

January 13, 2020

Matt Lohr
Chief, Natural Resources Conservation Service
U.S. Department of Agriculture
Washington, DC 20250

Dear NRCS,

I am writing in response to “Conservation Stewardship Program (CSP) Interim Rule,” from Federal Register Volume 84, No. 218, pages 60883-60900, published Tuesday, November 12, 2019, Docket number NRCS-2019-0020.

The Center for Rural Affairs advocates for strong rural communities. Healthy farms and ranches play an essential role in rural communities, both in the economic activity they generate and in their stewardship of natural resources.

The Center has been a strong advocate for the Conservation Stewardship Program (CSP) for many years. We believe CSP is a valuable tool that farmers and ranchers who are committed to good land stewardship can use to access improved conservation practices.

We appreciate that NRCS prioritized the drafting and release of the CSP rule following the 2018 farm bill and releasing it before any other economically significant interim final rule. While we are concerned about how funding decreases will impact participation in CSP, we are glad to see several of the changes to the program, including new emphasis on soil health and advanced grazing management, expanded practices within bundles, and administrative flexibility to increase payments mid-contract.

Our comments below follow a few major themes to further improve CSP. We ask NRCS to restore balance to its consideration and weighting of existing conservation and new conservation in administering the program; to increase fairness and access for all producers; and to improve certain administrative aspects of the program.

Summary of our comments

1. Offer better rewards for ongoing conservation.
2. Increase access to CSP renewals.
3. Require joint operations to have the same payment limit as all others—\$200,000 for five years.
4. Continue to increase CSP’s support for organic producers.
5. Increase local input when determining appropriate practices for a region.
6. Maximize access to land management and vegetative practices.
7. Continue to align CSP with EQIP.
8. Streamline payment requirements for new practices.
9. Allocate fairly among states.
10. Improve various administrative details.

11. Restore option to submit comments via mail.

Our comments are also informed by survey data. In 2017, the Center for Rural Affairs mailed approximately 4,800 surveys to farmers and ranchers who had participated in CSP in five states—Iowa, Kansas, Nebraska, North Dakota, and South Dakota - and received responses from more than 800 of them.

One survey question was “*What changes or improvements would you like to see in how CSP is administered by NRCS?*” More than 550 farmers and ranchers shared feedback in response to this question, and their responses offer valuable insight into how farmers and ranchers would like to see CSP improved.

The most common response—more than 20 percent —contained positive feedback and that the farmers and ranchers were satisfied with CSP. Other responses provided constructive feedback on CSP, and we have incorporated this feedback into our comments where appropriate. The full analysis from our survey is contained in our 2018 report, *A Farmers View: a Look at the Conservation Stewardship Program*.

Thank you for this opportunity to share our thoughts on the Conservation Stewardship Program.

1. Offer better rewards for ongoing conservation

In our view, CSP was designed to reward conservation, as well as help farmers advance along the path to additional conservation. Our supporter base regularly shares with us that, as CSP has matured, NRCS has increased emphasis on the latter and decreased emphasis on the former. Under the 2018 farm bill updates to CSP, with less funding available, we see evidence in this rule that NRCS is further shifting focus to strongly prefer rewarding new conservation over existing conservation.

We ask NRCS to strike the balance: continue to encourage enhanced conservation by offering opportunities for farmers and ranchers to enroll, but also do not bar those who are already making a significant effort at conservation. A person who has never enrolled in CSP and is applying should not have to decrease their level of conservation in order to qualify.

We ask NRCS to incorporate this feedback in two aspects of the program—application evaluation and payment calculation.

The 2018 farm bill requires CSP applications to be ranked based on two factors—the environmental benefits from ongoing conservation and the environmental benefits from increased conservation. However, the preamble to the rule states that NRCS uses a variety of factors related only to increased conservation to evaluate applications. We ask NRCS to also include ongoing conservation in the ranking factors.

We see a similar issue in the rule language regarding annual payments. The rule states in 1470.24(a) that NRCS offers a split-rate annual payment structure to provide separate payments

for additional and existing conservation activities. We wish to re-emphasize that NRCS balance the manner in which CSP rewards *both* of these activities, additional and existing.

We are concerned, therefore, that 1470.24(a)(2) still includes a requirement that, in order to receive an annual payment for a particular land use, participants must “schedule, install, and adopt at least one additional conservation activity on the land use type.” This creates an imbalance in the CSP rewards structure because it precludes rewarding farmers and ranchers for well-managed land where no additional conservation practices are needed. We ask you to strike 1470.24(a)(2).

In our survey responses, 24 responses had requests for greater reward and recognition of existing conservation efforts in both initial and renewal CSP contracts.

2. Increase access to CSP renewals

We offer three suggestions to NRCS to increase farmer and rancher access to CSP renewals.

The first is in regards to the limit on renewals. Under the previous farm bill, a farmer or rancher was allowed to renew one CSP contract if they complied with their initial contract and adopted additional conservation activities. The legislation limited farmers and ranchers to two CSP contracts total.

The 2018 farm bill clearly removes the limitation that producers are allowed only one renewal on a CSP contract. In addition, in outlining renewal eligibility it also removes references to the “initial” CSP contract and replaces it with multiple references to the “existing” CSP contract (P.L. 115-334, section 2308(c)(4)(A) and (B)).

However, the CSP rule spells out that farmers and ranchers are only eligible to renew a CSP contract once (section 1470.26). This is in direct opposition to the new authorizing legislation for CSP, and we ask NRCS to update the rule accordingly.

Our two other suggestions stem from our CSP survey responses addressing renewals. Of the more than 40 responses addressing the subject, the most common renewal response (13) was a request for higher payments on renewal contracts. Other common responses indicated the renewal process was overly difficult because the available practices were too limited, or they wanted more flexibility in adjusting how they continued the practices under their first CSP contract.

In awarding renewal contracts, please strive for a balance of rewarding ongoing conservation from a previous CSP contract and encourage new conservation under a renewal. Please do this in two areas—evaluation of applications and calculating payments under renewal contracts.

3. Require joint operations to have the same payment limit as all others—\$200,000 for five years

Section 1470.24(h) of the rule maintains that joint operations are eligible for a maximum of \$400,000 in payments over the term of a CSP contract period, while all other entities are limited

to \$200,000. However, the statute makes no mention of a higher payment limit for joint entities, and states only this:

*“A person or legal entity may not receive, directly or indirectly, payments under the program that, in the aggregate, exceed \$200,000 under all contracts entered into during fiscal years 2019 through 2023, excluding funding arrangements with Indian tribes, regardless of the number of contracts entered into under the program by the person or legal entity.”
(16 U.S.C. 3839aa-24(f))*

We ask USDA to make the following modification to part 1470.24 (h):

“(h) Contract limits. Each conservation stewardship contract will be limited to \$200,000 over the term of the contract period, ~~except that conservation stewardship contracts with any joint operation will be limited to \$400,000 over the term of the contract period.~~”

This change is particularly important following the decrease in funds for CSP under the 2018 farm bill. With less funds to distribute, it is not a responsible use of taxpayer dollars to provide these very large payments that use up available funds and then effectively exclude others from participating. On our survey, 13 farmers and ranchers said they would like to see CSP more accessible to beginning and/or small farmers and ranchers.

4. Continue to enhance CSP’s support for organic producers

We are very pleased to see the variety of ways the needs and concerns of organic and transitioning-to-organic producers are addressed in this rule, including providing technical assistance to organic producers and assisting with meeting CSP and National Organic Program requirements simultaneously.

We ask that NRCS work to ensure there are adequate enhancement options available for organic and transitioning-to-organic producers.

We support the legislative requirement for CSP funds to be allocated to the states to support organic production and transition-to-organic production based on the number of certified and transitioning organic operations within the state and the number of acres of certified and transitioning organic production in the state.

To carry out this provision, we also ask NRCS to amend Section 1470.20(d)(2) on ranking pools to clarify there will always be access to a separate “organic” ranking pool for organic and transitioning-to-organic producers.

5. Increase local input when determining appropriate practices for a region

Part 1470.2 includes a requirement that NRCS solicit feedback and advice from local groups. We ask NRCS to increase efforts to solicit local feedback for CSP priority setting and administration. On our survey, 19 CSP participants shared they would like to see more local control or flexibility at the local level when selecting enhancements to enroll in CSP.

6. Maximize access to land management and vegetative practices under CSP

Increasing access to a wider variety of practices is supported by the survey responses, with approximately 50 requesting additional conservation activities or increased choice of conservation activities when entering into a CSP contract.

We see that text has been removed at 1470.7(d) that allowed participants working to meet required stewardship thresholds, but who are unable to access certain needed conservation practices not offered under CSP, to enroll in other NRCS programs to adopt those practices and meet those thresholds.

We are glad the list of practices under CSP has been expanded, such that NRCS believes this encouragement in 1470.7(d) is no longer needed. However, CSP participants should have full access to all land management and vegetative practices. We ask NRCS to either ensure all land management and vegetative practices are available under CSP, or to restore 1470.7(d).

Additionally, we are pleased that NRCS has expanded bundles under CSP to allow for inclusion of conservation practices as well as enhancements (section 1470.7(c)).

7. Continue to align CSP with EQIP

In the preamble to the rule, we're pleased to see that NRCS is working to coordinate payment rates under EQIP and CSP. In order for the two programs to work together, payment rates under each program should be equal for equivalent practices.

We also suggest that one way NRCS could continue to align these two programs would be to ask staff to flag for a farmer or rancher applying for EQIP that they are eligible for CSP, and offer CSP enrollment as an alternative. This would allow more farmers and ranchers to take on higher levels of conservation on their operations.

8. Clarify and streamline payment requirements for new practices

We note that new text at 1470.24(f)(4) holds that NRCS will not provide a CSP payment for conservation activities initiated or implemented prior to contract approval, unless NRCS granted a waiver prior to the participant starting the activity.

We ask NRCS to clarify that this requirement only applies to payments for new conservation activities required by the CSP contract. Ongoing conservation activities are required for eligibility for the program, and the requirement for payment for these activities is spelled out earlier in 1470.24.

In addition, sometimes delays in working with NRCS means farmers and ranchers are not able to begin some conservation activities within the identified year in the contract. We welcome the new allowance for a waiver, and ask that NRCS expand this to include providing waivers when they determine a delay would postpone a conservation activity for an additional growing season.

Here are our suggested edits to 1470.24 (f)(4):

- (4) In the case of new adoption, conservation ~~Conservation~~ activities initiated or implemented prior to contract approval, unless NRCS granted a waiver prior to the participant starting the activity, provided that NRCS shall provide waivers in cases in which the agency determines delay would postpone the conservation activity for an additional growing season.

9. Allocate fairly among states

We note that NRCS is requesting input on how to allocate CSP funds among states. We ask NRCS to continue using the same formula as before—a proportional allocation of dollars based on the ratio of each state's agricultural land, weighted by land use type, relative to national totals.

10. Improve various administrative details

The Center's survey data offered a great deal of feedback regarding CSP administration. Below are recommendations based on these data.

Requests for increased staff support: More than 20 respondents commented on staff, noting they are burdened, that staff turnover creates problems with participating in the program, and the need to simplify the enrollment process for staff. Several participants also noted the need for increased training on CSP and to reduce NRCS local staff workload. Based on this feedback, we ask NRCS to increase staff training and support for CSP.

Application process, reporting, and staff burden: More than 40 survey respondents made a request to lessen paperwork, such as by simplifying or speeding up the process or making it available online. Twelve others had requests regarding record-keeping, noting the documentation burden on farmers and ranchers. They requested simpler documentation requirements, or additional tools or instructions to clarify record-keeping requirements.

Nine individuals requested NRCS share the expected payment level during the application process so that farmers and ranchers can better evaluate whether they would like to participate. We ask NRCS to consider implementing these suggestions.

Flexibility - More than 30 survey respondents requested increased flexibility under CSP, with approximately half requesting the ability to shift conservation practices mid-contract.

We are glad to see that NRCS is allowing for increases in payments for farmers and ranchers making mid-contract modifications, under 1470.25 (c). We ask that NRCS prioritize releasing clear guidelines for farmers, ranchers, and staff about what mid-contract changes are allowed.

Payment administration - One administrative point emerged from the survey responses regarding payments. Six responses requested CSP payments be made on time, as required in 1470.24 (e).

Communication - More than 20 survey respondents requested improved communication about CSP, either in promoting the program or in explaining eligibility and contract requirements. We ask NRCS to include corresponding content in staff training materials.

Streamlining: Some streamlining suggestions from the survey included a request for online signatures, sending email updates when it is time to do new practices, and allowing for submitting documentation records online. We ask NRCS to consider incorporating these suggestions, but to not exclude participants who do not have easy internet access.

11. Restore option to submit comments via mail

Many farmers and ranchers live in rural areas where easy access to the internet is not available. Many of the farmers and ranchers we work with at the Center for Rural Affairs care deeply about the Conservation Stewardship Program but do not have easy access to the internet. Submitting comments on this rule has been difficult for many of these farmers and ranchers.

Under future rule-makings, NRCS should restore the option to submit comments via mail.

Thank you for your consideration of these comments.

A handwritten signature in black ink that reads "Anna Johnson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Anna Johnson

Policy Manager, Center for Rural Affairs