However, in part to offset the workload faced by USDA over the course of the Farm Bill’s implementation and delivery, Congress directed USDA to certify and use Technical Service Providers (TSPs) to supplement NRCS efforts.

NRCS recently published a rule describing how they will certify and reimburse third-party TSPs. The rule “seeks to establish processes that provide efficient and effective technical services to producers participating in USDA conservation programs in a manner that optimizes conservation benefits.” The regulation sets forth: A) the general provisions for delivery of technical services; B) the certification criteria and process NRCS will use to evaluate a TSP to determine whether such provider is eligible to provide technical assistance; and C) the process and causes under which a TSP may become decertified.

The rule was a welcome step toward the eventual deployment of additional conservation planning experts out in the countryside. With backlogs on existing conservation programs and anticipation of

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forthcoming program announcement, news of the rule was unclear, incomplete, and even disconcerting in several areas. Comments to the rule were due by February 19. With an effective date of March 1, 2003, NRCS has little time to spare in addressing the following ambiguities in TSP authority:

NRCS oversight. Under the interim rule, “quality assurance” procedures for work performed by TSPs is vague. The rule states only that NRCS “will review ... the quality of the technical services provided by the technical service providers.” NRCS must strike a balance between relieving agency workload through use of TSPs, and the subversion of its responsibility to oversee quality conservation planning. Top-notch TSPs, through rigorous certification and training standards, may yield the best results toward approval of quality conservation plans. NRCS may have to consider additional quality control measures such as review of final plans or random spot checks to minimize and deter inadequate plans or proposals.

Conflicts of interest. TSPs should be independent, third-party conservation professionals with the primary goal of helping NRCS deliver federal conservation programs. Farmers and ranchers served by TSPs should be assured of receiving full, unbiased expert advice on their options for addressing conservation problems and considering new opportunities.

Certified TSPs should avoid conflicts of interest pertaining to sound conservation planning, and should not have a financial interest or stake in the sale of materials, equipment, infrastructure, or inputs necessary to implement the conservation plan, other than reimbursement for professional technical assistance.

It would be shortsighted to discount from certification those conservation professionals who also work in agriculture or natural resource professions that may compete but are not at odds with quality conservation planning. NRCS should adopt measures ensuring that dual agents having a separate stake or financial interest in the structure of a plan or the sale of materials or inputs necessary for implementing a successful conservation plan abide by higher certification or reporting standards. NRCS should adopt guidelines seeking to ensure that potentially conflicted parties provide unbiased recommendations based on sound conservation principles and appropriate planning procedures within their area of expertise.

Matching requirements for parties in “contribution agreements.” Under the interim rule, NRCS may enter into contribution agreements with certified

TSPs to provide services for particular projects or to meet the needs of NRCS programs. The rule establishes that only TSPs donating at least 50 percent of the needed technical services may be party to a contribution agreement. However, by establishing this rigid matching requirement, NRCS may preclude qualified individuals or entities with limited personnel and resources from being party to contribution agreements, especially those that require unique technical expertise.

Criteria for certification/training. The interim rule suggests that certified TSPs must have technical training, education, or experience to perform the particular level of technical assistance for which certification is being sought. The rule states the applicant must also demonstrate, through documentation, familiarity with relevant agency and program guidelines and standards. However, the interim rule does not specify the type of training and experience that is necessary for certification, nor does it offer criteria in this regard. More explicit guidelines explaining requisite certification criteria, and measures ensuring that applicants meet those criteria, would eliminate confusion and reduce certification of unqualified applicants.

Categories of certification for individuals and entities. It is important to ensure that taxpayer funding is reimbursing qualified TSPs who are working within the scope of their expertise. Under “Certification process for individuals” the interim rule states that NRCS will “certify the applicant as qualified to provide technical services for a specific category or categories of technical service.” Except by inference, the rule’s reference to categories of certification contains no description of categories, and only vaguely acknowledges the need for less than full certification when TSPs are expert in one area of conservation planning but not another. While the notion of “one stop shopping” with a single TSP who can perform a variety of conservation plans is desired, TSPs should be certified by practice and expertise. NRCS should develop clear guidelines for categories, while avoiding blanket certification where expertise has not been demonstrated.

In conclusion, to achieve the great conservation commitment made in the 2002 Farm Bill, NRCS must certify qualified TSPs to help deliver conservation programs, and the agency must have stable, accessible, and adequate funding for conservation technical assistance.

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