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Conservation Security Program: Implementation and Current Issues

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Summary

The Conservation Security Program (CSP), authorized in the 2002 farm bill (P.L. 107-171), is a voluntary program that provides financial and technical assistance to promote conservation and improvement of natural resources on tribal and private working lands within selected watersheds. CSP is administered by USDA's Natural Resource Conservation Service (NRCS). Financial assistance is based on three tiers of participation, with each tier representing a higher degree of resource management standards. Contracts extend from 5 to 10 years.

The first enrollment for CSP was in July 2004 and included 18 watersheds in 22 states. The 2004 enrollment was controversial because NRCS instituted strict eligibility criteria for enrollment that were not included in the CSP authorization. A second enrollment in November 2005 was implemented in 220 watersheds nationwide. These two enrollments resulted in 15,000 contracts with landowners on 12.1 million acres of working agricultural lands. On February 7, 2006, a third CSP enrollment was announced. This enrollment includes 60 additional watersheds, and also encompasses Guam and the Caribbean. FY2006 funding is limited to $259 million, with approximately $50 million available for new contracts. For FY2006, 4,404 contracts were accepted, adding more than 3.7 million acres of private land in 60 watersheds. Most of these contracts fell into the highest tier of conservation. This report will be updated periodically.

Background

CSP in the 2002 Farm Bill. The Conservation Security Program (CSP) is an agricultural conservation program first created in the 2002 farm bill (P. L. 107-171, §2001).[1] CSP is administered by the U.S. Department of Agriculture's Natural Resource Conservation Service (NRCS). It provides incentives for farmers to pursue conservation and helps pay for conservation practices. Unlike some other NRCS programs, CSP

[1] This report is an updated and revised version of a report originally written by former CRS analyst Barbara Johnson.

provides payments for conservation on land that remains in production and makes eligible a wide range of farm lands: cropland, pastureland, rangeland, grassland, prairie land, tribal lands, and forested lands incidental to an agricultural operation. By statute, CSP payments to farmers are based on three levels or tiers of participation, with each successive tier obligating the producer to meet higher standards of environmental management:

- For Tier I, the producer must have addressed soil quality and water quality to the described minimum level of treatment for eligible land uses on part of the agricultural operation prior to acceptance. Contracts for Tier I last for 5 years and are capped at $20,000 annually.

- For Tier II, the producer must have addressed soil quality and water quality to the described minimum level of treatment on all eligible land uses on the entire agricultural operation prior to acceptance and must agree to address one additional resource by the end of the contract period. Contracts for Tier II last for 5-10 years and are capped at $35,000 annually.

- For Tier III, the producer must have addressed all applicable resource concerns to a resource management system level that meets the NRCS Field Office Technical Guide standards on all eligible land uses on the entire agricultural operation before acceptance into the program and have riparian zones adequately treated. Contracts for Tier III last for 5-10 years and are capped at $45,000 annually.

The farm bill places no acreage or funding limits on the CSP, and states that "in entering into conservation security contracts ... [NRCS] shall not use competitive bidding or any similar procedure."[2] At the time of enactment, the Congressional Budget Office (CBO) estimated that CSP would cost $2.0 billion over ten years. Later projections increased the cost (see below). CSP is a mandatory program that does not require annual appropriations. It is funded through the borrowing authority of the Commodity Credit Corporation.[3]

CSP Appropriations, FY2002-FY2006. During the 2002 farm bill debate, some raised concerns about the potential costs of CSP and the wisdom of devoting unlimited funding to a new, unproven program, but pressures to complete action on the farm bill overcame those concerns. CSP received no funding in FY2002. In 2003, CBO revised its estimate of CSP costs to $6.8 billion over ten years, and the FY2003 Consolidated Appropriations Resolution limited spending for CSP to $3.7 billion through FY2013 to

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[2] P.L. 107-171, §2001. In some NRCS programs, producers bid competitively by indicating their willingness to accept a lesser payment, increasing their chances that NRCS will accept their bid for a program contract.

[3] The CCC, a wholly owned government corporation, is essentially the financing institution for the USDA's farm price and income support programs and, more recently, conservation programs. It derives its funding through a $30 billion line of credit with the U.S. Treasury, and receives an annual appropriation of such sums as necessary to cover its operating losses and to repay its debt.

offset the cost of farm disaster assistance.[4] The FY2004 Consolidated Appropriations Act eliminated this 10-year cap but established an FY2004 CSP one-year funding limit of $41.4 million.[5]

In March 2004, CBO revised its estimate of CSP costs to $8.9 billion over 10 years (2005-2014), including an estimated $282 million in spending in FY2005 alone. In October 2004, Congress limited CSP to $6.037 billion for the 10-year period of 2005 to 2014.[6] This allowed appropriators to direct the resulting $2.9 billion in budget savings to offset the cost of agricultural disaster assistance. The FY2005 Consolidated Appropriations Act (P.L. 108-447) placed an FY2005 limit on CSP of $202.4 million (Division A, Title VII, § 741). For FY2006, appropriators limited CSP funding to $259 million. CBO's January 2006 baseline budget estimates CSP will cost $6.7 billion over the next ten years (FY2006-FY2015).[7] The President's 2007 budget requested $342.2 million for CSP. The House bill recommends limiting funding to $280 million while the Senate measure recommends $373 million.

Implementation of CSP. On January 2, 2004, NRCS published a proposed rule describing how it would prioritize the limited FY2004 funding. It proposed to implement CSP in certain watersheds on a rotating basis; to require producers to meet strict eligibility criteria; to sort producers' applications into enrollment categories; and to reduce certain CSP payments (69 *Federal Register* 194). This proved controversial, since the farm bill included broad eligibility criteria and did not include prioritizing funds. NRCS received over 20,000 specific comments on the proposed rule. On May 4, NRCS published a notice stating it would proceed with its proposed approach for the 2004 CSP signup, and detailed how it would select watersheds (69 *Federal Register* 24560). On June 21, 2004, NRCS published an interim final rule (69 *Federal Register* 34502) finalizing its prioritization process for the 2004 CSP signup. NRCS accepted comments on the interim final rule through October 5, 2004, and published an amended interim final rule on March 25, 2005. A final rule has not been issued and is unlikely to be issued before the 2007 farm bill. An additional 202 watersheds nationwide were selected for the second CSP enrollment in 2005. For 2006, 60 more watersheds were selected, including ones in the Caribbean and Guam, bringing the total number of participating watersheds to 280.[8]

Congressional Hearings. During the 108th Congress, both the Senate and the House held hearings year on CSP. At a May 11, 2004, hearing by the Senate Agriculture Committee's Forestry, Conservation, and Rural Revitalization Subcommittee, NRCS defended its proposed CSP implementation as a way to achieve environmental benefits within available funding (citing as program constraints both the FY2004 funding limit and a statutory provision limiting NRCS's "technical assistance" to producers to 15% of CSP

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[4] P.L. 108-7, Division N, Title II, §216.

[5] P.L. 108-199, Division A, Title VII, §752.

[6] Division B, §101, of the FY2005 Military Construction Appropriations Act (P. L. 108-324).

[7] For a discussion of the changing cost estimates of the CSP *Conservation Security Program: Despite Cost Controls, Improved USDA Management Is Needed to Ensure Proper Payments and Reduce Duplication with Other Programs*, GAO-06-312, April 28, 2006.

[8] Maps of participating watersheds may be found at [http://www.nrcs.usda.gov/Programs/csp].

annual funds).[9] Congressional proponents strongly criticized NRCS's argument that the technical assistance limit would pose problems, and stressed that the program is not capped past FY2004. Witnesses from sustainable agriculture, commodity, livestock, and farmers' groups decried NRCS's plan to limit CSP spending by watersheds, though some agreed with NRCS that the FY2004 funding limit complicates CSP implementation. During a June 15, 2004, hearing by the House Agriculture Committee's Subcommittee on Conservation, Credit, Rural Development, and Research, the subcommittee chair noted NRCS's FY2004 funding predicament, and the subcommittee ranking member noted that CSP could cost billions of dollars in the future. Farmers' groups also cited CSP's potential as a non-trade distorting payment under the World Trade Organization "green box" program.

In oversight hearings on farm bill conservation programs in the 109th Congress, the CSP was noted as a valuable addition to the range of programs supporting natural resource management.[10]

Eligibility Criteria for the FY2004-FY2006 Enrollments

The CSP enrollment process is currently guided by the interim final rule issued on June 21, 2004. A final rule has not been issued. Enrollment requirements include strict eligibility criteria and prioritize CSP funding by watershed area and by enrollment categories. NRCS calls this approach "rewarding the best and motivating the rest."

Producer Eligibility Requirements. The farm bill set fairly general guidelines for eligibility in the CSP. Producers must share in the risk of production, contribute to farm operations in a manner commensurate with revenues received, develop an approved Conservation Security Plan that details conservation activities to be implemented, and sign a Conservation Security Contract. The interim rule mandates the following further steps.

Producers Must Inventory Natural Resources. The interim rule (§1469.7(a)) requires producers to complete a self-assessment, including a "Benchmark Condition Inventory," prior to applying to CSP. This details the type of agricultural operation, land uses, existing conservation practices, resource concerns, and the producer's willingness to do additional conservation in the future. NRCS uses this to determine the producer's eligibility, place the producer in an enrollment category (see below), and determine the appropriate CSP tier of participation. Producers must submit two years of documentation to show past stewardship, including fertilizer, pesticide, and nutrient application schedules, and tilling and grazing schedules.

Producers Must Treat Both Soil and Water. While the farm bill required producers to treat at least one resource under CSP, the interim final rule requires producers to treat two resources — soil and water quality — before applying to the

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[9] "Technical assistance" refers to conservation planning, design, and implementation assistance that NRCS provides to producers, including assisting producers to enroll in NRCS programs.

[10] Senate Committee on Agriculture, Forestry, and Nutrition, Subcommittee on Forestry, Conservation, and Rural Revitalization, July 26, 2005; Senate Committee on Agriculture, Forestry, and Nutrition, June 7, 2006.

program.[11] Additional eligibility criteria are included in the 2005 and 2006 enrollment notices.

CSP Applications Prioritized. The June 2004 interim final rule established two methods of prioritizing applications, neither of which was mentioned in the farm bill statute. The first includes ranking watersheds nationwide by various criteria and selecting certain of those watersheds to be eligible for CSP. The second involves placing applications into various "enrollment categories" based on the applicant's current conservation efforts and willingness to do additional conservation. These criteria are also used in the FY2005 and FY2006 enrollments.

Criteria for Selecting Eligible Watersheds. For the 2004 signup, NRCS ranked over 2,000 watersheds nationwide. Through National Resources Inventory data, NRCS ranked watersheds based on concentrations of eligible land uses; intensity of pesticide, fertilizer, and manure use; and prevalence of historic and recent conservation efforts. Once watersheds were ranked, NRCS prioritized them further by selecting those it considered to be "improving" according to these criteria. NRCS estimated in 2004 that by 2012 CSP could rotate through all 2,264 watersheds. Should spending caps continue in subsequent years, the objective may be more difficult to attain.

NRCS Places Applications in Enrollment Categories. For the FY2006 enrollment, there are five categories (A-E) and five groups (1-5) within each tier. Acreage is enrolled based on the ranking of grazing and cropping systems on various soil, water, and wildlife habitat quality indicators and performance/management levels. Categories are funded nationally in priority order (beginning with category "A") until funding is exhausted. The FY2006 notice also specifies that if subcategories cannot be fully funded, applicants will be offered the FY2006 CSP contract payment on a prorated basis.[12]

CSP Contract Payments. The CSP contract payment is by statute composed of three components: stewardship payments (Tier I),[13] payments for new and existing practices (Tier II), and payments for enhancement activities that go beyond minimum contract requirements (Tier III). Annual payments average $11,000, and range from $500 to $45,000.

Stewardship Payment. This is a payment tied to the number of acres enrolled in CSP. The stewardship component is calculated separately for each land use by multiplying the number of acres times the tier factor (5%-15%) times the stewardship payment rate established for the watershed (based on land rental rates) times the tier

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[11] According to the NRCS, determining soil quality involves evaluating the amount of organic matter in the soil, its fitness as a seedbed, and other factors. Assessing water quality involves evaluating the level of pesticides, nutrients, turbidity or other contaminants in water.

[12] The *Federal Register* announcement for the FY2006 enrollment provides detailed information on the criteria of different enrollment categories. See 71 *Federal Register* 6250-6263, February 7, 2006.

[13] These are called "base payments" in the farm bill, but NRCS has renamed them "stewardship payments" in response to comments that the term "base"could lead to confusion with "base acres" used in farm programs.

reduction factor (25%-75%). This reduction factor was not authorized in the original legislation and reduces this part of the CSP payment.

Payments for New and Existing Practices. The farm bill restricts payments for new and existing practices to not more than 75% of the practice cost (this rises to 90% for beginning farmers and ranchers). For FY2006 contracts, existing practice payments are calculated as a flat rate of 25% of the stewardship payment, and new practice payments will be made at not more than 50% cost-share rate. For FY2006, all new practice payments are limited to a $10,000 cumulative total for the contract.

Enhancement Payments. The farm bill lists five activities a participant can carry out that qualify for enhancement payments, including implementing multiple conservation practices; addressing local conservation priorities; participating in on-farm research; participating in a watershed or regional conservation plan; and assessing and evaluating conservation activities. The interim final rule specified only two types of enhancement components as "available" in the FY2004 sign-up. For FY2006, the enhancement payment is calculated at a variable payment rate for activities that are part of the benchmark inventory. The total of all enhancement payments in any one year ranges from $13,750 to $21,875, depending on the tier.

Issues for Congress

One issue for Congress may concern whether NRCS's implementation of CSP is consistent with congressional intentions. On one hand, congressional authorizers crafted CSP as an entitlement program with unlimited funding; on the other, congressional appropriators have since limited that funding. Authorizers specified broad eligibility criteria in the farm bill, but due to funding limits NRCS created strict procedures that applicants must follow in order to qualify. NRCS argues that because the farm bill placed a statutory 15% limit on CSP technical assistance, CSP implementation will be constrained. Congressional CSP proponents have disputed this. NRCS intends to offer the CSP each year, on a rotational basis, in as many watersheds as possible. Several new activities (e.g., the energy component of CSP) may create further demand for the program in an environment of significant budget deficits.

Another issue for Congress may be CSP's potential status as a "green box" program under the World Trade Organization (WTO) structure. In WTO parlance, "green box" programs (which pay producers for environmental services) are not subject to reductions under the WTO. CSP spending appears likely to be classified as a "green box" program. In light of possible reductions in direct agricultural subsidies in the current Doha Round of WTO deliberations, some view "green box" programs like CSP as the type of farm support most likely to survive future international negotiations (particularly in light of the June 19, 2005, WTO decision, which ruled that U.S. cotton support payments are unfair to Brazilian cotton producers and artificially lower the world price of cotton). Some witnesses for the House Agriculture subcommittee hearings have noted CSP's "green box" potential as a possible advantage to the program. However, there is currently little overlap between producers receiving relatively large direct commodity payments and conservation-program payments.